



April 28, 2010

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The Honorable Arnold Schwarzenegger  
Governor, State of California  
State Capitol  
Sacramento, CA 95814

Re: **Special Election for Senate District 15**

Dear Governor Schwarzenegger:

On behalf of the California State Association of Counties (CSAC), and particularly the Counties of Monterey, San Luis Obispo, Santa Barbara, Santa Clara, and Santa Cruz, I write to urge you to reconsider your proclamation calling for a special election to fill the vacancy in Senate District 15. These additional elections in these five counties pose extraordinary challenges, many which cannot be overcome – not the least of which is the significant associated costs of conducting four elections in six months, estimated at \$6.5 million for the five counties involved. Consolidation of the special election with the November general election would alleviate many of these concerns and save counties money.

**Significant and unanticipated costs.** As you are aware, counties are responsible for conducting all vacancy elections, in addition to regularly scheduled elections. While the state at one time provided reimbursement for costs associated with vacancy elections, the authorizing statute sunset in 2008. The additional costs of this new election are considerable and unanticipated – an estimated \$3.5 million beyond the costs of a consolidated election. These five counties are not in any financial position to absorb these costs; there are no discretionary funds or financial reserves for counties to pay for the costs upfront with the hope that the state will reimburse at some future date.

**Lack of available polling places.** Senate District 15 includes Monterey County, one of the California counties that is subject to Section 5 of the federal Voting Rights Act. Under these provisions, Monterey County is subject to special review and must notify the Department of Justice of any changes to the way their elections are run 60 days before an election for approval. One of the most difficult components of such a review process is the placement of polls. The primary election for Senate District 15 will take place only two weeks after the regularly scheduled June primary. Monterey County staff have already contacted several polling places that refuse to host another election so soon. Therefore, polling places must move. Since there are fewer than 60 days between now and the election, it is impossible for Monterey County to comply with the Voting Rights Act, potentially subjecting the County to legal liability.

**Insufficient staff and poll workers.** Four of the five counties have less than 200,000 voters and do not have large staffs. There are not enough trained experienced staff to conduct two elections of this size in one month. Staffing polling places with poll workers will be exceptionally difficult, as it is already a challenge to staff polling places during the summer months. We do not believe that counties can recruit and train a sufficient number of poll workers in the time provided.

**Lack of secure storage of voting materials.** Counties are experiencing difficulties securing sufficient warehouse space to prepare, deploy, receive back, and audit voting equipment and polling place supplies for two elections in one month. Lack of space to prepare and audit voting machines violates voting system use conditions established by the Secretary of State.

**Voting equipment limitations.** In some counties, there are not enough voting machines to be deployed within two weeks of each other, or to be used centrally to tabulate vote-by-mail ballots. Monterey County does not own precinct tabulators and must count 100 percent of the ballots on three central count machines. Since one will have to be secured for the June 22<sup>nd</sup> election, the County will be one machine short for the June 8<sup>th</sup> election, delaying the release of election results. Further, if one machine fails, the County will not have a spare machine to be able to continue to tabulate ballots and release election results as required by law.

In addition, voting machines require logic and accuracy testing that cannot be done for the June 22<sup>nd</sup> election while the same people are involved in conducting the June 8<sup>th</sup> election. State law mandates that all equipment is tested no later than 7 days prior to use in an election. The time constraints are such that we cannot adequately comply with these requirements.

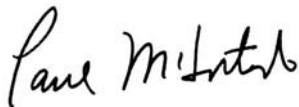
**Military and overseas voters will be disenfranchised.** All five counties will not be able to comply with requirements to send ballots to military and overseas voters, potentially disenfranchising these voters. For most elections, California law requires that ballots must be available to these voters no sooner than 60 days before, but the primary will be on June 22, only 56 days from your announcement of the special election. Representatives from the US Post Office report that the absolute minimum time for mailing ballots to military and other overseas voters is 45 days, but because the primary is so near, the period for announcing candidacy will close only 43 days before the election. California law also requires the Secretary of State, no later than the 39th day before the election, to comply with her responsibilities, after which the county registrar of voters can design the ballot, translate the voting materials, have the ballot printed, and mail it. It has been suggested that the counties mail generic write-in ballots to these voters, but write-in ballots require a list of names that may be

written in. Also, this would constitute a change under the Voting Rights Act for with Monterey County would require "pre-clearance," as explained above.

We recognize your interest in filling the Senate vacancy as soon as is possible; however, we urge you to consider balancing that interest with the ability of counties to conduct a fair and open election. Our concerns are serious and real; the June 22<sup>nd</sup> election creates significant cost, liabilities, and potential voter disenfranchisement. These concerns could be addressed with consolidation of the Senate District 15 special election with the November general election.

Again, we urge you to consolidate the vacancy election with the regularly scheduled elections to ensure that counties can properly administer this important election with efficiency and accuracy. We are available to assist in connecting you with the appropriate county officials to answer any technical questions that you may have.

Sincerely,

A handwritten signature in black ink that reads "Paul McIntosh". The signature is written in a cursive, flowing style.

Paul McIntosh  
Executive Director

cc: Susan Kennedy, Chief of Staff, Governor's Office  
Bismarck Obando, External Affairs, Governor's Office  
Ana Matosantos, Director, Department of Finance  
The Honorable Debra Bowen, Secretary of State  
Boards of Supervisors and Elections Officials, Counties of Monterey, San Luis Obispo, Santa Barbara, Santa Clara, and Santa Cruz