



September 13, 2021

The Honorable Gavin Newsom  
Governor, State of California  
State Capitol  
Sacramento, CA 95814

**Re: SUPPORT – AB 796 Voter  
registration: California New Motor  
Voter Program**

Dear Governor Newsom:

ACLU California Action (ACLU), California Common Cause, and the League of Women Voters of California are proud to co-sponsor and strongly support AB 796 (Berman and Gonzalez) to improve the voter registration process at the Department of Motor Vehicles (DMV) and enhance the consistency, uniformity, and fairness of voter registration in California. We write to respectfully urge you to sign this important legislation into law.

***The NVRA and Motor Voter Program Have Improved Voter Registration in California.*** California has made significant advances in voter registration accessibility, thanks in large part to Section 5 of the National Voter Registration Act (NVRA)<sup>1</sup> and to the automated voter registration system implemented at DMV as a result of AB 1461 (Gonzalez, 2015). The “Motor Voter” program created as a result of these laws allows eligible people to conveniently register or update their voter registration when completing a driver’s license or state identification card (DL/ID) transaction at the DMV. Over the last three years, the program has resulted in over 12 million new or updated voter registrations.<sup>2</sup> Transforming the California Motor Voter program into the success it is today has involved many incremental improvements, significant advocacy and input from community stakeholders, and the imposition of specific transparency and oversight mechanisms through court order. This bill furthers and ratifies those efforts.

***Implementation of the NVRA and Motor Voter Has Required Significant Oversight***

In the years following the NVRA’s enactment, California struggled to fully comply with Section 5. When the NVRA took effect in 1995, the California DMV initially refused to implement the provisions that require DMV to provide the opportunity to register to vote or update voter registration with each covered DL/ID transaction.<sup>3</sup> Two decades later, in 2015, the ACLU and others notified the DMV

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<sup>1</sup> 52 U.S.C. § 20504.

<sup>2</sup> California Secretary of State, DMV New Motor Voter Registration Transactions Monthly and Yearly Totals by Category, April 2018 to Present (accessed March 30, 2021).

<sup>3</sup> See *Voting Rights Coalition v. Wilson*, 60 F.3d 1411 (9th Cir. 1995) (upholding the constitutionality of the NVRA after “Governor Wilson, in his official capacity, directed the appropriate officials of the State of California not to comply with the National Voter Registration Act of 1993”).

and California Secretary of State (SoS) that they were, again, noncompliant with the NVRA because the DMV violated the “simultaneous application” requirement by attaching a separate voter registration card to DL/ID applications and renewal-by-mail forms, forcing customers to provide duplicate information to register to vote or update their registration. Ultimately, this led to a lawsuit – *League of Women Voters v. Annis* – which was settled in 2018 and whose settlement terms remain in effect today (Settlement).<sup>4</sup>

Not long after the ACLU and its allies sent the 2015 non-compliance notice, the SoS sponsored and Governor Brown signed the New Motor Voter (NMV) act, AB 1461 (Gonzalez). Under the automated voter registration system created by AB 1461, DMV customers who attest to their eligibility and do not opt-out of the program are automatically registered to vote. When the automated voter registration program was launched in April 2018, California became the largest and one of the first states in the nation to implement automated voter registration through the DMV. As of July 2021, the program has been responsible for over 3.5 million new voter registrations and almost 11 million updated voter registrations. Nonetheless, the initial rollout of this program had a number of problems that received substantial national media attention. After some of these problems led to significant delays in registrations for thousands of voters, the Settlement was extended and new terms were added to improve transparency, competency, and accountability within the Motor Voter system.

Since the updated Settlement took effect, its terms have been instrumental to the DMV, the SoS, and the plaintiff civil rights organizations in identifying and addressing noncompliance with the NVRA and improving the functioning of the Motor Voter program. The oversight mechanisms created by the Settlement have allowed the parties to identify and resolve systemic issues that were delaying the transmission of voter registration applications.

***AB 796 Is Critical to Ensuring the Continued Success of the Motor Voter Program***

Because the terms of the Settlement will expire in early 2022, AB 796 is needed to ensure the continuation of the best practices currently in place at the DMV as a result of the Settlement, and to clarify and resolve areas of inconsistencies and inequities in the Motor Voter program. Specifically, AB 796:

- Ensures the DMV continues monitoring the timeliness of its transmittals to the SoS, provides information regarding delays and irregularities in its ability to do so, and increases transparency to the public on these matters;
- Requires the DMV and SoS to each continue designating an employee with specific duties to guarantee compliance with the NVRA and the California Elections Code;

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<sup>4</sup> See, e.g., *League of Women Voters, et al. v. Kim, et al.*, No. 3:17-cv-02665 LB, Doc. 105 (Mar. 9, 2021).

- Requires continued training of relevant employees on NVRA and NMV requirements and processing; and
- Further streamlines voter registration through DMV transactions by codifying federal NVRA requirements into state law;
- Clarifies that the DMV's timeline for transmitting registration applications to the SoS begins the day the completed voter registration application arrives at the DMV, whether by mail, in person, electronically, or otherwise;
- Requires transmission of a completed voter registration application even in circumstances where the DL/ID portion of the form is incomplete or where DMV administrative fees have not been paid;
- Directs the SoS to convene a stakeholder task force to provide advice and perform other duties with respect to Motor Voter Program implementation.

It is important to our organizations that this legislation has been written in a way that both improves access for California voters and enables the DMV and the SoS to implement its provisions efficiently and effectively. We met with representatives from the DMV and the SoS and helped to facilitate amendments to the bill based on their feedback. These amendments are as follows:

- In order to align with the existing timeline for a planned DMV overhaul of its technical systems and to reduce costs, AB 796 elements requiring technical changes to the DMV's system will now be implemented once the DMV completes its planned technical overhaul or mid-2025, whichever is earlier;
- In order to clarify one of the procedures by which the DMV prevents the accidental registration of ineligible individuals, AB 796 now specifies that approval of an applicant's identity documentation pursuant to the Vehicle Code is one of the criteria that must be satisfied before the DMV transmits the applicant's voter registration information to the SoS; and
- In order to reduce administrative burden to the DMV and avoid potential confusion to some voters, AB 796 now provides that the legislature's intent is for the DMV to continue its best practice of sending notice to certain customers when there is a delay in processing their voter registration information (instead of requiring such notice in every instance of delayed processing).

**AB 796 Will Ensure That California Continues to Narrow the Voter Registration Gap**

The California Motor Voter program has narrowed voter registration gaps by making it easier for eligible voters to register or update their registration at the DMV. With almost 88 percent of eligible Californians registered to vote before the November 2020 General Election – the highest percentage in the past 80 years<sup>5</sup> – it's clear that this program has dramatically improved voter accessibility

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<sup>5</sup> California Secretary of State, *Record 22 Million Californians Registered to Vote Heading into General*


in California. Further, by improving the accuracy of millions of voters' mailing addresses and reducing reliance on in-person same day voter registration, the Motor Voter program plays a crucial role in increasing access to vote-by-mail. With 15 existing Voter's Choice Act (VCA) counties in California and more counties considering adopting VCA, maintaining the accuracy of our voter rolls becomes increasingly important as more Californians will receive their ballot by mail.

Despite the accomplishments of the Motor Voter program, more must be done to secure the gains achieved through the Settlement and further improve the efficiency, fairness, and security of DMV's voter registration system. Continued voter participation gaps in California mean that critical issues of local and statewide importance are being made by a predominantly whiter, older, and wealthier electorate that does not represent what this state truly looks like. While registration rates are increasing overall, we still have 3 million eligible, unregistered Californians – a disproportionate number of whom are youth, people with disabilities, Black, Latinx, Native, Indigenous, Asian-American, and people of color, those with limited English proficiency, or have low income.<sup>6</sup>

**AB 796 is a critical, commonsense measure to codify best practices, build on the success of California's Motor Voter program, and remove impediments to equitable voter registration.** For all of these reasons, our organizations are proud to co-sponsor AB 796 and respectfully urge you to sign it into law.

Sincerely,

  
Kevin G. Baker  
Interim Co-Executive Director  
ACLU California Action

  
Brittany Stonesifer  
Voting Rights Attorney  
ACLU of Northern California

  
Dora Rose  
Deputy Director  
League of Women Voters of  
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Jonathan Mehta Stein  
Executive Director  
California Common Cause

cc: Hon. Mark Berman and Lorena Gonzalez

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*Election*, (Oct. 30, 2020), available at [bit.ly/SoSPressRelease103020](https://bit.ly/SoSPressRelease103020).

<sup>6</sup> U.S. Census, Voting and Registration in the Election of November 2018 (Tables 4b, 4c, 6, and 7), available at [bit.ly/CensusVRData](https://bit.ly/CensusVRData); Romero, Mindy S., Center for Inclusive Democracy, USC Sol Price School of Public Policy, *November 2020 General Election: Latino and Asian-American Vote*, available at [bit.ly/USCPriceReportNov2020](https://bit.ly/USCPriceReportNov2020); Romero, Mindy S., Center for Inclusive Democracy, USC Sol Price School of Public Policy, *California's Youth Vote: November 2020 Election*, available at [bit.ly/USCPriceYouthNov2020](https://bit.ly/USCPriceYouthNov2020).