

Date of Hearing: April 27, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1461 (Gonzalez) – As Amended April 20, 2015

SUBJECT: Voter registration

SUMMARY: Establishes the California New Motor Voter Program. Specifically, **this bill:**

- 1) Makes legislative findings and declarations regarding voter registration.
- 2) Requires the Secretary of State (SOS) to work in consultation with the Department of Motor Vehicles (DMV) to establish a schedule to electronically transfer records of a person applying for an original or renewal driver's license or identification card.
- 3) Requires DMV to electronically provide the SOS specific information including a person's name, age, residence address, and electronic signature.
- 4) Specifies that DMV is required to only transmit records of a person who submits documentation that establishes proof of legal presence under federal law and also indicates they are a citizen of the United States.
- 5) Prohibits DMV from electronically transferring records of an applicant that cannot establish proof of legal presence in the United States.
- 6) Requires the SOS to provide the abovementioned records to the appropriate county election officials unless the SOS determines the person is not eligible to vote or is already registered to vote.
- 7) Requires the SOS to notify each person whose records are sent to a county elections official with the following information:
 - a) That he or she will be registered to vote unless they decline to be registered within 21 days after the date SOS issues the notification;
 - b) The method which he or she may decline to register to vote; and,
 - c) The method that can be used to identify his or her political party preference on their voter registration.
- 8) Specifies that if a person does not respond and decline to the abovementioned notification, they will be registered to vote.
- 9) Allows a person to cancel their voter registration at any time by submitting a request to the appropriate county elections official, as specified.
- 10) Provides that a person's information being transmitted under the New Motor Voter Program is to remain confidential, as specified.
- 11) Requires the SOS to adopt regulations to implement the New Motor Voter Program.

EXISTING LAW:

- 1) Requires DMV to provide the opportunity to register to vote to individuals who apply for, renew or change an address for a driver's license or personal identification card issued by DMV.
- 2) Requires change of address information received by DMV to be used for the purpose of updating voter registration records, unless the registrant chooses otherwise.
- 3) Provides that a person may not be registered to vote except by affidavit of registration.
- 4) Provides that a properly executed affidavit of registration is deemed to be effective upon receipt of the affidavit by the county elections official if received on or before the 15th day before election day, postmarked on or before the 15th day prior to the election and received by mail by the county elections officials, or submitted to DMV or accepted by any other public agency designated as a voter registration agency on or before the 15th day prior to the election.
- 5) At the federal level, establishes the National Voter Registration Act (NVRA) of 1993 and requires 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.
- 6) Requires that a driver's license or identification application must also serve as an application for voter registration unless the applicant fails to sign the voter registration application. Specifies that the voter registration portion of the application is prohibited from requiring any duplicate information that is required for driver's license or identification portion of the application.

FISCAL EFFECT: Unknown

COMMENTS: According to the author, AB 1461 will enact the California New Motor Voter Act to make voter registration easier when citizens get or renew a driver's license, thereby increasing opportunities for eligible citizens to participate in democracy by voting.

Signed into law by President Bill Clinton in 1993, the actual implementation of NVRA requirements took effect on January 1, 1995. NVRA, also known as the "Motor Voter Act," was intended to increase voting opportunities for eligible voters and maintain their registration. On August 12, 1994, then-Governor Pete Wilson signed an executive order to direct state and local agencies to implement NVRA only to the extent that federal funding was provided. However, the federal government did not provide funding to states for NVRA implementation. Consequently, when NVRA took effect in 1995, several states failed to take the steps necessary to comply with the law and several also challenged the constitutionality of the federal mandate. States involved in the first round of cases included California, Illinois, Michigan, Mississippi, Pennsylvania, New York, South Carolina, Vermont, and Virginia.

Three separate lawsuits concerning California's implementation of NVRA were filed in federal court. All three cases were combined into a single proceeding and were heard before a federal district court in San Jose on March 2, 1995. The courts found NVRA constitutional, despite the

lack of federal funding provided to states, and the court ruled that California was obligated to implement NVRA. The court ordered the state to submit an implementation plan to the court for review to ensure conformity of the requirements of NVRA.

The plan submitted by the state would have brought California into full alignment with NVRA requirements except for DMV's two-step application process. Despite this inconsistency, the federal court reviewed and approved the state's implementation plan and according to the SOS, the state's current provisional voting laws meet NVRA requirements.

Under the current two-step process, DMV provides every person who applies for or renews a driver's license or identification card, or submits a change of address form with a voter registration card (VRC). The VRC can be used to register to vote or to re-register after a change in name, address, or party preference. When voters update their address with a DMV office, the new address is sent electronically to the SOS's statewide voter registration database, which then shares the information with county elections officials who update voter registration records. When voters move to a new county, the DMV instructs them to complete a new VRC. DMV accepts completed VRCs and forwards them to the SOS or the county where the voter lives.

AB 1461 aims to take California one step closer to satisfying all of NVRA's provisions. Similar to the recent "motor voter" law enacted in Oregon, under AB 1461, an applicant that completes a driver's license or identification card application will become registered to vote. The registration will be provisional for 21 days, during that period the applicant will be notified of their registration status, be provided the chance to select a political party, or opt-out of being registered to vote. Furthermore, AB 1461 will require DMV to expand the amount of driver record data that is transmitted through its existing electronic portal with the SOS. As a result, the provisions specified under this bill will require DMV to carry out additional programming.

Double-referral: This bill will be referred to the Assembly Elections and Redistricting Committee should it pass out of this committee.

Related legislation: AB 786 (Levine) makes changes to existing law to ensure compliance with the NVRA including requiring DMV to work with the SOS to take additional steps to fully implement and further comply with the state's NVRA implementation plan and prohibits county elections officials from canceling a voter's prior registration until the voter is registered in the county to which he or she has moved, as specified. AB 786 is scheduled to be heard by this committee on April 27, 2015.

REGISTERED SUPPORT / OPPOSITION:

Support

Honorable Alex Padilla, Secretary of State (Sponsor)
SEIU

Opposition

None on file

Analysis Prepared by: Manny Leon / TRANS. / (916) 319-2093