



October 9, 2019

Hon. Xavier Becerra
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional initiative regarding how Californians vote and the composition of the State Senate (A.G. File No. 19-0013).

BACKGROUND

State Elections. Proposition 14 (2010) established a top two open primary system in California for state elected offices, Members of the U.S. House of Representatives, and U.S. Senators. Under this system, elections for statewide office occur in two phases. During the first phase—the primary election—voters select their top choice candidate from any number of contenders, who all appear on a single combined ballot regardless of party affiliation. The two candidates who receive the most votes in the primary election, regardless of their party affiliation, advance to phase two: the general election. During the general election, voters choose between these two candidates to determine who will be elected to the office. (In contrast, the primary for U.S. President uses partisan ballots. Each political party establishes rules determining who may vote in its primary—for example, whether the election is closed to people who are not members of the party.)

Voting Methods. At the state level, voters cast ballots for one candidate for a specific state office. Under this method, candidates win by receiving the most votes cast. Some local governments in California—Berkeley, Oakland, San Francisco, and San Leandro—use an alternative voting method referred to as ranked-choice voting. Under ranked-choice voting, voters rank candidates from their first to last choice. For example, in Oakland, voters identify which candidates are their first, second, and third ranked choices. In the event that a voter's first choice is defeated, his or her second choice receives his or her vote. Under this model, a candidate may win the election even though he or she was not the first choice for a majority of voters.

Single- vs. Multimember Districts. An electoral district is a geographic boundary. The residents who live within an electoral district elect a person or multiple people to represent their

interests in an elected governmental body. State-level electoral districts are single-member, meaning that one person is elected to represent the residents of the district. Some local governments are multimember districts. For example, a city council might not be divided into electoral districts. In this case, the residents of the entire city elect all members of the city council to represent their interests—effectively, the entire body consists of one multimember district. At the federal level, the U.S. Senate consists of 50 two-member districts where each state is represented by two U.S. Senators.

District Boundaries. Every ten years, following the decennial U.S. Census, the State Constitution requires the Citizens Redistricting Commission to establish new district boundaries for U.S. Congress, State Assembly, State Senate, and the State Board of Equalization. The commission consists of 14 members representing both major political parties as well as voters registered with no party preference. When the commission sets district boundaries, it must meet the requirements of federal law and adhere to criteria specified in the State Constitution. Among other requirements, the State Constitution requires the commission, to the extent possible, to adopt district boundaries that result in each Senate district encompassing two Assembly districts and each Board of Equalization district encompassing ten Senate districts.

County Elections Responsibilities. California counties administer almost all elections in California—including special elections called by the Governor. County elections officials prepare and distribute county voter information guides that contain a sample ballot and information about local candidates and measures, provide places for voting, maintain voter registration records, print ballots for all registered voters, tabulate votes, and transmit election results to the Secretary of State. Total county costs to administer elections are estimated to be in the range of the low to mid-hundreds of millions of dollars per year; however, the cost per county varies widely depending on the population, size of the county, and number of candidates, among other factors.

Secretary of State Election Responsibilities. Among other duties, the Secretary of State is the state's chief elections officer and oversees a variety of elements related to elections, campaigns, and lobbying in California. For example, the Secretary of State certifies voting equipment that may be used, maintains the statewide voter registration database, certifies official lists of candidates, compiles election returns and certifies results, and promotes voter registration and participation. The Secretary of State also prepares, prints, and mails to voters the statewide voter guide. The guide provides information about federal and statewide candidates and statewide ballot measures. The Secretary of State typically spends around \$14 million for a statewide election.

State Senate. The California Legislature consists of two houses—the Senate and the Assembly. The Senate consists of 40 Senators who each represent the residents of one district.

PROPOSAL

As we describe below, this measure changes (1) how voters determine who will be elected in state elections and (2) the districts of the State Senate. The measure does not affect how local elections are conducted.

Establishes Ranked-Choice Voting for State and Federal Offices. Under the measure, Californians would use ranked-choice ballots to elect candidates in statewide primary and general elections. The offices affected by the measure include state and federal elected offices—including the eight elected state executive offices (Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, State Controller, State Superintendent of Public Instruction, and Insurance Commissioner); members of the State Senate, State Assembly, and State Board of Equalization; members of the U.S. Senate and U.S. House of Representatives; and U.S. President. Except in the cases of State Senate and U.S. President, in order to advance from the primary election to the general election, the measure specifies that a candidate must either be one of the two candidates to receive the most votes at the end of the ranked-choice tabulation or have received more than 20 percent of the tabulated votes. A candidate meeting at least one of these criteria advances to the general election regardless of party affiliation. For the office of the U.S. President, the measure specifies that the primary election use a ranked-choice ballot; however, the primary election would continue to be a partisan ballot. (We discuss the measure’s primary election process for State Senate below.) At the general election, all races on statewide ballots would be determined using a ranked-choice ballot.

Makes Senate Districts Multimember Districts. The measure restructures the State Senate so that it consists of eight multimember districts—each district represented by five Senators. As such, the house would continue to consist of 40 Senators. Under the measure, Senators continue to be elected to four-year terms with terms staggered so that one-half of the Senate is elected every two years. Under the measure, the five seats of each Senate district would be on the same election cycle. The measure amends the Citizens Redistricting Commission’s requirements so that—to the extent possible—each Senate district comprises ten Assembly districts and each Board of Equalization district is comprised of two Senate districts. The measure uses ranked-choice voting in the primary and general elections to determine the five Senators who represent each district. In the primary, ranked-choice voting would be used to identify no more than ten candidates who would advance to the general election. In the general election, ranked-choice voting would be used to identify the five Senators representing a district.

FISCAL EFFECTS

Increased Elections Costs. The measure would change how state and county elections officials prepare, print, mail, and count ballots and election-related materials. These changes would increase state and county government costs. The measure does not limit the number of candidates that voters may rank. The number of candidates in a race as well as the number of rankings that voters can make affects the complexity of the ballot. The number of lines and columns of text necessary on the ballot directly increase county printing and mailing costs. In addition, with increased complexity, counties and the state likely would experience increased costs related to voter outreach and education. In addition, the complexity could result in counties purchasing or leasing new voting equipment. These increased costs could be millions of dollars for the state and tens of millions of dollars for county governments every two-year election cycle.

Summary of the Fiscal Effect

We estimate that the measure would have the following fiscal effects:

- Increased state elections costs potentially totaling millions of dollars for every two-year election cycle.
- Increased local elections costs potentially totaling tens of millions of dollars for every two-year election cycle.

Sincerely,

Gabriel Petek
Legislative Analyst

Keely Martin Bosler
Director of Finance