| | | | |
|---|---|---|---|
| **Bill No:** | SB 299 | **Hearing Date:** | 8/29/24 |
| **Author:** | Limón and Menjivar | | |
| **Version:** | 8/22/24 | | |
| **Urgency:** | No | **Fiscal:** | Yes |
| **Consultant:** | Scott Matsumoto | | |

**Subject:**  Voter registration:  California New Motor Voter Program

## DIGEST

The bill requires the Secretary of State (SOS) and the Department of Motor Vehicles (DMV) to develop a process to determine whether a person who submits a driver's license application is already registered or preregistered to vote.  This bill also requires the DMV, based upon this determination, to transmit specified information provided by the person during their DMV transaction to the SOS so the SOS can register, preregister, or update that person's existing voter registration.

## ANALYSIS

Existing law:

1)  Provides that a person is entitled to register to vote who is a United States (U.S.) citizen, a resident of California, not imprisoned for the conviction of a felony, and at least 18 years of age at the time of the next election.

2)  Permits a person who is at least 16 years old, and otherwise meets all voter eligibility requirements, to preregister to vote.  The person will then be registered to vote when they are 18 years old at the time of the next election.

3)  Requires the SOS and the DMV to establish the California New Motor Voter Program (CNMVP) to increase opportunities for voter registration by any person who is eligible to register to vote.

4)  Requires, pursuant to the CNMVP, that each eligible voter be registered or preregistered to vote by default when they submit an application for a driver's license or state identification card, or provide the DMV with a change of address, unless the voter specifically declines to be registered to vote.

5)  Provides that the SOS, not the DMV, is solely responsible for determining eligibility for voter registration and voting.

6)  Requires the DMV, in consultation with the SOS, to establish a schedule and a method to electronically provide the SOS the information needed to register a person to vote.

7) Requires the SOS to provide specified outreach and education materials in languages other than English.

8) Provides the SOS shall not sell, transfer or allow any third party access to the information acquired from the DMV without approval of the DMV, except as otherwise permitted by law and as specified.

9) Provides the DMV shall not electronically provide records to the SOS of a person who is unable to submit satisfactory proof that their presence in the U.S. is authorized under federal law.

10) Provides that the willful, unauthorized disclosure of information obtained from the DMV to any person, or the use of any false representation to obtain any of that information, or the use of any of that information for a purpose other than what is permitted by law, is a misdemeanor.

11) Prohibits the DMV from electronically providing records pursuant to CNMVP that contain a home address designated as confidential.

12) Requires the SOS to establish procedures to protect the confidentiality of the information acquired from the DMV, and requires the SOS to account for any disclosures, including those due to security breaches, in accordance with existing law.

13) Provides that the records of a person who registers to vote pursuant to the CNMVP shall constitute a completed affidavit of registration and the SOS shall register the person to vote, unless:

   a) The person's records reflect they affirmatively declined to become registered to vote during a transaction with the DMV;

   b) The person's records do not reflect they attested to meeting all voter eligibility requirements; or

   c) The SOS otherwise determines the person is ineligible to vote.

14) Provides that if a person who is registered to vote does not provide a party preference, the voter's party preference shall be designated as "Unknown" and the voter shall be treated as a "No Party Preference" voter. Any such person whose party preference is designated as "Unknown" shall not be counted for purposes of determining the total number of voters registered for political party qualification purposes under existing law.

15) Provides that a person registered to vote may cancel their voter registration at any time by any current method.

16) Provides that if a person who is ineligible to vote becomes registered to vote through the CNMVP in the absence of willful voter registration fraud, that person's registration shall be presumed to have been effected with official authorization and to have not been the fault of that person.

17) Provides that if a person who is ineligible to vote becomes registered to vote and votes or attempts to vote in an election, that person shall be presumed to have acted with official authorization and shall not be guilty of fraudulently voting or attempting to vote unless they vote or attempt to vote knowing they are ineligible to do so.

18) Requires the SOS to adopt specified regulations to implement the CNMVP.

This bill:

1) Requires the SOS and the DMV to determine whether a person interacting with the DMV is already preregistered or registered to vote.  If they are not, or if the DMV cannot determine if they are, then the DMV shall provide specified information from each person's driver's license application to the SOS for the purposes of voter registration.

2) Provides that if a person provides a document at the time of the transaction with the DMV that demonstrates they are not a U.S. citizen, the person shall not be offered the opportunity to register to vote and the DMV shall not electronically provide records of that person to the SOS.

3) Permits the SOS to promulgate regulations to establish a brand new list of people who are "preapproved" for voter registration if the SOS determines that sufficient technology infrastructure exists and sufficient funding is available for implementation.  Requires the regulations to address all of the following:

   a) Updating and maintaining the accuracy of the list of people who are preapproved for voter registration;

   b) How a person who has been preapproved may activate their registration; and

   c) The manner and method by which the DMV may provide to the SOS, for inclusion on the list of people who are preapproved for voter registration, information regarding a person's name and address, and any additional information required by the SOS that the person submitted with their driver's license application.

4) Requires the provisions of this bill become operative on January 1, 2030, or five days after the date the SOS and the DMV certify the information technology infrastructure necessary to substantially implement this act is functional.

## BACKGROUND

National Voter Registration Act.  In 1993, the federal government enacted the National Voter Registration Act (NVRA), commonly referred to as the "motor voter" law or Motor Voter, to make it easier for Americans to register to vote and maintain their registration. Among other provisions in the NVRA, the DMV provides customers the opportunity to register to vote when completing an application for a driver's license or an identification card, when renewing a driver's license, an identification card, or when a change of address transaction takes place.

Despite being commonly referred to as "motor voter," the NVRA also requires states to designate other agencies as "voter registration agencies" and provides an opportunity to register to vote when interacting with those agencies. This includes offices that provide public assistance and offices that provide services to individuals with disabilities. In California, the Governor is also able to designate additional voter registration agencies.

California New Motor Voter Program. In 2015, the Legislature passed and Governor Brown signed AB 1461 (Gonzalez), Chapter 729, Statutes of 2015, which provides that every person who submits an application for a driver's license, state identification card, or provides the DMV with a change of address, and who attests that they meet all voter eligibility requirements, is automatically registered to vote, unless that person opts out.

Specifically, the DMV, in consultation with the SOS, is required to establish a schedule and method for the DMV to electronically provide the SOS the records of each person who submits an application for a driver's license, state identification card, or provides the DMV with a change of address. The transmission of a person's record from the DMV to the SOS constitutes a completed affidavit of voter registration unless the person affirmatively declines to register or preregister to vote at the DMV, the person does not attest to meeting all voter eligibility requirements while at the DMV, or the SOS determines the person is not eligible to register to vote.

The DMV is also prohibited from electronically providing the records of a person who is issued a driver's license pursuant to the California law that allows non-citizens to receive driver's licenses.

In April 2018, California officially launched the CNMVP.

DMV Voter Registration Statistics. According to information provided by the SOS, 6,019,494 new voter registration transactions have been processed since the CNMVP's launch in April 2018 through July 2024. If voter re-registrations and updated addresses are included with new registrations, the total for the same period is 27,101,628 transactions.

Conversely, there were 23,303,881 transactions where a person chose to opt-out of voter registration through either the electronic driver's license or identification card application, a renewal form, or a change of address form.

California Registration Statistics. Since 2018, the CNMVP has contributed to a rise of registered voters in California. According to the most recent report of registration from the SOS, there are 22,171,899 registered voters in California out of an estimated 26,899,157 Californians who are eligible to register to vote, meaning that approximately 82.43% of eligible Californians are registered to vote. To compare, in January 2018, there were 18,980,481 registered voters or about 75.69%.

AB 60 Licensees. AB 60 (Alejo), Chapter 524, Statutes of 2013, requires the DMV to issue an original driver's license to an applicant who is unable to submit satisfactory proof of legal presence in the U.S. Driver's license applicants under AB 60 must meet all other qualifications for licensure and must provide satisfactory proof of identity and California residency. The DMV began accepting applications for licenses under AB 60 on January 2, 2015.

Because the AB 60 licensing process was specifically established for people who are unable to submit satisfactory proof of legal presence in the U.S., the CNMVP expressly prohibits the DMV from transmitting information to the SOS about individuals who applied for or received a driver's license pursuant to AB 60.

## **COMMENTS**

1) <u>According to the author:</u> "SB 299 is an opportunity to build on the existing Partial Automatic Voter Registration (AVR) system in California to further streamline voter registration. This bill authorizes the SOS to move to a secure AVR system, once technology and infrastructure are adequate to make the shift. This upgrade will register millions more eligible Californians, bringing more people of color, young people, and formerly incarcerated people into the political process. Oregon, Alaska, Colorado, Delaware, Massachusetts, Nevada, New Mexico, Washington, Washington D.C., Michigan, and Minnesota have all already adopted Secure AVR. This bill provides a path for California to join these states and to welcome 4.6 million eligible, but unregistered people, to our democratic process."

2) <u>Registration Responsibility.</u> Currently, when a person seeks services at the DMV, they are provided with questions prior to visiting the DMV. This includes the Motor Voter questions (eligibility, if the person wants to be register to vote, update an existing registration, etc.). The person decides whether to register to vote or update their existing registration and attests the information provided is correct.

   This bill shifts some of the responsibilities for voter registration from the person seeking assistance at the DMV to the DMV by requiring the DMV to take a larger role in the screening process. Under the bill, the DMV would be responsible for collecting documents and/or information the person needs to provide to confirm their eligibility to vote and for the DMV transaction.

3) <u>Preapproved for Registration.</u> This bill authorizes the SOS, if the SOS determines that adequate technology infrastructure exists, to promulgate regulations to establish a list of people who are preapproved for voter registration. Additionally, this bill requires the SOS to develop regulations that include, among other things, procedures for updating and maintaining the accuracy of the preapproved for voter registration list and procedures that describe how a person on the preapproved list may activate their registration. Under this bill, a person is placed on the preapproved registration list when they, during their transaction with the DMV, provide citizenship documents, are sufficient age to register or preregister to vote, did not submit a voter registration application pursuant during their transaction with the DMV, and were advised they will be put on a preapproved voter registration list and can activate their registration from that list at a future date.

   Currently in California, a person is either (1) actively registered to vote, (2) preregistered to vote, (3) registered to vote but on the inactive voter file, (4) qualified to register to vote but not registered, or (5) not qualified to register to vote. The Committee may wish to consider what purpose is served by creating a brand new, separate list of people who fall into (4) above. Having a person's name on a list and requiring that person to take an affirmative step to activate their voter

registration is little different than a person taking the affirmative step to go online to fill out a voter registration application.

4) <u>Modernization at the DMV.</u>  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.

   According to DMV, challenges have caused significant delays in the completion of the DXP Project and the driver's license modernization project is now expected to be complete in 2028.  The modernization project will include the addition of functionality required by previously-enacted legislation.  However, due to concerns about the potential for further delays and complications to the modernization project, DMV is no longer considering adding additional functionality to the contract for modernizing the driver's licensing system and asking legislation that would require changes to driver's licensing systems to delay implementation until 2030, with the changes being made to the modernized system after it is deployed in 2028.

   It is unknown how the provisions of this bill will be implemented during and after this modernization project.

5) <u>Concerns from the Secretary of State.</u>  In a letter submitted to Governor Newsom, the SOS expressed numerous concerns with the planning and implementation of this bill.  Specifically, the SOS summarized and stated the following:

   *…while the author deserves singular praise in reaching for a noble objective, maximum voter participation, there are too many unanswered questions regarding the implementation of this bill, and there is too little information on specific technology solutions and their practicality and cost, for California to embark on automatic voter registration with any degree of confidence at this time.  Given what we can anticipate as significant cost, to state it conservatively, there is a legitimate question as to the commensurate resulting benefit, given the great progress California has very recently made in boosting voter registration.*

## **RELATED/PRIOR LEGISLATION**

AB 2127 (Berman) of 2024 extends, from January 1, 2025 to January 1, 2030, the operation of the CNMVP program taskforce established by the SOS to advise the SOS and the DMV on the effective implementation of the CNMVP program.

SB 846 (Limón) of 2023 would have created a back-end automated voter registration system for registering voters via the CNMVP at the DMV, as specified. An earlier version of SB 299 was substantially similar to this bill.

AB 796 (Berman), Chapter 314, Statutes of 2021, among other provisions, made various changes to the timing and transfer of voter information data from the DMV to SOS.

SB 583 (Newman) of 2021 would have created a back-end automated voter registration system for registering voters at the DMV, as specified. SB 583 passed the Senate, was referred to the Assembly Committee on Elections, and was not taken up for consideration. SB 583 was substantially similar to SB 846.

AB 1137 (Mullin) of 2021 would have required the SOS to provide a report to the Legislature regarding the process and infrastructure of existing voter registration agencies, as specified. AB 1137 was amended to another topic.

SB 57 (Bates) of 2020 would have changed the CNMVP from an opt-out to an opt-in program.

SB 511 (Moorlach) of 2019 would have required the establishment of a committee including representatives of the SOS, DMV, and counties, for the purpose of facilitating the sharing of information necessary to implement CNMVP.

AB 1461 (Gonzalez), Chapter 729, Statutes of 2015, provided for every person who has a driver's license or state identification card and who is eligible to register to vote to be automatically registered to vote at the DMV, unless that person opts out. A prior version of AB 1461 included a back-end registration model similar to SB 846. However, the bill was amended to the front-end opt-out system that was subsequently chaptered.

## PRIOR ACTION

| | |
|---|---|
| Assembly Floor: | 56 - 12 |
| Assembly Appropriations Committee: | 11 - 3 |
| Assembly Elections Committee: | 6 - 0 |

## POSITIONS

**Sponsor:** Asian Americans and Pacific Islanders for Civic Empowerment

**Support:** Alliance for Reparations, Reconciliation, and Truth
California Grassroots Democracy Coalition

**Oppose:** American Civil Liberties Union California Action
Brennan Center for Justice at NYU School of Law
League of Women Voters of California
NALEO Educational Fund

**-- END --**