



STATEMENT OF PROJECT VOTE

IN SUPPORT OF S.B. 35

CALIFORNIA STATE SENATE

JULY 3, 2012

Project Vote appreciates the opportunity to express its support for SB 35, sponsored by Senator Alex Padilla. We are grateful to Senator Padilla for introducing this bill to clarify the obligations of state agencies under Section 7 of the National Voter Registration Act (NVRA) to offer voter registration to their clients, and to expand the number of California agencies required to do so.

Project Vote is a national nonpartisan, nonprofit organization that promotes voting in historically underrepresented communities. Project Vote takes a leadership role in nationwide voting rights and election administration issues, working through research, litigation, and advocacy to ensure that our constituencies can register, vote, and cast ballots that count.

The need for stronger legislative enforcement of NVRA Section 7 in California is amply demonstrated by the number of unregistered voters in the state, especially low-income citizens. In 2010, there were approximately 22,766,764 adult citizens in California, of whom 13,864,314 (61%) were registered to vote. This is four percentage points lower than the national rate (i.e., 65% of adult citizens nationwide were registered in 2010). Moreover, approximately 1,405,129 adult citizens from low-income California households (31% percent of adult citizens from households earning less than \$25,000 a year) were not registered in 2010. This is four percentage points greater than the national average for that income group.¹

Congress enacted Section 7 of the NVRA in part to reach those in our electorate who would be less likely to visit motor vehicle offices (which are required to offer voter registration by Section 5), particularly low income and disabled citizens. Stringent legislative enforcement of voter registration at public assistance and disability offices, as is mandated by SB 35, will help to close the gap in voter registration rates among California's low-income citizenry. SB 35's significant expansion of agencies required to offer voter registration will also provide many more opportunities for young people, as well as low-income, disabled, elderly, and minority citizens, to register to vote. Further, the bill's requirement of multi-lingual registration materials, which echoes the Voting Rights Act of 1965, also makes an important statement about the need for inclusive outreach to register all eligible voters.

¹ Data from U.S. Census Bureau, DataFerrett, Current Population Survey November 2010.

Several features of SB 35 will greatly enhance the effectiveness of public agency registration in California and are worthy of special mention. The bill's delineation of responsible parties for coordinating voter registration activities, at the agency, county, and state level should go a long way toward ensuring accountability for complying with agencies' responsibilities under both the NVRA and SB 35. Further, the posting of the names of county coordinators on the Secretary of State's website adds transparency and accessibility and builds public confidence. Project Vote is one of a handful of organizations that investigate and litigate violations of Section 7 across the country. What we have seen in interviews, depositions, and testimony in other states over many years is the frequent abdication of responsibility at every level. Often, agency personnel either don't know or don't care about their duty to offer registration, and county and state officials don't take their coordination function seriously either. What results is the old cartoon cliché of everyone pointing the finger at someone else.

In a related vein, SB 35 requires that the duties of the various responsible people be spelled out in written documents so that ambiguity as to what is expected of them will be minimized. Further, training programs must be developed and conducted for the agency personnel who will actually be providing voter registration services. Again, our experience has shown that such clarity has been sorely lacking in most states' NVRA compliance. Staff turnover is often the kiss of death for voter registration, since training is offered episodically, if at all.

SB 35 also provides, in §2404(c), an opt-out system for voter registration: that is, a client must explicitly decline an offer of voter registration; otherwise, a form will be provided to her. This system is consistent with a recent Tenth Circuit ruling² that a "blank" or a failure to answer an offer of voter registration is not a written refusal to register, thus mandating that any doubt be resolved in favor of the client's ability to register. In addition, the bill provides online opportunities for voter registration at agencies, another innovation that will make voter registration less time-consuming and more private.

One of the most important features of SB 35 is its emphasis on reporting results. Each agency coordinator must maintain records of the numbers of registrations submitted and the number of offers of registration declined by the clients. Where appropriate, an audit will be conducted to investigate suspected noncompliance. The county coordinators must file reports to the state coordinator within the first 10 days of each month, including the number of voter registration cards (applications) sent to each agency and the number received from each agency. Similarly, each agency coordinator must report data to the state and county coordinators. Reports are then posted on the Secretary of State's website. Recordkeeping and reporting have proven indispensable in guaranteeing compliance by the numerous state agencies we have investigated. In many states, the reporting requirements already in federal law have been ignored routinely. When a state's compliance has been challenged, however, and frequent monitoring ordered by a court or

² *Valdez v. Squier*, 676 F.3d 935 (2012)

pursuant to a settlement agreement, the state's registration numbers usually skyrocket.

The success of agencies with voter registration is, more often than not, largely dependent upon leadership. If a supervisor who is committed to voter registration moves to a new job, the voter registration commitment mostly disappears from the office. With the passage of SB 35, multiple levels of accountability, clear descriptions of responsibilities, and training and reporting obligations will ensure that the agencies comply with their legal duty to offer voter registration at agencies. The addition of many new agencies under the bill will maximize the registration opportunities for eligible low-income, disabled, elderly people, and students in California. This is a diverse state with a rich cultural mix that should be reflected in its electorate. The passage of SB 35 will contribute mightily to making that ideal a reality. Project Vote urges swift action on this bill.