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\* non-voting member

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# CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS

July 15, 2008

Assembly Member Ted Gaines  
State Capitol, Rm. 2002  
Sacramento, CA 95814-0004

Dear Assembly Member Gaines:

The Elections Legislative Committee of the California Association of Clerks and Election Officials reviewed **AB 2218**, as amended June 5, 2008.

There were two issues raised as concerns in regard to the proposal. The bill suggests that the registrar of voters in each county (or the city clerk in a city) may be considered an impartial person to tabulate the ballots in an assessment proceeding. However, because election officials (including city clerks) have access only to the database of registered voters (not property owners) and equipment used to tally official ballots from registered voter election have no ability to tabulated weighted votes, election officials are not equipped to perform this function. Further, the timing of these proceedings may well interfere with the conduct of registered voter elections. It does not make any sense to single out election officials to fill this role, and by suggesting these individuals (and only these individuals) in the bill, there is reason to believe that they will be called upon to fulfill this role, despite the issues raised in this letter.

The other issue that was raised in the discussion of this bill is the timing of registered voter elections referred to in Section 2 (Section 53755 (f)). Though it is assumed that the timing of the registered voter elections is governed by Section 1000 (polling place elections) or 1500 (mailed ballot elections) of the Elections Code, it would provide clarity if a reference to these sections was included in that section of the bill.

In light of these concerns, the Committee voted to adopt the position of **Oppose, unless amended** to reflect the suggested revisions. I have attached a copy of our proposed amendments for your consideration. Should you or your staff have any questions or concerns, please don't hesitate to contact me at (707) 565-1876.

Very truly yours,

Janice Atkinson,  
Correspondence Secretary  
California Association of  
Clerks and Election Officials

c: Assembly Member Curren Price, Chair, Committee on Elections, Redistricting and Constitutional Amendments  
Senator Ron Calderon, Chair Elections, Reapportionment and Constitutional Amendments Committee  
Deborah Seiler, Co-Chair, CACEO Elections Legislative Committee  
Jill Lavine, Co-Chair, CACEO Elections Legislative Committee  
Barry Brokaw and Donne Brownsey, Sacramento Advocates, Inc.

## AB 2218 Suggested amendments

(e) (1) At the conclusion of the public hearing conducted pursuant to subdivision (d), an impartial person designated by the agency who does not have a vested interest in the outcome of the proposed assessment shall tabulate the assessment ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. ~~The impartial person may be the registrar of voters for the county in which the agency is located. In a city, the impartial person may include, but is not limited to, the clerk of the city.~~ The impartial person may use technological methods of tabulating the assessment ballots, including, but not limited to, punchcard or optically readable (bar-coded) assessment ballots. If the agency contracts with a private vendor for the ballot tabulation, the vendor must not have a vested interest in the outcome of the proposed assessment, or be related in any way to any person who has a vested interest in the outcome of the proposed assessment. Persons who have a vested interest in the outcome of the proposed assessment include, but are not limited to, the engineer who prepared the engineer's report for the assessment, any person who assisted with the design or campaign for the assessment, and any person whose compensation may be affected by the outcome of the proposed assessment. "Related" includes, but is not limited to, a family relation by blood or marriage, a financial relation, an affiliation within or between business structures, or the sharing of one or more common principals. If the ballots are counted by an impartial person employed by the agency, they shall be opened and tabulated *in public view* at the conclusion of the hearing or, if directed by the governing body, at a different location accessible to the public, provided the governing body announces that date, time, and location at the hearing. The governing body may then continue the matter to another date and time to report the results of the tabulation. The ballots shall be preserved for a minimum of two years, after which they may be destroyed as provided in Sections 26202, 34090, and 60201 of the Government Code. During and after the tabulation, the assessment ballots shall be treated as disclosable public records, as defined in Section 6252, and equally available for inspection by the proponents and the opponents of the proposed assessment. Any member of the public wishing to inspect and count assessment ballots shall also be given access, upon request, to the information needed to determine the correct weight for each ballot.

In the event that more than one of the record owners of an identified parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the identified parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the agency by documentation provided by those record owners.

(f) If the agency chooses to submit the fee or charge to the electorate, the election may be held by mailed ballot, but shall be conducted by the city clerk or the registrar of voters if the agency is a city, or by the registrar of voters for the county in which the agency is located in the case of any agency other than a city. The election shall be held on an established election date pursuant to Section 1000 of the Elections Code, or, in the case of a mailed ballot election, Section 1500 of the Elections Code. If the agency chooses to limit the election to the owners of the property subject to the fee or charge, the agency shall conduct a mailed ballot proceeding in accordance with the regulations and procedures set forth in Section 53753, except that the ballots are not weighted.