

# ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Padilla Analyst: Janet Jennings Bill Number: SB 35

Related Bills: None Telephone: 845-3495 Amended Date: June 27, 2012

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Voter Registration Agencies/Includes FTB

## SUMMARY

This bill would detail the responsibilities the Franchise Tax Board (FTB) has as a voter registration agency.

## RECOMMENDATION

No position.

## Summary of Amendments

The June 27, 2012, amendments expanded the list of designated voter registration agencies. This is the department's first analysis of the bill. This analysis only addresses the provisions of this bill that impact the department's programs and operations.

## REASON FOR THE BILL

According to the legislative findings in the bill, the reason for the bill is to facilitate compliance with the federal National Voter Registration Act of 1993.

## EFFECTIVE/OPERATIVE DATE

This bill would become effective and operative January 1, 2013.

## ANALYSIS

### FEDERAL LAW

Congress enacted the National Voter Registration Act of 1993 (also known as the "NVRA" and the "Motor Voter Act") to enhance voting opportunities for every American.

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA        X   NP  
\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
\_\_\_\_\_ N      \_\_\_\_\_ OUA

Executive Officer

Date

Selvi Stanislaus

8/3/12

In addition to other methods of voter registration that states offer, the NVRA requires states to provide individuals the opportunity to register to vote for federal elections by additional means such as the following:

- at the same time that individuals apply for a driver's license or seek to renew a driver's license,
- at all offices that provide public assistance and all offices that provide state-funded programs primarily engaged in providing services to persons with disabilities, and
- by mail using mail-in-forms developed by each state and the Election Assistance Commission.

The NVRA also creates requirements for how states maintain voter registration lists for federal elections. The NVRA deems as timely those valid voter registration applications submitted by eligible applicants to designated state and local officials at least 30 days before a federal election. If the application is mailed, it must be postmarked at least 30 days before a federal election.

The NVRA also requires notification to all applicants of whether their voter registration applications were accepted or rejected. The NVRA requires states to keep voter registration lists accurate and current, such as identifying persons who have become ineligible due to having died or moved outside the jurisdiction. At the same time, the NVRA requires list maintenance programs to incorporate specific safeguards, e.g., that they be uniform, non-discriminatory, in compliance with the NVRA, and not be undertaken within 90 days of a federal election. The removal of voters for non-voting or for having moved can only be done after meeting certain requirements provided in the NVRA. The NVRA allows for removal of voters from registration lists when they have been convicted of a disqualifying crime or adjudged mentally incapacitated, where such removals are allowed by state law. The NVRA also provides additional safeguards under which registered voters would be able to vote notwithstanding a change in address in certain circumstances. For example, voters who move within a district or a precinct will retain the right to vote even if they have not re-registered at their new address.

The NVRA became effective in most states on January 1, 1995.

### STATE LAW

On August 12, 1994, Governor Pete Wilson issued Executive Order W-98-94 establishing the list of NVRA voter registrations agencies (VRA) that included the FTB district offices. A VRA must offer each person who comes into contact with the agency the opportunity to register to vote. If a person declines to register, the agency must ask the person to fill out a declination form, which is kept on file at the agency office.

### THIS BILL

This bill would require the FTB as a VRA to do the following:

- Comply with the applicable duties and responsibilities of a VRA under the NVRA.
- Provide to an applicant a voter preference form and voter registration card, unless the applicant, in writing, declines to register to vote.
- Designate a one or more persons within the FTB to serve as agency coordinators.
- Notify the county and state coordinator each time there is a change in an agency coordinator.

This bill would require the FTB agency coordinators to do the following:

- Notify the state coordinator of the location of each of the VRA offices or sites within the state.
- Request voter registration cards from a county coordinator as needed.
- Ensure each office within the state has a sufficient supply of voter preference forms and voter registration cards available in all required languages.
- Maintain records of the number of voter preference forms submitted to the VRA and the responses indicated.
- Conduct a training program on the requirements of the bill and the NVRA.
- Monitor and, if necessary, audit each office to ensure compliance.
- Report within the first 10 days of each month to the state coordinator, on a form prescribed by the Secretary of State, and to each county coordinator, the number of voter preference forms completed by applicants, and a summary of the responses indicated on the voter preference forms.

This bill would require the FTB, as a VRA that allows a person to initiate an online change of address, in conjunction with the state coordinator, to implement a process and infrastructure to allow an applicant to electronically submit a voter preference form to the FTB, and submit an affidavit of voter registration electronically on the Internet Web Site of the Secretary of State.

This bill would require the FTB to ensure the information entered into a person's online change of address form would be automatically transferred to the electronic affidavit of voter registration if that person indicates that they want to register to vote.

This bill would require the FTB to inform persons, whose electronic preference form indicates that they want to register to vote, of the following options for registering to vote:

- Submit an affidavit of voter registration electronically on the Secretary of State's Internet Web Site.
- Complete an affidavit of voter registration electronically on the Secretary of State's Internet Web site, print a hard copy of the completed affidavit, and mail or deliver the hard copy of the completed affidavit to the Secretary of State or the appropriate county elections official.
- Obtain a voter registration card on a county's Internet Web site and print, complete, sign, and return the card to the county elections official.
- Request a voter registration card be mailed to the person to complete, sign, and return the card as instructed.

### IMPLEMENTATION CONSIDERATIONS

The bill would require the FTB to implement a process and infrastructure to allow an individual to electronically submit a voter preference form to the FTB, apply the information entered into a person's online change of address form to be automatically transferred to the electronic affidavit of voter registration, and submit an affidavit of voter registration electronically on the Internet Web Site of the Secretary of State. At this time the Secretary of State does not offer online voter registration. The author may want to remove the requirements to interface with the Secretary of State's Internet Web site until the Secretary of State implements an online voter registration application.

## **OTHER STATES' INFORMATION**

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

All of the above states allow voter registration in person or by mail. None offer an electronic voter registration option.

## **FISCAL IMPACT**

If this bill is enacted in late September of 2012, the department would have developed the final version of forms and instructions for the 2012 taxable year. Thus, the department will incur additional costs to develop and test the online voter preference form and instructions in the short time frame necessary to ensure they are available for taxpayers to complete by January 1, 2013.

Department staff is unable to determine the costs to administer this bill until the implementation concern has been resolved, but anticipate the costs to be significant due to the technological resources required to implement the bill's provisions.

## **ECONOMIC IMPACT**

This bill would not impact the state's income tax revenue.

## **SUPPORT/OPPOSITION<sup>1</sup>**

Support: American Civil Liberties Union of California, California Common Cause, California State Student Association Service Employees International Union, California State Council, Four individuals.

Opposition: None on file.

## **ARGUMENTS**

Proponents: Some would argue that this bill would provide greater access and tracking information concerning voter registration in California.

Opponents: Some would argue the state cannot afford another voter mandate at a time when the state is in a fiscal crisis.

## **LEGISLATIVE STAFF CONTACT**

Janet Jennings

Legislative Analyst, FTB

(916) 845-3495

[janet.jennings@ftb.ca.gov](mailto:janet.jennings@ftb.ca.gov)

Gail Hall

Legislative Director, FTB

(916) 845-6333

[gail.hall@ftb.ca.gov](mailto:gail.hall@ftb.ca.gov)

---

<sup>1</sup> As reported on the Legislative Counsel Web site: [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0001-0050/sb\\_35\\_cfa\\_20120702\\_135013\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0001-0050/sb_35_cfa_20120702_135013_asm_comm.html) [as if July 17, 2012]