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# Chapter 497: A Vote for Greater Participation in Elections

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## Chapter 497: A Vote for Greater Participation in Elections

*Danielle Lenth*

### *Code Sections Affected*

Elections Code §§ 2170, 2171, 2172, 2173 (new), §§ 14310, 18001 (amended).

AB 1436 (Feuer); 2012 STAT. Ch. 497.

### I. INTRODUCTION

America, while lauded as the melting pot society, failed to provide fair and equal access to its voting polls for centuries.<sup>1</sup> Despite the immense efforts of millions of U.S. citizens to secure this right for all, modern voter turnout is often less than half of the eligible population in non-presidential elections and near fifty percent in presidential elections.<sup>2</sup> One proposed solution for encouraging civic participation is same day voter registration (SDR).<sup>3</sup> Most states provide a deadline for voter registration that is several days before an election; in California, the date is fifteen days before an election day.<sup>4</sup> Chapter 497 introduces SDR in California, which allows voters to register and cast a ballot within fifteen days of an election and even on an election day itself.<sup>5</sup> Referring to participation in elections as “the bedrock of our representative democracy,” Assembly Member Mike Feuer introduced the legislation as a means for increasing voter participation in the state.<sup>6</sup> Studies suggest Chapter 497 will specifically help those who have moved recently, as well as young people and minority groups who are often underrepresented in voting.<sup>7</sup>

1. See generally LAUGHLIN MCDONALD, *AMERICAN INDIANS AND THE FIGHT FOR EQUAL VOTING RIGHTS* (2010) (highlighting the discrimination American Indians have experienced in fighting for voting rights); see also ELEANOR FLEXNER & ELLEN FRANCIS FITZPATRICK, *CENTURY OF STRUGGLE: WOMAN’S RIGHTS MOVEMENT IN THE UNITED STATES ix* (1996) (declaring that “[f]or more than a century, millions waged an exhausting battle to secure” the right to vote for women); RICHARD M. VALELLY, *THE TWO RECONSTRUCTIONS: THE STRUGGLE FOR BLACK ENFRANCHISEMENT* (2004) (relaying the hardships African-Americans have faced in voting).

2. See *National Voter Turnout in Federal Elections: 1960–2010*, INFOPLEASE (2011), <http://www.infoplease.com/ipa/A0781453.html> (on file with the *McGeorge Law Review*) (listing voter turnout in federal elections from 1960 to 2010 with no percentage equaling more than sixty-three percent of the vote in a presidential election and no more than forty-eight percent in a midterm election).

3. *Same-Day Voter Registration*, NAT’L CONF. ST. LEGIS. (2012), <http://www.ncsl.org/legislatures-elections/elections/same-day-registration.aspx#advantages> (on file with the *McGeorge Law Review*).

4. SENATE COMMITTEE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 1436, at 3 (June 19, 2012).

5. CAL. ELEC. CODE § 2170(a) (enacted by Chapter 497).

6. SENATE COMMITTEE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 1436, at 3 (June 19, 2012).

7. HEARING ON SB 641 BEFORE THE CAL. ST. ASSEMBLY COMM. ON ELECTIONS & REDISTRICTING, DEMOS 5 (July 5, 2011), available at [http://www.demos.org/sites/default/files/publications/Assembly\\_](http://www.demos.org/sites/default/files/publications/Assembly_)

## II. LEGAL BACKGROUND

The Federal and California Constitutions,<sup>8</sup> as well as the California Elections Code, grant the right to vote to California residents who are U.S. citizens eighteen years of age or older.<sup>9</sup> Every person must file an affidavit of registration to become an eligible voter.<sup>10</sup> Elections officials accept affidavits of registration up to fifteen days before the day of an election.<sup>11</sup> This includes mailed affidavits,<sup>12</sup> online affidavits,<sup>13</sup> and affidavits filed with a designated voter registration agency, such as the Department of Motor Vehicles, at least fifteen days before the election.<sup>14</sup>

The Elections Code also addresses conflicts that may arise over voter registration.<sup>15</sup> When the registration records cannot verify a voter's qualifications, that person has the right to cast a provisional ballot.<sup>16</sup> The elections official only counts this ballot after determining from the election office's records that the person does in fact have the right to vote within the official canvas period.<sup>17</sup> Alternatively, the superior court of the county may order the election official to count the ballot.<sup>18</sup> The Elections Code requires the Secretary of State to grant

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Elections\_Comm.pdf (on file with the *McGeorge Law Review*) (presenting studies on the effect of SDR in California that demonstrate the increased voter turnout of young people, minorities, and those who have recently moved).

8. U.S. CONST. amend. XIV (citizens of the United States); *id.* amend. XV (citizens of all races); *id.* amend. XIX (citizens of both sexes); *id.* amend. XXIV (may not be refused on account of failure to pay a poll tax); *id.* amend. XXVI (citizens who are eighteen years of age or older); CAL. CONST. art. II § 2. However, those who are mentally incompetent and those who are imprisoned or on parole for a felony conviction may not vote. *Id.* art. II § 4.

9. ELEC. § 2000 (West 2003).

10. *Id.* § 2102. These affidavits require the person's full name, address, age, place of birth, a valid driver's license or last four digits of one's social security number, political party preference, affirmation that the affiant is not a convicted felon on parole or imprisoned, and a signature verifying the truth of the information presented. *Id.* § 2150.

11. *Id.* § 2107(a).

12. *Id.* § 2107(b)(1). Mailed affidavits must be "postmarked on or before the [fifteenth] day prior to the election and received by mail by the county elections official[s]" before the close of the polls on Election Day. *Id.*

13. *Id.* § 2196(a).

14. *Id.* § 2107(b)(2). In addition, any other means, besides mailing or filing, are acceptable so long as delivery to the county elections official is made at least fifteen days before election day. *Id.*

15. *See id.* § 14310 (dictating disputes arising regarding proper voter registration).

16. *Id.* § 14310(a). The voter signs a written confirmation stating that she is eligible to vote in the elections official's presence. *Id.* § 14310(a)(3).

17. *Id.* § 14310(c)(2)(A). A ballot is not disqualified merely because the voter was not casting the ballot in her assigned precinct; however, if this is the case, all votes for candidates or measures not available in the voter's assigned precinct are ignored. *Id.* § 14310(c)(3)(B).

18. *Id.* § 14310(c)(2)(B). Court order must be sought before the end of the canvass period and the judicial action to follow is given "priority over all other civil matters." *Id.* § 14310(c)(2)(B).

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provisional voters free access to a system informing them whether their votes were counted and, if not, the reason for this preclusion.<sup>19</sup>

In addition to provisions regarding disputes over voter registration, the Elections Code defines the punishment for voter fraud convictions.<sup>20</sup> It orders a maximum fine of \$1,000 for misdemeanors and \$10,000 and a jail or prison sentence for felony convictions.<sup>21</sup>

### III. CHAPTER 497

For all people qualified to vote under the Elections Code and the California and Federal Constitutions,<sup>22</sup> Chapter 497 permits properly filed conditional voter registration<sup>23</sup> within the fifteen days before or on an election day.<sup>24</sup> These registrants' ballots remain conditional until the elections official can validate the registrant's information within the canvassing period.<sup>25</sup> This requires identity verification by the database of either the California Department of Motor Vehicles or the federal Social Security Administration.<sup>26</sup>

Chapter 497 outlines the additional duties that this registration places upon elections officials.<sup>27</sup> First, the elections official must offer conditional voter registration at "all permanent offices of the county elections official in the county"<sup>28</sup> and inform provisional voters that their ballots' inclusion is contingent upon verification of the registration form.<sup>29</sup> The elections official must then

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19. *Id.* § 14310(d).

20. *See generally id.* § 18001 (ordering and defining the punishment for voter fraud).

21. *Id.* § 18001. Voter fraud encompasses fraudulently voting or attempting to vote when one is not entitled to, voting, or attempting to vote more than once, or impersonating or attempting to impersonate another voter. *Id.* § 18560.

22. *Id.* § 2170(b) (enacted by Chapter 497).

23. This registration must provide all the information required for an affidavit under Article 4 of the Code, beginning with section 2150. *Id.* § 2171(a) (enacted by Chapter 497).

24. *Id.* § 2170(a) (enacted by Chapter 497). It necessarily expands section 2107 (allowing for registration on or before the fifteenth day prior to an election). *Id.* § 2107 (amended by Chapter 497). It also adds to section 14310 (allowing for provisional voting when voter information cannot be immediately verified) by including provisional ballots "cast and included in the canvass" pursuant to Chapter 497. *Id.* § 14310(c)(2)(A)(ii) (amended by Chapter 497).

25. *Id.* § 2170(a) (enacted by Chapter 497). In California, the canvassing period is thirty-one days. Press Release, Debra Bowen, Cal. Sec'y of State, When are Election Results Final? Post-Election Canvass Under Way in California Counties (June 6, 2012) (on file with the *McGeorge Law Review*).

26. ELEC. § 2170(c)(1) (enacted by Chapter 497). Elections officials waive this latter criterion if the voter is otherwise eligible. In such cases, the State assigns the registrant a "unique identification number pursuant to Section 2150 and the conditional voter registration shall be deemed effective." *Id.* § 2170(c)(2) (enacted by Chapter 497).

27. *Id.* § 2170(d) (enacted by Chapter 497).

28. *Id.* § 2170(d)(1) (enacted by Chapter 497). The official may also provide this service at Election Day voting polls beyond the permanent election offices. *Id.* § 2170(e) (enacted by Chapter 497).

29. *Id.* § 2170(d)(2) (enacted by Chapter 497).

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establish the veracity of the registration affidavit;<sup>30</sup> once this is determined, the official must include the ballot in the official counting.<sup>31</sup>

Chapter 497 increases the maximum permissible fine for felony convictions of voter fraud from \$10,000 to \$25,000.<sup>32</sup> If Chapter 497's new voting policies result in state-mandated costs, the local agencies and school districts will be recompensed under the Government Code.<sup>33</sup> The legislation will not take effect until "January 1 of the year following the year in which the Secretary of State certifies that the state has a statewide voter registration database."<sup>34</sup>

## IV. ANALYSIS

Research suggests that Chapter 497, by enabling SDR, will lead to positive increases in voter turnout.<sup>35</sup> The actual implementation of SDR is not without its difficulties, however, and critics argue increased civic participation will come at the cost of election integrity.<sup>36</sup> While on the surface this debate is about cost and voter fraud, the dispute over Chapter 497 is rooted in the same partisan division that characterizes recent voter laws across the country.<sup>37</sup>

A. *Achieving Greater Voter Turnout*

The bill author implemented Chapter 497 to increase voter participation in California elections.<sup>38</sup> Despite being hailed one of the most basic and most

30. *Id.* § 2170(d)(4) (enacted by Chapter 497).

31. *Id.* § 2170(d)(5) (enacted by Chapter 497). If a voter has multiple registrations as a result of conditional voter registration, the elections official must cancel the extra registrations. *Id.* § 2172 (enacted by Chapter 497). This must be done in accordance with Chapter 3 of the California Elections Code. *Id.* § 2172(a) (enacted by Chapter 497). This generally requires the elections official to write or stamp the word "canceled" on the canceled affidavit and the date that this cancellation occurred; the official must then remove the affidavit from the valid affidavits file. *Id.* § 2203 (West 2003).

32. *Id.* § 18001 (amended by Chapter 497).

33. 2012 Cal. Stat. ch. 497, § 5. Specifically, the agencies will be reimbursed under Part 7 of Division 4 of Title 2 of the Government Code. *Id.*

34. *Id.* § 6. This database, which will be called VoteCal, must comply with the Help America Vote Act of 2002. *Id.*; Debra Bowen, *VoteCal Project Goals and Objectives*, CAL. SEC'Y OF ST. (2012), <http://www.sos.ca.gov/elections/votecal/goals-objectives.htm> (on file with the *McGeorge Law Review*).

35. HEARING ON SB 641 BEFORE THE CAL. ST. ASSEMBLY COMM. ON ELECTIONS & REDISTRICTING, *supra* note 7, at 5.

36. *Donnelly Defends the Election Process Against AB 1436*, ASSEMBLYMAN TIM DONNELLY (Aug. 28, 2012), <http://arc.asm.ca.gov/member/59/Default.aspx?p=video#> [hereinafter *Donnelly*] (on file with the *McGeorge Law Review*).

37. *See* Senate Floor Vote of AB 1436, Unofficial Ballot (Aug. 23, 2012), [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1401-1450/ab\\_1436\\_vote\\_20120823\\_1212PM\\_sen\\_floor.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1401-1450/ab_1436_vote_20120823_1212PM_sen_floor.html) (on file with the *McGeorge Law Review*); Assembly Floor Vote of AB 1436, Unofficial Ballot (August 27, 2012), [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1401-1450/ab\\_1436\\_vote\\_20120827\\_0637PM\\_asm\\_floor.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1401-1450/ab_1436_vote_20120827_0637PM_asm_floor.html) (on file with the *McGeorge Law Review*) (evidencing that the final floor votes for both houses of the legislature fell almost entirely along party lines with Democrats voting in favor of the legislation and Republicans against it).

38. *See* SENATE COMMITTEE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS, COMMITTEE

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important democratic functions,<sup>39</sup> voting excitement generally “kicks in” only “two weeks before Election Day,” at which point it is too late for unregistered voters to participate in the election.<sup>40</sup> Studies demonstrate that of the nine states<sup>41</sup> and the District of Columbia that have SDR, eight of them have higher voter turnout than California.<sup>42</sup> For example, in the 2008 presidential election, only 44.1% of the eligible voting population cast ballots, while in Iowa, Wisconsin, and Minnesota—which all have SDR—the respective rates were 50.0%, 52.1%, 55.4%.<sup>43</sup> Cumulatively, SDR enabled 1.5 million Americans to vote in the 2008 election.<sup>44</sup>

A study projecting the effects of SDR legislation in California found overall voter turnout would increase by 4.8 percent with even greater increases for young people ages eighteen to twenty-five, people who have moved in the last six months, Latinos, and recently naturalized citizens.<sup>45</sup> These statistics align with Assembly Member Feuer’s goal of “engaging some of the more disadvantaged communities and students.”<sup>46</sup> SDR also results in a significantly reduced need for provisional ballots.<sup>47</sup> Election officials and voters both benefit because officials

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ANALYSIS OF AB 1436, at 3 (June 19, 2012) (quoting the bill author stating voter participation “has fallen to troubling levels” in California, and that Chapter 497 will “promote increased participation”).

39. See Telephone Interview with Andrew-Brian Nguyen, Legislative Aide for Cal. State Assembly Member, Mike Feuer (June 27, 2012) [hereinafter Nguyen Interview] (notes on file with the *McGeorge Law Review*).

40. *Same Day Voter Registration Bill Moves Forward in Legislature*, MERCURY NEWS (June 20, 2012), [http://www.mercurynews.com/breaking-news/ci\\_20903315/same-day-voter-registration-bill-moves-forward-legislatur](http://www.mercurynews.com/breaking-news/ci_20903315/same-day-voter-registration-bill-moves-forward-legislatur) (on file with the *McGeorge Law Review*).

41. Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, North Carolina, Wisconsin, and Wyoming all offer a voter registration on their Election Day or on the days immediately before the Election Day. *Hearing on H.B. 5023, An Act Concerning Voting Rights Before the Conn. St. Assembly* 6, n.1 (Mar. 2, 2012) (statement of Steven Corbo, Senior Program Director, Demos), available at <http://www.cga.ct.gov/2012/GAEdata/Tmy/2012HB-05024-R000302-Steven%20Carbó,%20Senior%20Program%20Director,%20Demos-TMY.PDF> (on file with the *McGeorge Law Review*).

42. SENATE COMMITTEE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 1436, at 4 (June 19, 2012). SDR states have higher turnout nationwide as well. HEARING ON SB 641 BEFORE THE CAL. ST. ASSEMBLY COMM. ON ELECTIONS & REDISTRICTING, *supra* note 7, at 5. “Same Day Registration states have historically achieved turnout rates that are on average 10 to 12 percentage points higher than non-SDR states.” *Id.*

43. SENATE COMMITTEE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 1436, at 4 (June 19, 2012.)

44. HEARING ON SB 641 BEFORE THE CAL. ST. ASSEMBLY COMM. ON ELECTIONS & REDISTRICTING, *supra* note 7, at 5.

45. *Id.* at 2.

46. Nguyen Interview, *supra* note 39. The University of California Student Association is a listed supporter of the legislation. SENATE COMMITTEE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 1436, at 7 (June 19, 2012). The President of the Student Association has referred to the bill as a “boon to college students.” Tim Herdt, *Same-Day Voter Registration Bill Moves Forward in Legislature*, VCSTAR.COM (June 19, 2012), <http://www.vcstar.com/news/2012/jun/19/same-day-voter-registration-bill-moves-forward/> (on file with the *McGeorge Law Review*).

47. HEARING ON SB 641 BEFORE THE CAL. ST. ASSEMBLY COMM. ON ELECTIONS & REDISTRICTING, *supra* note 7, at 5.

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do not need to spend time attempting to match the information on provisional voter affidavits, and voters do not need to worry that their affidavits will be rejected.<sup>48</sup> Instead, the voter can simply “complete a new voter registration application on Election Day, and vote a regular ballot.”<sup>49</sup> The ballot remains “conditional” until verified by the mandatory database, VoteCal; however, the new database will be equipped with many features enabling efficient verification.<sup>50</sup> Statistics gathered from Iowa and North Carolina in 2008, the first major election implementing SDR for both states, demonstrate both increased voter turnout and decreased use of provisional ballots.<sup>51</sup>

*B. Heading to the Polls: Putting Chapter 497 into Effect*

Chapter 497 will not become effective until “January 1 of the year following the year in which the Secretary of State certifies” VoteCal.<sup>52</sup> The legislature included this provision to counteract concerns about voter fraud.<sup>53</sup> The Secretary of State awarded the VoteCal contract to CGI Technologies and Solutions Inc. on March 6, 2013.<sup>54</sup> Chapter 497 supporters foresee ballot initiatives to raise state revenue—which aim to foster a more positive financial footing for the California Budget—rendering the projected \$300,000 implementation cost much less of a concern.<sup>55</sup> Moreover, the legislation provides for “reimbursement to local agencies and school districts” for costs associated with implementing SDR.<sup>56</sup> While those concerned with the overspending of taxpayer money argue these costs and their subsequent state reimbursement are problematic,<sup>57</sup> SDR has not led to undue cost burdens in other states.<sup>58</sup>

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48. *Id.*

49. *Id.* at 3.

50. Nguyen Interview, *supra* note 39. For example, unlike the previous database, VoteCal will maintain a statewide official voter registration list. Bowen, *supra* note 25. It will also provide voters with online access to their voter registration status and allow them to update and even register to vote on this website. *Id.*

51. HEARING ON SB 641 BEFORE THE CAL. ST. ASSEMBLY COMM. ON ELECTIONS & REDISTRICTING, *supra* note 7, at 5.

52. 2012 Cal. Stat. ch. 497, § 5; Nguyen Interview, *supra* note 39.

53. Nguyen Interview, *supra* note 39.

54. Debra Bowen, *VoteCal News*, CAL. SEC’Y OF ST., <http://www.sos.ca.gov/elections/votecal/news.htm> (last visited Apr. 23, 2013) (on file with the *McGeorge Law Review*).

55. Nguyen Interview, *supra* note 39.

56. 2012 Cal. Stat. ch. 497, § 5.

57. See Nguyen Interview, *supra* note 39 (noting that the Howard Jarvis Taxpayers Association is opposed to the bill because it will cost taxpayers money).

58. HEARING ON SB 641 BEFORE THE CAL. ST. ASSEMBLY COMM. ON ELECTIONS & REDISTRICTING, *supra* note 7, at 5. For example, Demos conducted a survey of local election officials in Idaho, Maine, Minnesota, Wisconsin, and Wyoming, where the majority responded that cost increases in their state was “minimal,” and that the process does not add additional work or costs “but instead shifted the cost burden from one time and place to another.” *Id.*

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The logistics of SDR may cast a shadow on its positive potential.<sup>59</sup> The California Association of Clerks and Election Officials notes its concern that elections officials will be unable to manage the influx of voters immediately before and on Election Day.<sup>60</sup> In a Senate Hearing, Assembly Member Feuer illustrated this issue using the high-density county of Los Angeles.<sup>61</sup> Only “one-half of one percent of the eligible voters in the county” seeking to register and vote in the county elections office on Election Day would equal thirty-thousand people.<sup>62</sup> The Committee noted that having adequate “voting equipment, personnel, and ballots to handle the crowds on Election Day could pose a significant challenge for many counties.”<sup>63</sup> Specifically, long lines resulting from extra steps in the voting process are a concern for larger counties.<sup>64</sup> However, while long lines are not the ideal situation for either election officials or the busy voting citizenry, past difficulties, such as court closures, have resulted in extremely long lines (in the thousands), which were manageable.<sup>65</sup>

Beyond logistical complications, critics also focus on the perceived heightened potential for voter fraud.<sup>66</sup> In response, Assembly Member Feuer argues that much of the fear surrounding Chapter 497 results more from the fact that SDR “has not been tested yet” in California than from any real potential for fraud.<sup>67</sup> Safeguards in Chapter 497, such as the VoteCal requirement, exist to counteract fraud.<sup>68</sup> Moreover, the reality of voter fraud itself is questionable; research in other SDR states indicates that SDR does not cause voter fraud.<sup>69</sup> For example, a Columbia University nationwide study of all SDR states found only one case of voter fraud between 2002 and 2005.<sup>70</sup> The prevalence of such data contradicting the theory of voter fraud, in conjunction with the fact that no

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59. See SENATE COMMITTEE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 1436, at 4 (June 19, 2012) (noting that SDR “raises a number of issues that the committee may wish to consider”).

60. Letter from Linda Tulett, Correspondence Sec’y of the Cal. Ass’n of Clerks and Election Officials, to Mike Feuer, Assembly Member, Cal. State Assembly (June 28, 2012) (on file with the *McGeorge Law Review*).

61. SENATE COMMITTEE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 1436, at 4 (June 19, 2012).

62. *Id.*

63. *Id.*

64. *Id.*

65. Nguyen Interview, *supra* note 39.

66. See *Upcoming Legislation*, HOWARD JARVIS TAXPAYERS ASS’N (July 8, 2011), <http://www.hjta.org/upcoming-legislation> (on file with the *McGeorge Law Review*) (referring to same day voter registration’s potential to “increase fraud”).

67. Nguyen Interview, *supra* note 39.

68. 2012 Cal. Stat. ch. 497, § 6.

69. *Hearing on H.B. 5024, An Act Concerning Voting Rights Before the Conn. St. Assembly 5* (2012) (statement of Steven Carbo, Senior Program Director, Demos), available at <http://www.cga.ct.gov/2012/GAEdata/Tmy/2012HB-05024-R000302-Steven%20Carb%20Carb%20Senior%20Program%20Director,%20Demos-TMY.PDF> (on file with the *McGeorge Law Review*).

70. *Id.*

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contrary evidence is given to support claims of increased voter fraud from SDR, garners the conclusion that some other purpose for opposing SDR may exist.<sup>71</sup>

Across the country during the contentious 2012 presidential election year, recent Republican-backed voting legislation, such as laws requiring photo identification to vote, has resulted in criticisms that the Republican authors of such legislation are using voter fraud as a front for impeding poll access to disadvantaged groups, such as minorities, because said groups typically vote for Democratic candidates.<sup>72</sup> Republicans respond that most requirements are not “particularly burdensome” in today’s world and point to a published report of election crimes in the last twelve years to justify these laws.<sup>73</sup>

The echoes of these larger political agendas were heard at times during the debate and passing of Chapter 497.<sup>74</sup> During an Assembly Floor Hearing, Republican Assembly Member Donnelly challenged the legislation as opening up the door to “unprecedented fraud.”<sup>75</sup> He also stated that the California people want voter identification for registration and for voting, and immediately followed this with “we should be securing this most sacred right.”<sup>76</sup> Governor Brown voiced the Democratic position of voter suppression upon his signing of Chapter 497, arguing that “[w]hile other states try to restrict voters with new laws that burden the process, California allows voters to register . . . on Election Day.”<sup>77</sup> The final floor votes in both houses reflected the partisan nature of Chapter 497, with both votes falling almost completely along party lines.<sup>78</sup> Thus, the fear over voter fraud is backed by nationwide party politics rather than actual statistics.<sup>79</sup>

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71. See Alexander Keyssar, *Voter Suppression Returns: Voting Rights and Partisan Practices*, HARV. MAG., July–Aug. 2012, at 28, 31, available at <http://harvardmag.com/pdf/2012/07-pdfs/0712-28.pdf> (on file with the *McGeorge Law Review*) (doubting the necessity of laws aimed at voter fraud and “their ability to keep elections honest”).

72. See Sam Stein, *Obama Campaign on Voter Suppression Efforts: This Is Why We Have Our Ground Game*, HUFFINGTON POST (Aug. 23, 2012), [http://www.huffingtonpost.com/2012/08/23/obama-voter-suppression-ground-game\\_n\\_1824563.html](http://www.huffingtonpost.com/2012/08/23/obama-voter-suppression-ground-game_n_1824563.html) (on file with the *McGeorge Law Review*) (discussing recent Republican legislation limiting ballot access as “controversial measures, which critics have deemed craven efforts at voter suppression”).

73. Keyssar, *supra* note 71, at 29. In response to this report, election experts have stated that laws requiring voter ID would only prevent impersonation fraud, which is almost nonexistent. *Id.*

74. Compare Donnelly, *supra* note 36 (arguing against Chapter 497 because it would lead to voter fraud), with *Brown Signs Bill for Same-Day Voter Registration*, TAMPA BAY ONLINE (Sept. 24, 2012), <http://www2.tbo.com/news/2012/sep/24/brown-signs-bill-for-same-day-voter-registration-ar-511896/> (on file with the *McGeorge Law Review*) (discussing the democratic position against stricter voter ID requirements).

75. Donnelly, *supra* note 36.

76. *Id.*

77. See *Brown Signs Bill for Same-Day Voter Registration*, *supra* note 74 (quoting Governor Brown’s written statement and stating that it was an “apparent reference to laws in some states enacting strict voter identification requirements, efforts that opponents say could disenfranchise large segments of the electorate”).

78. Senate Floor Vote of AB 1436, *supra* note 37; Assembly Floor Vote of AB 1436, *supra* note 37.

79. Senate Floor Vote of AB 1436, *supra* note 37; Assembly Floor Vote of AB 1436, *supra* note 37.

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## V. CONCLUSION

The United States has progressed far in its fight for the widespread right to vote.<sup>80</sup> However, polling data suggests that the struggle for high civic participation is far from over.<sup>81</sup> Chapter 497 hopefully represents a victory in this fight by enabling many unregistered voters, who might otherwise be denied their vote, the possibility to register and vote in an election immediately before and on an election day.<sup>82</sup>

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80. See THE CONCISE PRINCETON ENCYCLOPEDIA OF AMERICAN POLITICAL HISTORY 861 (Michael Kazin ed., 2011) (noting that “something approximating universal suffrage” in the United States “was finally achieved—almost two centuries after the Constitution was adopted”).

81. See *National Voter Turnout in Federal Elections: 1960–2010*, *supra* note 2 (listing voter turnout in federal elections from 1960 to 2010 with no percentage equaling more than sixty-three percent of the vote in a presidential election and no more than forty-eight percent in a midterm election).

82. CAL. ELEC. CODE § 2170(a) (enacted by Chapter 497).