

Date of Hearing: April 15, 2021

ASSEMBLY COMMITTEE ON ELECTIONS
Marc Berman, Chair
AB 53 (Low) – As Amended March 15, 2021

SUBJECT: Election day holiday.

SUMMARY: Makes the day of statewide general elections in even-numbered years a state holiday, and eliminates Washington 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) Prohibits a regional center from compensating for specified programs on the first Tuesday after the first Monday in November in every even-numbered year, and eliminates a prohibition on regional centers compensating for those programs on Washington Day in even-numbered years.
- 6) 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 regional centers from compensating for specified programs for providing any service to a consumer on specified holidays.

- 7) Prohibits an election from being held on the day before, the day of, or the day after a state holiday.
- 8) 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.

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

COMMENTS:

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

State law currently allows Californians to take up to two hours off from work, without loss of pay, to cast a ballot. However, finding this time between work, errands and duties at home can sometimes make voting a nearly impossible task. AB 53 would shift the date of the Presidents Day holiday every other year to make it easier for public employees to participate in the electoral process, while also signaling to all California residents the importance of voting. Election Day is already recognized as a holiday in 18 states across the country, as well as the territory of Puerto Rico.

California has always been a leader when it comes to reducing barriers in voting, but this is sadly one instance in which we are behind the curve. Companies like Twitter and Salesforce already give their employees the day off to go and vote. If two of the most successful companies in the world are willing to recognize the importance of voting, we as a state should be able to understand that an Election Day Holiday will reinforce our civic duty to engage in the electoral process and have our voices heard.

- 2) **State Holidays and an Election Day Holiday:** As detailed above, 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 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 would require private employers to observe a holiday on the first Tuesday after the first Monday in November in even-numbered years.

- 3) **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."

- 4) **California Voter's Choice Act (CVCA):** SB 450 (Allen), Chapter 832, Statutes of 2016, 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. 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.

One of the goals of SB 450 is to give voters additional options about where and when they vote by allowing voters to vote in the days prior to an election. Because vote centers are 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. Fifteen counties (Amador, Butte, Calaveras, El Dorado, Fresno, Los Angeles, Madera, Mariposa, Napa, Nevada, Orange, Sacramento, San Mateo, Santa Clara, and Tuolumne) conducted elections pursuant to the CVCA in 2020 (though SB 423 (Umberg), Chapter 31, Statutes of 2020 adjusted some of the rules for in-person voting for the 2020 general election only due to concerns related to COVID-19).

- 5) **Election Day Holidays in Other States:** At least 18 states – Delaware, Florida, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Montana, New Jersey, New York, 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.

- 6) **Arguments in Support:** One of the co-sponsors of this bill, the American Federation of State, County and Municipal Employees, AFL-CIO, writes in support:

An Election Day holiday would have an immediate effect on a large proportion of Californians and their ability to participate in the general election. Within the UC and CSU systems alone, this bill would remove the academic and work-related obstacles for over 1,044,000 students and faculty. A 2020 report by the California Civic Engagement Project found that youth voters are significantly underrepresented at the ballot box and are projected to make up a progressively decreasing share of the overall vote over the next two decades. This bill would open the door to new levels of activism, organization and civic engagement among students, increasing turnout among young people.

- 7) **Arguments in Opposition:** In opposition to a prior version of this bill, the Valley Industry and Commerce Association wrote:

California already requires employers to provide employees with up to two hours of paid time off to vote. By making Election Day holidays, AB 53 would disrupt instructional calendars, requiring schools to add another day of instruction somewhere else in the year. Further, while this bill does not require the private sector provide a paid day off, closing schools would mean that parents will likely have to take time off work to supervise their children, resulting in lost wages for the employee and reduced workflow for employers. This could even cause a reduction of voting rates in the general population, as parents will need to take time to find or provide childcare on Election Day.

Additionally, the Association of Regional Center Agencies, which has an “oppose unless amended” position on this bill, writes:

AB 53 adds the biennial November Election Day to a list technically called the “Uniform Holiday Schedule.” This is a list of 14 mandatory statewide furlough days for businesses serving people with developmental disabilities, created in 2009 to cut costs. It amounts to a rate cut for service providers and forces many direct service professionals, many of whom are paid minimum wage, to take unpaid days off. It also threatens the independence of those individuals who require support to work as well as impacts family members who must take time off work to ensure appropriate supervision is provided.

A full repeal of Welfare and Institutions Code §4692, or the removal Section 16 from AB 53, would fully address our opposition.

- 8) **Previous Legislation:** 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 (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 the Assembly Elections & Redistricting Committee, but failed to pass in the Assembly Governmental Organization Committee.

- 9) **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)
California Association of Student Councils (co-sponsor) (prior version)
GENup (co-sponsor)
Associated Students Inc. at Sacramento State
California Calls
California League of Conservation Voters
California Professional Firefighters
California Public Defenders Association (prior version)
California State Student Association
Courage California
Disability Rights California

Opposition

Association of Regional Center Agencies (unless amended)
Election Integrity Project California, Inc.
Valley Industry and Commerce Association (prior version)

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