

Senate Bill No. 397

CHAPTER 561

An act to amend Section 2196 of the Elections Code, relating to online voter registration.

[Approved by Governor October 7, 2011. Filed with
Secretary of State October 7, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 397, Yee. Online voter registration.

Existing law prohibits any person from being registered as a voter except by affidavit of registration and requires that the affidavit be mailed or delivered to the county elections official. The Secretary of State has certain administrative duties under existing law in providing voter registration materials. The federal National Voter Registration Act of 1993 provides for state departments of motor vehicles to make voter registration information and materials available to an applicant for a driver's license and other vehicular documents. Existing state law requires licensed persons to provide to the Department of Motor Vehicles a signature and the Department of Motor Vehicles is required to digitize that signature and forward the digitized signature to the Secretary of State if a person wishes to register to vote. Under existing law, operative when the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002, a person who is qualified to register to vote and who has a valid California driver's license or state identification card is authorized to submit an affidavit of voter registration electronically on the Internet Web site of the Secretary of State. Under the above-described online voter registration provisions, the Secretary of State, for each electronic affiant, is required to obtain an electronic copy of the applicant's signature from his or her driver's license or state identification card directly from the Department of Motor Vehicles.

This bill would require the Department of Motor Vehicles and the Secretary of State to develop a process and the infrastructure to allow electronic copies of the applicants' signatures and other information required under the above provisions that is in the possession of the department to be transferred to the Secretary of State and to the county election management systems to allow a person who is qualified to register to vote in California to register to vote under the above provisions.

This bill would provide, as an alternative operative date, that the above provisions shall become operative on the date the Secretary of State either certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002 or executes a declaration stating that certain specified conditions have

occurred. For purposes of implementing the above provisions as expeditiously as possible, if the provisions become operative under the latter, the Secretary of State's office would be exempt from certain provisions relating to information technology, as specified, in implementing the provisions.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature hereby finds the following:

(1) California should make every effort to maintain the integrity of our democracy by ensuring that every eligible citizen has access to a convenient and secure means of registering to vote.

(2) California should be at the forefront of technological innovations that make registering to vote easy, accessible, and secure.

(3) In the November 2010 statewide general election, an estimated 23,551,699 eligible citizens resided in California yet only 17,285,883, 73 percent of those eligible, were registered to vote. That is lower than the national average.

(4) Online and electronic voter registration has increased voter registration rates in states utilizing those technologies, including Washington, Kansas, Rhode Island, South Dakota, Delaware, Florida, Michigan, North Carolina, Oregon, Pennsylvania, and Arizona.

(5) In those states, online voter registration has increased the accuracy of voter registration processes while decreasing processing times and has significantly decreased the costs associated with voter registration.

(b) The Legislature, therefore, hereby declares that California should implement a user-friendly, secure, and accessible online voter registration system in time for the November 2012 statewide general election.

SEC. 2. Section 2196 of the Elections Code is amended to read:

2196. (a) (1) Notwithstanding any other provision of law, a person who is qualified to register to vote and who has a valid California driver's license or state identification card may submit an affidavit of voter registration electronically on the Internet Web site of the Secretary of State.

(2) An affidavit submitted pursuant to this section is effective upon receipt of the affidavit by the Secretary of State if the affidavit is received on or before the last day to register for an election to be held in the precinct of the person submitting the affidavit.

(3) The affiant shall affirmatively attest to the truth of the information provided in the affidavit.

(4) For voter registration purposes, the applicant shall affirmatively assent to the use of his or her signature from his or her driver's license or state identification card.

(5) For each electronic affidavit, the Secretary of State shall obtain an electronic copy of the applicant's signature from his or her driver's license or state identification card directly from the Department of Motor Vehicles.

(6) The Secretary of State shall require a person who submits an affidavit pursuant to this section to submit all of the following:

(A) The number from his or her California driver's license or state identification card.

(B) His or her date of birth.

(C) The last four digits of his or her social security number.

(D) Any other information the Secretary of State deems necessary to establish the identity of the affiant.

(7) Upon submission of an affidavit pursuant to this section, the electronic voter registration system shall provide for immediate verification of both of the following:

(A) That the applicant has a California driver's license or state identification card and that the number for that driver's license or identification card provided by the applicant matches the number for that person's driver's license or identification card that is on file with the Department of Motor Vehicles.

(B) That the date of birth provided by the applicant matches the date of birth for that person that is on file with the Department of Motor Vehicles.

(8) The Secretary of State shall employ security measures to ensure the accuracy and integrity of voter registration affidavits submitted electronically pursuant to this section.

(b) The Department of Motor Vehicles shall utilize the electronic voter registration system required by this section to comply with its duties and responsibilities as a voter registration agency pursuant to the federal National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg et seq.).

(c) The Department of Motor Vehicles and the Secretary of State shall develop a process and the infrastructure to allow the electronic copy of the applicant's signature and other information required under this section that is in the possession of the department to be transferred to the Secretary of State and to the county election management systems to allow a person who is qualified to register to vote in California to register to vote under this section.

(d) If an applicant cannot electronically submit the information required pursuant to paragraph (6) of subdivision (a), he or she shall nevertheless be able to complete the 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.

(e) This chapter shall become operative upon the date that either of the following occurs:

(1) The Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.).

(2) The Secretary of State executes a declaration stating that all of the following conditions have occurred:

(A) The United States Election Assistance Commission has approved the use of the federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301)

funding to provide online voter registration in advance of the deployment of the statewide voter registration database or other federal funding is available and approved for the same purpose.

(B) The Department of Motor Vehicles and the Secretary of State have developed a process and the infrastructure necessary to implement paragraph (5) of subdivision (a).

(C) All county election management systems have been modified to receive and store electronic voter registration information received from the Secretary of State in order to allow a person who is qualified to register to vote in California to register to vote under this section.

(f) For purposes of implementing this chapter as expeditiously as possible, if it becomes operative pursuant to paragraph (2) of subdivision (d), the Secretary of State's office shall be exempt from information technology requirements included in Sections 11545, 11546, and 11547 of the Government Code and Section 12100 of the Public Contract Code, and from information technology project and funding approvals included in any other provision of law.