



September 9, 2020

The Honorable Gavin Newsom  
California State Governor  
State Capitol  
Sacramento, CA 95814

**RE: SB 970 – June Primary in Non-Presidential Years – SUPPORT**

Dear Governor Newsom,

On behalf of the organizations listed above, we are writing to urge you to sign SB 970, which would move the state primary from March to June in non-presidential election years. Moving the primary is critical for the success of state and local redistricting in California.

SB 970 enables California and its local jurisdictions to accommodate a possible delay in the release of census data, which California, and all other states, rely on for redistricting. Without this change, the state and many local governments will either have to rush the 2021 redistricting process or miss the deadline to redistrict entirely, both of which could have disastrous consequences for the quality of California's democracy for the next ten years.

The timeline for the release of census data is in flux and entangled in multiple lawsuits. According to the U.S. Census Bureau, COVID-19 has significantly delayed the collection and completion of the census. In April 2020, the Bureau responded by releasing an adjusted operational plan, which pushed back the delivery of both apportionment and block-level redistricting data by as much as four months.<sup>1</sup> Legislation has been introduced in Congress to change the statutory deadlines to meet that timeframe. In August, however, the Trump Administration reversed the Bureau's decision, cutting short data collection operations by one month and requiring data delivery by the original deadlines, despite the Bureau's own experts warning that a "compressed review period creates risk for serious errors."<sup>2</sup>

A coalition of cities and civil rights organizations, including the League of Women Voters, have sued to enjoin the Administration's compression of the census data collection and review timeline. On September 5, a federal judge in California issued a temporary restraining order (TRO) against the Administration, temporarily reinstating the Bureau's extended data collection timeline, saying there were "serious questions as to whether the Replan was arbitrary and capricious in violation of the [Administrative Procedures Act]."<sup>3</sup> A hearing on the TRO will take place in late September; no matter the outcome, that decision will likely be appealed.

A four-month delay in census data – whether agreed to by the Trump Administration, ordered by a court, or directed by Congress – does not allow enough time to redistrict before a March 2022 primary. The State Constitution normally requires state redistricting be completed by August 15, 2021. If the Census Bureau's plan for a delay comes to fruition, data would be released as late as July 31, 2020, which would leave only two weeks for the State Redistricting Commission to redraw 120 legislative, more than 50 congressional,

---

<sup>1</sup> The Bureau's adjusted schedule called for the release of apportionment data on April 30, 2021, instead of December 31, 2020. Apportionment data includes the total population of each state and is used to apportion the number of Congressional seats each state receives. Apportionment data does not include block-level data and so cannot be used for redistricting. The Bureau's adjusted schedule called for the release of block level data by July 31, 2021, instead of March 31, 2021.

<sup>2</sup> NBC News, "Leaked document warns of 'serious errors' in Census data under fast-tracked timeline," Sep. 2, 2020, <https://www.nbcnews.com/politics/congress/leaked-document-warns-serious-errors-census-data-under-fast-tracked-n1239115>.

<sup>3</sup> *National Urban League v. Ross*, No. 20-CV-05799-LHK (N. D. Cal. Sep. 5, 2020).

and four Board of Equalization districts – an impossibility.<sup>4</sup> Fortunately, the Legislature successfully petitioned the California Supreme Court to move that deadline to December 15, 2021, which should give the Commission sufficient time to draw these lines.

However, that December 15, 2021 date is **after** the signature-in-lieu and candidate nomination periods for a March primary; this extension from the California Supreme Court is therefore only actually possible, without interfering with state candidates' ability to run, if the March 2022 primary is moved to June.

Similarly, local governments will be forced to rush their redistricting process if the primary date is not changed.<sup>5</sup> Around 100 cities and counties consolidate their elections with the state primary. A significantly abridged timeline will make it difficult for communities, and particularly historically disenfranchised and under-participating communities, to engage with the process, which could lock in another decade of minority underrepresentation at the local level in California. It would also go against the grain of state public policy; in 2019, the Legislature passed and you signed into law AB 849 (Bonta), which requires that cities and counties engage their diverse communities in the redistricting process and hold more public hearings to gather public input on how to best draw the lines. There may be insufficient time to hold the deliberative process contemplated by AB 849 unless the state primary is moved to June, as SB 970 provides.

Even if the Trump Administration prevails and census data is released on-time, the state primary should still be moved to June because of potential litigation or legislation responding to the reliability of that data. Dramatically cutting short the data collection and review process for the census may compromise the accuracy and integrity of the population count, and presents a particularly high risk of undercounting communities of color. The resulting count may itself be the subject of litigation, which may call into question the legality or advisability of using this data. Moreover, the State may need to consider creating or allowing additional data sources not previously relied upon to ensure a fair redistricting

---

<sup>4</sup> In fact, the Commission may not even receive redistricting data until after the original redistricting deadline. Once census data is released, the Statewide Database must take and process this data for the Commission, including adjusting the data to count prisoners at their pre-incarceration home. The Database has estimated it needs one month to do this adjustment.

<sup>5</sup> AB 1276 (Bonta), also on your desk, makes other important timing adjustments to local redistricting deadlines to account for a potential delay in the reporting of census data and is complementary with this bill.

process. A June primary gives the State the flexibility needed to respond to data quality issues that emerge post-release that a March primary does not.

Given the uncertainty surrounding the timing and quality of the 2020 census data, the only responsible option is to move California's primary to June 2020. Passing SB 970 is critical for the smooth functioning of California democracy. We strongly urge you to sign the bill into law.

Should you have any questions, please do not hesitate to contact Nicolas Heidorn at California Common Cause, [NHeidorn@commoncause.org](mailto:NHeidorn@commoncause.org) or (510) 798-3425.

Sincerely,

/s/ Jonathan Mehta Stein  
Executive Director  
California Common Cause

/s/ Arturo Vargas  
Chief Executive Officer  
National Association of Latino Elected and Appointed Officials (NALEO)  
Educational Fund

/s/ Angelica Salas  
Executive Director  
Coalition for Humane Immigrant Rights (CHIRLA)

/s/ Michael Gomez Daly  
Executive Director  
I.E. United

/s/ Yvonne Gonzalez Duncan  
State Director  
California LULAC

/s/ Samuel Molina  
California State Director  
Mi Familia Vota

/s/ Dora Rose  
Deputy Director  
League of Women Voters of California

/s/ Maya Ingram  
Legislative Attorney  
ACLU of California

/s/ Liza Chu  
California Policy Manager  
Asian Americans Advancing Justice - Asian Law Caucus

/s/ Mike Young  
Political & Organizing Director  
California League of Conservation Voters