



April 9, 2023

Committee on Privacy and Consumer Protection
Rebecca Bauer-Kahan, Chair

AB 2050

OPPOSE

Members of the Committee,

Election Integrity Project® *California*, Inc. (EIPCa) **Opposes AB 2050** as written and amended as of the date of this letter.

Below is our thorough and general letter of opposition to the bill. **Of particular concern to your committee are items number 3, 4, 6, 7 and 8.**

AB 2050 proposes that California join the Electronic Registration Information Center (ERIC), which purports to be an agency to facilitate a state's ability to maintain accurate voter rolls more efficiently. EIPCa vigorously disagrees with the proposal.

ERIC was created in 2012, making it 12 years old. Worse, the technology it currently utilizes dates back to the 1980s. It is not the cutting-edge technology necessary to keep up with the nation's need for voter roll information, and has proven to have considerable flaws.

1. ERIC has been proven inefficient in its stated objective of assisting states in identifying registrants who have moved to other states.

According to verified data from Judicial Watch research, ERIC claims to have identified 2,498,688 registered voters who have relocated across state lines since its founding.

But, according to an analysis of U.S. Election Assistance data by Verity Vote, **states that do not participate in ERIC had a higher rate of identifying and removing from voter registration rolls individuals who relocated out of a jurisdiction than ERIC member states.**

2. The dictates of the ERIC contract and Bylaws actually make voter roll maintenance more difficult.

ERIC requires states to upload their voter rolls every 60 days.

Nevertheless, ERIC does not automatically provide states with the results of their voter roll comparison. Instead, the ERIC binding contract and bylaws require member states to proactively REQUEST search results for problematic registrations whenever they want them.

ERIC does not require that the states act upon any received information to maintain their voter rolls. **There is NO REQUIREMENT in ERIC's bylaws that member states ACTUALLY REMOVE INELIGIBLE VOTERS from their registration rolls.**

3. ERIC facilitates exploitation of vulnerable populations such as non-citizens, and partisan election manipulation.

ERIC mandates states to upload not only its voter rolls but also the databases from the DMV and social services agencies.

ERIC specifically PROHIBITS the transmission of any data regarding voter eligibility on the basis of citizenship status.

Using the information uploaded from the DMV and other social services databases, ERIC creates a list of unregistered state residents and mandates that the state contact at least 95% of those on the list in an attempt to get them to register.

Unfortunately, the state has no way of knowing or determining which of the persons on the ERIC-provided “eligible” list are actually eligible by law.

As a result, ERIC could easily facilitate adding more ineligible individuals to the rolls.

4. Membership in ERIC poses a privacy and security risk to all inhabitants of the state.

The information member states are required to upload to ERIC every 60 days divulges all of the most sensitive information of all those state residents, not only from the state’s voter rolls **but also the from DMV and social services databases:** names, addresses, DOB, license #, last 4 numbers of social security #, voter activity, phone, email, title, those approaching voting age, and more.

ERIC then entrusts **all** of it to a **third party** - Center for Election Innovation and Research (CEIR), an organization with heavily partisan roots and no level of security or compliance.

This constitutes an enormous risk to the identities of all California residents, and data once released is out there forever.

Interstate sharing of private information of individuals who *aren’t* registered to vote does nothing to enhance voter roll quality and reliability. Voters receive no benefit from states sharing this personally identifiable information.

5. AB 1206, the ERIC bill from the last legislative session, died in the Assembly Appropriations Committee because of the COST—especially considering the current \$68-73 billion dollar state deficit. Costs for ERIC membership, based on estimates submitted by the Appropriations Committee Analyst, include ongoing General Fund (GF) costs that are likely in the low hundreds of thousands of dollars. New ERIC members pay a one-time fee of \$25,000 and annual dues based in part on citizen voting age population in each state, approximately \$216,000. Additionally, likely ongoing GF costs to the SOS to contact all unregistered Californians identified by ERIC would be in the **low millions of dollars annually.** Ongoing GF costs are estimated at approximately \$401,000 to the California Privacy Protection Agency (CPPA) to consult with the SOS on ERIC regulations. **Costs alone should cause legislators to kill this unnecessary and unwise bill.**

6. California has always tried to be a leader in the field of technology, out in front, “the first”. However, the reality is: rather than being an example of cutting-edge technology, **ERIC is a sinking ship.** It is difficult to understand what would motivate a decision to join Eric.

States committed to maintaining accurate voter rolls, transparency and visibility have withdrawn or are in the process of leaving ERIC. These include Louisiana, Alabama, West Virginia, Missouri, Florida, Ohio, Texas and Iowa. Even New York has not joined.

A few of the reasons:

- Louisiana: “Possibly partisan actors” may be using “ERIC network data for political purposes, potentially undermining voter confidence.”
- Alabama: due to “**concerns over a private organization having access to the private data** of Alabama citizens, including driver’s license numbers, contact information and partial social security numbers of minors.”
- West Virginia: Withdrew because of ERIC’s “partisanship in voter registration and list maintenance.”
- Missouri: ERIC failed to address issues of multi-state voters and required “unnecessary mailings.”
- Iowa: “**concerns over the security of voter data** and the organization’s partisanship.
- Florida: “Withdrawing from ERIC will ensure the **data privacy** of Florida voters is protected,” according to an announcement issued by the Florida Department of State. After year-long efforts “to reform ERIC through attempts to secure data and eliminate ERIC’s partisan tendencies, all of which were rejected...we have lost confidence in ERIC,” Secretary of State Cord Byrd explained.
- Texas: the largest state to withdraw from ERIC due to “**concerns over the confidentiality of voter data**, and ERIC’s high costs.”

7. ERIC has become toxic.

One very concerning element of ERIC is the **extreme violation of privacy**, not only for those who have chosen to be on the voter rolls but also all Californians who have interacted at all with the DMV or any social service office.

The contract with ERIC requires member states to upload all of the most sensitive information of all those state residents: names, addresses, DOB, license #, last 4 social #, voter activity, phone, email, title, those approaching voting age, and more.

ERIC then entrusts it all to a supposedly non-profit organization (CEIR) with heavily partisan roots and no level of security or compliance. This constitutes an enormous risk to the identities of all California residents, and once released cannot be withdrawn.

8. ERIC exposes California to the risk of violating major federal Laws including National Voter Registration Act. (NVRA), Help America Vote Act (HAVA), Driver’s Privacy Protection Act, and more*.

- The Help America Vote Act (HAVA) (52 U.S.C. § 21083) provides authority and obligation to create and maintain electronic voter registration files **to each state’s chief election official**.
 - “Each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform official centralized interactive computerized statewide voter registration list defined, **maintained, and administered at the State level** that contains the name and registration information of every legally registered voter in the State,” and, “The appropriate

State or local election official shall perform list maintenance with respect to the computerized list on a regular basis.”

- **There is NO PROVISION IN THE STATUE that authorizes any state to outsource these obligations to a third-party entity.**
- The National Voter Registration Act (NVRA) (52 U.S.C. 20507) “Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters.”
 - In contrast, the ERIC membership agreement requires that: **“The Member shall not use or transmit any ERIC Data for ANY PURPOSE** other than the administration of elections under state or federal law. Should a Member receive a request to disclose ERIC Data and determines that it is legally obligated, in whole or in part, to comply with such request, it shall not make the disclosure without FIRST OBTAINING A COURT ORDER COMPELLING IT TO DO SO, and copy of which shall be provided to ERIC.”
- The Department of Motor Vehicles data to ERIC to conduct list maintenance may constitute a violation of the Driver’s Privacy Protection Act (18 U.S.C. 2721) which protects information regarding persons who have declined to register from disclosure.
 - “The fact that an applicant has declined to register will remain confidential.” (20504(c)(2)(D)(ii))

9. EIPCa has provided documentation (to the Secretary of State, to the Department of Justice and to the public in general that VoteCal is patently unreliable and should be decertified until it can be fixed.

In its current form, VoteCal is capable of infecting the legitimacy of all other information in a system if integrated into it.

Up to date and highly maintained Voter Rolls are essential to restore public faith in our electoral system and preserve our Republic. Nevertheless, ERIC is not only NOT the answer, it is a step backwards.

EIPCa strongly urges a NO vote on AB 2050.

Sincerely,

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