

Date of Hearing: March 20, 2024

ASSEMBLY COMMITTEE ON ELECTIONS  
Gail Pellerin, Chair  
AB 2127 (Berman) – As Introduced February 6, 2024

**SUBJECT:** Voter registration: California New Motor Voter Program.

**SUMMARY:** Extends, from January 1, 2025 to January 1, 2030, the operation of the California New Motor Voter (NMV) program taskforce established by the Secretary of State (SOS) to advise the SOS and the Department of Motor Vehicles (DMV) on the effective implementation of the NMV program.

**EXISTING LAW:**

- 1) Requires, pursuant to the National Voter Registration Act (NVRA), 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. (52 U.S.C. §20504)
- 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 (DL) or personal identification card issued by the DMV. (52 U.S.C. §20504)
- 3) Requires a DL or identification application to be used as an application for voter registration, unless the applicant fails to sign the application. (52 U.S.C. §20504)
- 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. (52 U.S.C. §20504)
- 5) Provides that a person entitled to register to vote shall be a United States citizen, a resident of California, not in prison for the conviction of a felony, and at least 18 years of age at the time of the next election. (California Constitution, Article II, §2 )
- 6) Requires the SOS and the DMV to establish and implement the NMV program for the purpose of increasing opportunities for voter registration for qualified voters. (Elections Code §§2260-2270)
- 7) Requires the SOS to establish to establish a taskforce to advise the SOS and the DMV on the effective implementation of the NMV program. Requires the SOS, in consultation with the DMV and the taskforce, to annually review the effectiveness of the NMV program and draft a written report that provides information about the operation of the NMV program, as specified. (Elections Code §§2275, 2276)
- 8) Provides that the NMV taskforce provisions will remain in effect only until January 1, 2025, and as of that date are repealed. (Elections Code §2275(d))

**FISCAL EFFECT:** Unknown

**COMMENTS:**

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

The National Voter Registration Act and California's New Motor Voter program have been instrumental in closing voter registration gaps by making it easier for eligible voters to register or update their registration when completing a driver's license and state identification card transaction. By improving the accuracy of millions of voters' mailing addresses and reducing reliance on in-person same day voter registration, these programs played a crucial role in increasing access to vote-by-mail and helped ensure that voters didn't have to choose between their health and their right to vote during the coronavirus pandemic. AB 2127 will ensure that the progress made under our New Motor Voter program will continue and ensure proper implementation of updates that will speed up processing of registration applications and bring California into compliance with the NVRA's deadlines.

2) **National Voter Registration Act:** In 1993, the federal government enacted the NVRA, commonly referred to as the "motor voter" law, to make it easier for Americans to register to vote and to remain registered to vote. In addition to other methods of voter registration states offer, 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.

3) **NVRA and California New Motor Voter Program:** As mentioned above, the NVRA requires states to provide individuals with the opportunity to register to vote at the same time that they apply for or renew a DL at the DMV. One of the provisions of the NVRA prohibits the voter registration portion of a DL application from requiring any information that duplicates information required in the DL portion of the form, other than a second signature or a statement attesting to the person's eligibility to register to vote.

In the years following the enactment of the NVRA, California was not fully in compliance with the NVRA's prohibition on requiring duplicate information. Rather, a separate voter registration form was attached to the driver's license form, which required the affiant to fill in duplicate information. This dual form policy was the result of a settlement in a lawsuit to force the State of California to comply with NVRA when former Governor Pete Wilson refused to implement it unless federal funding was provided (NVRA did not provide the states with any direct funding or any mechanism for reimbursement of costs associated with implementation).

In 2015, a non-compliance letter was sent to the SOS from the ACLU Foundation of San Diego and Imperial Counties, Dēmos, Morrison & Forester LLP, and Project Vote stating

that California is engaging in continuous and ongoing violations of the NVRA due to the state's dual form policy. The letter also stated that it constituted a formal notice of the senders' intent to initiate litigation at the end of the statutory 90-day waiting period should California fail to remedy the violations of the NVRA, as specified.

In response to the non-compliance letter, the Legislature approved and Governor Brown signed into law AB 1461 (Gonzalez), Chapter 729, Statutes of 2015, as known as the NMV program, which provides automatic registration for every person who has a driver's license or state identification card and who is eligible to register to vote at the DMV, unless that person opts out. Under the NMV program, a DMV customer who attests to their eligibility and does not opt out is automatically registered to vote. The implementation of AB 1461 was contingent upon the implementation of a federally required statewide voter registration database (also known as VoteCal), the appropriation of funds from the Legislature necessary for the SOS and the DMV to implement AB 1461, and the adoption of regulations required by AB 1461. The NMV program became operative in April 2018.

There continued to be challenges with modernizing the voter registration process at the DMV and with bringing California in compliance with the NVRA. Consequently, a lawsuit was filed, *League of Women Voters v. Annis*, which was settled in 2018. According to court documents, violations to the initial settlement agreement led to delays in registrations for thousands of voters. Consequently, the settlement agreement was updated in February 2019 and extended to 2020 and new terms were added. The settlement agreement was extended in 2021 and expired in early 2022.

- 4) **New Motor Voter Program Taskforce and Previous Legislation:** Because the settlement terms were instrumental in identifying and addressing non-compliance with the NVRA and improving the functionality of the NMV program, AB 796 (Berman), Chapter 314, Statutes of 2021, was signed into law in advance of the settlement's expiration. Many of the best practices regarding the transmission of voter registration information from the settlement were codified into state law by AB 796. Additionally, AB 796 required the SOS to establish a taskforce to evaluate the effectiveness of the NMV program.

According to the author and sponsors, several provisions of AB 796 will not go into effect until July 2025, and according to the DMV, may be delayed due to difficulty finding contractors to execute the necessary technical changes. For example, one of the delayed AB 796 requirements that has not yet been implemented will speed up processing of registration applications and bring California into compliance with the NVRA's deadlines for transmitting completed registration forms to the SOS once they are accepted by the DMV. Another element of AB 796 that has not been implemented is the requirement that a customer's voter registration form be processed as long as the voter registration information is complete, even if the customer has outstanding DMV requirements such as an unpaid fee.

Current law that requires the establishment of the taskforce is only operational until January 1, 2025, unless subsequent legislation extends its expiration date. Accordingly, this bill proposes to extend the operation of the taskforce another five years until January 1, 2030. The author and sponsors contend that because a number of the NMV program elements are still in the implementation stage and the NMV taskforce has been successful in identifying

and assisting with implementation thus far, extending the NMV taskforce to January 2030 will ensure needed oversight of the NMV program continues, enabling California to further build on the program's successes.

- 5) **Implementation Delays:** The DMV is currently undergoing a comprehensive modernization of its information technology (IT) systems through their Digital eXperience Platform (DXP) Project. The DXP Project will update and replace software, hardware, and programming languages for DMV's current legacy systems. The DXP Project is a multi-year incremental technology project to replace all obsolete legacy applications and systems, including systems for occupational licensing, vehicle registration, and driver's license and identification cards. The DXP Project will replace the current obsolete legacy applications and systems with flexible technology to meet business processes and services as well as to comply with changing legislation and new mandates in a timely manner. The DMV core systems technology architecture was designed in the late 1960s to address the business needs at the time and has reached its outer limits and any change to or expansion of functionality jeopardizes continuity of services, systems and data integrity, as well as the collection of billions of dollars.

As mentioned above, certain requirements of AB 796 were delayed until the DMV has completed the DXP Project, or July 1, 2025, whichever is earlier. According to DMV, challenges have caused significant delays in the completion of the DXP Project. It is unclear whether those delays will impact the July 2025 implementation of AB 796's requirements. Because it is unclear whether the July 2025 implementation date will be met, extending the expiration date of the taskforce may be prudent.

- 6) **New Motor Voter Program Report:** Among other requirements, AB 796 requires the SOS, in consultation with the DMV and the NMV taskforce, to annually review the effectiveness of the NMV program and draft a written report. Existing law requires the written report, at a minimum, to include information about trends of voters registering through the NMV program, an analysis of the timeliness of the DMV's transmittals (completed voter registrations and delay notices sent to customers) to the SOS for the preceding year, and a summary of any significant errors or delays during the preceding year and how those incidents were resolved.

Last year, the SOS, DMV, and the NMV taskforce released the first annual report for the California NMV program, which highlights statistics for the NMV program throughout the year. Notably, between its launch in April 2018 and December 2023, more than 24 million new or updated voter registrations have resulted from the program.

In 2022 there were a total of 4,980,682 registrations from the three methods, of which the NMV program accounted for 3,995,152 (80%), followed by paper at 547,816 (11%), and California online voter registration at 437,714 (9%). Additionally, the report details that in 2022, updated registrations accounted for 79%, new registrations accounted for 18%, and new pre-registrations accounted for 3%.

- 7) **Arguments in Support:** The co-sponsors of this bill, American Civil Liberties Union California Action and the League of Women Voters of California, write in support:

Although the taskforce is scheduled to sunset January 1, 2025, the need for the taskforce will not end in 2025. Several important elements of AB 796 will not go into effect until July 2025, and according to the DMV may be delayed further. These include features to speed up processing of registration applications, to bring California into compliance with the NVRA's transmission deadlines, and to ensure that complete voter registration forms are processed even if a customer has outstanding DMV-only requirements such as an unpaid fee.

The taskforce has a vital role in monitoring the rollout and implementation of these upcoming elements of AB 796. Moreover, it provides ongoing visibility into issues at the DMV by monitoring the timeliness of NMV transmissions and any system irregularities. The taskforce has also provided recommendations to reduce the number of eligible Californians who opt out of registration and has a crucial role in guiding and evaluating the effectiveness of these changes, which could take years to implement. Finally, a core duty of the taskforce is to consult with the [SOS] and the DMV to annually publish a report containing information about voter registration trends, transmission timelines, and irregularities in the NMV system. These reports are invaluable resources for the public, lawmakers, and advocates.

AB 2127 will extend the NMV taskforce to January 2030, ensuring needed oversight of the NMV program, enabling California to further build on the program's successes, assisting the more than 4.5 million eligible but unregistered Californians to register to vote, and keeping California's voter rolls accurate and up to date.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

American Civil Liberties Union California Action (Co-Sponsor)  
 League of Women Voters of California (Co-Sponsor)  
 California Common Cause  
 California Environmental Voters  
 Courage California  
 Disability Rights California  
 Ella Baker Center for Human Rights  
 National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund  
 PowerCa Action  
 Secure Justice  
 Voices for Progress  
 One Individual

### **Opposition**

None on file.

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