

No. A140387

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT, DIVISION ONE

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MICHAEL RUBIN, MARSHA FEINLAND, CHARLES L.  
HOOPER, C.T. WEBER, CAT WOODS, GREEN PARTY OF  
ALAMEDA COUNTY, LIBERTARIAN PARTY OF CALIFORNIA,  
and PEACE AND FREEDOM PARTY OF CALIFORNIA,  
Plaintiffs and Appellants,

vs.

DEBRA BOWEN, Secretary of State of California, Defendant and  
Respondent, and INDEPENDENT VOTER PROJECT, *et al.*,  
Intervenors and Respondents.

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On Appeal from an Order of the Superior Court of Alameda,  
Case No. RG11605301

Honorable Lawrence John Appel

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**APPELLANTS' MOTION FOR JUDICIAL NOTICE**

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Attorneys for Appellants  
MICHAEL RUBIN, *et al.*

## **MOTION FOR JUDICIAL NOTICE**

Appellants Michael Rubin, *et al.*, hereby request judicial notice of excerpts from the Secretary of State's Statement of the Vote concerning the June 3, 2014, statewide primary election in the State of California, attached hereto as Exhibit A.

The Secretary of State's Statement of the Vote is relevant to the issue of voter participation and whether California's Proposition 14—which has forced minor political parties to participate in a “nonpartisan primary election” in lieu of the general election—has burdened voter rights of political association as guaranteed by the First Amendment. In particular, the attached Statement of the Vote tends to show that far fewer voters participate in the statewide primary election, as compared to the general election, and thus participation in the primary is an inadequate substitute for participation in the general election.

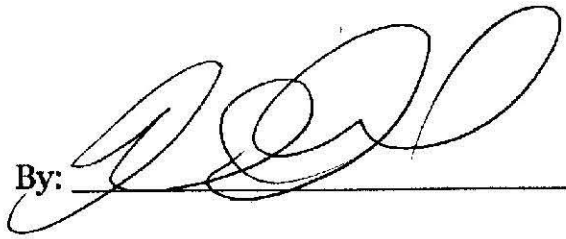
The matter to be noticed was not presented to the trial court, because the election in question was not conducted until June 3, 2014, and the record in question was not published until July 11, 2014.

The matter is subject to judicial notice as an official publication of the Secretary of State, pursuant to Cal. Evid. C. § 452(c).

Respectfully submitted,

SIEGEL & YEE

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to be 'Dan Siegel', written over a horizontal line. The signature is cursive and stylized.

Dan Siegel  
Michael Siegel

Attorneys for Plaintiffs and  
Appellants  
MICHAEL RUBIN, *et al.*

# **EXHIBIT A**

# Statement of Vote

June 3, 2014, Statewide Direct Primary Election



California Secretary of State Debra Bowen

## VOTER REGISTRATION STATISTICS BY COUNTY REPORT OF REGISTRATION AS OF MAY 19, 2014

County	Eligible	Registered	Democratic	Republican	American Independent	Americans Elect	Green	Libertarian	Peace and Freedom	Other	No Party Preference
Alameda	1,030,130	803,728	449,524	109,824	16,346	90	9,839	4,028	2,917	49,570	161,590
Alpine	876	766	284	231	30	0	11	6	1	5	198
Amador	26,768	21,200	6,608	9,430	937	2	116	220	50	64	3,773
Butte	167,394	119,081	39,621	43,030	4,146	14	1,451	1,234	505	1,687	27,393
Calaveras	35,583	27,263	8,324	11,456	1,284	4	246	359	97	226	5,267
Colusa	12,291	7,653	2,592	3,371	198	0	20	34	14	2	1,422
Contra Costa	715,697	528,162	260,467	127,576	13,780	31	3,282	3,052	1,171	1,557	117,246
Del Norte	18,378	12,398	4,204	4,530	575	1	106	115	50	172	2,645
El Dorado	135,580	106,944	30,732	46,204	4,316	5	862	1,166	295	932	22,432
Fresno	569,314	412,181	163,221	151,983	11,003	26	1,557	2,104	1,118	4,991	76,178
Glenn	18,235	11,978	3,581	5,278	454	0	38	86	39	26	2,476
Humboldt	104,663	75,411	31,168	19,127	2,459	2	2,809	775	318	212	18,541
Imperial	94,854	58,197	28,989	13,131	1,377	8	138	225	233	370	13,726
Inyo	13,678	9,509	2,921	4,064	399	1	87	83	26	47	1,881
Kern	496,204	334,435	114,846	132,627	11,390	33	840	2,200	1,038	379	71,082
Kings	77,977	47,420	16,596	21,027	1,264	4	92	252	96	155	7,934
Lake	49,002	33,987	13,327	9,017	1,390	2	495	390	182	71	9,113
Lassen	17,408	13,433	3,186	6,415	728	3	41	101	43	74	2,842
Los Angeles	6,076,302	4,857,424	2,461,286	1,011,346	109,902	2,513	24,790	27,114	35,811	353,245	831,417
Madera	85,586	52,817	17,573	22,907	1,664	3	199	309	144	174	9,844
Marin	176,609	148,762	80,848	26,537	3,274	6	2,078	867	259	465	34,428
Mariposa	15,248	10,574	3,109	4,654	477	1	111	104	26	166	1,926
Mendocino	64,240	47,400	21,723	10,108	1,668	1	1,806	443	280	189	11,182
Merced	150,629	94,779	40,635	31,661	2,924	5	488	539	321	184	18,022
Modoc	6,991	5,454	1,356	2,686	282	0	25	45	12	9	1,039
Mono	9,678	5,802	1,912	2,017	245	0	57	42	18	0	1,511
Monterey	235,319	164,032	83,204	39,988	3,854	11	1,061	894	428	229	34,363
Napa	91,388	71,241	32,761	18,642	2,214	4	805	503	205	413	15,694
Nevada	76,711	61,711	20,163	22,517	2,348	2	1,430	689	164	140	14,258
Orange	1,955,899	1,411,232	447,818	578,655	37,760	264	5,596	11,638	3,554	4,739	321,208
Placer	257,989	200,829	55,364	93,350	4,605	18	1,062	2,613	473	569	42,775
Plumas	15,383	12,030	3,643	5,117	616	2	85	102	40	1	2,424
Riverside	1,387,385	887,643	316,161	357,104	27,088	84	2,589	5,464	3,122	7,024	169,007
Sacramento	957,597	688,443	299,257	212,065	20,386	51	3,884	4,846	5,791	1,357	140,806
San Benito	34,480	23,778	11,098	7,079	611	3	130	132	54	91	4,580
San Bernardino	1,269,053	851,326	327,206	295,701	30,933	97	3,081	5,343	4,010	1,986	182,969
San Diego	2,124,563	1,544,841	538,819	510,693	52,540	136	7,689	12,359	4,234	5,620	412,751
San Francisco	622,063	434,922	243,620	36,649	7,592	27	6,890	2,768	1,435	2,133	133,808
San Joaquin	426,618	293,837	125,565	103,456	7,789	22	847	1,491	869	1,353	52,445
San Luis Obispo	202,445	150,302	50,231	59,420	4,340	8	1,282	1,317	322	1,759	31,623
San Mateo	488,370	354,994	180,773	67,001	7,642	19	2,452	1,922	772	859	93,554
Santa Barbara	280,119	193,900	79,134	58,484	5,157	13	1,470	1,401	457	2,098	45,686
Santa Clara	1,150,600	805,922	360,089	179,619	16,826	41	4,209	4,990	2,173	1,437	236,538
Santa Cruz	186,842	141,105	76,625	23,261	3,347	10	2,686	1,272	493	560	32,851
Shasta	135,021	98,772	25,467	44,652	3,899	6	465	937	324	390	22,632
Sierra	2,508	2,209	619	906	137	0	23	29	5	47	443
Siskiyou	35,106	24,833	7,815	9,978	1,138	1	202	276	89	58	5,276
Solano	282,938	201,728	97,378	49,466	5,784	13	855	1,167	541	884	45,640
Sonoma	341,221	241,005	124,770	51,570	6,056	5	4,159	1,832	710	974	50,929
Stanislaus	325,894	211,330	79,311	87,256	5,816	27	589	1,165	552	2,157	34,457
Sutter	59,670	42,218	13,559	18,347	1,397	4	125	270	147	711	7,658
Tehama	43,659	30,492	8,875	13,186	1,550	2	125	269	108	114	6,263
Trinity	11,087	7,062	2,340	2,399	363	0	110	96	31	95	1,628
Tulare	255,422	137,306	43,625	62,985	4,759	24	443	795	413	260	24,002
Tuolumne	39,644	29,880	9,468	12,528	1,247	0	227	264	96	62	5,988
Ventura	540,235	427,349	163,266	149,923	11,386	19	2,337	2,994	1,126	5,648	90,650
Yolo	140,471	101,854	47,649	23,807	2,896	3	1,045	757	450	396	24,851
Yuba	47,737	27,122	8,364	10,569	1,326	3	137	245	93	35	6,350
<b>State Total</b>	<b>24,192,752</b>	<b>17,722,006</b>	<b>7,692,670</b>	<b>5,036,610</b>	<b>475,914</b>	<b>3,674</b>	<b>109,674</b>	<b>116,733</b>	<b>78,345</b>	<b>459,171</b>	<b>3,749,215</b>
<b>Percent</b>		<b>73.25%</b>	<b>43.41%</b>	<b>28.42%</b>	<b>2.69%</b>	<b>0.02%</b>	<b>0.62%</b>	<b>0.66%</b>	<b>0.44%</b>	<b>2.59%</b>	<b>21.16%</b>

## VOTER PARTICIPATION STATISTICS BY COUNTY

County	Number of Precincts	Eligible to Register	Registered Voters	Precinct Voters	Vote-By-Mail Voters	Total Voters	Percent of Vote-By-Mail Voters	Turnout Registered	Turnout Eligible
Alameda	1,119	1,030,130	803,728	60,238	146,850	207,088	70.91%	25.77%	20.10%
Alpine	5	876	766	0	533	533	100.00%	69.58%	60.84%
Amador	59	26,768	21,200	3,155	6,743	9,898	68.12%	46.69%	36.98%
Butte	141	167,394	119,081	8,630	32,584	41,214	79.06%	34.61%	24.62%
Calaveras	30	35,583	27,263	3,481	9,133	12,614	72.40%	46.27%	35.45%
Colusa	18	12,291	7,653	1,345	2,263	3,608	62.72%	47.14%	29.35%
Contra Costa	650	715,697	528,162	39,952	111,836	151,788	73.68%	28.74%	21.21%
Del Norte	18	18,378	12,398	2,288	3,662	5,950	61.55%	47.99%	32.38%
El Dorado	95	135,580	106,944	7,579	35,286	42,865	82.32%	40.08%	31.62%
Fresno	447	569,314	412,181	31,764	76,041	107,805	70.54%	26.15%	18.94%
Glenn	34	18,235	11,978	1,168	4,479	5,647	79.32%	47.14%	30.97%
Humboldt	103	104,663	75,411	10,644	17,862	28,506	62.66%	37.80%	27.24%
Imperial	159	94,854	58,197	6,487	10,989	17,476	62.88%	30.03%	18.42%
Inyo	21	13,678	9,509	930	2,986	3,916	76.25%	41.18%	28.63%
Kern	444	496,204	334,435	18,831	53,499	72,330	73.97%	21.63%	14.58%
Kings	166	77,977	47,420	3,083	12,069	15,152	79.65%	31.95%	19.43%
Lake	70	49,002	33,987	5,153	10,395	15,548	66.86%	45.75%	31.73%
Lassen	54	17,408	13,433	1,242	4,631	5,873	78.85%	43.72%	33.74%
Los Angeles	4,870	6,076,302	4,857,424	423,376	400,694	824,070	48.62%	16.97%	13.56%
Madera	76	85,586	52,817	5,197	14,009	19,206	72.94%	36.36%	22.44%
Marin	157	176,609	148,762	13,711	47,089	60,800	77.45%	40.87%	34.43%
Mariposa	25	15,248	10,574	1,237	3,670	4,907	74.79%	46.41%	32.18%
Mendocino	249	64,240	47,400	2,477	13,943	16,420	84.91%	34.64%	25.56%
Merced	126	150,629	94,779	8,157	15,662	23,819	65.75%	25.13%	15.81%
Modoc	21	6,991	5,454	771	2,131	2,902	73.43%	53.21%	41.51%
Mono	13	9,678	5,802	1,230	1,980	3,210	61.68%	55.33%	33.17%
Monterey	194	235,319	164,032	9,943	43,328	53,271	81.34%	32.48%	22.64%
Napa	165	91,388	71,241	1,404	26,775	28,179	95.02%	39.55%	30.83%
Nevada	71	76,711	61,711	5,270	22,326	27,596	80.90%	44.72%	35.97%
Orange	1,856	1,955,899	1,411,232	99,397	240,790	340,187	70.78%	24.11%	17.39%
Placer	301	257,989	200,829	13,633	56,383	70,016	80.53%	34.86%	27.14%
Plumas	29	15,383	12,030	983	4,242	5,225	81.19%	43.43%	33.97%
Riverside	847	1,387,385	887,643	50,111	147,991	198,102	74.70%	22.32%	14.28%
Sacramento	1,102	957,597	688,443	57,425	146,425	203,850	71.83%	29.61%	21.29%
San Benito	35	34,480	23,778	1,860	5,714	7,574	75.44%	31.85%	21.97%
San Bernardino	1,662	1,269,053	851,326	47,896	112,846	160,742	70.20%	18.88%	12.67%
San Diego	1,616	2,124,563	1,544,841	113,714	306,986	420,700	72.97%	27.23%	19.80%
San Francisco	597	622,063	434,922	39,406	89,993	129,399	69.55%	29.75%	20.80%
San Joaquin	501	426,618	293,837	16,201	64,650	80,851	79.96%	27.52%	18.95%
San Luis Obispo	151	202,445	150,302	15,684	46,626	62,310	74.83%	41.46%	30.78%
San Mateo	475	488,370	354,994	21,484	75,963	97,447	77.95%	27.45%	19.95%
Santa Barbara	200	280,119	193,900	18,453	54,683	73,136	74.77%	37.72%	26.11%
Santa Clara	1,026	1,150,600	805,922	50,290	213,843	264,133	80.96%	32.77%	22.96%
Santa Cruz	200	186,842	141,105	17,961	31,182	49,143	63.45%	34.83%	26.30%
Shasta	122	135,021	98,772	6,787	23,540	30,327	77.62%	30.70%	22.46%
Sierra	22	2,508	2,209	0	1,413	1,413	100.00%	63.97%	56.34%
Siskiyou	57	35,106	24,833	3,085	8,419	11,504	73.18%	46.33%	32.77%
Solano	174	282,938	201,728	12,872	41,534	54,406	76.34%	26.97%	19.23%
Sonoma	366	341,221	241,005	18,564	80,164	98,728	81.20%	40.97%	28.93%
Stanislaus	357	325,894	211,330	10,131	45,704	55,835	81.86%	26.42%	17.13%
Sutter	53	59,670	42,218	3,369	11,977	15,346	78.05%	36.35%	25.72%
Tehama	46	43,659	30,492	3,416	9,600	13,016	73.76%	42.69%	29.81%
Trinity	25	11,087	7,062	992	2,855	3,847	74.21%	54.47%	34.70%
Tulare	133	255,422	137,306	12,251	31,622	43,873	72.08%	31.95%	17.18%
Tuolumne	73	39,644	29,880	2,142	10,188	12,330	82.63%	41.27%	31.10%
Ventura	554	540,235	427,349	34,166	69,204	103,370	66.95%	24.19%	19.13%
Yolo	128	140,471	101,854	11,534	22,023	33,557	65.63%	32.95%	23.89%
Yuba	45	47,737	27,122	2,692	6,096	8,788	69.37%	32.40%	18.41%
<b>State Total</b>	<b>22,353</b>	<b>24,192,752</b>	<b>17,722,006</b>	<b>1,365,242</b>	<b>3,096,104</b>	<b>4,461,346</b>			
<b>Percent</b>			<b>73.25%</b>	<b>30.60%</b>	<b>69.40%</b>		<b>69.40%</b>	<b>25.17%</b>	<b>18.44%</b>

## HISTORICAL VOTER REGISTRATION AND PARTICIPATION IN STATEWIDE PRIMARY ELECTIONS 1914 - 2014

<u>Primary Date</u>	<u>Registration</u>						<u>Votes Cast</u>		
	<u>Eligible</u>	<u>Democratic</u>	<u>Republican</u>	<u>Other</u>	<u>No Party Preference*</u>	<u>Total</u>	<u>Total Votes</u>	<u>Turnout Registered</u>	<u>Turnout Eligible</u>
August 25, 1914	1,710,000	**	**	**	**	**	**	**	**
May 2, 1916 P	1,786,000	**	**	**	**	735,869	324,366	44.08%	18.16%
August 29, 1916	1,798,000	**	**	**	**	**	**	**	**
August 27, 1918	1,906,000	**	**	**	**	1,151,365	647,234	56.21%	33.96%
May 4, 1920 P	2,047,000	**	**	**	**	1,111,192	618,981	55.70%	30.24%
August 31, 1920	2,072,000	**	**	**	**	**	488,261	**	23.56%
August 29, 1922	2,386,000	305,658	927,046	46,790	172,799	1,452,293	813,166	55.99%	34.08%
May 6, 1924 P	2,670,000	339,300	1,012,701	37,277	110,317	1,499,595	742,827	49.54%	27.82%
August 26, 1924	2,719,000	367,277	1,084,997	39,671	129,508	1,621,453	674,231	41.58%	24.80%
August 31, 1926	2,964,000	399,599	1,262,480	38,808	153,584	1,854,471	1,031,900	55.64%	34.81%
May 1, 1928 P	3,177,000	465,793	1,254,514	28,950	100,722	1,849,979	853,669	46.14%	26.87%
August 28, 1928	3,214,000	508,645	1,360,152	30,251	110,551	2,009,599	740,556	36.85%	23.04%
August 26, 1930	3,440,000	449,824	1,599,413	23,297	114,940	2,187,474	1,301,847	59.51%	37.84%
May 3, 1932 P	3,546,000	847,264	1,394,850	24,839	110,190	2,377,143	1,379,113	58.02%	38.89%
August 30, 1932	3,562,000	1,027,657	1,497,432	27,743	112,998	2,665,830	1,493,827	56.04%	41.94%
August 28, 1934	3,663,000	1,494,111	1,418,826	31,841	117,539	3,062,317	1,817,027	59.34%	49.60%
May 5, 1936 P	3,802,000	1,687,288	1,163,780	16,561	96,707	2,964,336	1,535,280	51.79%	40.38%
August 25, 1936	3,826,000	1,783,028	1,198,550	19,135	96,116	3,096,829	1,472,094	47.54%	38.48%
August 30, 1938	4,015,000	2,052,519	1,246,773	51,793	102,973	3,454,058	2,069,025	59.90%	51.53%
May 7, 1940 P	4,169,000	2,172,853	1,308,211	43,773	127,437	3,652,274	1,572,173	43.05%	37.71%
August 27, 1940	4,195,000	2,259,613	1,361,657	35,233	126,199	3,782,702	1,885,537	49.85%	44.95%
August 25, 1942	4,643,000	2,252,901	1,352,907	21,917	123,571	3,751,296	1,768,929	47.16%	38.10%
May 16, 1944 P	5,244,000	1,968,376	1,285,977	15,393	101,232	3,370,978	1,884,820	55.91%	35.94%
June 4, 1946	5,722,000	2,393,997	1,530,335	11,899	177,377	4,113,608	2,087,864	50.76%	36.49%
June 1, 1948 P	6,042,000	2,665,560	1,749,223	28,003	189,343	4,632,129	2,538,585	54.80%	42.02%
June 6, 1950	6,385,000	2,862,063	1,826,350	32,608	204,348	4,925,369	3,140,472	63.76%	49.19%
June 3, 1952 P	6,913,000	2,995,768	2,192,446	23,650	171,657	5,383,521	3,651,912	67.84%	52.83%
June 8, 1954	7,454,000	3,112,004	2,348,412	29,838	174,434	5,664,688	3,184,565	56.22%	42.72%
June 5, 1956 P	8,074,000	3,059,873	2,277,530	21,304	129,115	5,487,822	3,656,586	66.63%	45.29%
June 3, 1958	8,763,000	3,542,374	2,552,678	30,172	154,952	6,280,176	4,125,124	65.68%	47.07%
June 7, 1960 P	9,446,000	3,676,495	2,519,975	30,305	148,507	6,375,282	4,004,059	62.81%	42.39%
June 5, 1962	10,155,000	3,996,964	2,833,889	7,788	212,948	7,051,589	4,479,723	63.53%	44.11%
June 2, 1964 P	10,823,000	4,022,302	2,895,448	25,414	179,560	7,122,724	5,124,175	71.94%	47.35%
June 7, 1966	11,346,000	4,485,777	3,125,884	37,611	205,830	7,855,102	5,079,911	64.67%	44.77%
June 4, 1968 P	11,737,000	4,347,406	3,197,815	202,678	177,718	7,925,617	5,723,047	72.21%	48.76%
June 2, 1970	12,105,000	4,388,052	3,274,967	112,086	278,284	8,053,389	5,011,908	62.23%	41.40%
June 6, 1972 P	13,084,000	5,134,178	3,398,716	135,691	436,702	9,105,287	6,460,220	70.95%	49.37%
June 4, 1974	13,624,000	5,333,522	3,499,773	112,737	552,469	9,498,501	5,128,375	53.99%	37.64%
June 8, 1976 P	14,093,000	4,987,795	3,165,495	66,981	490,485	8,710,756	6,323,651	72.60%	44.87%
June 6, 1978	14,659,000	5,610,357	3,450,469	110,931	763,084	9,934,841	6,843,001	68.88%	46.68%



## HISTORICAL VOTER REGISTRATION AND PARTICIPATION IN STATEWIDE PRIMARY ELECTIONS 1914 - 2014 (continued)

Primary Date	Registration						Votes Cast		
	Eligible	Democratic	Republican	Other	No Party Preference*	Total	Total Votes	Turnout Registered	Turnout Eligible
June 3, 1980 P	15,258,000	5,786,806	3,703,515	245,103	959,236	10,694,660	6,774,184	63.34%	44.40%
June 8, 1982	15,859,000	5,853,273	3,867,531	267,294	1,099,064	11,087,162	5,846,026	52.73%	36.86%
June 5, 1984 P	16,457,000	6,142,820	4,047,509	250,109	1,089,331	11,529,769	5,609,063	48.65%	34.08%
June 3, 1986	17,357,000	6,181,719	4,566,785	366,591	1,091,537	12,206,632	4,937,941	40.45%	28.45%
June 7, 1988 P	18,917,000	6,380,397	4,782,248	267,047	1,107,515	12,537,207	6,037,468	48.16%	31.92%
June 5, 1990	19,133,000	6,453,186	5,072,331	249,873	1,206,039	12,981,429	5,386,545	41.49%	28.15%
June 2, 1992 P	19,180,000	6,581,888	5,242,805	435,572	1,308,983	13,569,248	6,439,629	47.46%	33.58%
June 7, 1994	18,946,000	6,924,121	5,261,009	459,884	1,526,397	14,171,411	4,966,827	35.05%	26.22%
March 26, 1996 P	19,326,000	6,849,330	5,373,746	697,203	1,603,084	14,523,363	6,081,777	41.88%	31.47%
June 2, 1998	20,653,000	6,830,530	5,225,686	685,871	1,863,590	14,605,677	6,206,618	42.49%	30.05%
March 7, 2000 P	21,220,772	6,684,668	5,140,951	773,523	2,032,663	14,631,805	7,883,385	53.88%	37.15%
March 5, 2002	21,507,390	6,873,476	5,354,358	798,155	2,254,819	15,280,808	5,286,204	34.59%	24.58%
March 2, 2004 P	21,887,894	6,518,631	5,364,832	727,658	2,480,039	15,091,160	6,684,421	44.29%	30.54%
June 6, 2006	22,542,844	6,685,288	5,387,865	704,313	2,890,973	15,668,439	5,269,142	33.63%	23.37%
February 5, 2008 P	22,948,059	6,749,406	5,229,425	690,758	3,043,164	15,712,753	9,068,415	57.71%	39.52%
June 3, 2008	23,033,970	7,053,860	5,244,394	696,849	3,128,684	16,123,787	4,550,227	28.22%	19.75%
June 8, 2010	23,453,690	7,553,109	5,228,320	771,852	3,423,750	16,977,031	5,654,993	33.31%	24.11%
June 5, 2012 P	23,713,027	7,442,921	5,186,492	869,678	3,654,608	17,153,699	5,328,296	31.06%	22.47%
June 3, 2014	24,192,752	7,692,670	5,036,610	1,243,511	3,749,215	17,722,006	4,461,346	25.17%	18.44%

### Notes

\*Known as "Decline to State" before 2011 when the Top Two Candidates Open Primary Act took effect.

\*\*Indicates information not available.

P indicates a presidential primary election.

The first statewide record of party affiliations was reported in 1922.

In 1911, women were given the right to vote in California.

In 1972, the voting age was lowered from 21 to 18.