



## "Barriers to Voter Participation"

### Informational Hearing of the California State Senate Committee on Elections and Constitutional Amendments, Sen. Lou Correa, Chairman

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Good morning and thank you for inviting me to speak at today's hearing.

The California Voter Foundation (CVF) is a nonprofit, nonpartisan 501(c)(3) organization working through research, oversight, outreach and demonstration projects to improve the election process so that it better serves the needs and interests of voters. CVF pursues three key program goals:

- 1) Assess the California voting process to identify needed improvements;
- 2) Modernize California voter registration to facilitate greater participation; and;
- 3) Improve disclosure of financial interests in initiative campaigns to help voters make informed choices.

Since 1994, CVF has led key innovations in California voting and technology. Specific achievements include helping to develop the Internet as a tool for nonpartisan voter education; advancing online disclosure of campaign finance data; and improving election security through mandatory paper trails and better post-election auditing.

We also work during elections to help educate voters about their ballot choices, through our nonpartisan "California Online Voter Guide", available on our web site at [www.calvoter.org](http://www.calvoter.org), and the "Proposition Song" music video, a nonpartisan, sing-along song now playing on YouTube.

Today I'd like to discuss three areas that need improvement:

- 1) Voting technology
- 2) Voter registration record management; and
- 3) Proposition disclosure

But before I do, I want to congratulate you and Secretary of State Debra Bowen for implementing many important recent improvements to make registering and voting more accessible to more Californians. Most notably, allowing Californians to register to vote over the Internet is a significant achievement that will enable more Californians, especially those who are young and mobile, to register or update their registration after they move. I'll discuss a few others later in my testimony.

## *Voting Technology*

California's current process for certifying voting systems requires "end to end" certification, meaning that any change made to any component of the system requires the entire system to be tested and recertified at the state and federal levels. This requirement can be prohibitively expensive, a factor that dissuades vendors from making needed changes or improvements to their voting systems. It also inhibits innovation, by acting as a deterrent to market entry for new potential vendors, who are understandably reluctant to take on the costs of testing and certifying a new system or system components.

The need to revise California's system of testing and certifying voting equipment is particularly acute because Los Angeles County, the state and the nation's largest and most diverse voting jurisdiction, needs to upgrade its voting system. The current voting system, "Inkavote Plus," was adopted as a temporary solution and was never intended to be used on a permanent basis.

To begin the process of determining how to replace this system, L.A. County in 2009 launched a "Voting Systems Assessment Project" (VSAP). The purpose is to identify and implement a new voting system for the county in a transparent and participatory manner, explicitly taking into account the needs and expectations of current and future county voters.

Instead of shopping among the choices currently available in the market, Los Angeles is first identifying what its voters want out of a new voting system and then determining how the county will create it. Los Angeles is also uniquely positioned to have a broader impact on voting technology reform because there is \$78.5 million available to the county in state and federal funds for the purpose of upgrading its voting system.

Voting technology reform in Los Angeles (and, more broadly in the state) does, however, face two serious challenges. There are, firstly, legal and policy restrictions on how federal and state voting equipment funds can be used, and they currently preclude the county from spending those funds on anything but a system already in existence. And secondly, the current regulatory framework and certification process are tailored to procuring existing commercially marketed voting systems and do not, therefore, support either new systems development or non-proprietary solutions.

Despite these challenges, Los Angeles County is well-positioned by virtue of its size and its access to funding to pioneer a new generation of voting systems that can serve not only the county's own voters but also voters in other California counties, and in other states as well. If this were to happen, it would not be the first time that the county has blazed a new trail. Los Angeles was an early adopter, for example, of the punch card voting system, popularized throughout the state in the 1960's as an efficient (if inelegant) way for voters to cast ballots. There is a strong probability, then, that if Los Angeles is successful in innovating a new voting system it will ultimately benefit voters across the state and nation.

One change in state law that would help LA move forward in its modernization efforts is to make an exception to Proposition 41, the Voting Modernization Bond Act of 2002. This law, enacted by the Legislature and approved by the voters in 2002, currently requires counties to use their bond funds exclusively for the purchase of voting systems that are already certified.

**I urge you to support LA County's efforts to implement a county-driven development process and consider legislation to make an exception to Prop. 41 that would allow the county to use its bond funds to develop a more open and publicly-owned or not-for-profit voting system, and then obtain certification prior to its deployment in an election.**

### **Voter Registration Record Management**

One area of elections where California is woefully behind the rest of the states is in our voter registration record management. While every other state in the nation has by now met its federal Help America Vote Act requirement to develop a robust, statewide voter registration database to facilitate accurate voter rolls, California has yet to do so. Our statewide database project, called VoteCal, has been in development since 2006. It took three years for a contract to be let, and then when it finally was it was cancelled within five months for failure to meet the terms. Currently the RFP for a new contract is still underway. At this time the soonest anyone expects to see the VoteCal system operational is 2015.

Although California does have an existing statewide voter registration database, called Calvoter, it is clunky and running on old technology, and it is at risk of failure, as we saw last year when the system crashed and was inoperable for several weeks.

There is some finger pointing about why VoteCal is taking so long to develop, much of it between the two agencies responsible for the project, the Department of General Services and the Secretary of State. From what I've observed, this dual management system may itself be the culprit, as these two agencies have in the past not shown a great deal of cooperation over this project.

Why does this matter? Here is a list of the many reforms that you have enacted in recent years that will only be implemented once VoteCal is operational:

- The ability of 17 year olds to pre-register to vote, (AB 30/2009, Curren Price)
- Email delivery of the state sample ballot (AB 306/2009, Jean Fuller)
- Same day voter registration (AB 1436/2012, Assemblyman Mike Feuer)

And, perhaps most importantly, a statewide voter registration status lookup tool will not be available to Californians until after VoteCal is up and running.

In fact, California is one of only nine states that lack a statewide registration status lookup tool. On this matter we join the ranks of Delaware, Hawaii, Maine, Massachusetts, Mississippi, Oklahoma, Vermont and Wyoming, who likewise fail to provide this tool to their voters. Voters in all other states have convenient, 24-hour online access to a web site where they can easily check their registration status and see if it needs updating. Statewide registration lookup tools help voters keep their records updated, which helps election officials remove duplicates from their records.

While it is true that many counties offer a local lookup tool, voters do not always think to look to counties for this assistance. They turn to the Secretary of State, who then refers them to their county election office. If their county does not have a lookup tool, as is the case for an estimated four million eligible California voters who live mostly in smaller, less

wealthy, rural counties, they must call their county office on a weekday during business hours to verify their status.

A study that the California Voter Foundation conducted in partnership with the Center for Governmental Studies in 2010 for the Pew Center on the States found that California is one of only two states that fail to provide any statewide lookup tools to its voters.

In most other states, voters have statewide access to tools that help them find their polling places, verify registration, call up their sample ballots, and check the status of an absentee ballot. In California, these tools are available to varying degrees at the local level, most frequently by counties that are larger and have the technology staff and resources to provide such services. This results in a significant digital divide among Californians, creating a system that offers modern conveniences only to those lucky enough to live in counties that can afford to make them available. None of these tools will be available on a statewide basis in California until VoteCal is operational.

We've heard about banks that are too big to fail. My greatest fear about VoteCal is that it is too big to succeed. I am concerned it will go the way of a similar project, the California Court Case Management System, which was launched by the Judicial Council in 2001 but scrapped this March when the costs became prohibitively expensive. Like VoteCal, the CCMS system sought to unify records from dozens of local offices into one centralized, statewide system.

A lot is riding on the success of VoteCal. **I urge you to provide legislative oversight and outside review to keep this project on track and prevent it from suffering from the same kind of catastrophic failure that the CCMS system did.**

### **Proposition Disclosure**

Lastly, I'd like to discuss proposition disclosure.

Currently, only those with an insider's understanding of California's complex disclosure process and people who have the time and technical know-how to navigate the Secretary of State's Cal-Access web site can readily access California disclosure data. While nonprofits, news organizations and campaigns do conduct and disseminate campaign finance research, this is not a substitute for direct, easy access by voters themselves. It is time to move beyond this essentially exclusionary state of affairs to a new phase of publicized disclosure in California, one where voters have easy access to understandable data.

Voters want such access. This is clear from numerous public opinion polls. The Public Policy Institute of California conducted six statewide surveys between 2005-2009 asking, among other things, whether likely voters would favor "increasing public disclosure of funding sources for signature gathering and initiative campaigns?" Support for this idea was very strong in the six surveys, ranging from 82 to 85 percent in favor, and consistently high across partisan affiliations and other demographics. Californians overwhelmingly favor increasing disclosure.

Last year a bill authored by Sen. Mark De Saulnier would have required the state ballot pamphlet to include lists of all donors of \$50,000 or more for or against every proposition on the ballot. The bill made it all the way to Governor Jerry Brown's desk. Unfortunately, the Governor vetoed it, out of concern that since the ballot pamphlet is produced and finalized

several months before an election, it would likely not accurately reflect who the donors are closer to the election, especially on the opponents' side.

But initiatives are not public opinion polls. This is lawmaking. When legislators vote on a bill they know who the sponsor is, it's listed at the top of the bill analysis. Voters likewise deserve access to this same, essential piece of information when they make their lawmaking decisions.

Four specific reforms I urge you to consider include:

- 1) Require initiative proponents to identify who their fiscal sponsor is at the time the measure goes into circulation and require the fiscal sponsor to be printed on initiative petitions;**
- 2) Require that the ballot pamphlet include the name of the fiscal sponsor of each initiative;**
- 3) Require the Secretary of State or the Fair Political Practices Commission to create and maintain a list of top proposition donors online throughout the election season (as the FPPC is already doing); and**
- 4) Include a list of the top donors in the ballot pamphlet with an explanation that more current data is available online.**

These reforms are supported not only by the California Voter Foundation, but also the Public Policy Institute of California. Earlier this month PPIC released a new report, "Improving California's Democracy" which makes several recommendations for how to achieve more active and meaningful participation in government and elections. One recommendation is bridging the knowledge gap, so that Californians can make more informed policy decisions on propositions. PPIC specifically recommends expanding and online nonpartisan information sources. The PPIC report also recommends greater transparency in the initiative process; specifically by publicizing proposition disclosure in the ballot pamphlet, on petitions and on the ballot itself.

I've provided numerous suggestions in this testimony for specific changes that can be implemented to expand and improve California voter participation – by enabling Los Angeles to lead the way to the next generation of voting systems; by increasing oversight and accountability of the VoteCal statewide voter registration database project; and by listing fiscal sponsors and top donors to proposition campaigns on initiative petitions and in the ballot pamphlet.

Thank you for the opportunity to share these ideas with you, and for your commitment to expanding voter participation in our state.