

Date of Hearing: March 19, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING  
Paul Fong, Chair  
AB 131 (Williams) – As Introduced: January 15, 2013

SUBJECT: Voter registration: affidavits: rebuttable presumptions.

SUMMARY: Provides that a person's failure to identify his or her place of birth on an affidavit of registration shall not preclude his or her affidavit from being deemed complete.

EXISTING LAW:

- 1) Requires an affidavit of voter registration to contain a space for the registrant to provide his or her state or country of birth.
- 2) Provides that if the county elections official receives an affidavit of registration that does not include portions of the information for which space is provided, the county elections official shall apply the following rebuttable presumptions:
  - a) If no middle name or initial is shown, it is presumed that none exists;
  - b) If no party affiliation is shown, it is presumed that the affiant has declined to disclose a party preference;
  - c) If no execution date is shown, it is presumed that the affidavit was executed on or before the 15<sup>th</sup> day prior to the election if the affidavit is received by the county elections official on or before the 15<sup>th</sup> day prior to the election or if the affidavit is postmarked on or before the 15<sup>th</sup> day prior to the election and is received by mail by the county elections official; and,
  - d) If the affiant fails to identify his or her state of birth within the United States, it is presumed that the affiant was born in a state or territory of the United States if the birthplace of the affiant is shown as "United States," "U.S.A." or other recognizable term designating the United States.

FISCAL EFFECT: Keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

County election officials must engage in the time consuming practice of contacting potential voters when a piece of information is missing from a voter registration form. While all information requested of potential voters is important, a person's place of birth is not used to confirm his or her eligibility to vote. Further, counties have no clear authority to process incomplete registration cards that omit place of birth.

This measure will save county clerks valuable time and resources by making it optional to answer a registration form question that is not required by the federal government or by 39 other states. Further, the question of *place of birth* is duplicative in nature because it is not utilized to verify eligibility. The eligibility of the potential voter is verified in the signature box under penalty of perjury.

AB 131 clarifies that if a registrant fails to identify his or her place of birth, it is presumed that he or she is eligible to register to vote as long as he or she marked the box stating that he or she is a citizen of the United States and signs the affidavit under penalty of perjury.

As a result, AB 131 protects voting rights and assists counties with cost savings by removing the mandate to contact registrants and obtain this information.

- 2) Federal Voter Registration Application: The National Voter Registration Act of 1993 (Public Law 103-31), also known as "Motor Voter," requires every state to accept a uniform federal voter registration application by mail, among other provisions. Under Motor Voter, the federal voter registration application may require only such identifying information and other information as is necessary to enable the appropriate election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process. As a result, the federal voter registration application, which is accepted for voter registration in California pursuant to federal law, does not request information about the applicant's place of birth.

Because the uniform federal voter registration application does not contain a space for the applicant's place of birth, any Californian who registers to vote using that form will have his or her registration processed even though he or she has not specified his or her place of birth on the voter registration application. On the other hand, any voter who attempts to register using the state's voter registration affidavit and who leaves the space for "place of birth" blank does not have his or her registration processed unless the county elections official is able to contact that voter and obtain that information from the voter.

Given the fact that a person's place of birth is not relevant in determining whether that person is eligible to vote, the committee should consider whether it is appropriate for a voter registration application on the uniform federal form to be treated differently than an application on the state form, as is the case under existing law.

- 3) Argument in Support: The California Association of Clerks and Election Officials write in support:

California's Election law requires any person who desires to vote submit a completed voter registration form. This legislation would allow the election official to deem a voter registration form complete [if] a voter omits their place of birth, as long as the completed form is executed under penalty of perjury stating that the affiant meets all criteria to be eligible to register. This proposal recognizes that, in a national election cycle, many eligible registrants choose to complete the National Voter Registration Form to register to vote in California. This National form does not contain a space for the affiant to include his or her place of birth, and is yet still deemed complete under California law. This

proposal allows the election official to treat all registrants equally, regardless of the form they may submit. Election officials may, should they choose, still attempt to reach the voter to obtain the missing information, but would not be prohibited from continuing to process the otherwise valid registration.

- 4) Previous Legislation: SB 1434 (Price) of 2010, would have created a rebuttable presumption, when a person failed to identify his or her place of birth on an affidavit of registration, that the person is eligible to vote if he or she marked the box on the voter registration affidavit indicating that he or she was a citizen of the United States. That bill was vetoed by Governor Schwarzenegger, who argued that the most effective solution would be to simply remove information relating to place of birth from the state form.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Debra Bowen (Sponsor)  
American Federation of State, County and Municipal Employees, AFL-CIO  
California Association of Clerks and Election Officials  
California Common Cause  
League of Women Voters of California

Opposition

None on file.

Analysis Prepared by: Lori Barber / E. & R. / (916) 319-2094