



Testimony in Favor of SB 350 with Amendments
Universal Voter Registration
Education, Health, and Environmental Affairs Committee
February 18, 2016

Thank you for the opportunity to submit testimony on this important voter registration issue. Project Vote is a nonpartisan, nonprofit organization dedicated to realizing the promise of American democracy. Our mission is to build an electorate that accurately represents the diversity of America’s citizenry, and to ensure that every eligible citizen can register, vote, and cast a ballot that counts. We believe that, with careful planning, automatic (or universal) registration procedures can play a critical role in reducing registration barriers and modernizing the election system. We are pleased to support SB 350 with amendments and offer our recommendations for a successful automatic registration program that complies with the National Voter Registration Act.

The need for Improved Registration and Benefits of Automatic Registration

As Americans, we often pride ourselves on our democracy. Yet the Election Integrity Project¹ ranks the US election system lowest amongst all Western nations. In fact, our country’s poor performance was highlighted as a key finding: “... the 2012 Presidential elections ... ranked 42nd worldwide, while the 2014 mid-term...ranked 45th, similar to Columbia and Bulgaria. One reason is that *experts expressed growing concern over US electoral laws and processes of voter registration*, both areas of heated partisan debate.”²

Most developed democracies use a form of universal, automatic voter registration. Yet, nearly every jurisdiction in the United States places the burden on individuals. As a result, a simple error, omission, or missed deadline can deprive citizens of their right to vote in our country. Automatic registration is one important way to improve the voter registration process.

In recent sessions, the Maryland General Assembly has made incredible progress towards a modernized and accessible election system. Maryland now has an opportunity to join several other states that have enacted laws or are considering legislation to shift the registration burden and presumption. The benefit to voters is obvious: a well-designed automatic registration system will help ensure that eligible Marylanders are properly on the rolls to cast a ballot come Election Day. Further, because the automatic registration process will put people on the rolls before the same day registration period,³ voters will receive important election information and reminders.

Automatic registration can also provide other important benefits. For example, the new process will likely increase the accuracy of the voter rolls while reducing the number of registrations that must be manually entered, particularly close to an election. Moreover, by reducing registration-related problems on Election Day, automatic registration may reduce polling place congestion and the need for provisional ballots. As such, automatic registration has the potential to benefit election officials and improve election administration for everyone.

¹ The Electoral Integrity is an independent research project that evaluates the quality and integrity of elections, based at the University of Sydney and Harvard University.

² Pippa Norris, Ferran Martinez i Coma, and Max Gromping, February 2015, The Expert Survey of Perceptions of Electoral Integrity, Release 3 (PEI-3), University of Sydney, available at electoralintegrityproject.com (emphasis added).

³ Even if Maryland enacts automatic registration, same day registration remains a critical safety net and should be expanded to Election Day.

Compliance with Federal Law and Other Amendment Considerations

While automatic registration offers numerous advantages, there are several components critical to implementing a successful program. We appreciate the willingness to amend this bill and offer the following key considerations and recommendations.

First, any automatic registration proposal must comply with the National Voter Registration Act of 1993 (NVRA).⁴ While state automatic registration procedures may co-exist with the NVRA, they cannot preempt, reduce, or eliminate the procedures required under the NVRA. Automatic registration proposals should not repeal any sections of state law enacting NVRA requirements. While lawmakers should carefully review the NVRA, some critical components are summarized on the following page (page 3).

Automatic registration can be designed to meet these legal requirements. For example, the agency registration process could be streamlined to meet NVRA criteria while increasing registration rates. This could be accomplished by transmitting the records, for the purposes of registration, of all applicants unless they explicitly decline registration during the agency transaction.⁵

Alternatively, the automatic registration record transfer process could be completely separated from voter registration process mandated by the NVRA. Automatic registration proposals should not repeal laws governing NVRA registration practices at department of motor vehicles and covered public assistance agencies. Then, as a separate and additional procedure, the state may identify eligible voters using records from these and any other agencies transactions deemed suitable. The separated automatic registration procedure should supplement, but not replace, registration procedures mandated by federal law.

Maintaining the option to complete a voter registration at the point-of-service offers benefits beyond compliance with federal law. Offering point-of-service procedures serves as an important safety net should an interested, eligible Marylander somehow remain unregistered through the automatic process. Moreover, maintaining NVRA procedures will help foster primary election participation. This is because the return rates on mailings are consistently low. Preserving the ability to register – and select political party affiliation – during the transaction will help more voters remain eligible to participate in Maryland's closed primaries. This is an important consideration given the already low primary voter turnout rate and the potential frustration voters may experience upon learning they are unaffiliated once it is too late.

There are other key factors important for implementation success. It is important that the notice letter specify critical information and be translated into Spanish. The mailing should include a *prepaid* return card for selecting a political party or opting-out. Safeguards must also be added to protect from criminal penalty any ineligible person who becomes automatically registered, or who votes in reliance on being automatically registered. Prohibitions against registering or voting when a person *knows* they are ineligible to do so should be retained. Public *and* agency employee education should also be mandated. Finally, a minimum of one year should be provided for implementation and sufficient appropriations must be made to cover related expenses.

We are very excited about the interest in, and trend towards, automatic voter registration throughout the country. Registration should never serve as a barrier that denies otherwise eligible Marylanders of their freedom to vote. With appropriate provisions in place, Maryland should join the other states, and the other modernized democracies of the world, by adopting automatic registration procedures that benefit voters and improve election administration efficiency and accuracy. Please contact me for further information or assistance.

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⁴ 52 U.S.C. § 20501 et seq.

⁵ More information available at www.projectvote.org/wp-content/uploads/2015/08/Automatic-Registration-Best-Practices-August-2015.pdf

General Overview of NVRA Agency Registration Requirements

Section 5 of the NVRA requires that applications for a new or renewed driver's license must:

- serve *simultaneously* as an application for voter registration (whether in person or online)
- not request duplicative information for voter registration purposes (other than a signature) and request additional information only if necessary to:
 - prevent duplicate registrations and enable eligibility assessment of the applicant
 - administer the election process (e.g., party affiliation)
- state each eligibility requirement for voter registration (including citizenship)
- require an attestation that the applicant meets each such requirement under penalty of perjury
- state the penalties for submission of a false voter registration application
- state that a declination to register to vote will be confidential

Section 7 of the NVRA requires that applications for services at public assistance offices⁶ must:

- provide a registration application to those who do not decline registration in writing
- provide a form with disclosures and the question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?"
- provide the same degree of assistance in completing voter registration applications as is provided in completing the agency's own forms
- accept completed applications for timely transmittal to officials
- Note: these registration services must be provided whether covered transactions occur in-person or via mail, telephone, or the Internet

⁶ Programs covered by the NVRA include but are not limited to, Food Stamps (now known as the Supplemental Nutrition Assistance Program or SNAP), Temporary Assistance for Needy Families (TANF), Medicaid, and the Children's Health Insurance Program (CHIP).