

Date of Hearing: March 21, 2018

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 2165 (Low and Bonta) – As Introduced February 12, 2018

SUBJECT: Election day holiday.

SUMMARY: Makes the first Tuesday after the first Monday in November of each even-numbered year a state holiday. Specifically, **this bill:**

- 1) Provides that the first Tuesday after the first Monday in November in any even-numbered year is a holiday in the state. Provides that all state employees are entitled to this holiday.
- 2) Requires public schools to be closed on the first Tuesday after the first Monday in November in any even-numbered year. Provides that probationary and permanent school employees that are a part of the classified service are entitled to a paid holiday on that day, as specified.
- 3) Requires community colleges to be closed on the first Tuesday after the first Monday in November in any even-numbered year. Provides that probationary and permanent college employees that are a part of the classified service are entitled to a paid holiday on that day, as specified.
- 4) Requires that the first Tuesday after the first Monday in November in any even-numbered year is to be included in the list of days in which regional centers shall not compensate a work activity program, activity center, adult development center, behavior management program, social recreation program, adaptive skills trainer, infant development program, program support group (day service), socialization training program, client/parent support behavior intervention training program, community integration training program, community activities support service, or creative arts program, for providing service to a consumer.
- 5) Makes corresponding changes.

EXISTING LAW:

- 1) Provides that the holidays in the state are:
 - 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.
 - 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 noon until 3 p.m.
 - p) Every day appointed by the President or Governor for a public fast, thanksgiving, or holiday.
- 2) Designates holidays on which community colleges and public schools are required to close.
 - 3) Entitles state employees, with specified exceptions, to be given time off with pay for specified holidays.
 - 4) Designates optional bank holidays.
 - 5) Prohibits an election from being held on the day before, the day of, or the day after, a state holiday.

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

COMMENTS:

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

In 2014, California saw historically low voter turnout, with just 25% of registered voters participating in the primary, and just 42% of registered voters participating in the general election. According to a study from the Pew Research Center, work and school conflicts were the most common reason cited by eligible voters who did not vote in 2014. This is a particular problem for low income communities who face financial roadblocks to taking unpaid time off to vote.

While state law allows Californians to take up to two hours off from work, without loss of pay, to cast a ballot, the state can do more to help facilitate voter participation. Observing a state holiday on election day would eliminate work and

school conflicts that many voters face.

AB 2165 ensures Californians will have the time and opportunity to vote by making the day of statewide general elections in November of even-numbered years a state holiday. AB 2165 demonstrates California's strong and unwavering commitment to democracy by eliminating barriers to voter participation and ensuring that the electoral process is open and accessible to all voters.

- 2) **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."

This bill is not proposing a national holiday but it does provide for public schools, community colleges, and state buildings to be closed on election day, which provides an opportunity for schools and state buildings to be used as polling places or vote centers. Additionally it may afford the opportunity for students and state employees to serve as poll workers on election day.

While this bill makes election day a state holiday, it does not require private employers to close their offices or give their employees the day off.

- 3) **Election Day Holidays in Other States:** Sixteen states – Delaware, Florida, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Montana, New Jersey, New York, North Carolina, Rhode Island, West Virginia, and Wisconsin, and the territory of Puerto Rico, have declared election day as a legal holiday.

Election day holidays vary from state to state. Under Kentucky law and for the territory of Puerto Rico, the election day holiday applies only to elections which take place on the first Tuesday after the first Monday in November in any year that is evenly divisible by the number four. Under existing law in the states of Indiana and West Virginia, the election day holiday applies to both the primary and general elections. Similarly, in Wisconsin the election day holiday applies to both municipal and general elections but the primary election holiday is only a half-day. Pennsylvania law provides for a half-day holiday, that begins at noon on election day, for both the primary and general elections. On the date of the statewide general election, New York state has established a floating holiday provision for certain state employees whose offices remain open on election day. North Carolina has

declared that Tuesday after the first Monday in November in years in which a general election is to be held is a legal public holiday. Additional states have designated their statewide election day holiday applies to all elections taking place in even-numbered years.

Committee staff is unaware of studies or other information showing that adoption of an election day holiday has led to an increase in voter participation among the states that have adopted one.

- 4) **California Voter's Choice Act:** SB 450 (Allen), Chapter 832, Statutes of 2016, permits counties to opt-in to a significantly different approach to conduct 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. Counties that conduct elections under SB 450 are required to follow a specified public process for developing an election administration plan that includes specific proposals for voter education and outreach. Under SB 450, some vote centers must be open for ten days prior to an election, with remaining vote centers opening three days prior to the election. SB 450 will begin a phased implementation in 2018.

One of the goals of SB 450 is to increase voter turnout by allowing voters the opportunity to vote in the days prior to the election. Because vote centers will be open for at least eight hours a day in the ten days immediately preceding an election and from 7 a.m. to 8 p.m. on election day, many voters who cannot take unpaid time off to vote will have an increased number of days and hours to either vote in person or use one of the drop-off locations to deliver their VBM ballot. Counties that have agreed to participate in 2018 include: Madera, Napa, Nevada, Sacramento, and San Mateo.

- 5) **Argument in Support:** The California School Employees Association, (CSEA), AFL-CIO, writes:

State law allows Californians to take up to two hours off from work, without loss of pay, to cast a ballot. However, election day is often characterized by long lines at polling places before and after work making voting impossible for many workers. The state can do more to help facilitate greater voter participation. Observing a state holiday on election day will eliminate work and school conflicts that many voters face.

Schools are especially busy during early November. Many CSEA members will not take time off to vote if they feel their services are needed on campus. CSEA members often work two jobs and finding time between shifts is also not an option. Although employees are legally allowed time off to vote, managers still discourage employees from leaving during their workday. AB 2165 ensures that classified employees will have the time and opportunity to vote by making the statewide general election a holiday.

- 6) **Previous Legislation:** This bill is identical to AB 674 (Low) of this session, which was approved by this committee on a 5-2 vote, but was held on the Assembly Appropriations Committee's suspense file. AB 2634 (Torrico) 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 this committee, but failed to pass in the Assembly Committee on Governmental Organization.

- 7) **Double-Referred:** This bill has been double-referred to the Assembly Committee on Governmental Organization.

REGISTERED SUPPORT / OPPOSITION:

Support

American Civil Liberties Union of California
Asian Law Alliance
California Labor Federation
California School Employees Association, AFL-CIO
Service Employees International Union

Opposition

None on file.

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