



June 23, 2016

The Honorable Ben Allen
California State Capitol, Room 2054
Sacramento, CA 95814

Re: **SB 450 (Allen) –
as amended June 21, 2016**

Dear Senator Allen:

The American Civil Liberties Union of California, Advancement Project, Asian Americans Advancing Justice - California, California Calls, California Voter Foundation, and Disability Rights California thank you and your sponsors for working with our organizations on amendments to S.B. 450. We share the commitment that you and Secretary of State Padilla have to increasing voter participation and we appreciate the need for an improved election system and the work that has gone into incorporating many of the amendments proposed by stakeholders. In particular, we appreciate your efforts to address the needs of language minorities and voters with disabilities.

We write to reiterate our remaining concern about the critical need for postag-paid ballot return, as well as to outline our concerns about the timing of the future expansion of the S.B. 450 model and the newly proposed Los Angeles County pilot. Below are proposed amendments we believe address the concerns previously raised in discussions on the bill, and which we believe warrant further consideration and discussion before the bill moves forward in order to ensure this dramatic change to California's election system does not have unintended consequences on underrepresented communities that already lag behind in participation.

Participating counties must provide return envelopes with prepaid postage.

When approving vote-by-mail pilot programs that authorize a county to mail all voters ballots in lieu of providing accessible neighborhood polling sites, the Legislature has consistently recognized that all-mail ballot programs must be conditioned on the provision of prepaid postage on ballot return envelopes: *See* A.B. 413 of 2011 (Yolo County vote-by-mail pilot); A.B. 2028 of 2014 (San Mateo County special elections pilot); A.B. 1873 of 2014 (San Diego special elections pilot); and A.B. 1504 of 2015 (Sacramento and Monterey County pilots).

The Legislature has acknowledged that lack of postage can be a barrier to participation for low income persons, the elderly, and people with disabilities. The San Mateo County vote-by-mail pilot, tested for the first time in November 2015, confirmed the importance of prepaid postage to ensuring voter participation. Indeed, in a report to the Legislature, San Mateo cited prepaid postage as a factor “directly result[ing]” in the increased turnout in the election.¹

We understand costs associated with prepaid postage are a concern. However, even with the costs associated with prepaid postage, San Mateo reported savings of 14.6% overall from its vote-by-mail election.² When outreach costs were factored in, a cost San Mateo County evaluated separately under the theory that such costs would decline in future elections, San Mateo posited that the price of the election was a “wash” compared to 2013, with a 1.6% increase in the cost of the election.³

Further, a study of Colorado’s 2014 vote center election suggests that the costs of prepaid postage are offset by the savings associated with running a vote-by-mail election like that proposed in S.B. 450. Researchers looked at printing, labor, rental, postage and miscellaneous costs associated with Colorado’s 2014 election, compared it to the cost of the 2008 election, and found that average per-vote expenses were reduced by 40%.⁴

Finally, providing prepaid postage does not necessarily mean that every voter will mail their ballot as opposed to taking advantage of the available drop boxes and vote center options that S.B. 450 offers. Nevertheless, some voters will need to mail their ballot simply because they will not have equal access to drop boxes and vote centers. While it is difficult to predict how many voters will mail their ballots and the associated costs, the demonstrated savings of vote-by-mail elections should at least offset those costs. In any event, we do not believe that cost concerns should be used to justify depriving communities of an equal opportunity to cast their ballot.

Expansion of the S.B. 450 vote-by-mail model to other counties should occur in 2022, not in 2020.

S.B. 450 would allow all counties to participate in the vote-by-mail model beginning in 2020, after only trying the model in a single, non-presidential general election cycle. Notably, S.B. 450 already significantly expands participation in 2020 by allowing Los Angeles County to test a distinct vote center model - an expansion that would cover an additional 27% of the state’s voters. Many stakeholders who will play an important role in supporting and monitoring the initial S.B. 450 vote-by-mail model rollout in 2018 will need to turn their attention in 2020 to Los Angeles County, the largest election jurisdiction in the country, to support the rollout of a different model. This would be in addition to the ongoing support and monitoring of the original 14 counties during their first elections in a presidential election year. To expect state and local officials, as well as stakeholders, to have the capacity to support and monitor the 43 additional counties that could participate in 2020 under the current version of the bill would stretch both

¹ Office of Mark Church, San Mateo County Report to the State Legislature & Secretary of State, 3 (May 2016), available at www.shapethefuture.org/elections/2015/nov_mailedballot/documents/ab2028_report.pdf.

² *Id.* at 4.

³ *Id.* at 54-55.

⁴ Pew Charitable Trusts, Colorado Voting Reforms: Early Results, 2 (Mar. 2016), available at www.pewtrusts.org/~media/assets/2016/03/coloradovotingreformsearlyresults.pdf.

state and private capacity to ensure successful implementation.

Thus, before opening up to the entire state, the S.B. 450 vote-by-mail model should be implemented and tested for a presidential primary and election by the limited number of counties initially authorized to participate. This will give the initial counties the opportunity to develop and test best practices, will give the S.B. 450 task force the opportunity to meaningfully evaluate and compare the impact of both the vote-by-mail model and the Los Angeles County vote center model in a presidential election year, and will afford the Legislature the time needed to enact any legislative changes necessary to ensure the best model and practices are in place to serve California voters' and election officials' beyond 2020.

In the absence of ballots mailed to all voters, the proposed Los Angeles County vote center model should provide 1) one vote center for every 5,000 voters from E-3 to Election Day, and 2) a lower threshold for when a ballot must be mailed to a voter who does not have ready access to a vote center.

1) In the absence of mailed ballots, Los Angeles County must provide more vote centers than the 1 per 7,500 vote center ratio that S.B. 450 currently proposes.

Los Angeles County is the butt of many jokes about traffic and poor public transportation. But transportation barriers are real and have a demonstrated impact on whether a voter participates in an election, especially when a household does not own a car. A 2005 study of an election in Atlanta found that when there is not a car in the household, the likelihood of voting is 25% lower when a polling site is .69 miles away, instead of .01 miles.⁵ In sharp contrast, when a voter has a car, the drop-off in likelihood of voting was just 5% for a voter .69 miles away versus one .1 miles from a polling site.⁶ Our democracy cannot afford the risk of an election system that tilts in favor of those with ready access to a vehicle to get them to a vote center once their neighborhood polling site is no longer available, particularly in a county like Los Angeles where the vast majority of voters traditionally vote in-person.

Los Angeles County has pointed to Travis County as a jurisdiction for comparison since vote centers are used in a manner similar to what Los Angeles County proposes. However, while Travis County does not mail all voters a ballot, it provides far more vote centers per person than what S.B. 450 proposes for Los Angeles County. For example, in 2012, Travis County had 207 vote centers⁷ for 635,300 registered voters,⁸ a ratio of one vote center per 3,069 registered voters. Two years later, in 2014, Travis County had 186

⁵ Moshe Haspel & H. Gibbs Knotts, Location, Location, Location: Precinct Placement and the Costs of Voting, 567 (May 2005), available at www.appstate.edu/~ehrhdtgc/Haspel--Location.pdf.

⁶ *Id.*

⁷ Travis County Clerk, Election Day Locations Reporting, (Nov. 7, 2012), available at http://traviscountyclerk.org/eclerk/content/images/election_results/2012.11.06/20121106locreporting.pdf.

⁸ Travis County Clerk, Travis County General Election Cumulative Results (Presidential Election), (Nov. 18, 2012), available at http://traviscountyclerk.org/eclerk/content/images/election_results/2012.11.06/20121106tcume.pdf.

vote centers⁹ for 652,463 registered voters,¹⁰ a ratio of one vote center per 3,585 registered voters. Thus, under the most recent version of S.B. 450, Los Angeles County would have one vote center for more than twice as many voters, presenting challenges both in terms of the distance and means of getting to a vote center and in terms of predicting the sheer volume of voters and wait times to be managed at vote centers when voters have not been mailed a ballot to offset in-person turnout.

Finally, the currently proposed ratio of one vote center for every 7,500 voters would result in an 82% reduction in available polling sites on Election Day.¹¹ By reducing the ratio to one vote center for every 5,000 voters, the closure rate drops to 69%.¹² While still a dramatic reduction in polling sites and falling far short of the Travis County one per 3,500 voter ratio cited as a successful model, a one per 5,000 ratio applied in Los Angeles County in the absence of mailed ballots to all voters would nonetheless provide more accessible voting options to voters who face transportation barriers. For example, voters with certain disabilities who want to vote at a vote center will have lengthy trips if they need to use paratransit. As you know paratransit riders are offered a “pickup window” of at least 30 minutes. Thus a short trip for a person with a car turns into a several hour journey for a person using paratransit. Providing more vote centers will be necessary to help offset such difficulties.

2) Ballots should be mailed to all voters who are more than 10 minutes from a vote center, as determined by travel time from their home to a vote center via public transportation, and to any voter who lives more than five miles from a vote center.

Under S.B. 450, Los Angeles County would mail a ballot to voters whose prior polling site is farther than 30 minutes from a vote center, and to voters whose prior polling site is more than 15 miles from a vote center. We believe that both 30 minutes and 15 miles are much too far to expect a voter to travel to vote. S.B. 450 also fails to specify how 30 minutes travel time would be calculated.

Moreover, changes of polling site locations have been shown to have a negative impact on voter turnout. Mailing voters a ballot has been shown to be a way to partially offset that negative impact. For example, a study of changes to polling locations in Los Angeles in 2003 found that precincts where the polling location was changed had an overall decline in turnout of more than 3%, but that decline was partially offset by a 1.2% increase in absentee voting in those precincts.¹³

⁹ Travis County Clerk, Elections Eight Precincts Reporting, (Nov. 5, 2014), *available at* http://traviscountyclerk.org/eclerk/content/images/election_results/2014.11.04/20141104locreporting.pdf.

¹⁰ Travis County Clerk, Travis County Gubernatorial election Cumulative Results, (Nov. 17, 2014), *available at* http://traviscountyclerk.org/eclerk/content/images/election_results/2014.11.04/20141104cume1.pdf.

¹¹ According to Los Angeles County Registrar of Voters Dean Logan, Los Angeles County has approximately 4,200 polling sites. Based on the current number of registered voters in Los Angeles County of 4,909,904, a ratio of one voter center to 7,500 voters would result in 655 vote centers.

¹² A ratio of one vote center to 5,000 registered voters would result in 982 vote centers.

¹³ Henry E Brady & John E. McNulty, Turning Out to Vote: The Costs of Finding and Getting to the Polling Place, 123 (Feb. 2011), *available at* www.appstate.edu/~ehrhartgc/Brady-Turning-out-to-vote.pdf.

But the Los Angeles County vote center model would not provide voters with a mailed ballot to offset any decline in participation resulting from the loss of neighborhood polling sites. However, even if it did, there is still the risk that neither the mailing of a ballot nor the addition of early voting options will offset the impact of changing a voter’s polling site. A recent study of changes to polling sites in Florida found “significantly lower turnout among registered voters who were reassigned to a new Election Day precinct compared to those who were not, an effect not equally offset by those voters turning to other available modes of voting (either early in-person or absentee).”¹⁴ *Notably, the same study concluded that, “[a]ll else equal, registered Hispanic voters were significantly more likely to abstain from voting [6.5% decline] as a result of being reassigned to a new polling site than any other racial group.”*¹⁵

Thus, while closing neighborhood polling sites may result in confusion and potentially lower turnout among underrepresented communities, S.B. 450 should attempt to offset this by requiring that any voter who is more than 10 minutes or five miles from a vote center must be mailed a ballot. The travel time should be calculated based on available public transportation so that voters without a car are not disproportionately impacted by the loss of their neighborhood polling site.

For these reasons, we respectfully request that SB 450 be amended to address the above concerns. We look forward to discussing the proposed amendments and working with you further to improve the bill to ensure that underrepresented communities do not slip through the cracks as we move forward with election reform. Please do not hesitate to contact us should you have any questions or concerns.

Sincerely,

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¹⁴ Brian Amos, et al., Reprecincting and Voting Behavior, (June 2016).

¹⁵ *Id.*

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cc: Members and Committee Staff, Assembly Elections and Redistricting Committee
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