

Date of Hearing: March 23, 2022

ASSEMBLY COMMITTEE ON ELECTIONS  
Isaac G. Bryan, Chair  
AB 1872 (Low) – As Introduced February 8, 2022

**SUBJECT:** Election day holiday.

**SUMMARY:** Makes the day of statewide general elections in even-numbered years a state holiday, and eliminates Washington Day (sometimes referred to as Presidents' Day) as a holiday in those years. Specifically, **this bill**:

- 1) Provides that the first Tuesday after the first Monday in November in every even-numbered year is a state holiday. Eliminates the third Monday in February—known as Washington Day—as a state holiday in even-numbered years, while maintaining it as a state holiday in odd-numbered years. Makes corresponding changes to the paid holidays to which state employees are entitled.
- 2) Requires public schools and community colleges to be closed on the first Tuesday after the first Monday in November in every even-numbered year. Eliminates an existing requirement that public schools and community colleges be closed on Washington Day in even-numbered years. Makes corresponding changes to the paid holidays to which school and community college employees are entitled.
- 3) Prohibits a community college district from maintaining classes on the first Tuesday after the first Monday in November in any even-numbered year, notwithstanding a provision of law that generally permits the governing board of a community college district to maintain classes on most holidays when climatic conditions of the district render it necessary that the colleges be closed as early in the year as possible or opened as late in the year as possible.
- 4) Requires every campus of the California State University (CSU) to observe the first Tuesday after the first Monday in November in any even-numbered year as a holiday, and requires every campus to be closed on that day. Requests the University of California (UC) to observe the first Tuesday after the first Monday in November in any even-numbered year as a holiday and to close each of its campuses on that day.
- 5) Makes corresponding, conforming, and technical changes.

**EXISTING LAW:**

- 1) Provides that the following are state holidays:
  - a) Every Sunday.
  - b) January 1.
  - c) The third Monday in January, known as “Dr. Martin Luther King, Jr. Day.”
  - d) February 12, known as “Lincoln Day.”

- e) The third Monday in February, known as “Washington Day.”
  - f) March 31, known as “Cesar Chavez Day.”
  - g) The last Monday in May.
  - h) July 4.
  - i) The first Monday in September.
  - j) September 9, known as “Admission Day.”
  - k) The fourth Friday in September, known as “Native American Day.”
  - l) The second Monday in October, known as “Columbus Day.”
  - m) November 11, known as “Veterans Day.”
  - n) December 25.
  - o) Good Friday from 12 p.m. to 3 p.m.
  - p) Every day appointed by the President or Governor for a public fast, thanksgiving, or holiday.
- 2) Entitles state employees, with certain exceptions, to be given time off with pay for specified holidays. Provides that the provisions of a memorandum of understanding (MOU) shall prevail where those provisions conflict with the holidays listed in state law, as specified.
  - 3) Designates holidays on which community colleges and public schools are required to close. Permits the governing board of a community college district, notwithstanding those holidays, to maintain classes on any days other than January 1, July 4, December 25, and any day appointed by the President or the Governor for a public thanksgiving, when climatic conditions of the district render it necessary that the colleges be closed as early in the year as possible or opened as late in the year as possible.
  - 4) Requires every campus of the CSU to observe November 11, known as Veterans Day, as a holiday, and be closed on that day, except as specified when November 11 falls on a Saturday or Sunday.
  - 5) Designates optional bank holidays.
  - 6) Prohibits an election from being held on the day before, the day of, or the day after a state holiday.
  - 7) Permits a voter who does not have sufficient time outside of working hours to vote at a statewide election to take up to two hours off of work for voting without loss of pay, as specified.

- 8) Requires an elections official to mail a ballot to every registered active voter for each election in which the voter is eligible to vote, as specified.

**FISCAL EFFECT:** Unknown. State-mandated local program; contains reimbursement direction.

**COMMENTS:**

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

With non-voters reporting a lack of time as their reasoning for voting, establishing an Election Day Holiday will be the first step of many in increasing voter turnout. California has experienced historically low voter turnout which has hurt our democracy. This bill will demonstrate California's strong commitment to an engaged electorate and ensure more Californians have the opportunity to go to the polls. By passing this bill, California can set precedent for other states, which would send a strong rebuke to those attempting to scale back voting accessibility and availability for those hardest hit.

- 2) **State Holidays and an Election Day Holiday:** California law generally specifies the holidays to which state, public school, and community college employees are entitled. By requiring those entities to observe the first Tuesday after the first Monday in November as a holiday in even-numbered years in lieu of observing Washington Day as a holiday in those years, public school and community college employees generally would be entitled to a paid holiday on the date of the statewide general election in even-numbered years. However, state law also generally provides that a MOU between the state and a recognized employee organization will control where that MOU conflicts with the state holidays identified in state law, except as specified. Accordingly, if this bill becomes law, the extent to which state employees have the day off for the statewide general election in even-numbered years will depend on the outcome of collective bargaining between the state and recognized employee organizations.

This bill additionally requires the CSU to observe the first Tuesday after the first Monday in November as a holiday in even-numbered years and close all campuses on that day (and requests the UC to do the same), though it does not expressly specify whether employees would be entitled to that holiday.

While this bill would make the date of the statewide general election in even-numbered years a paid day off for certain public employees, other days on which elections are held (including primary, local, and special elections) would not be holidays. Additionally, state law does not generally require private employers to close their offices or give their employees the day off on state holidays, and nothing in this bill requires private employers to observe a holiday on the first Tuesday after the first Monday in November in even-numbered years. Similarly, nothing in state law or this bill would require private colleges, universities, and schools to close on the first Tuesday after the first Monday in November of even-numbered years.

- 3) **Voter Participation in California Elections:** As detailed above, the author's rationale for this bill is to try to improve turnout by reducing barriers that otherwise make it difficult for voters to participate in elections. In background materials submitted to the committee, the author notes that time constraints are among the most commonly-cited reasons that non-

voters give for why they did not vote in recent elections.

In 2014, California saw historically low voter participation in statewide elections. In all, just 18.44% of eligible Californians voted in the 2014 statewide primary election—the lowest recorded turnout in a statewide primary election since 1916. In the statewide general election held that year, just 30.94% of eligible Californians voted—the lowest turnout in a statewide general election since at least 1910, the first year for which turnout figures are available. In response, in 2015, the Assembly Elections & Redistricting Committee and the Senate Elections & Constitutional Amendments Committee held a series of joint informational hearings to investigate and discuss the causes and ramifications of the low voter turnout at the 2014 primary and general elections, and to consider changes that California might make to its election system to improve voter participation and turnout.

Since that time, California has taken a number of major steps to reduce barriers to voting in an effort to improve voter participation. Those efforts have been multifaceted, and have included policy changes that were specifically intended to provide additional options for voters who otherwise might have difficulty voting due to time constraints on election day. Two policy changes in particular have sought to provide voters with additional flexibility for where, when, and how they vote.

SB 450 (Allen), Chapter 832, Statutes of 2016, also known as the California Voter's Choice Act (CVCA), permits counties to opt-in to conducting elections in which every voter receives a vote-by-mail (VBM) ballot and vote centers and ballot drop-off locations are available prior to and on election day, in lieu of operating polling places for the elections, subject to certain conditions. Under SB 450, some vote centers must be open for a total of 11 days (beginning ten days prior to the election through election day), with remaining vote centers open for four days (beginning three days before the election through election day).

More recently, California has taken steps to ensure that every voter—including voters who reside in counties that are not participating in the CVCA—receives a ballot in the mail for each election in which the voter is eligible to participate. That policy was first enacted as an accommodation to facilitate voting in 2020 due to concerns that conducting in-person voting during the spread of COVID-19 could threaten the health and safety of voters, election workers, and the public generally. Notably, AB 860 (Berman), Chapter 4, Statutes of 2020, required county elections officials to mail a ballot to every registered active voter for the November 3, 2020 statewide general election, among other provisions. SB 29 (Umberg), Chapter 3, Statutes of 2021, continued that policy for all elections conducted in 2021, and AB 37 (Berman), Chapter 312, Statutes of 2021, made that policy permanent for all future elections. Furthermore, AB 37 additionally required counties that do not conduct elections under the CVCA to establish a minimum number of ballot drop-off locations beginning not less than 28 days before each election.

As a result of these policy changes, every registered active voter in California automatically receives a ballot in the mail for each election in which the voter is eligible to participate, giving voters nearly a month to complete and return their ballots. To make it easier for voters to return those ballots by mail, California recently enacted legislation requiring that the postage be prepaid on envelopes that voters use to return their completed VBM ballots (AB 216 (Gonzalez-Fletcher), Chapter 120, Statutes of 2018). Voters also have the option of returning their completed ballots to ballot drop-off locations that are available in every

county, or to in-person voting locations throughout the state.

Californians additionally retain the ability to vote in-person, rather than voting on the ballots that are mailed to them. In counties that conduct elections pursuant to the CVCA, voters have the option of voting in-person at a vote center for a minimum of 11 days, including at least four weekend days. According to information from the Secretary of State's office, 27 counties (Alameda, Amador, Butte, Calaveras, El Dorado, Fresno, Kings, Los Angeles, Madera, Marin, Mariposa, Merced, Napa, Nevada, Orange, Riverside, Sacramento, San Benito, San Diego, San Mateo, Santa Clara, Santa Cruz, Sonoma, Stanislaus, Tuolumne, Ventura, and Yolo) are expected to conduct elections pursuant to the CVCA this year. If all 27 of those counties conduct elections under the CVCA, more than three-quarters of California's registered voters will live in a county that is providing at least 11 days of in-person voting opportunities for statewide elections. Furthermore, some non-CVCA counties have made early in-person voting opportunities available even where not required by state law.

As a result of these and other policy changes, California voters have many more options for participating in elections than they did in 2014 when the state experienced historically low voter participation. Voter participation has been considerably higher in statewide elections held in California since 2014, including the 2020 presidential general election, which saw the highest turnout in California since 1952. Because many factors influence voter turnout, the increased levels of voter participation since 2014 cannot be solely attributed to changes in election policies.

- 4) **Election Day Holidays in Other States:** At least 20 states – Delaware, Florida, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Montana, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, and Wisconsin, and the territory of Puerto Rico, have declared election day to be a state holiday. The legal significance of that designation varies; in some of those states, state employees do not receive the day off even though election day is designated as a holiday. According to information from the Council of State Governments, in 14 states (Delaware, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Montana, New Jersey, New York, Rhode Island, Virginia, and West Virginia), election day is a paid holiday for state employees. In Kentucky, election day is a paid holiday for state employees only for presidential general elections.
- 5) **National Commission on Election Reform (NCER):** The NCER, which was co-chaired by former Presidents Jimmy Carter and Gerald Ford and is sometimes known as the Carter-Ford Commission, was formed in the wake of the 2000 Presidential election to quickly evaluate the body of research on election reform, review policy proposals, and offer a bipartisan analysis to the Congress, the President, and the American people. In 2002, Congress approved and the President signed into law the Help America Vote Act of 2002 (P.L. 107 252) (HAVA). The intent of HAVA was to "establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections," among other purposes. Many of the provisions of HAVA were based in part on recommendations from the NCER.

One of the recommendations made by the NCER was that Congress should enact legislation to hold presidential and congressional elections on a national holiday – possibly by moving

Veterans Day to coincide with election day in even numbered years. The NCER report concluded that "[h]olding national elections on a national holiday will increase availability of poll workers and suitable polling places and might make voting easier for some workers."

Election administration has changed considerably in both the United States and in California, however, since the NCER issued its report 20 years ago. Notably, in the 2000 Presidential general election that was the basis for the formation of NCER, less than 25% of California voters cast a ballot by mail; the remaining three-quarters of California voters voted at a polling place on election day. By contrast, 86.72% of Californians who voted in the 2020 presidential general election did so by using a VBM ballot. Furthermore, early in-person voting opportunities now are much more widely available in California than they were in 2000, particularly in counties that are conducting elections pursuant to the CVCA, as described in more detail above.

- 6) **Federal Legislation:** Multiple proposals in Congress would make election day a federal holiday, including H.R. 1—also known as the For the People Act—and H.R. 5746—also known as the Freedom to Vote: John R. Lewis Act. Both measures were approved by the House of Representatives, though neither measure has been approved by the Senate.

- 7) **Arguments in Support:** In support of this bill, California Environmental Voters writes:

California can do more to help facilitate greater voter participation. Observing a state holiday on Election Day will eliminate work and school conflicts faced by many voters. Eighteen states and Puerto Rico have already declared Election Day a holiday. Over 300 companies — including California's own Patagonia, Paramount Pictures, Lyft, Levi Strauss, and Twitter — have pledged to give their employees time off during Election Day, and many of these give their employees the entire day as a holiday.

Young voters in particular would greatly benefit from a day off to vote. In a 2014 study by the Institute for Democracy and Higher Education which looked at voter turnout among students enrolled in higher education institutions across all 50 states, only 18% of students enrolled at community colleges and 18.6% of students enrolled at four-year universities voted in the 2014 midterm election. Providing these students with a day off of school to vote would be a powerful tool in increasing young voter turnout.

AB 1872 ensures that Californians will have the time and opportunity to participate in our civic life by making Election Day a state holiday. This important legislation demonstrates California's strong commitment to democracy by eliminating barriers to voter participation and ensuring that the electoral process is open and accessible to all voters.

- 8) **Arguments in Opposition:** In opposition to this bill, the California Landscape Contractor's Association (CLCA) writes:

CLCA believes it is important for California citizens to exercise their civic duties including the duty to vote for state, local and federal elected officials. In our state, any registered voter may vote using a vote-by-mail ballot instead of going to the

polls on Election Day. The vast majority of California voters already vote by mail. Accordingly, this bill is not necessary to drive higher voter turnout. Creating a new state holiday to promote higher voter turnout will create pressure on private employers to observe this state holiday and thereby drive their costs up considerably. This is particularly troublesome after a number of new laws have been implemented creating more mandated employee leave under the California Family Rights Act and emergency COVID requirements.

- 9) **Previous Legislation:** This bill is substantially similar to AB 53 (Low) of 2021, which was approved by this committee on a 5-1 vote but was held on the Assembly Appropriations Committee's suspense file.

AB 177 (Low) of 2019, would have made the first Tuesday after the first Monday in November of each even-numbered year a state holiday. AB 177 was approved by the Assembly Elections & Redistricting Committee by a 5-2 vote, but was held on the Assembly Appropriations Committee's suspense file. AB 2165 (Low) of 2018 and AB 674 (Low) of 2017 were similar to AB 177. Both bills were approved by the Assembly Elections & Redistricting Committee, but were held on the Assembly Appropriations Committee's suspense file. AB 2634 (Torricono) of 2008, would have made the first Tuesday after the first Monday in November of each year in which a statewide or national election is held a state holiday. AB 2634 was approved by the Assembly Elections & Redistricting Committee, but failed to pass in the Assembly Governmental Organization Committee.

- 10) **Related Legislation:** AB 1655 (Jones-Sawyer), which is pending in the Assembly Governmental Organization Committee, would make June 19, known as "Juneteenth," a state holiday. AB 2596 (Low), which has not yet been referred to a committee, declares the intent of the Legislature to enact legislation to make Lunar New Year a state holiday.

- 11) **Double-Referral:** This bill has been double-referred to the Assembly Governmental Organization Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

American Federation of State, County and Municipal Employees, AFL-CIO (co-sponsor)  
 GenUp (co-sponsor)  
 California Environmental Voters  
 Courage California  
 Disability Rights California

### **Opposition**

California Landscape Contractors Association

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