

Date of Hearing: June 11, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

SB 112 (Monning) – As Amended: June 3, 2013

SENATE VOTE: 34-0

SUBJECT: Voter information: public examination.

SUMMARY: Requires any voter registration card information in existence 100 years after the creation of the record to be made available to the public. Provides that if records are contained in the great registers of voters and the bound register contains information covering more than one year, the records shall not be available to the public until the entire contents of the register have been recorded for at least 100 years.

EXISTING LAW

- 1) Provides that the home address, telephone number, e-mail address, precinct number, or other number specified by the Secretary of State (SOS) for voter registration purposes, and prior registration information shown on the voter registration card for all registered voters is confidential and prohibits the disclosure to any person, except under specified circumstances.
- 2) Provides that a California driver's license number, California identification card number, Social Security number, or other unique identifier used by the State of California for purposes of voter identification shown on a voter registration card, or added to the voter registration records in compliance with the federal Help America Vote Act of 2002 (42 U.S. C. Sec. 15301 et seq.), are confidential and disclosure of this information is prohibited.
- 3) Provides that the signature of the voter that is shown on the voter registration card is confidential and prohibits its disclosure to any person, except as provided.

FISCAL EFFECT: This bill has been keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

SB 112 seeks to make historic voter rolls, including bound books called “Great Registers,” available to the public for the purpose of historical and genealogical interests. These county voter registration records contain valuable historical information . . .

Access to this data, much of it from the late 19th and early 20th century, was restricted to official, political, scholarly, and journalistic purposes in 1994 with SB 1518 (Marks) and is not available to the public for exploration of their genealogical roots. It is the author’s belief that these historic records should be available to anyone with interest in California history. SB 112 intends to remedy this flaw by making historic voter records available to the public 100 years after their creation.

Making these records available to the public after 100 years would mirror a similar state law allowing public access to any state record given to the California State Archives after 75 years. U.S. Census records, which contain information very similar to that found in voter registration forms, are released to the public by the National Archives and Records Administration after being sealed for 72 years. In accordance with the 72-Year Rule, the National Archives most recently released the 1940 records on April 2, 2012.

It is important to note that waiting to make these records available 100 years after creation ensures that no living person's information will be made available to the public. Personal identifiers such as social security and driver's license numbers, which were not used in voter registration cards until 1994, would be kept private for 100 years before being made available. Some identifiers, such as social security numbers, are made public after the passing of any person on public death certificates.

Current state law requires that voter registration records be kept confidential in perpetuity. Keeping these historic records permanently unavailable to the public is unnecessary, and restricts the public from tapping into valuable historic information. California Elections Code section 2194 allows for some public access to these records for "election, scholarly, journalistic, governmental, or political purposes, as determined by the Secretary of State." However, these provisions do not include one of the most common reasons members of the public want to access California's historic voter rolls, which is for historical or genealogical interest.

These historic records should be available to the public after 100 years, a period of time which ensures the privacy of a voter's record will be maintained for their lifetime. SB 112 will align California statutes with similar public access guidelines, such as the "72 years provision" used when releasing confidential Census records.

- 2) Is Voter Registration Information Confidential? The voter registration rolls are not available to the general public. However, California law allows certain voter information to be released to a member of the California Legislature or U.S. Congress, or to any candidate, any committee for or against a proposed ballot measure, any person for election, scholarly, journalistic, or political purposes, or for governmental purposes. Even in these cases, a few items remain confidential and are never provided to any requestor: voters' social security numbers, driver's license numbers, and signatures.
- 3) Lawful Access to Public Records: Existing law establishes the State Archives, with the SOS as custodian, and requires the SOS to receive into the Archives any item, including any paper, document, book, map or other type of record, that is required by law to be delivered or filed with the Secretary. Records that are housed with the State Archives, irrespective of origin or the manner of which they are deposited, are to be accessible to the public no later than 75 years after they are created.

Currently all voter registration materials in California are confidential and cannot be released to the public except for specified purposes. Social Security numbers, and California driver's license and identification card numbers began to be used as personal identifiers for the purpose of voter registration in 1994 and today's voter registration records often contain

confidential information such as an individual's home address, telephone number, e-mail address, precinct number, the voters' signature and prior voter registration information. This information is restricted from appearing on any computer terminal, list, affidavit, duplicate affidavit, or other medium routinely available to the public.

- 4) Information Contained in the Historical Voter Registration Files: A wide variety of personal information has been included in the historical voter registration files including but not limited to: name, physical description, notations of visible scars or marks, names of ancestors, age, height, complexion description, eye and hair color, notation of whether the voter was literate and/or able to sign his or her name, occupation, party affiliation, precinct number, home address, gender, date and place of marriage, state or county of birth, naturalization date, name of spouse if naturalized, and sensitive information such as a notations describing physical disability, cause of death, or removal from voter rolls for insanity or infamy.
- 5) Why Not Use the 72 Year Rule? American citizens are legally permitted to search and review all public documents obtained from census records after 72 years have passed. The 72 year census rule is based on the presumption that the average life span of a citizen is approximately 70 to 85 years. It is believed that a 72 year waiting period offers a reasonable protection of people's privacy while offering research opportunities to social scientists and people looking up family history.

Under the California Public Records Act, certain records that are housed with the California State Archives are permitted to be accessed by the public no later than 75 years after they are created, but this does not apply to voter registration records which contain personal information that is excluded from public access.

During the 2012 general election, it was well documented that there are voters who reached or exceeded the age of 100 years who are still fully engaged in the electoral process. To ensure that no living person's information will be made available to the public, this bill will allow voter registration materials to be released to the public after 100 years have passed from the date the records were created.

- 6) Previous Legislation: AB 2719 (Laird), Chapter 783, Statutes of 2004, provided that all records held by the State Archives are to be accessible to the public no later than 75 years after they were created, and required the SOS to post on the SOS's Internet Web site a public notice stating that on or after January 1, 2005, all items 75 years old or older that are on deposit in the State Archives shall be accessible to the public.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Debra Bowen (Sponsor)
California Association of Clerks and Election Officials
California Association of Museums
National Coalition for History
Society of California Archivists

Opposition

None on file.

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