

Date of Hearing: March 13, 2019

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING  
Marc Berman, Chair  
AB 177 (Low) – As Introduced January 9, 2019

**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 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 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 services 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. The U.S. Census Bureau analyzed the 2016 election and found that 15% of non-voters reported a lack of time as their reason for not voting. This is a particular problem for low income communities who face financial roadblocks to taking unpaid time off to vote.

Each year, more states are considering legislation to make Election Day a holiday. Recently, Congress introduced a house resolution which includes a provision to make Election Day a federal holiday.

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 177 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 177 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) **Who Does This Holiday Apply To?** The provisions of this bill would apply to all state employees. The holiday would also apply to all public school and community college probationary or permanent employees that are a part of the classified service if they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday. Additionally, regional centers that provide or coordinate services for individuals with developmental disabilities would not be open on the election day holiday because they would be prohibited from compensating their vendors for providing services to their consumers. 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) **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.

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

5) **Argument in Support:** The American Civil Liberties Union of California, writes:

AB 177 would align California with the 18 other states, which already make election day a holiday. The territory of Puerto Rico also makes election day a holiday, and its residents regularly vote at rights far higher than most states. Three other states and the U.S. House of Representatives are currently considering the same course of action.

The U.S. Census Bureau analyzed the 2016 election and found that 15% of non-voters reported a lack of time as their reason for not voting. While state law allows Californians to take up to two hours off from work to cast a ballot, without loss of pay, the state can do more to help facilitate greater voter participation. Election day is often characterized by long lines at polling places before and after work. Observing a state holiday on election day would enable people to vote at any time in the day, not just before or after work.

6) **Concerns:** While it does not have a formal position on this bill, the Association of Regional Center Agencies (ARCA), expresses concerns that this bill would unintentionally harm workers in the developmental disabilities services system including the people they serve and their families. ARCA writes:

Regional centers firmly support increased participation in elections. Not only do centers provide voter registration forms, they often host outreach and awareness events, including coordination with county registrars of voters, to help their clients become familiar with (accessible) voting technology.

Many clients cherish their right to vote, and even bring their civic advocacy and activism to the state Capitol . . .

AB 177 adds the biennial November Election Day to a list technically called the 'Uniform Holiday Schedule.' This Schedule is a list of 14 mandatory statewide furlough days, created in 2009 to cut costs. Its implementation was delayed pending litigation, and though it was delayed in the FY2018-2019 Budget, it is again proposed for implementation. The Schedule is strongly opposed by ARCA and a wide range of developmental disability advocacy and service groups.

We recognize that including Welfare & Institutions Code reflects the laudable goal of ensuring all eligible Californians are able to exercise their right to vote. But it has unintentionally entered into an unrelated and very serious challenge facing our service system.

7) **Previous Legislation:** This bill is identical to AB 2165 (Low) of 2018, which was approved by this committee on a 5-1 vote, but was held on the Assembly Appropriations Committee's suspense file. AB 674 (Low) of 2017, which is similar to this bill, was approved by this committee, 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.

- 8) **Related Legislation:** AB 438 (Frazier) seeks to delete four days from the list of holidays observed by regional centers and wherein they are prohibited from providing client services.
- 9) **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  
American Federation of State, County and Municipal Employees, AFL-CIO  
Asian Americans Advancing Justice – CA  
Asian Law Alliance  
California Association of Nonprofits  
California League of Conservation Voters  
California Professional Firefighters  
California School Employees Association, AFL-CIO  
Courage Campaign  
Right to Assemble  
Together We Will/Indivisible – Los Gatos  
8 Individuals

**Opposition**

None on file.

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