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County Clerk/Registrar of Voters (CC/ROV) Memorandum #09173

TO: All County Clerks/Registrars of Voters

FROM: 
Cathy Mitchell
Chief of Elections

RE: Voter Registration: Use of National Mail Voter Registration Form

After posting a program on the Secretary of State's website that allows voters to more easily fill out the National Mail Voter Registration Form (National Form), two questions have arisen.

The first is why the National Form, not the state voter registration form, is posted on the Secretary of State's website.

The second is whether county elections officials need to obtain a registrant's U.S. state or foreign country of birth before officially registering to vote anyone who used the National Form to register.

Using The National Form, Not The State Voter Registration Form

Current state law and regulations specify how a state voter registration form must be constructed. Specifically, Elections Code section 2157 requires the state voter registration form to:

- o Be included on one part of a multipart card that is perforated
- o Contain a serial number
- o Use multiple type sizes and colors of ink
- o Have its return postage pre-paid by the Secretary of State

Furthermore, Title 2, California Code of Regulations, section 19056, requires the state voter registration form to be 5" x 8" x .007."

These requirements effectively preclude a state or local elections official from accepting a state voter registration form printed from a website. This is why the Secretary of State does not make the state form available on the Internet and discourages others from making it available on the Internet.

Prior to 2009, the Secretary of State's website did allow a person to fill out a state voter registration form online and have it mailed to them so the person could sign and return it. That program was discontinued for three reasons:

1. It cost approximately \$1.64 per form.
2. Many people did not return the form because they mistakenly believed they had registered to vote online and therefore did not need to sign and return the voter registration form.
3. Many people requested the forms too close to the E-15 registration deadline and could not return them by the deadline.

Accepting the National Form: Elections Officials Do Not Need to Determine Registrant's Country or State of Birth

Under California law, when a person submits a state voter registration form, he or she is required to provide either their state of birth (if born in the U.S.) or country of birth (if born outside of the U.S.).

This requirement can be found in two places:

Elections Code section 2150 (a)(6), which states in part:

- (a) The affidavit of registration shall show:
 - (6) The state or country of the affiant's birth.

Elections Code section 2157, which states in part:

- (a) Subject to this chapter, the affidavit of registration shall be in a form prescribed by regulations adopted by the Secretary of State. The affidavit shall:
 - (1) Contain the information prescribed in Section 2150.

However, the requirement that a person provide this information to register to vote only applies to someone registering to vote using the state voter registration form that is developed pursuant to state law and regulation. State law does not require a person using the National Form to provide any additional information beyond what is contained on the National Form in order to register.

This is clarified in Elections Code 2162, which reads in part:

- (a) No affidavits of registration other than those provided by the Secretary of State to the county elections officials or the national voter registration forms authorized pursuant to the National Voter Registration Act (42 U.S.C. Sec. 1973gg) shall be used for the registration of voters.

The requirement that state and local elections officials accept the National Form from any person applying to register to vote can be found in the National Voter Registration Act (NVRA), 42 U.S.C. Sec. 1973gg-4 (a), which reads in part:

(1) Each State shall accept and use the mail voter registration application form prescribed by the Federal Election Commission pursuant to section 1973gg-7(a)(2) of this title for the registration of voters in elections for Federal office.

(2) In addition to accepting and using the form described in paragraph (1), a State may develop and use a mail voter registration form that meets all of the criteria stated in section 1973gg-7(b) of this title for the registration of voters in elections for Federal office.

So, while (2) permits states to develop their own voter registration forms, (1) requires states to (unless they have been exempted under the NVRA) accept as complete a voter registration application submitted by a person using the National Form.

If you have any questions, please contact me at Cathy.Mitchell@sos.ca.gov or Robbie Anderson at Robbie.Anderson@sos.ca.gov or via telephone at (916) 653-7635.