



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

| | | | |
|----------------|---------------------------------------|-----------------|--|
| Date: | 08/20/12 | Bill No: | <u>Senate Bill 35</u> |
| Tax Program: | Administration | Author: | Padilla |
| Sponsor: | American Civil Liberties Union | Code Sections: | Elections Code (commencing with 2400) |
| Related Bills: | | Effective Date: | 01/01/13 |

BILL SUMMARY

Among other things, this bill requires various state agencies, including the Board of Equalization (BOE), to allow a taxpayer to submit an affidavit of voter registration electronically on the Internet Web site of the Secretary of State.

SUMMARY OF AMENDMENTS

Since the previous analysis, the bill was amended to remove the statutory designation of BOE and other agencies as voter registration agencies which retain, notwithstanding, their Executive Order’s designation as voter registration agencies. There are other technical and minor amendments not affecting BOE.

ANALYSIS

CURRENT LAW

The federal National Voter Registration Act of 1993 (NVRA) or “Motor Voter” Act was signed into law on May 20, 1993 to simplify registration for prospective federal election voters by requiring states to provide uniform mail-in voter registration cards and to make state Department of Motor Vehicles offices, schools, libraries and other public locations available for registering voters. By Executive Order, W-98-94, Governor Wilson designated the BOE district offices which provide services to the public as “voter registration agencies.” Therefore, the BOE’s 20 field offices are public locations where voter registration cards are provided to the public in California.

PROPOSED LAW

This bill adds Chapter 6 (commencing with *Section 2400*) to Division 2 of the Elections Code to do, among other things, the following:

- Require a voter registration agency to comply with the applicable duties and responsibilities as set forth in the federal NVRA. (*Section 2403*)
- Require a voter registration agency, with each application for service or assistance and with each recertification, renewal, or change of address form relating to the service or assistance, and in accordance with the federal NVRA, to provide to an applicant the following:
 - (1) A voter preference form;
 - (2) A voter registration card, unless the applicant, in writing, declines to register to vote.
 - (3) Assistance in completing the voter registration card. (*Section 2403*)

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE’s formal position.

- Authorize the Secretary of State to conduct a review of a voter registration agency as necessary to ensure compliance with this bill and the NVRA and post the results of said review on the SOS's Internet Web site. (*Section 2404*)
- Require a voter registration agency to ensure that each employee who may provide voter registration services receives annual training based on the training materials of the Secretary of State (SOS) on the bill's requirements and the federal National Voter Registration Act of 1993. (*Section 2406*)
- Require a voter registration agency to notify the county elections office of the location of each of its offices within the applicable county. (*Section 2406*)
- Require a voter registration agency to designate an employee to be responsible for the agency's compliance with this section. (*Section 2406*)
- Require a voter registration agency to ensure that it has a sufficient supply of voter preference forms and voter registration cards available, and in all languages required by the federal Voting Rights Act of 1965. (*Section 2406*)
- Require a voter registration agency that allows a person to apply online for service or assistance, or to submit a recertification, renewal, or change of address form relating to the service or assistance online, to implement a process and infrastructure that allows an applicant to electronically submit a voter preference form to the voter registration agency, and to submit an affidavit of voter registration electronically on the Internet Web site of the SOS, as set forth in law. (*Section 2408*)

The bill becomes effective January 1, 2013.

BACKGROUND

Under the NVRA of 1993, certain state and local agencies are required to ask whether their constituents are registered to vote. If the constituents are not registered, the agencies must offer them the opportunity to register and submit the voter registration form to local election officials. The NVRA requires the participation of agencies issuing driver's licenses and of agencies providing public assistance or services to the disabled. The NVRA also allows states to designate other agencies as "voter registration agencies". The effective date of the NVRA was January 1, 1995.

Since the BOE is a designated voter registration agency, its California district offices have been in compliance with the NVRA and the BOE has established guidelines consistent with it. These guidelines are summarized below and require the California district offices to do all of the following:

- Provide a form which includes specified statements set forth in the NVRA. The Secretary of State's office has developed this form which is titled "Would You Like To Register To Vote" and is known as the declination form.
- Provide a mail voter registration application form or its own equivalent form with each application for service or assistance, and with each recertification, renewal, or change of address. The BOE has determined this to mean sole proprietors requesting registration or appearing in person for account maintenance.
- Provide each applicant who chooses to register to vote the same degree of assistance in completing the voter registration application form as they would provide for the completion of BOE forms.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

- Transmit completed voter registration forms accepted by the BOE to the appropriate state election official within specified deadlines. In California, any county registrar of voters regardless of the county of residence of the constituent registering to vote, is considered to be the appropriate state election official.
- Ensure that those who provide these services do not: (a) seek to influence an applicant's political preference or party registration; (b) display any political preference or party allegiance; (c) make any statement to an applicant or take any action to discourage the applicant from registering to vote; or (d) make any statement to an applicant or take any action which leads the applicant to believe that a decision to register or not to register has any bearing on the availability of services.
- Ensure that no information relating to a declination to register to vote is used for any purpose other than voter registration. The state shall not disclose information relating to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered. Therefore, the BOE may not disclose who has registered to vote through its California district offices or who has declined to register. All completed declination forms are retained by the BOE and are not transmitted to the county registrars.

The NVRA does not require voter registration agencies to keep statistical information. However, the BOE maintains data on the number of declination forms provided and the number of voter registration forms completed by clients.

Under the BOE's guidelines all sole proprietors who request registration or who appear in person for account maintenance are given the declination form for completion and the opportunity to register to vote. Partnerships and corporate entities are not affected.

Each California district office has designated a contact person who:

- Communicates with the county elections office for training assistance, training material, and voter registration forms.
- Transmits completed voter registration forms to the county elections office every Friday at close of business to meet the NVRA deadlines.
- Tracks the number of declinations received and the number of Voter Registration forms sent to county elections offices and enters the numbers on the "National Voter Registration Act Reporting Form" and submits this report to the county elections office at the end of the month.
- Maintains completed declination forms in the district office for four years. The information on the forms is not disclosed to anyone including county election officials and staff.
- Asks all sole proprietor applicants who appear in person for registration or account maintenance to complete and sign the voter registration declination form. Any constituent who refuses to complete or sign the declination form is considered as having declined to register to vote and BOE staff takes no further action.
- Provides a mail-in voter registration form to those constituents who indicate a desire to register to vote.
- Provides assistance in completing the voter registration form to those constituents who request help in completing the voter registration form. Constituents, who prefer, may fill out the voter registration form and mail it on their own. All completed voter registration forms left with the BOE are transmitted to a county elections office in the manner stated above.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

In addition, constituents who request registration by mail are sent a voter registration declination form along with the mail-in registration packet. If the declination form is returned with a positive request for voter registration, a mail-in voter registration form is sent with the completed registration packet. If the completed voter registration form is returned to the BOE, it is transmitted to a county elections office, as stated above. Otherwise, no further action is taken.

COMMENT

1. **Sponsor and Purpose.** This bill is sponsored by the American Civil Liberties Union. One national survey estimates that because of the Act, registration has increased from 69.5 % in 1994 to 81.7% in 2008. Information from the California Secretary of State indicates that voter registration is among the highest it has ever been, with 75% of those eligible registered to vote. Notwithstanding this trend, the bill's author introduced the measure because of a declining rate of voter registration occurring at public assistance agencies in California since the NVRA was enacted. In 1996, 158,168 registered to vote at public assistance agencies as a result of the NVMA. Last year only 30,726 registered to vote at these public assistance agencies. According to the sponsor, California ranks 45th nationally in voter registration as a percentage of total population eligible to vote.
2. **The August 20, 2012 amendments.** As amended, the bill no longer designates the BOE as a voter registration agency. The BOE, and other state agencies, remain voter registration agencies as designated by Governor Wilson's Executive Order of August 12, 1994. The other amendments are technical or minor and do not affect the BOE.
3. **Enactment of this bill would affect current BOE procedures.** Although some of the BOE's existing procedures are consistent with this bill, its intent is to ask constituents in the midst of a BOE transaction if they are registered to vote, and if not, if they would care to register to vote. Since the public counter is shifting to the Internet, the bill requires that the BOE implement a process and infrastructure to allow a taxpayer to register to vote electronically on the Internet web site of the SOS. However, the bill's requirement that information provided by the taxpayer be forwarded to the SOS provided the taxpayer indicates his or her desire to register to vote will require modest expenditures.

COST ESTIMATE

The BOE would incur costs attributable to adapting electronic applications and training staff. These costs are estimated to be \$85,000 for fiscal year 2012/13, and \$50,000 annually thereafter.

REVENUE ESTIMATE

This bill does not impact state revenues.

| | | | |
|-----------------------|-----------------|----------------|----------|
| Analysis prepared by: | Ed Heidig | (916) 445-6317 | 08/21/12 |
| Contact: | Robert Ingenito | (916) 445-0840 | |

ls

0035sb082012eh.docx

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.