

ONE HUNDRED ONE NORTH CARSON STREET
CARSON CITY, NEVADA 89701
OFFICE: (775) 684-5670
FAX No.: (775) 684-5683



555 EAST WASHINGTON AVENUE, SUITE 5100
LAS VEGAS, NEVADA 89101
OFFICE: (702) 486-2500
FAX No.: (702) 486-2505

Office of the Governor

March 21, 2017

The Honorable Jason Frierson
Speaker of the Nevada State Assembly
The Nevada Legislature
401 South Carson Street
Carson City, NV 89701

RE: Initiative Petition No. 1 of the 79th Legislative Session

Dear Speaker Frierson:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Initiative Petition No.1, which is entitled:

AN ACT relating to elections; establishing procedures by which the Department of Motor Vehicles must, under certain circumstances, transmit certain information to register a person to vote or update a person's voter registration information; and providing other matters properly relating thereto.

INTRODUCTION

Initiative Petition No. 1 ("IP1"), The Automatic Voter Registration Initiative, proposes "an amendment to the Nevada Code to provide for *automatic voter registration* of citizens qualified to vote when they obtain services from the Department of Motor Vehicles ("DMV"), such as applying for a driver's license." (See Attachment "A", pp. 1, 21) (emphasis added). IP1 also states "[t]hose who do not want the DMV to facilitate their voter registration may affirmatively decline this assistance." *Id.*

IP1 advances a worthy goal by encouraging more eligible Nevadans to register to vote. However, such a result must partner with sound policy. IP1 fails this test because it extinguishes a fundamental, individual choice—the right of eligible voters to decide for themselves whether they desire to apply to register to vote—thereby forfeiting this basic decision to state government.

Supporters of IP1 argue that the government's provision of an "opt-out" from the automatic application process substitutes for the decision by the individual to apply to register to vote. However, the core freedom of deciding whether one wishes to initiate voter registration belongs to the individual, not the government.

Moreover, if IP1 became law, it would create an unnecessary risk that people who are not qualified voters may unintentionally apply to vote, subjecting them to possible criminal prosecution, fines, and other legal action.

DISCUSSION

IP1 transforms Nevada's current registration system from an "opt-in" to an "opt-out" system, thereby compelling automatic application for voter registration for many (if not most) visitors to the Department of Motor Vehicles ("DMV"). Every DMV customer who applies for any type of driving privilege or identification card will automatically have an application for voter registration transmitted to a voter registrar or clerk, *unless* he or she affirmatively declines in writing.

Today, when customers request DMV forms to obtain a driver's license, instructional permit, driver authorization card, or identification card (Real ID or standard), they also receive a Nevada voter registration application. This is required pursuant to Nevada's "motor voter" law.

The application warns applicants in bold, all-caps language that providing false information is a felony that carries a civil penalty of up to \$20,000. It then seeks answers to questions regarding the applicant's citizenship, age, reason for the application, and party affiliation (if any). Finally, applicants must swear or affirm under penalty of perjury that they are eligible to vote. (See Attachment "B", at 3.)

Nevada's existing "motor voter" process works; it is a good system that will improve through the recent (March 2017) adoption of a Memorandum of Understanding between the DMV and voting rights groups that makes it even easier for DMV customers to apply to register to vote – if they choose or are eligible to do so. Allowing DMV customers to *voluntarily* apply to register to vote while applying for driving privileges and identification cards has helped countless Nevadans. IP1 will not enhance this process.

IP1 fails to account for substantial differences between the qualifications to vote and the qualifications to obtain driving privileges or identification cards. For instance, one must be 18 years old to be eligible to vote, but one can be 16 years old to drive (and even younger to drive with an instructional permit). Non-citizens, some ex-felons and others may obtain driving privileges and identification cards, even though they cannot apply to register to vote.

To be candid, the proposed law does require the DMV to notify persons "of the qualifications to vote in this state." However, a person is "deemed to have consented" to the transmission of information *unless* the person "affirmatively declines in writing to apply to register to vote." Such a scenario does not protect against inadvertent application for registration and potential violation of law.

It is important to note that under Nevada law, the DMV does not determine an individual's eligibility to vote. Indeed, Nevada law *prohibits* DMV employees from making "any statement or [taking] any action to discourage an applicant from registering to vote." NRS 293.5045(1)(c). These same prohibitions may apply if IP1 becomes law, thus preventing DMV staff from discouraging likely ineligible individuals from applying for voter registration. Customers may, as a result, be subject to criminal prosecution simply through their inattention, misunderstanding, or ignorance of the process.

CONCLUSION

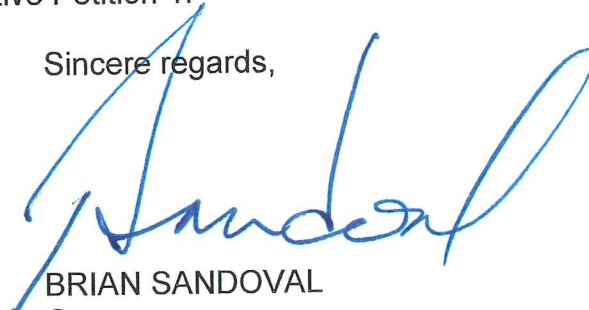
The current DMV voter registration process provides the necessary balance for voluntary and informed voter registration. IP1 upsets that balance, removing the element of allowing an individual to initiate the voter registration process, and increasing the possibility of improper registration.

Nevadans have many other opportunities to apply to register to vote outside of the DMV. Eligible voters can register by mail, online or in person at various public offices. It is also common, especially during election years, for various groups to offer voter registration at multiple locations. With all of these registration options, Nevadans have a multitude of voluntary voter registration opportunities.

Finally, I am mindful that my veto does not foreclose the debate on IP1. During the 2018 general election, Nevada voters will have the final say on compulsory application for voter registration at the Nevada DMV. The Nevada Constitution makes the people of Nevada the final arbiters of petitions, and they can, if they so choose, effectively overturn this veto at the ballot box. The decision to mandate compulsory application for voter registration by the government is better left with the public, who will be subject to its requirements.

For these reasons, I veto Initiative Petition 1.

Sincere regards,



BRIAN SANDOVAL
Governor

Enclosure

cc: *The Honorable Mark Hutchison, President of the Senate (without enclosure)*
The Honorable Aaron Ford, Senate Majority Leader (without enclosure)
The Honorable Barbara Cegavske, Nevada Secretary of State (without enclosure)
Claire J. Clift, Secretary of the Senate (without enclosure)
Susan Furlong, Chief Clerk of the Assembly (without enclosure)
Brenda Erdoes, Esq., Legislative Counsel (without enclosure)