

RESOLUTION 11-06-04

DIGEST

Election Law: Eligibility of Minors to Vote in Primary Elections

Adds section 2.1 to Article II of the California Constitution and amends Elections Code sections 2000 and 2001 to permit a person under the age of eighteen to register for and vote in a primary election should they be eighteen on or before the day of a general election.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolution found.

Reasons:

This resolution would add section 2.1 to Article II of the California Constitution and amend Elections Code sections 2000 and 2001 to permit a person under the age of eighteen to register for and vote in a primary election should they be eighteen on or before the day of a general election. This resolution should be approved in principle because it gives persons eligible to vote in the general election a voice in selecting the candidates who will be running in that election.

A primary election is one that is held for the purpose of nominating persons as candidates of political parties for election to offices and as members of controlling committees of political parties. Voting in a primary election is essential to ensure a meaningful choice in a general election. A person or group excluded from the primary election faces the real possibility of being unable to select a candidate in the general election who best represents their political viewpoint.

There is no compelling reason to limit any voter's right to cast a meaningful vote -- the hallmark of our Republic -- based solely on an arbitrary age cut-off. This resolution should be approved because eligibility to vote in the primary election immediately preceding a general election is necessary to ensure a general vote cast is a vote which is meaningful and unfettered.

This resolution is similar to A.B. No. 1608 which was not passed due to legislative inaction.

TEXT OF RESOLUTION

RESOLVED that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to add section 2.1 to Article II of the California Constitution, and to amend Elections Code sections 2000 and 2101, as follows:

- 1 § 2.1
- 2 At a primary election, every person who will have attained the age of eighteen
- 3 years on or before the day of the next general election, and who is a member of or is

4 affiliated with the political party whose primary election ballot that person desires to vote,
5 shall be entitled to vote such ballot at the primary election, notwithstanding the fact that he
6 or she might not have attained the age of eighteen years on or before the day of said
7 primary election.

8

9 § 2000

10 (a) Every person who qualifies under Section 2 of Article II of the California
11 Constitution and who complies with this code governing the registration of electors may
12 vote at any election held within the territory within which he or she resides and the
13 election is held.

14 (b) Any person who will be at least 18 years of age at the time of the next election
15 is eligible to register and vote at that election.

16 (c) Notwithstanding anything in this section to the contrary, at a primary election,
17 every person who will have attained the age of eighteen years on or before the day of the
18 next general election, and who is a member of or is affiliated with the political party whose
19 primary election ballot that person desires to vote, shall be entitled to vote such ballot at
20 the primary election, notwithstanding the fact that he or she might not have attained the
21 age of eighteen years on or before the day of said primary election.

22

23 § 2101

24 A person entitled to register to vote shall be a United States citizen, a resident of
25 California, not in prison or on parole for the conviction of a felony, and at least 18 years of
26 age at the time of the next general election.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Bar Association of San Francisco

STATEMENT OF REASONS

Existing Law: Requires that a person be eighteen or more years of age to register for and vote in a primary election.

This Resolution: Would permit a person who is under eighteen years of age to register for and vote in a primary election, as long as that person will be eighteen on or before the day of the general election.

The Problem: The purpose of a primary election is to select the candidates who will appear on the ballot in the general election. For most people, the purpose of voting in a primary election is to select the candidate that they intend to vote for in the general election. However, many young people who want to vote for a specific candidate in the general election after they turn eighteen are barred from voting for that candidate in the primary election because they are not yet eighteen at the time of the primary. This effectively denies a future voter the right to choose his or her preferred candidate.

There are a number of states that permit seventeen-year-olds to vote for candidates in the primary if they will be eighteen by the time of the general election. (*See, e.g.*, Ky. Rev. Stat., § 116.055; N.C. Gen. Stat., § 163-59; Ohio Rev. Code, § 3503.011.) California, however, has no such provision. It should.

It makes perfect sense to permit seventeen-year-olds to register for and vote in a primary if they will be eighteen by the time of the general election. Young people should not be disenfranchised from selecting the candidate of their choice, whom they intend to support during a general election, simply because they cannot vote in the primary. This measure would provide seventeen-year-olds with the same voting rights with respect to the selection of candidates in a primary as are held by those who are already eighteen on the day of the primary election.

IMPACT STATEMENT

This resolution would affect other sections of the Election Code (*e.g.*, §§ 321, 2106, 2300, 3403, and 14222), which reflect the present minimum voting age of eighteen years.

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RESPONSIBLE FLOOR DELEGATE: Jim Weixel

COUNTERARGUMENT

SAN DIEGO COUNTY BAR ASSOCIATION

This resolution eliminates a time-honored, bright-line test which is easy to apply and understand. As it stands now, a voter must be 18 years old to cast a ballot. This resolution would complicate that requirement because the timing of primary elections would arbitrarily allow some 17 year olds to vote, and while others would not be allowed to vote. In addition, there is no guarantee that a 17 year old voter in the primary would vote in the general election. This resolution simply reduces the voting age to 17 for some but not all. San Diego County Bar Association does not support an arbitrary result which impacts voting rights.