August 12, 2021

Ballot Design Advisory Committee (BDAC)

July 8, 2021 Meeting Minutes

1. The meeting was called to order at 2:30 p.m.

Roll was called and quorum was declared. The following participants were marked as present:

Committee Members

- Annette Lim
- Brian Ikenaga
- Christopher Neubauer
- David Magedson
- James Lasby
- James Wight
- Jennifer Tagg
- Joanna Francescut
- John Gardner
- Karen Rhea
- Kathy Styles

- Kelly Sanders
- Liz Oviedo
- Maria Valadez
- Marina Ortega
- Natalie Adona
- Stephanie Hill
- Stephen Aye
- Travis Ebbert
- Victor Chavarin Jr.
- Whitney Quesenberry

Secretary of State Staff

- Reggie Fair,
  Deputy Secretary of State,
  Operations Executive
- Jana Lean,
  Chief of Elections
- Joanna Southard,
  Assistant Chief of Elections
- Robbie Anderson,
  Elections Counsel
- NaKesha Robinson,
  Senior Information System
  Analyst

- Erric Garris,
  Deputy Secretary of State,
  Legislative Affairs
- Kirsten Larsen,
  Election Services Manager
- Danielle Dawson,
  Staff Services Analyst
- Reina Miller,
  Voter Accessibility Coordinator

Members of the Public and County Elections Office Staff

- Blanca Torres
- Ethan Jones
- Justin Berardino

- Nicole Becker
- Melinda Dubroff
- Susan (Voter Foundation)

2. Swearing-in Ceremony by Secretary Weber

Deputy of Operations Reggie Fair administered the Oath of Office to the members of the committee.

3. Discuss Potential Ballot Design Issues Presented by AB 1416 and SB 90

- Natalie Adona stated that her county has submitted a test ballot for SB 90, which she stated might require extra text that would result in a lengthy ballot. There are some proposed solutions in AB 1416 such as the font size and shortening the names of organizations as well. How would this impact the 75-word limit? This also adds a layer of complexity additionally with the different languages.
- Whitney Quesenberry asked why not make this a requirement for posting this information at voting centers and polling places? The more complicated the ballot, the more intimidating it becomes to voters, and it also adds reading time and could lead to more information not being seen. What is the point of the voter guide if the ballot starts retaining this information? Why don't they use the state voter guide to establish information rather than on the ballot? Maybe they can simplify the ballot, to create it in a way that we are not just adding more text but actual pertinent information. They should rethink about the voting experience to design figure out how the ballot should be designed.
- Liz Oviedo stated that the Santa Clara County Board of Supervisors is in support but believes that changes need to be made to both pieces of legislation. AB 1416 & SB 90 are very similar if not identical, they created mock ballots and this would add another card which leads to more proofing time, lengthier process, additional time for tallying ballots and general concern for the ballot's overall length. There will be potential issues for the layout if we try to fit to many measures and propositions. Their county specifically has many county contests so it would affect their timeline greatly.
  - o Travis Ebbert of Contra Costa County stated that he concurred with Liz Oviedo and that his county's models indicate that the requirements of the legislation would require two or three additional ballot pages.
- Kathy Styles stated that the voter information guide would be a better place to provide certain information to voters, such as the names of ballot-measure proponents, rather than the ballot itself.
- Karen Rhea stated that their issue is where it says they can modify names for the organizations. They are concerned with repercussions such as kickback lawsuits that would lead to more delays.
- Natalie Adona stated that she also was concerned about the counties being allowed to alter the names of groups/proponents and that she would prefer guidance from the state as to what the counties may and may not do. She further wonders whether voters are not

reading the voter guide? Voters look at the parts that are valuable for them, do not blame voters for skipping sections. She would feel more comfortable to see a study seeing if voters are reading the guide or not. If they are not then maybe it would be a good idea to put this information on the ballot. Not clear whether the underlying assumption is accurately the truth

- James Lasby stated that the name shortening might make the counties vulnerable to lawsuits.
- Joanna Francescut of Shasta County stated that an individual's name could be on the ballot twice, such as a proponent of a ballot measure and as a candidate, which might cause voter confusion.
- Ethan Jones stated that the supporters of the bill are looking for how to get more information on in the ballot. Adding more info will take up more space. This would be good to bring up to the authors office when bills are up for consideration. The author feels like a lot of people will not look at the state information guide and having this info on the ballot will help give them information or alternatively refresh their memory when they are casting the ballot.
- Liz Oviedo stated that the timeline for rebuttals to ballot-measure arguments can create further delays in producing the ballots.
    - Joanna Francescut stated that she agreed.
- Whitney Quesenberry states that the more complicated a ballot is, the more intimidating it is to voters, especially to those who are voting in person. "At what point does the ballot become the voter guide?"
    - James Lasby stated that he agreed.
- John Gardner of Solano County asked if the motivation for an expanded ballot is a concern that voters might not receive their voter information guides in time, and thus that information appears on the ballot itself.
- Ethan Jones stated that he understood that the guiding belief of the legislation was that voters don't read, or read but don't retain, the information in the voter information guides, so having some of this information on the ballot is helpful to the voter.
- Whitney Quesenberry stated that this information should be located in the voter information guide rather than on the ballot.
- Natalie Adona stated that while she acknowledges that there is a lot of information in the voter information guides, she would like to see a study on whether or not the voters read the guides. She stated that she supports an expanded ballot if it is helpful to the voters, but that she would like to see a study first.
    - Travis Ebbert stated that he agreed.
- Justin Berardino stated that adding more language and more languages to the ballot will necessitate more ballot pages, will be challenging in terms of producing ballots that still are user-friendly.
- Whitney Quesenberry stated that perhaps the committee should focus on what the voting experience with the ballot will be like and should ask if the ballot is meant to be user-friendly or to give the voter more information.
- When the question of the mission of the committee was raised, Kirsten Larsen stated that the purpose of the committee is to create regulations regarding ballot design.

- o Reina Miller shared the document "The Role of the Ballot Design Advisory Committee."
- Brian Ikenaga stated that the counties are not given more time with which to produce ballots with more content when the ballots already are "busy."
- James Lasby stated that his county's main goal is to provide information to the voters that is understandable.
- Liz Oviedo stated that there must be translations for names and proponents on the ballots in character-based languages, which will add more to the text.
- Natalie Adona stated that in addition to Elections Code sections 13200 through 13220, EC Sections 13230 through 13233, EC Sections 13240 through 13247, and EC Sections 13260 through 13267, other portions of the Elections Code also govern ballot-design issues.
- Kirsten Larsen stated that for the next meeting of the committee, these other codes can be added to the agenda.
  - o Reina Miller suggested that a document be created listing the various codes that affect ballot design and that they should be ranked by priority.
- Whitney Quesenberry stated that regulations can clarify any conflicting provisions of codes. She stated that the goal is to create a ballot that is easy to use but at the same time satisfies code requirements.
- Natalie Adona stated that AB 1591 also should be considered in the committee's work.

4. California Elections Code Sections Applicable to Ballot Design

Elections Code Section 13200

- Natalie Adona asked if the committee is able to recommend changes to the codes.
  - o Robbie Anderson responded that the committee is able to do so.
- In response to Section 13200, Natalie Adona stated that no ballot should be discounted if the voter did nothing incorrect.

Elections Code Section 13202

- Karen Rhea stated that those with long names would penalize others with shorter names by requiring smaller type to accommodate the longer names.
- Whitney Quesenberry stated that some states have passed laws regarding shortening candidates' names for the ballot.
- Karen Rhea stated that she would like guidance regarding the ballot designations as well as candidates' names.
- Brian Ikenaga stated that Los Angeles County doesn't change the size of fonts to accommodate longer names but instead "wraps" names on the ballot.
- Liz Oviedo stated that her county adjusts ballot font size, but only within each contest, not within the entire ballot.
- Whitney Quesenberry stated that there are state and federal regulations that require minimum font sizes.
- Several committee members stated that they support character limits.

Elections Code Section 13204

- Several committee members stated that the section's wording requirements are not in plain language and provide too much detail to the voter.
- Natalie Adona stated that some voters are uncomfortable with the use of pencil on a ballot.
  - Joanna Francescut added that the use of Sharpies to mark ballots also has concerned some voters.
- Victor Chavarin Jr. stated that some counties allow a voter to make a correction on his or her vote-by-mail ballot, and that the committee might consider expanding this practice into more counties.

Elections Code Section 13203

- Liz Oviedo stated that 18-point and 30-point font sizes take up a considerable amount of space on the ballot.
- Whitney Quesenberry stated that the Election Assistance Commission has released best practices for ballot design, and that the committee should consider reviewing the EAC's best practices.

5. **Public Comments and Future Agenda Items**

- Reina Miller stated that in its next meeting the committee should discuss selecting co-chairs. She suggested a meeting date of August 26, 2021 and stated that future meetings might need to be scheduled for more than 90 minutes.
- Several committee members stated that August 26, 2021, was too early to meet next, given the necessary preparations for the September 14, 2021, Gubernatorial Recall Election.
- Whitney Quesenberry suggested that the committee solidify its objectives and perhaps form subcommittees/working groups.
- David Magedson suggested that the committee review the EAC's ballot-design best practices and also review other states' ballot-design practices.
- Travis Ebbert suggested that the next meeting be short, that the committee select its co-chairs at that time, and then reconvene after the canvass of the September 14, 2021, Gubernatorial Recall Election.
- Natalie Adona asked about the requirements of the Bagley-Keene Act.
  - Reina Miller responded that there may be small working groups, but that the committee as a whole may not meet and conduct business without public notice.
- James Lasby asked how the committee's work will be presented to the Secretary of State.
  - Reina Miller responded that she will have information regarding this at a later time.
- Next meeting date will be Thursday, August 19, 2021, at 2:30 p.m.

No public comments.

<u>Future Agenda Items</u>
- Co-chairs
- Workgroups
- List of Elections Code
- Review Sample Ballots

6. The meeting was adjourned at 4:00 p.m.