

Date of Hearing: April 27, 2016

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Shirley Weber, Chair

AB 2517 (Thurmond) – As Amended April 6, 2016

SUBJECT: Voting age: school district governing board elections.

SUMMARY: Allows a charter city to permit 16- and 17-year olds to vote in school district elections if those elections are governed by the city's charter. Specifically, **this bill:**

- 1) Allows a city or city and county to amend its charter to authorize a person who will be at least 16 years of age at the time of the next election to vote in a school district governing board election in which he or she would be qualified to vote based on residence. Provides that this provision applies only to elections for school district governing boards that are governed by a charter, as specified.
 - a) Requires the city or city and county to prescribe the manner and method by which votes may be cast and counted, provided that all votes are cast no later than 8 p.m. on the day of the election.
 - b) Provides that if a city or city and county amends its charter to permit 16- and 17-year olds to vote in school district elections, the city or city and county shall enter into an agreement with the county elections official providing for payment by the city, city and county, or school district of all costs necessary to implement the charter amendment. Alternately permits the city, city and county, or school district to perform any or all duties to implement the charter amendment, unless prohibited by law. Provides that an agreement need not be entered into before the enactment of the charter amendment.
 - c) Provides that a charter amendment adopted pursuant to these provisions is valid regardless of the date it was approved, as long as the amendment has an effective date on or after January 1, 2017.
- 2) Permits a person who is at least 16 years of age, and who otherwise meets all other requirements, to register to vote for the limited purpose of voting in a school district governing board election if a city or city and county amends its charter to authorize participation by 16- and 17-year olds.
- 3) Makes various findings and declarations, including the following:
 - a) Research shows that early voting experiences are important determinants of future voting behavior. The formation of voting habits begins when individuals reach voting age and experience their first elections.
 - b) Local political decisions have great influence on the lives of 16- and 17-year olds. As such, 16- and 17-year olds deserve to vote, and research shows they are mature enough to do so.

- c) Lowering the voting age will also increase the demand for better civics education in schools, thereby significantly increasing political engagement.
 - d) It is unclear whether existing state law permits charter cities to lower the voting age for local elections.
- 4) Makes corresponding changes.

EXISTING LAW:

- 1) Permits a person who is a United States citizen, a resident of California, not in prison or on parole for the conviction of a felony, and is at least 18 years of age at the time of the next election to register to vote in any local, state, or federal election.
- 2) Allows a person who is at least 16 years old and otherwise meets all voter eligibility requirements to register to vote. Provides that the registration will be deemed effective as soon as the affiant is 18 years old at the time of the next election. Provides this option will be operative when the Secretary of State certifies that the state has a statewide voter registration database that complies with specified provisions of federal law.
- 3) Permits a county or a city to provide for its own governance through the adoption of a charter by a majority vote of its electors voting on the question.
- 4) Permits a city charter to provide for the conduct of city elections. Grants plenary authority, subject to limited restrictions, for a city's charter to provide for the manner in which and the method by which municipal officers are elected.
- 5) Provides that a legally adopted city charter supersedes all laws inconsistent with that charter with respect to municipal affairs.
- 6) Permits a county and all cities within it to consolidate as a charter city and county. Provides that a charter city and county is both a charter city and a charter county, and provides that its charter city powers supersede conflicting charter county powers.
- 7) Provides that any unified school district that is coterminous with or includes within its boundaries a chartered city or city and county shall be governed by the board of education provided for in the charter of the city or city and county.

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

- 1) **Purpose of the Bill:** According to the author:

Voting is the cornerstone of California's democracy. Yet in the most recent 2014 midterm elections, only 36% of eligible voters actually cast a ballot, which marked a 72-year low. Only 20% of 18-29 year olds voted in the 2014 midterms, the lowest youth turnout rate ever recorded.

California has taken some important steps to address the challenge of low civic engagement and voter turnout, including automatic voter registration for anyone with a California Driver's License and pre-registration for 16- and 17-year-olds to vote. Yet it is clearly not enough.

Currently two municipalities in the United States allow 16- and 17-year-olds to vote: Takoma Park and Hyattsville, Maryland. The results from these cities are very encouraging. For instance, after Takoma Park lowered its voting age for the 2013 election, turnout among 16- and 17-year-olds was higher than any other age group.

The international evidence is just as compelling. In Norway, more than 20 municipalities lowered their voting age to 16 on a trial basis for the 2011 election. The result was that turnout of 16- and 17-year-olds was much higher than first-time voters ages 18-21. Other countries such as Brazil, Ecuador, Argentina, Nicaragua, Germany, Scotland, Hungary and Austria all have gone forward with letting 16- and 17-year-olds vote in local, state, and/or national elections.

AB 2517 will:

- Increase voter turnout, especially among young voters.
- Give young adults the ability to truly influence the direction of their local schools.
- Increase civic engagement among young adults.
- Provide a strong incentive to improve civics education.

Moreover, AB 2517 is permissive. Thus, only those communities that are most ready and prepared to change the vote will empower the young adult voice.

In California, 16- and 17-year-olds are provided with almost all the rights, privileges, and obligations as other adults – they can drive, work, pay taxes, and even be charged with a felony as an adult. The right to vote should now be provided as well.

- 2) **Age of Majority:** This measure breaks with traditional notions of the age of majority and the responsibilities and privileges attached thereto. For the most part, California law does not allow minors to enter into civil contracts, including marriage, or to be held to the same standards of accountability in criminal matters, absent extenuating circumstances.

With a few limited exceptions (most notably the legal drinking age and, if pending legislation is signed by the Governor, the legal smoking age), California confers the legal rights and responsibilities attendant with adulthood on those individuals who are 18 years of age or older. The committee should consider whether it is appropriate to confer one specific legal right—the right to vote—on certain individuals who have not yet reached the age of majority.

- 3) **School Districts Governed by City Charters:** The provisions of this bill are applicable only to elections for school district governing boards that are governed by a city charter. As

detailed above, existing law provides that any unified school district that is coterminous with or includes within its boundaries a chartered city or city and county shall be governed by the board of education provided for in the charter of the city or city and county. Because state law allows a city's charter to govern a school district even if that district contains territory outside the boundaries of that city, this bill could allow for a city's charter to lower the voting age for voters outside the city's boundaries.

For example, the Los Angeles Unified School District (LAUSD) is governed by the Los Angeles City Charter. However, LAUSD contains significant territory that is outside the boundaries of the city of Los Angeles. In addition to the City of Los Angeles, the district's boundaries also contain all or parts of the Cities of Bell, Bell Gardens, Beverly Hills, Carson, Commerce, Cudahy, Culver City, Downey, El Segundo, Gardena, Hawthorne, Huntington Park, Inglewood, Lomita, Long Beach, Lynwood, Maywood, Montebello, Monterey Park, Rancho Palos Verde, Rolling Hills Estates, San Fernando, Santa Monica, South Gate, Torrance, Vernon, and West Hollywood. (LAUSD also contains portions of the territory of the Cities of Alhambra, Calabasas, Santa Clarita, and South Pasadena, though the portions of those cities that overlap with the boundaries of LAUSD involve only a few parcels of land that generate no enrollment for LAUSD.)

Nonetheless, while this bill would permit a city's charter to govern the voting age for certain elections for areas outside that city, all the voters within the school district—including those who live outside the city—would be able to vote on the charter amendment asking whether the voters want to allow 16- and 17-year olds to be permitted to vote in school governing board elections. Article IX, Section 16 of the California Constitution provides that if the boundaries of a school district extend beyond the limits of a city whose charter governs school district elections, any amendment to the charter that changes the manner in which school board members are elected must be submitted to the voters of the entire school district—not just those who live within the boundaries of the city.

- 4) **Does this Policy Require a Constitutional Amendment?** Article II, Section 2 of the California Constitution states, "A United States citizen 18 years of age and resident in this State may vote." Because this provision of the Constitution describes voter qualifications, it is unclear whether a statute may extend the right to vote beyond those who meet the qualifications established in the Constitution.
- 5) **Limited Voting Rights:** While this bill would establish a framework under which 16- and 17-year olds could be allowed to vote in elections for public office, those 16- and 17-year olds would have only limited voting rights. Voters under the age of 18 would be able to vote for school board members, but would not be able to vote on other offices or measures that appear on the ballot.

Under existing state law, eligibility to participate in public elections generally is governed by a single set of qualifications: namely, that a person must be a United States citizen, at least 18 years of age, a resident of the jurisdiction, not mentally incompetent, and not imprisoned or on parole for the conviction of a felony. (The one notable exception is for elections in landowner voter districts, where only landowners in the district are eligible to vote in elections conducted by the district. The United States Supreme Court has found that

landowner voter districts can be constitutionally permissible only where a district does not "exercise what might be thought of as 'normal governmental' authority, but its actions disproportionately affect landowners." *Salyer Land Co. v. Tulare Water District* (1973) 410 US 719.) Having different qualifications for voting on different offices or measures, instead of a uniform set of voting qualifications, is a significant departure from existing policy in California.

This proposed shift in policy is particularly notable in light of the mechanism that would be used to authorize 16- and 17-year olds to vote in school board elections. An amendment to a city charter would be required to extend voting rights to individuals under the age of 18, yet such a charter amendment would not permit 16- and 17-year olds to vote in *city* elections, but would only grant voting rights with respect to school board elections. Furthermore, this mechanism creates the potential that neighboring school districts—even within the same county—would have different qualifications for participating in district elections.

Among the findings and declarations that are contained in this bill are statements that "[r]esearch shows that early voting experiences are important determinants of future voting behavior," and that "16 and 17 year olds deserve to vote, and research shows they are mature enough to do so." In light of these findings, would it be appropriate to grant only limited voting rights to 16- and 17-year olds, rather than lowering the voting age across the board and allowing *all* otherwise-eligible 16- and 17-year olds to vote in *all* public elections?

- 6) **Election Administration Complications:** By allowing 16- and 17-year olds to vote in certain elections, but not in others, this bill could complicate the administration of elections. For example, in school districts that consolidate their governing board elections with statewide elections, this bill presumably would require the creation of a separate ballot that contains school district governing board races, but not the other races and measures that appear on the ballot at the same consolidated election. Poll workers would need to be trained and new procedures would need to be developed to ensure that each voter received the correct ballot.
- 7) **Arguments in Opposition:** In opposition to this bill, the California School Boards Association writes:

AB 2517 disregards the fact that school districts are co-equal branches of local government by treating them as subordinate to charter cities for purposes of governing elections and making related fiscal decisions. The bill presupposes that a non-educational entity is better equipped to determine how best to engage students in civic learning, and it interferes with the purpose of the Local Control Funding Formula, which is to allow local educational entities to set goals for their students and to align financial resources in support of those goals.

Further, the bill treats voters inequitably by giving some voters full rights, and others only limited voting rights. AB 2517 effectively creates three classes of voters because some 16 and 17 year olds would be allowed to vote, while others would not. In addition to the question of fundamental fairness raised by creating separate classes of voters, this would likely result in widespread voter confusion

and make even more challenging the work of those who seek to get voters to the polls.

Together with the overlapping boundaries of municipalities and local educational agencies in our state, this bill would create a great deal of confusion as to which 16 year olds qualified to vote and which agency should make that determination. Indeed, the bill appears to grant multiple agencies the right to make this determination for the same areas as it applies to school districts whose boundaries are coterminous with or includes within its boundaries a chartered city. The bill makes no provision for resolving disputes between charter cities, or affected general law cities and school districts.

- 8) **Technical Amendment:** One of the findings in this bill contains incorrect information about the turnout at the November 2014 statewide general election. To correct that error, committee staff recommends the following amendment to this bill:

On page 2, line 6 of the bill, "42" should be replaced with "31."

- 9) **Related Legislation:** ACA 7 (Gonzalez), which is awaiting referral to a policy committee by the Assembly Rules Committee, proposes an amendment to the California Constitution to allow 16- and 17-year olds to vote in a school or community college district governing board election in which that person would be qualified to vote based on residence.

ACA 2 (Mullin), which is pending on the Inactive File on the Assembly Floor, allows a person who is 17 years of age, and who will be 18 years old at the time of the next general election, to vote in any intervening primary or special election that occurs before the next general election.

- 10) **Previous Legislation:** ACA 7 (Mullin) of 2013, ACA 2 (Furutani) of 2009, ACA 17 (Mullin) of 2005, and ACA 25 (Mullin) of 2004, all were similar to ACA 2 of the current legislative session (as described above). All of these measures were approved by the Assembly Elections & Redistricting Committee (or, in the case of ACA 25 of 2004, the Assembly Elections, Redistricting, and Constitutional Amendments Committee), but none of the measures passed off the Assembly Floor.

SCA 19 (Vasconcellos) of 2004, initially proposed to lower the voting age to 14 years, with votes by 14- and 15-year olds counting as one-quarter of a vote, and votes by 16- and 17-year olds counting as one-half of a vote. SCA 19 subsequently was amended instead to lower the voting age to 16, with all votes counting equally as a single vote. SCA 19 failed passage in the Senate Appropriations Committee.

ACA 23 (Speier) of 1995, proposed lowering the voting age to 14, but was never set for a hearing in the Assembly Elections, Reapportionment, and Constitutional Amendments Committee.

- 11) **Double-Referral:** This bill has been double-referred to the Assembly Local Government Committee. Due to impending committee deadlines, if this bill is approved in this committee

today, it would need to be heard in the Assembly Local Government Committee next week, absent a waiver of the Joint Rules. However, if this bill is amended in committee today, that may prevent this bill from being heard in the Assembly Local Government Committee before next week's deadline for policy committees to hear and report bills. In light of this fact, if it is the committee's desire to approve this bill with amendments, committee staff recommends that this bill be passed out of committee with the author's commitment to take those amendments subsequent to passage by this committee.

REGISTERED SUPPORT / OPPOSITION:**Support**

The Greenlining Institute (co-sponsor)

Vote16 – Berkeley (co-sponsor)

Opposition

Association of California School Administrators

California School Boards Association

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