December 3, 2015

County Clerk/Registrar of Voters (CC/ROV) Memorandum #15161

TO: All County Clerks/Registrars of Voters

FROM: /s/ Jana M. Lean
                  Chief, Elections Division

RE: **RESCINDED AND REVISED:** Presidential Primary Election:
                  County Central Committees

The original CCROV # 15161, issued on November 24, 2015, has been rescinded.

Several county elections officials have inquired about how to proceed with central committee elections due to inconsistencies in the Elections Code

Senate Bill (SB) 1272 (Kehoe, Chapter 507 of the Statutes of 2012) amended the Elections Code to allow a political party to elect central committee members at presidential primary elections or by holding a caucus or convention, or any other method of selection approved by the committee, instead of requiring that they be elected every two years at each direct primary election.

SB 1272 also amended the date on which nomination forms must begin to be made available to central committee candidates from 113 days prior to each direct primary election to 158 days prior to the presidential primary election.

However, SB 1272 did not amend the timeframes in which elections officials must calculate how many central committee seats will be up for that election. As such, the deadlines to calculate the number of available central committee seats occur after the nomination period opens on E-158. Depending on the party, those deadlines fall on the following E-dates: E-128, E-125, and E-115. As a result, the number of central committee seats would be unknown for as much as a full 43 days after nomination forms must be made available to candidates.

Additionally, SB 1272 did not amend the formula for calculating the number of seats. For all parties, except the Democratic and Republican parties, the calculations for the number of seats are based on the 154-Day Report of Registration, which is not available until after E-135 - well after the date the nomination forms must be made available to the candidates.

The conflicting Elections Code sections are as follows:

1. <u>Democratic Party</u>: County elections officials are required to compute the numbers of available central committee members (seats) no later than January 31 (E-128) preceding the presidential primary election. (Elec. Code § 7226.)

   Note: In several counties, the number of county central committee seats is set. (Elec. Code §§ 7201, 7201.1, 7202, 7203, 7204.) In other counties, where the number of county central committee seats must be calculated, the calculation is based on the number of votes cast in either the supervisor district (Elec. Code § 7200) or the assembly district (Elec. Code § 7201.2) at the last gubernatorial election for the Democratic candidate for Governor.

2. <u>Republican Party</u>: County elections officials are required to compute the numbers of available central committee members no later than January 31 (E-128) preceding the presidential primary election. (Elec. Code § 7421.)

   Note: In several counties, the number of county central committee seats is set. (Elec. Code §§ 7401, 7402, 7403.) In other counties, where the number of county central committee seats must be calculated, the calculation is based on the number of votes cast in the supervisor district at the last gubernatorial election for the Republican candidate for Governor. (Elec. Code §§ 7400, 7400.1, 7400.3, 7400.5.)

3. <u>American Independent Party</u>: The Secretary of State is required to compute the numbers of available central committee members no later than February 3, 2016 (E-125). (Elec. Code § 7671.) The calculation used to determine the number of central committee seats is based on the number of voters registered as members of the American Independent Party from the 154-Day Report of Registration. (Elec. Code §§ 7650, 7651.) The 154-Day Report of Registration will not be available until after January 24, 2016 (E-135).

4. <u>Peace and Freedom Party</u>: The state party chairperson is required to notify the Secretary of State no later than January 24, 2016 (E-135) whether or not a county central committee election will be held. (Elec. Code § 7770.)   If an election is to be held, county elections officials are required to compute the number of available central committee members by February 13, 2016 (E-115). (Elec. Code § 7771.) The calculation used to determine the number of central committee seats is

based on the number of voters registered as members of the Peace and Freedom Party from the 154-Day Report of Registration. (Elec. Code §§ 7751-7754.) The 154-Day Report of Registration will not be available until after January 24, 2016 (E-135).

5. <u>Libertarian and Green Parties</u>: The Libertarian and Green parties follow the Elections Code sections related to the Peace and Freedom Party.

This year, the Legislature passed Assembly Bill 477 (Chapter 726 of the Statutes of 2015), which includes provisions that eliminate the timing issue for calculating the number of central committee members, but for the <u>Green Party only</u>; however, the provisions of AB 477 do not go into effect until January 1, 2016.

AB 477 requires that the Secretary of State, no later than the 175th day before the presidential election (for this election cycle that date is December 15, 2015), calculate the number of members of a county council (the Green Party identifies its central committees as county councils) to be elected in each county, based on the registration figures from the Odd-Numbered Year Report of Registration (the February 10 Report of Registration) immediately preceding the presidential primary election.

Recommendation

While the provisions of AB 477 do not go into effect until January 1, 2016, the Secretary of State recommends that the requirements set forth for the Green Party under AB 477 be used for the date of calculating the number of central committee seats. **Elections officials should compute the number of central committee seats in their county for all parties by <u>December 15, 2015</u> (E-175). The elections officials should notify the appropriate county central committees of the results of that calculation by <u>December 18, 2015</u> (E-172).**

Additionally, the Secretary of State recommends that the requirement of using the Odd-Numbered Year Report of Registration (the February 10 Report of Registration) Report as set forth for the Green Party under AB 477 be used for the calculation of the number of seats. For the American Independent Party, calculations will be made by the Secretary of State using the February 10, 2015, Report of Registration. For the Peace and Freedom, Green, and Libertarian parties, calculations should be made using the February 10, 2015, Report of Registration.

For the Democratic and Republican parties, the calculation of the number of central committee seats should continue to be based on the number of votes cast in the appropriate district at the last gubernatorial election for the respective party's candidate for Governor, as set forth in the Elections Code and above.

If you have not already done so, it is recommended that you contact the party central committees in your county to request that they notify you by Friday, December 18, 2015, as to whether or not the county central committee intends to use the public ballot for the election of their central committee members.

The Secretary of State's office intends to seek legislation in 2016 to correct the above-mentioned inconsistencies in the Elections Code.

We apologize for any confusion the original CCROV may have caused. If you have any questions, please contact Robbie Anderson at Robbie.Anderson@sos.ca.gov or (916) 653-1690.