



April 6, 2016

The Honorable Dr. Shirley Weber, Chair
Assembly Committee on Elections and Redistricting
1020 N Street, Room 365
Sacramento, CA 95814

Re: Support for AB 2466 (hearing scheduled 4/13/2016)

Dear Assemblymember Weber and Members of the Committee:

Thank you for the opportunity to submit testimony. Project Vote is a nonpartisan, nonprofit organization dedicated to realizing the promise of American democracy so that every eligible citizen can register, vote, and cast a ballot that counts. We support AB 2466, which will eliminate the current confusion around felony disenfranchisement that threatens to deprive eligible Californians of the right to vote and disproportionately impacts communities of color and low-income communities.

Under the state constitution, the legislature shall provide for the disqualification of electors while imprisoned or on parole from a felony conviction.¹ The California election code also states “[a] person entitled to register to vote shall be a United States citizen, a resident of California, *not in prison or on parole for the conviction of a felony*, and at least 18 years of age at the time of the next election.”² However, confusion and disagreement about the meaning of the terms “imprisoned” and “parole” have resulted from evolving sentencing laws. The Criminal Justice Realignment Act of 2011 (Realignment Act) reformed sentencing for low-level felony offenses. In doing so, it created two new forms of non-custodial supervision: mandatory supervision and post-release community supervision. However, this compounded the confusion surrounding felony voting rights and the Secretary of State Bowen issued a 2011 memorandum that treated the new categories of non-custodial supervision as equivalent to parole for voter eligibility purposes.³ The memorandum also stated that persons serving a felony sentence in county jail are not eligible to vote.⁴

California courts have consistently ruled in favor of voting rights when interpreting the constitutional provision on felony disenfranchisement. Recently, a court examined the interpretation of felony disenfranchisement rules under the Realignment Act. In *Scott v. Bowen*, the court disagreed with the Secretary of State, holding that “as a matter of law [the] Election Code requires that the State of California provide all otherwise-eligible persons on Mandatory Supervision... and Post Release Community Supervision... the same right to register to vote and to vote as all otherwise eligible

¹ Cal. Const. Art II, Sec. 4.

² Cal. Elec. Code §2101 (emphasis added).

³ County Clerk/Registrar of Voters (CC/ROV) Memorandum #11134, *available at* http://felonvoting.procon.org/sourcefiles/bowen_memo.pdf.

⁴ *See id.*

persons.”⁵ AB 2466 codifies this decision and clarifies that a term in county jail also does not deprive otherwise eligible people of their right to vote.

Beyond ensuring consistency and uniformity in voter eligibility rules, AB 2466 will directly and meaningfully impact individuals and communities. Approximately 50,000 people are on mandatory or post-release supervision. Given the racial and economic disparities in our criminal justice system, overly expansive readings of felony disenfranchisement provisions have an unjust and unacceptable impact on certain communities. Because those convicted of felonies are disproportionately Black, Latino, and low-income people, felony disenfranchisement laws operate to dilute the political power of these historically underrepresented communities.

Moreover, it is critical to integrate into our society those who have completed prison sentences, not to disenfranchise and isolate them. Studies have found that the ability to vote impacts formerly incarcerated people’s perception of themselves as law-abiding citizens and can serve a rehabilitative role.⁶ Citizens on mandatory and post-release supervision live and work in our communities and deserve to have their voice in our political process guaranteed.

AB 2466 simply clarifies that *only* those serving a state-prison sentence or on parole under the supervision of the California Department of Corrections and Rehabilitation may lose eligibility to vote. This will allow for the application of consistent standards statewide and may allow the state to avoid expensive future litigation stemming from confusion on this issue if sentencing laws further evolve. It will also help reintegrate those leaving prison into our communities and help restore political power to communities that are often underrepresented and underserved. For these reasons, we are pleased to support AB 2644 and urge its swift passage. Please contact me if I may be of further assistance.

Sincerely,

Marissa Liebling
Legislative Director
Project Vote
mliebling@projectvote.org
202-556-5651

⁵ *Scott v. Bowen*, case no. RG14712570, available at <http://www.lccr.com/wp-content/uploads/Scott-v-Bowen-140507-ORDER-Writ.pdf>. The case was appealed in *Scott v. Bowen*, case no. A142139. However, the appeal was withdrawn in 2015.

⁶ See e.g., Leong, Nancy, *Felon Reenfranchisement: Political Implications and Potential for Individual Rehabilitative Benefits*, STANFORD CRIMINAL JUSTICE CENTER (2006), available at http://law.stanford.edu/wp-content/uploads/sites/default/files/child-page/266901/doc/slspublic/NLeong_06.pdf.