



To: Members of the RCRC Board of Directors
From: Paul A. Smith, Senior Vice President Governmental Affairs
Date: August 4, 2020
Re: Proposition 17/ACA 6 – Voting Rights of Convicted Felons – **ACTION**

Summary

This memo provides an analysis of Proposition 17, which would restore the ability to vote for those individuals on parole for felony convictions. Proposition 17 will appear on the November 2020 General Election ballot for consideration. RCRC staff is recommending the RCRC Board of Directors adopt a “No Position” position on this measure.

Background

In November of 1974, the voters approved Proposition 10 which restored voting rights for those convicted of a felony once that individual has completed their sentence of imprisonment and/or parole. Proposition 10 was placed before the voters through the adoption by the Legislature of Assembly Constitutional Amendment 38. As such, the California Constitution states that “[the] Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony.”

The bright distinctions between probation and parole became less clear following the passage of Assembly Bill 109 (2011 Public Safety Realignment). However, generally speaking, probation is a component of a criminal justice sentence that allows a person convicted of either a misdemeanor or a felony to avoid incarceration in a local jail or state prison. Parole is generally an early release from incarceration from a state (or federal) prison in advance of completing the entire terms of a sentence for conviction of a felony. It should be noted that under 2011 Realignment, only those convicted of the most serious types of felonies are committed to the state prison system. Those convicted of misdemeanors and relatively low-level felonies fulfill their sentence at the local level, which may or may not involve incarceration.

Issue

Assembly Constitutional Amendment 6, authored by Assembly Member Kevin McCarty (D-Sacramento), secured legislative passage in June of 2020 and will now appear on the November General Election ballot as Proposition 17. The measure simply amends the California’s Constitution in the following manner:

An elector disqualified from voting while serving a state or federal prison term, as described in Section 4, shall have their right to vote restored upon the completion of their prison term.

In essence, this proposed constitutional change provides those on parole with the ability to vote. Absent this change, voting rights for parolees could only be restored after the person completes their criminal justice sentence, including the period of parole.

RCRC did not offer any formal position on ACA 6 when it was being considered during the legislative process.

Staff Recommendation

RCRC staff recommends the RCRC Board of Directors adopt a “No Position” position on Proposition 17.

It could be argued that the state should not prevent persons on parole from voting when these individuals are working, paying taxes, and raising families. As members of our communities, some would argue that parolees should have a formal ability to engage in the political process. This right is especially important for those individuals convicted of felonies where there is much public debate in eliminating those crimes as felonies (i.e. various drug laws).

A counter argument is that persons on parole have restricted liberties, such as movement, association, activities and even ownership of certain items. Parolees are regularly monitored by criminal justice personnel to prevent an immediate re-incarceration. In other words, an individual on parole has not regained the full trust of the society at large nor the privilege to participate in the formal public discourse.

Attachment

- Copy of Assembly Constitutional Amendment 6 (McCarty)