

AMENDED IN SENATE MAY 31, 2011  
AMENDED IN SENATE MAY 11, 2011  
AMENDED IN SENATE APRIL 27, 2011

**SENATE BILL**

**No. 397**

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**Introduced by Senator Yee**

(Coauthors: Assembly Members Huffman and Portantino)

February 16, 2011

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An act to ~~add and repeal Chapter 2.7 (commencing with Section 2198) of Division 2~~ *amend Section 2196* of the Elections Code, relating to online voter registration.

LEGISLATIVE COUNSEL'S DIGEST

SB 397, as amended, 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 authorize counties to develop and use an electronic voter registration system for the electronic submission of an affidavit of voter registration from a person who is qualified to register to vote, who has a valid California driver's license or state identification card, and who resides in that county. This bill would also authorize a person who is qualified to register to vote and who has a valid California driver's license or state identification card to submit an affidavit of voter registration electronically on the Internet Web site of the county elections official of the county in which the person resides if that county has opted to comply with the provisions of this chapter. This bill would specify certain conditions that must be met before the electronic submission of an affidavit of voter registration to a county elections official could become effective.~~

~~This bill would require the county elections official to notify the Secretary of State of each electronic affidavit received pursuant to the provisions of this chapter, with specified information about the affiant, including whether the affiant has a valid California driver's license or state identification card, and other information about the affiant required by the Secretary of State. This bill would require the Department of Motor Vehicles, at regular intervals, to notify the Secretary of State of each person who has a valid California driver's license or state identification card, and of other information about the person required by the Secretary of State. The bill would require the Secretary of State to make the information provided by the Department of Motor Vehicles available to counties so that counties, in addition to the Secretary of State, may determine the affiant's eligibility to submit the affidavit.~~

~~The provisions of this bill would remain in effect only until 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 and that can support a statewide electronic voter registration system.~~

*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.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1     SECTION 1. Section 2196 of the Elections Code is amended  
2 to read:

3     2196. (a) (1) Notwithstanding any other provision of law, a  
4 person who is qualified to register to vote and who has a valid  
5 California driver's license or state identification card may submit  
6 an affidavit of voter registration electronically on the Internet Web  
7 site of the Secretary of State. ~~This chapter shall become operative  
8 when the Secretary of State certifies that the state has a statewide  
9 voter registration database that complies with the requirements of  
10 the federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301  
11 et seq.).~~

12     (2) An affidavit submitted pursuant to this section is effective  
13 upon receipt of the affidavit by the Secretary of State if the affidavit  
14 is received on or before the 15th day prior to an election to be held  
15 in the precinct of the person submitting the affidavit.

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

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

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

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

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

9 (B) His or her date of birth.

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

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

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

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

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

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

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

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

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

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

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

9 (A) The United States Election Assistance Commission has  
10 approved the use of Help America Vote Act of 2002 funding to  
11 provide online voter registration in advance of the deployment of  
12 the statewide voter registration database.

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

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

21 SECTION 1. Chapter 2.7 (commencing with Section 2198) is  
22 added to Division 2 of the Elections Code, to read:

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CHAPTER 2.7. LOCAL ONLINE VOTER REGISTRATION

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26 2198. Notwithstanding any other provision of law, a county  
27 elections official may develop or develop and use an electronic  
28 voter registration system for the electronic submission of an  
29 affidavit of voter registration from a person who is qualified to  
30 register to vote, who has a valid California driver's license or state  
31 identification card, and who resides in that county. A person who  
32 is qualified to register to vote and who has a valid California  
33 driver's license or state identification card may submit an affidavit  
34 of voter registration electronically on the Internet Web site of the  
35 county elections official of the county in which the person resides  
36 if that county has opted to comply with the provisions of this  
37 chapter.

38 (a) An affidavit submitted pursuant to this section is effective  
39 upon receipt of the affidavit by the county elections official if the  
40 affidavit is received on or before the last day to register or prior

1 to an election to be held in the precinct of the person submitting  
2 the affidavit.

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

5 (c) For voter registration purposes, the affiant shall affirmatively  
6 assent to the use of his or her signature from his or her driver's  
7 license or state identification card.

8 (d) (1) The county elections official shall notify the Secretary  
9 of State of each electronic affidavit received pursuant to this  
10 chapter. The county's notification shall include all the information  
11 necessary for the Secretary of State to determine (A) whether the  
12 affiant has a valid California driver's license or state identification  
13 card and (B) the affiant's residence address and county of  
14 residence. The county's notification shall also include any other  
15 information that is required by the Secretary of State in order for  
16 him or her to obtain the information described in subparagraphs  
17 (A) to (D), inclusive, of paragraph (6) of subdivision (a) of Section  
18 2196.

19 (2) The Department of Motor Vehicles shall, at regular intervals,  
20 notify the Secretary of State of all persons who have a valid  
21 California driver's license or state identification card, and shall  
22 provide the electronic signature of each of those persons. The  
23 notification shall also include any other information that is required  
24 by the Secretary of State in order for him or her to obtain the  
25 information described in subparagraphs (A) to (D), inclusive, of  
26 paragraph (6) of subdivision (a) of Section 2196.

27 (3) After obtaining the information provided pursuant to  
28 paragraph (2), the Secretary of State shall make this information  
29 available to counties so that the counties, in addition to the  
30 Secretary of State, may determine if an affiant is eligible, at the  
31 time the affiant submits an electronic affidavit, to submit that  
32 affidavit.

33 (e) The county elections official shall require a person who  
34 submits an affidavit pursuant to this section to submit all of the  
35 information listed in subparagraphs (A) to (C), inclusive, of  
36 paragraph (6) of subdivision (a) of Section 2196.

37 (f) Upon submission of an affidavit pursuant to this section, the  
38 electronic voter registration system used by the county shall  
39 provide for immediate verification of both of the following:

1 ~~(1) That the affiant has a California driver's license or state~~  
2 ~~identification card and that the number for that driver's license or~~  
3 ~~identification card provided by the affiant matches the number for~~  
4 ~~that person's driver's license or identification card that is on file~~  
5 ~~with the Department of Motor Vehicles.~~

6 ~~(2) That the date of birth provided by the affiant matches the~~  
7 ~~date of birth for that person that is on file with the Department of~~  
8 ~~Motor Vehicles.~~

9 ~~(g) The county elections official shall employ security measures~~  
10 ~~to ensure the accuracy and integrity of voter registration affidavits~~  
11 ~~submitted electronically pursuant to this section.~~

12 ~~2199. This chapter shall remain in effect only until the~~  
13 ~~Secretary of State certifies that the state has a statewide voter~~  
14 ~~registration database that complies with the requirements of the~~  
15 ~~federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et~~  
16 ~~seq.) and that can support a statewide electronic voter registration~~  
17 ~~system and as of that date is repealed.~~