

Date of Hearing: March 27, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 1436 (Feuer) – As Amended: March 20, 2012

SUBJECT: Voter registration.

SUMMARY: Allows a person to register to vote and vote at the office of the county elections official at any time, including on election day, if certain requirements are met. Specifically, this bill:

- 1) Defines "conditional voter registration" as a properly executed affidavit of registration which is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective after the elections official processes the affidavit, determines the registrant's eligibility to register, and validates the registrant's information.
- 2) Permits an elector who is otherwise qualified to register to vote, in addition to existing methods of voter registration, to complete a conditional voter registration and cast a provisional ballot during the 14 days immediately preceding an election or on election day.
- 3) Provides that a conditional voter registration is effective only if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration matches information contained in a database maintained by the California Department of Motor Vehicles (DMV), or other state government agency, or the federal Social Security Administration.
- 4) Provides that if the information provided by the registrant on the registration affidavit cannot be verified by the databases described above, but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number in accordance with existing law.
- 5) Provides that conditional voter registration shall be available at all permanent offices of the county elections official.
- 6) Requires an elections official to notify registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election as specified by this bill.
- 7) Requires an elections official to conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding provisional ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the registrant's eligibility to register, and validate the registrant's information before counting or rejecting the corresponding provisional ballot.
- 8) Requires an elections official, after receiving a conditional voter registration, to process the registration, determine the registrant's eligibility to register and attempt to validate the

information.

- 9) Requires an elections official, if a conditional registration is deemed effective, to include the corresponding provisional ballot in the official canvass.
- 10) Provides that if a conditional voter registration is not deemed effective, the elections official shall process the affidavit of registration in the same way that an affidavit of voter registration would otherwise be processed pursuant to existing law. Provides that if a registrant meets all other eligibility requirements to register to vote, the registration shall be deemed effective in forthcoming elections.
- 11) Permits the county elections official to offer conditional voter registration and provisional voting, pursuant to this bill, on election day at satellite offices of the county elections office in accordance with the procedures in this bill.
- 12) Requires a conditional registration that is accepted pursuant to this bill to be processed in accordance with the general voter registration procedures established in existing law and by regulations adopted by the Secretary of State (SOS).
- 13) Requires a provisional ballot cast, pursuant to this bill, to be subject to provisional ballot requirements within existing law.
- 14) Requires elections officials to cancel any duplicate voter registrations that may exist as a result of a conditional registration.
- 15) Requires an elections official, if it appears that a registrant may have committed fraud, to notify in writing both the district attorney and the SOS.
- 16) Increases the fine that may be imposed for a felony conviction of an election crime, for which no other penalty is prescribed by law, from \$10,000 to \$25,000.

EXISTING LAW:

- 1) Allows individuals who are eligible to vote to execute an affidavit of voter registration up to 15 days prior to an election.
- 2) 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.
- 3) Provides that a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon review of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot.
- 4) Provides that if an applicant for voter registration has not been issued a current and valid driver's license or a social security number, the state shall assign the applicant a number that

will serve to identify the applicant for voter registration purposes.

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

COMMENTS:

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

Citizen participation in elections is the bedrock of our representative democracy. Yet, in California, voter participation has fallen to troubling levels. In the November 2010 general election just 44.1% of eligible voters cast a vote. Fortunately there is more that we can do to promote increased participation, thus ensuring that election results reflect the will of the people to the greatest extent possible. Currently, individuals who are eligible to vote must submit a voter affidavit at least 15 days prior to an election. Unfortunately, the registration deadline hinders voter participation. This is illustrated by the ten states that allow some form of same-day registration and voting. All but one have higher voter participation rates than California—where only 44.1% of eligible voters participated in the 2010 general election. In comparison, Iowa, Wisconsin and Minnesota had respective rates of 50.0%, 52.1%, and 55.4% in the 2010 general election. Research also shows that same-day registration and voting lead to increased participation. North Carolina implemented same-day voter registration in 2007 and saw an 8% increase in voter turnout during the 2008 presidential election compared to the 2004 presidential election.

AB 1436 addresses California's low voter participation rate through the creation of a conditional voter registration process, which would provide same-day registration and voting. Beginning 14 days prior to an election and including Election Day, a county elections office headquarters would offer conditional voter registration. This should lead to greater voter participation rates, which will provide election results that more fully reflect the will of the people. Aside from benefitting first-time voters, this bill will also benefit those who have outdated registration.

California counties vary greatly in geographic expanse and population. This can have the effect of limiting access to a county elections office headquarters. To increase the accessibility of same-day registration and voting, AB 1436 authorizes counties to offer same-day registration and voting at other sites in addition to the central headquarters.

2) Election Day Registration: The concept of "same day" registration and voting raises a number of issues that the committee may wish to consider. Implementing procedures to direct voters to the elections official's office are important to the success of same day voting. In addition, elections officials will need to make preparations to serve a significantly larger number of voters in their offices on election day. For instance, in Los Angeles County, if even one-half of one percent of the eligible voters in the county attempted to register to vote and vote in the office of the elections official on election day, the office would have to process nearly 30,000 voters. Ensuring that elections officials' offices have sufficient parking, voting equipment, personnel, and ballots to handle the crowds on election day could pose a significant challenge for many counties.

- 3) Delayed Canvass: Under existing law, at all elections, a voter claiming to be properly registered but whose qualifications to vote cannot be immediately established upon review of the precinct voter index or records on file with the county elections official, is entitled to vote a provisional ballot. Current law requires the elections official to compare the signature on the ballot with the signature on the voter's affidavit of registration. If the signatures do not match or the provisional ballot is not signed, the ballot is rejected. This bill, which allows a person to register and vote a provisional ballot on election day, adds a new time-consuming step to an already busy time period for the county elections officials. While this may not delay the canvass for many smaller counties that usually have no difficulty completing the official canvass of ballots by the deadline, larger counties, such as Los Angeles, that frequently take the full amount of time available to certify elections results, will likely be significantly impacted.

Additionally, it is unclear how long it will take to verify a voter's information through the various databases. Does this verification occur in real time? Or does it take 1-2 days? Again, as stated above, this bill could hinder the ability of a number of counties to certify election results by the deadline established under existing law.

- 4) Postal Delays: Earlier this month, this committee held a joint oversight hearing with the Senate Elections and Constitutional Amendments Committee on the recent and proposed United States Postal Service closures and the impact on voters and the upcoming presidential elections. At the hearing, five county elections officials testified as to the impact that recent post office and processing facilities closures were having on them as well as any anticipated challenges they saw ahead with more closures expected. One of the major impacts affecting the counties is mail delivery time delays – some counties experienced delivery times of up to 5-7 days as opposed to usual 1-3 day mail delivery time. The Postal Service has 15 more processing facilities proposed for closure in California. While the Postal Service agreed to a moratorium on closing or consolidating additional post offices or processing facilities until May 15<sup>th</sup>, the Postal Service declined to participate in the hearing so the committee does not have a timeline for facility closures after the moratorium expires.

The new circumstances surrounding the elections this year present new challenges - particularly for those registering and voting by mail. Current law allows a person to register up until 15 days before an election and allows the affidavit, if it is postmarked on or before the 15<sup>th</sup> day before the election, to be processed as long as all other eligibility requirements are met. Through no fault of their own, mail delivery delays could significantly impact a voter's ability to register in time to vote for an election.

While this bill has no urgency clause and will not be in place to provide voters with another voting option for this year's elections, the committee may wish to explore whether this bill will be helpful to voters in future elections in light of the proposed Postal Service closures.

- 5) Other Potential Impacts in California: According to a study conducted in 2011 by Dēmos, a public policy research and advocacy organization that often advocates for election day registration, enacting election day registration in California could increase overall turnout by 4.8%, with larger increases in participation by voters aged 18 to 25, by voters who had moved in the last six months, and by Latinos and newly-naturalized citizens. The Dēmos study, however, was based on the assumption that voters would be allowed to register to vote

on election day at the polling place. The study additionally notes that an election day voter registration system that requires voters "to engage in excessive travel on election day is not likely to facilitate as many voters utilizing it as would a system allowing voters to simply register and vote at their local polling place."

- 6) Other States: In all, 10 states and the District of Columbia have some form of election day voter registration. Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, Wisconsin, Wyoming and Washington DC generally permit election day voter registration at most or all elections, while Connecticut and Rhode Island permit election day voter registration for Presidential elections only. Six of these states (Idaho, Iowa, Minnesota, New Hampshire, Wisconsin, and Wyoming) and Washington DC allow election day voter registration at the polling place, while the other four states (Connecticut, Maine, Montana, and Rhode Island) do not provide election day registration at all polling places, and may require voters to go to another specified location (often the office of the local elections official) to register to vote on election day.

In June of last year, Maine's Governor signed a bill to eliminate election day voter registration in that state. Groups that opposed the bill successfully collected enough signatures to place a referendum on last November's election ballot to overturn the law. The referendum ultimately was successful, and election day registration was restored in Maine.

North Carolina permits "one-stop voting," whereby a person can register to vote and immediately cast a ballot at certain designated locations after the regular voter registration deadline. However, North Carolina technically does not have election day registration, because "one-stop voting" ends three days before the election.

North Dakota has no voter registration requirement at all.

- 7) Proposition 52: In November 2002, voters rejected Proposition 52, which would have allowed any eligible person with proper identification and proof of residency to register to vote at any polling place on election day. The measure failed, garnering 40.9 percent of the vote statewide.
- 8) Arguments in Support: According to the California State Council of the Service Employees International Union (SEIU):

SEIU firmly believes that giving eligible voters the ability to register to vote, and vote on Election Day is fundamental to his or her inherent right of participation in the democratic electoral process. Many otherwise eligible voters have been disenfranchised due to the current cumbersome process of voter registration, as well as understanding the deadlines of when he or she must be registered to vote to participate in a given election. As California is ranked 41<sup>st</sup> in state voter turnout, Election Day registration can considerably boost voter turnout.

- 9) Arguments in Opposition: The California State Association of Counties (CSAC) has taken an oppose unless amended position on the bill. CSAC proposes the bill be amended to provide an appropriation to pay the costs of election day registration from the beginning or alternatively, make election day registration optional, authorizing counties where it is a local

priority to use their own revenues to fund the service. Additionally, CSAC writes:

The most populous counties in the state already struggle to certify their votes by the end of the 28-day canvass period. AB 1436 would add significantly to that struggle. Not only would election offices need to meet all of the current certification and audit requirements, they would also need to process large number of voter registration forms and provisional ballots. Verifying and county provisional ballots are by far the most time-consuming processes that county registrars undertake during the canvass; AB 1436 would increase the number of provisional ballots by multiples, adding tremendous costs.

The costs counties would incur complying with this requirement are difficult to overstate. The proposed law would increase election departments' workloads by, first, all the provisional ballots from voters that would not otherwise have registered, but, more importantly, by the provisional ballots from all of the voters that would have otherwise met the 14-day deadline but wait longer given the opportunity.

To process the enormous increase in provisional ballots, elections departments in counties that already barely meet the 28-day canvass deadline will have to hire significantly more temporary workers, all of whom must be trained in the minutiae of election law to protect the integrity of the election and to ensure every eligible voter is properly counted. Furthermore, in large counties, the elections office building would prove insufficient to handle the surge of registrants and counting provisional ballots, so they would have to lease large space elsewhere.

10) State Mandates: The 2011-2012 state budget 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 2012-2013 fiscal year. The Committee may wish to consider whether it is desirable to create new election mandates when current elections-related mandates are suspended.

11) Previous Legislation: SB 641 (Calderon) of 2011, which is substantially similar to this bill, was held on the suspense file of the Assembly Appropriations Committee. SB 641 would have established conditional voter registration, thereby allowing a person to register to vote and voter at the office of a county elections official at any time, including election day, if certain requirements were met.

SB 1140 (Yee) and AB 1531 (Portantino) of 2010 were similar to this bill. Both bills would have created a one-stop mechanism for a person to register to vote and vote at the office of county elections official at any time up to and including election day once the state had deployed a new statewide voter registration database. SB 1140 was held on the Assembly Appropriations Committee's suspense file, and AB 1531 was held on the Senate Appropriations Committee's suspense file.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP

America Civil Liberties Union of California

California Common Cause. In its letter of support, the California Common Cause indicated that the following groups are also in support of this bill:

American Federation of State, County and Municipal Employees

Asian Law Caucus

Backbone Campaign

California Church Impact (c4)

California Civil Rights Coalition

California League of Conservation Voters Education Fund

California League of United Latin American Citizens

California Participation Project

California Partnership

CALPIRG

Causa Justa:: Just Cause

Center for Voting and Democracy DC

CLUE-Los Angeles

Courage Campaign

CREDO

Democracy for America

Democrats of North Orange County

DEMOS

Empower San Diego

Energy Action Coalition

Equal Justice Society

Equal Rights Advocates

Fair Elections Legal Network

Greenlining Institute

GROW | Planetpov.com

Inland Valley Democratic Club

Korean Resource Center

Lawyers Committee for Civil Rights Under the Law

Los Angeles County Federation of Labor

National Center for Lesbian Rights

National Lawyers Guild of San Francisco

PowerPAC

Progressive States Action

Robert F. Kennedy Democratic Club

Rock the Vote

SW Voter Registration Education Project

The Advancement Project

Voto Latino

California Communities United Institute

California National Organization for Women

City of Los Angeles  
Friends Committee on Legislation of California  
League of Women Voters of California  
Service Employees International Union, California State Council  
University of California Student Association

Opposition

California State Association of Counties (unless amended)

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