

Date of Hearing: April 23, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 149 (Weber) – As Amended: April 10, 2013

SUBJECT: Voting rights: inmates and persons formerly incarcerated.

SUMMARY: Requires local and state agencies, as specified, to provide voter rights guides and affidavits of registration to incarcerated or formerly incarcerated persons, as specified.

Specifically, this bill:

- 1) Makes Legislative findings that many people with criminal convictions, whether those presently serving a sentence or those who have completed their sentences, are unaware that they may be eligible to vote. Declares the intent of the Legislature to encourage the Department of Corrections and Rehabilitation (CDCR), county jails, and county probation departments to provide voter eligibility information and affidavits of registration to eligible voters.
- 2) Requires the CDCR, with respect to each parolee under its jurisdiction, to do the following upon the completion of his or her parole:
 - a) Provide the parolee with the most recent version of the Secretary of State's (SOS) voting rights guide for incarcerated persons;
 - b) Inform the parolee, at the time the parolee is provided the guide described above, that he or she may be eligible to vote; and,
 - c) Provide the parolee with an affidavit of registration.
- 3) Requires each county jail to provide the most recent version of the SOS voting rights guide for incarcerated persons to each inmate and, at the request of an inmate who is an eligible voter, a voter registration affidavit.
- 4) Requires each county probation department, with respect to each person under its supervision, to do the following:
 - a) Provide the person with the most recent version of the SOS's voting rights guide for incarcerated persons;
 - b) Inform the person, at the time the person is provided the guide described above, that he or she may be eligible to vote; and,
 - c) Provide the person, upon the person's request, an affidavit of registration if the person is eligible to register to vote.
- 5) Requires the CDCR, county jails, and county probation departments to obtain affidavits of registration from county elections officials and the voting rights guide from the SOS.

EXISTING LAW:

- 1) Specifies that in order to be eligible to vote, an individual must be a United States citizen, a resident of California, not in prison or on parole for the conviction of a felony, not deemed mentally incompetent, and at least 18 years of age at the time of the next election.
- 2) Requires the election board of each county, in order to promote and encourage voter registration, to establish a sufficient number of registration places throughout the county, and outside the county courthouse, for the convenience of person desiring to register to vote.
- 3) Requires the SOS to adopt regulations requiring each county to design and implement programs to identify qualified individuals who are not registered voters and to register those individuals to vote.
- 4) Requires the county elections official to cancel the voter registration of a person upon proof that the person is presently imprisoned or on parole for conviction of a felony.
- 5) Requires the clerk of the superior court of each county to notify the county elections official twice a year of those persons that have been convicted of a felony since the clerk's last report.
- 6) Requires the facility administrator of a local detention facility to develop written policies and procedures whereby the county registrar of voters allows qualified voters to vote in local, state, and federal elections.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

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

AB 149 would ensure that persons involved in the criminal justice system are given accurate information about their voting rights and are afforded the opportunity to participate in the civic life of their communities by requiring: (1) that the Department of Corrections provide every parolee voter registration information upon the completion of their parole; (2) that county probation departments provide every eligible person under their supervision with voter registration information; and (3) that county sheriffs provide voter registration information to every eligible inmate of a county jail.

As of 2010, California ranked 45th in the nation in voter registration. In the 2012 presidential election, less than 50% of eligible voters in California cast a ballot. Presently, nearly 6 million eligible voters in the state remain unregistered to vote.

Additionally, a study by the Sentencing Project, a Washington research and advocacy group, found that 37 percent of public officials surveyed in 10 states either misstated a central provision of the voter eligibility law or were unsure about what the law said.

Among the millions of unregistered voters in California are people who mistakenly believe they are ineligible to vote due to a criminal charge or conviction. Despite the fact that civic participation can be a critical component of re-entry and has been linked to reduced recidivism, persons involved in our criminal justice system are not apprised of their voting rights nor is accurate voter information readily accessible to them. Instead, rumors and misinformation abound, and even from courts, public defenders and elections officials often give out incorrect information about eligibility. For example, in a phone survey conducted immediately prior to the 2012 presidential election, one in three elections offices, including the Secretary of State's office, could not provide correct information about voting with a felony conviction.

The result is that thousands of eligible voters are unregistered to vote and effectively deprived of the opportunity to exercise their fundamental right to vote on issues critical to them and the lives of their families: school board races, school funding initiatives, statewide ballot initiatives, and many other important races that directly impact their communities. Given the racial disparities in our criminal justice system, the lack of accurate voter registration information has a particularly disparate impact on communities of color in California.

Policies that result in the potential voting disfranchisement of people who have paid their debt to society offend fundamental tenets of democracy. The problem is only exacerbated when state and local election officials who are most likely misinformed about the law operate based on that misinformation or turn away people who have a legal right to vote.

Given the confusion among those responsible for administering the law, it is no surprise that people who are legally entitled to vote either don't try out of fear that they would be committing a crime, have misconceptions as it relates to the law, or are wrongly turned away.

By offering voter registration to the thousands of eligible voters who pass through our criminal justice system, the state will be taking an important step toward increasing its dismal voter registration rate. AB 149 compliments and enhances current practice by providing accurate voting rights information and voter registration cards to all eligible individuals. Additionally, the public welfare and safety of our communities will be enhanced by the civic participation of all eligible voters, which includes those who are attempting to successfully re-enter their communities.

- 2) Facilitating Voter Registration: According to statistics from the SOS's website, currently there are nearly six million eligible voters in the state that remain unregistered to vote. Consequently, efforts to encourage and improve voter registration have been a focus of varying legislative proposals over past legislative sessions.

This bill focuses on a specific sector of the electorate – those there are currently or formerly incarcerated – and requires the CDCR, county jails and county probation departments to provide voter eligibility information and affidavits of registration to eligible voters. On the local level, existing law requires the facility administrator of each local detention facility to adopt written policies and procedures whereby the county registrar of voters allows those qualified voters in the detention facility to vote. Despite that fact that these procedures are

adopted at each facility and therefore may not result in uniformity across the state, they are currently in place and provide inmates at the detention facility with information regarding their voting rights.

Additionally, on the state level, when an inmate or parolee is released from the custody of the CDCR, that person is given a Certificate of Discharge. Among the information on the Certificate of Discharge is the following statement:

"An ex-felon becomes eligible to vote after being discharged from parole. You may obtain a Voter Registration Card by contacting the Elections Division of the California Secretary of State's Office at (800) 345-VOTE (800-345-8683)."

Given that inmates in local detention facilities are already provided information about how to register and vote, and given that inmates and parolees released from the custody of the CDCR are given information on their right to vote upon being discharged from parole, the necessity of this bill is unclear. Conversely, while some of the provisions of this bill may seem duplicative, one group of individuals addressed by this bill, which does not seem to be addressed by current law, are those individuals on probation at the county level. This bill will ensure those individuals are informed of their voting rights and receive affidavits of registration upon request. Additionally, this bill has the potential to provide some consistency across the state and ensure that those incarcerated and formerly incarcerated, whether on the local or state level, are provided with the same information regarding their voting rights.

- 3) States and Felon Disenfranchisement: According to the Sentencing Project's 2012 report entitled "State-Level Estimates of Felon Disenfranchisement in the United States, 2010," 48 states prohibit inmates from voting while incarcerated for felony offense. Only Maine and Vermont permit inmates who are incarcerated for a felony offense to vote. California is one of 35 states that also prohibits felons from voting while they are on parole, and is one of 18 states that allows people on probation for a felony to vote. Individuals imprisoned in the county jail for misdemeanor offenses are eligible to vote in California. Furthermore, once an individual completes his or her term of imprisonment and any period of parole for a felony conviction, that person is allowed to register to vote again in California.

According to the National Conference of State Legislatures' March 2012 report on felon voting rights, states not only approach felon disenfranchisement in various ways, but they also have different ways in which an ex-felon may regain their voting rights. For example, in Florida, Iowa, Kentucky, and Virginia, felons and ex-felons permanently lose their right to vote absent a pardon from the governor. In 38 states and the District of Columbia, most ex-felons automatically gain the right to vote upon the completion of their sentence. In some states, ex-felons must wait for a certain period of time after the completion of their sentence before rights can be restored, and in other states, an ex-felon must apply to have voting rights restored. The report states that even in states where ex-offenders automatically regain the right to vote upon completion of their sentence, the process of re-registering to vote is often difficult for a variety of reasons. One of the main obstacles is the complexity of the laws and processes surrounding disenfranchisement. Additionally, there can be inconsistent communication between agencies which can result in uneven applications of the law. Moreover, the lack of information can cause many ex-offenders to be unaware that they

regained their voting rights upon the completion of their sentence or what steps they must take to regain their voting rights. Finally, under-funding of parole boards in some states can cause massive application backlogs.

The report states that nationwide, recent state legislation has sought to expand felon voting rights and ease the process of restoration. Between 1996 and 2008, 28 states passed the following new laws on felon voting rights: seven states repealed lifetime disenfranchisement laws, at least for some ex-offenders, two states gave probationers the right to vote, seven states improved data-sharing procedures among state agencies, nine states passed requirements that ex-offenders be given information and/or assistance in regaining their voting rights at the time they complete their sentence, and 12 states simplified the process for regaining voting rights, for instance, by eliminating a waiting period or streamlining the paperwork process.

- 4) Arguments in Support: The Greenlining Institute, a co-sponsor of this measure, writes in support:

[C]alifornia ranks among the lowest states in the nation for voter registration: 45th to be exact, with 6 million eligible citizens currently unregistered. According to a CA Dept. of Corrections and the Bureau of Justice Statistics, in 2010, the population that was on parole or probation was about 312,000 people, more than 5% of our total unregistered citizens. If all of these citizens were notified about their right to vote, many more would in fact register.

The problem is, current law does not require probation or parole officers to notify people of their right to vote. Consequently, former felons often believe they are ineligible to vote and misinformation is rampant. AB 149 would promote voting rights by requiring the Dept. of Corrections, including parole and probation officers, to notify persons upon release of their eligibility to vote, and to specifically provide them with a voter registration affidavit and the guide to voting rights for inmates and former felons, which is produced by the Secretary of State.

- 5) Previous Legislation: AB 821 (Ridley-Thomas) of 2005, would have required information about voting be provided to certain state and local inmates. AB 821 failed passage of the Senate Elections, Reapportionment, and Constitutional Amendments Committee.
- 6) Related Legislation: AB 938 (Weber), which is pending in this committee, would provide that a person is excluded from voter eligibility if he or she is in state prison or on state parole for the conviction of a felony, and specify that state parole does not include a person on postrelease community supervision or mandatory supervision.
- 7) State Mandates: The 2011-2012 and 2012-2013 state budgets included the suspension of various state mandates as a mechanism for cost savings. Included on the list of suspensions were all six existing elections-related mandates. All the existing elections-related mandates have been proposed for suspension again by the Governor in his budget for the 2013-2014 fiscal year. The Committee may wish to consider whether it is desirable to create new election mandates when current elections-related mandates are suspended.

- 8) Double Referral: On April 16, 2013, the Assembly Public Safety Committee approved this bill on a 5-2 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

Greenling Institute (Sponsor)
A New PATH (Parents for Addiction Treatment and Healing)
American Civil Liberties Union of California
Broken No More
California Association of Nonprofits
California Attorneys for Criminal Justice
California Correctional Peace Officers Association
California Public Defenders Association
Center for Living and Learning
Drug Policy Alliance
Friends Committee on Legislation of California
Legal Services for Prisoners with Children
Project Vote
Rock the Vote
Southwest Voter Registration Education Project
Tarzana Treatment Centers, Inc.
Taxpayers for Improving Public Safety

Opposition

None on file.

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