

RESOLUTION 1-01-2002

DIGEST

Presidential Elections: Opening of Polls

Amends Elections Code section 14212 to provide that in a presidential election the polls shall close at 8:00 p.m. Eastern Standard Time on the election day.

RESOLUTIONS COMMITTEE RECOMMENDATION DISAPPROVE

Reasons:

This resolution amends Elections Code section 14212 to provide that in a presidential election the polls shall close at 8:00 p.m. Eastern Standard Time on the election day. This resolution should be disapproved because it imposes significant burdens without solving the perceived problem.

California law currently requires that polls be open for 13 hours, from 7 a.m. to 8 p.m. of the same day. This resolution would retain the 13-hour period but would require that it end no later than 8 p.m. Eastern Standard time, which is 5 p.m. California time. To avoid the necessity of opening the polls at 4 a.m., it would allow those 13 hours to be spread among the 24 hours preceding the 5 p.m. deadline.

By setting a different schedule for presidential elections than for all other elections, this resolution would tend to confuse voters. Depending upon the particular hours the polls are open, it may also inconvenience potential voters and discourage them from going to the polls. Moreover, it would significantly exacerbate the problem of finding poll workers. Those problems outweigh the benefits of the change. It will not prevent the results of voting in Eastern states from influencing California voting, because projections and predictions are based increasingly upon exit polls rather than upon actual ballot counts. Moreover, by allowing counties to have different poll hours, California races may be influenced by early projections from counties that opt for earlier poll hours.

TEXT OF RESOLUTION

RESOLVED that the Conference of Delegates recommends that legislation be sponsored to amend Elections Code section 14212 to read as follows:

1 § 14212

2 (a) The polls shall be open at 7 a.m. of the day of any election, and shall be
3 kept open until 8 p.m. of the same day, when the polls shall be closed, except as
4 provided in subsection (b) hereof and in Section 14401.

5 (b) With respect to any presidential election, the polls shall close on the election day at
6 eight p.m. Eastern Standard Time. For purposes of such general election, election day shall
7 include the twenty-four hour period prior to the time set for the closing of polls. Polls may open
8 twenty-four hours prior to the time set for closing and shall be open for a total of thirteen hours

9 during the election day, except as provided in Section 14401.
(Proposed new language underlined, language to be deleted stricken)

PROPONENT: Beverly Hills Bar Association

STATEMENT OF REASONS

Existing Law: Modern communications and competitive media make carrying out a voter's duty more difficult. We are bombarded with reports of elections in progress, predicted winners and celebrations, all of which occur before our polls in California ever close. Voters in California have a feeling of being left out if they have not yet voted near the end of the voting day. These events have the ability to affect or decide elections in a real way.

This Resolution: Amends the Election Code to prevent the dilution of the California vote by allowing California polls to close at approximately the same time as the polls close on the East Coast.

The Problems: The twenty-four hour voting day insures that a voter will have reasonable convenience in casting his vote and at the same time that polls can close in California and have the same impact that a poll closing in an eastern state will have. The law provides that voters in California will have the same number of hours in which to cast their vote. Each local county will decide how and what hours of convenience to provide. However, those hours can be spread over a twenty-four hour day. For example, voters who like to cast their votes early could still be accommodated on the day of the election. For example, polls can still be open from 7 a.m. to 5 p.m. Those who prefer voting in the evening could vote on the day prior to the election between 5 and 8 p.m. Alternatively, counties might choose to do as some East Coast counties which begin voting at midnight. This will involve some minor inconvenience at the polling place which will be open over the latter part of one day and the early part of the next day. It should, however, not be a major inconvenience. Moreover, there should be little extra cost because the largest cost is that of the election workers who are paid presumably on an hourly basis and work in shifts in any event. The rewards to be reaped are significant for the California voting public which would receive prime time coverage and impact for its vote.

IMPACT STATEMENT

This proposed resolution does not affect any other law, statute or rule.

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COUNTERARGUMENT

SANTA CLARA COUNTY BAR ASSOCIATION

This resolution could very well exacerbate the problem it seeks to remedy. The proponent correctly points out that, in a national election, a California voter may not take the trouble to vote if he or she sees early reports of East Coast election results. However, allowing California voters to vote in presidential elections beginning the evening before the normal election day could prove to be an even greater deterrent. In a presidential election, California voters determine which candidate will receive California's votes in the Electoral College; they do not affect the allocation of any other state's electoral votes. Therefore, if a California resident's decision to vote or not is influenced by reports of earlier voting, he or she should be influenced primarily by reports of voting in California. Under the voting procedures proposed by this resolution, exit poll results from election day eve will certainly be reported overnight by electronic media and by newspapers and electronic media on election day and would discourage voting in California on election day in cases where the media are already predicting the outcome of the presidential election in California.