

Date of Hearing: April 9, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 1122 (Levine) – As Introduced: February 22, 2013

SUBJECT: Voter registration: Department of Motor Vehicles.

SUMMARY: Requires the Department of Motor Vehicles (DMV) in coordination with the Secretary of State (SOS), to the extent the State's Plan for implementation of the federal National Voter Registration Act (NVRA) of 1993 is inconsistent with the NVRA, to take additional steps to fully implement and further comply with Section 1973gg-3 of the NVRA.

EXISTING LAW:

- 1) Requires each state to offer voter registration services at motor vehicle agency offices, offices that provide public assistance, offices that provide state-funded programs primarily engaged in providing services to persons with disabilities, Armed Forces recruitment offices, and other state and local offices within the state designated as NVRA voter registration agencies.
- 2) Requires the DMV to provide the opportunity to register to vote to individuals who apply for, renew or change an address for a driver's license or personal identification card issued by the DMV.
- 3) Requires a driver's license or identification application to be used as an application for voter registration, unless the applicant fails to sign the application.
- 4) Requires change of address information received by the DMV to be used for the purpose of updating voter registration records, unless the registrant chooses otherwise.
- 5) Provides a person may not be registered to vote except by affidavit of registration.
- 6) Provides that a properly executed affidavit of registration is deemed to be effective upon receipt of the affidavit by the county elections official if received on or before the 15th day before election day, postmarked on or before the 15th day prior to the election and received by mail by the county elections officials, or submitted to the DMV or accepted by any other public agency designated as a voter registration agency on or before the 15th day prior to the election.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Purpose of the Bill: According to the author:

More than 500,000 California adults annually apply for a new driver's license. Under the federal Motor Voter law these Californians are to be afforded the opportunity of using the

driver's license application form as a voter registration form. However, currently DMV asks motorists to fill out a separate voter registration form, tear it off, affix postage, address the form, and drop it into the mail. This was never the intent of Motor Voter and it is time that California began providing the ease in voter registration as envisioned when Motor Voter was signed into law 20 years ago.

In 1993, the technology did not exist for DMV and the Secretary of State to comply easily with Motor Voter. However, today, compliance is much easier and affordable. In fact, DMV and the SOS are already working cooperatively to allow Californians to register to vote on-line. This same technology can be used to comply with Motor Voter.

Additionally, other states are currently in compliance with Motor Voter. For example, in Arizona, the driver's license application form is also used as a voter registration form. The driver's license application includes all needed information to register to vote.

- 2) National Voter Registration Act: On May 20, 1993, President Bill Clinton signed into law the NVRA, which had an effective date of January 1, 1995. Also known as the "Motor Voter Act," the enactment of the NVRA was intended to enhance and increase voting opportunities for eligible voters to register to vote and maintain their registration. In addition to other methods of voter registration, the NVRA requires states to provide the opportunity to apply to register to vote for federal elections through various methods. Section 5 of the NVRA requires states to offer voter registration opportunities at motor vehicle agencies. Additionally, Section 6 of the NVRA requires states to provide voter registration opportunities by mail-in application. Finally, Section 7 of the NVRA requires states to offer voter registration opportunities at all offices that provide public assistance or state-funded programs primarily engaged in providing services to persons with disabilities. Armed Forces recruitment offices must also provide voter registration services. Section 7 of the NVRA also requires a state to designate "other offices" within the state as voter registration agencies. In addition to expanding opportunities to register to vote, the NVRA imposes requirements on states to protect the integrity of the electoral process and ensure that accurate and current voter registration rolls are maintained.

On August 12, 1994, the Governor Pete Wilson signed Executive Order W-98-94 directing state and local agencies to implement the NVRA only to the extent that federal funding was provided.

- 3) How Does The Current Process Work? According to the SOS's 2011 NVRA Manual, every person who visits a DMV office to apply for or renew a driver's license or identification card or to change an address receives a voter registration card (VRC). Every person who receives a driver's license or identification renewal form by mail also receives a VRC. The VRC can be used to register to vote or to re-register after a change in name, address, or party preference. When voters update their address with a DMV office, the new address is sent electronically to the SOS's statewide voter registration database, which then shares the information with county elections officials who update voter registration records. When voters move to a new county, the DMV instructs them to complete a new VRC. The DMV accepts completed VRCs and forwards them to the SOS or the county where the voter lives.

The NVRA clearly prohibits an individual who wants to register to vote to be required to

provide any information that duplicates information already required on the driver's license form, except for other information that is necessary to determine an individual's eligibility to registration to vote. Similarly, federal law requires a DMV change of address form to serve as a notification of a change of address for voter registration, unless the individual states otherwise. However, according the representatives from the DMV and the SOS, the current process is a two-step process. For instance, a person applying for a driver's license must fill out an additional VRC to register to vote. Furthermore, a person that moves to a new county is required to fill out a separate VRC to change the address at which he or she is registered to vote.

- 4) Implementing NVRA History: When the NVRA took effect in 1995, several states failed to take the steps necessary to comply with the law and several also challenged the constitutionality of the federal mandate. States involved in the first round of cases included California, Illinois, Michigan, Mississippi, Pennsylvania, New York, South Carolina, Vermont, and Virginia.

Three separate lawsuits concerning California's implementation of the NVRA were filed in federal court: Voting Rights Coalition v. Pete Wilson, Pete Wilson v. United States of America, and United States of America v. Pete Wilson. All three cases were combined into a single proceeding and were heard before a federal district court in San Jose on March 2, 1995. The courts found the NVRA constitutional, despite the lack of federal funding provided to states, and the court ruled that California was obligated to implement the NVRA. The court ordered the state to submit an implementation plan to the court for review to ensure conformity of the requirements of the NVRA.

The plan submitted by the state would have brought California into compliance with the requirements of the NVRA, however, there was one notable exception with respect to the method by which a person may register to vote at the DMV.

As mentioned above, the NVRA explicitly requires a driver's license or identification application to be used as an application for voter registration, unless the applicant fails to sign the application. Additionally, NVRA provides that the voter registration portion of a driver's license application may not require any information that duplicates information required in the driver's license portion of the form, other than a second signature or other information that is necessary to determine an individual's eligibility to register to vote.

Despite the NVRA's clear requirements, the state's court-approved implementation plan instead called for a two-page application – one page for the driver's license application and one page for the voter registration form.

Prior bill analyses suggest the rationale for this two-page plan was due to cost, as the NVRA did not provide states with any direct funding or any mechanism for reimbursement of the costs associated with its implementation. The cost to create a single, computer generated form to serve as both a driver's license and voter registration application would have been significant.

- 5) Is This Bill Necessary? According to the SOS's 2011 NVRA Manual, the NVRA did not require the adoption of state law to give it effect, thus California did not adopt implementing

statutes or regulations under the NVRA. Furthermore, once the federal court reviewed and approved the plan for conformity with the requirements of the NVRA, it was confirmed that the issue of Motor Voter had been decided by the federal court and thus was moot.

However, as mentioned above, while California's NVRA Implementation Plan was approved by a federal court, a strict reading of the NVRA would suggest that the state does not fully comply with the NVRA. This bill has the potential to highlight this matter and finally bring California into full compliance with Motor Voter.

- 6) Previous Legislation: SB 35 (Padilla), Chapter 505, Statutes of 2012, added the California Health Benefit Exchange to the list of public assistance agencies required by the NVRA to provide voter registration opportunities and codified various other provisions of the NVRA.
- 7) Double Referred: This bill has been doubled referred to the Assembly Transportation Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Common Cause

Opposition

None on file.

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