

**Resolution: A small fine to be levied on every person eligible to vote who has not voted in a general election**

William A. Barrett, San Jose, CA. vs. 2.0, August 8, 2012

To be considered and voted upon by the Santa Clara County Democratic Club

**WHEREAS**, (1) 73% of the Californian public eligible to vote has registered to vote in 2011 [1],  
(2) Only 17% of eligible Latino California voters are registered to vote [1],  
(3) The most likely voters are older, more educated and more affluent; they own homes and were born in the United States [1],  
(4) The regional distribution of voters varies widely across the state, ranging from 10% of likely voters in the Inland Empire, to 31% in Los Angeles [1],  
(5) Amendment 15 of the U.S. Constitution requires that the right to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. But this does not forbid a small tax imposed for *not* voting.  
(6) Amendment 24 of the U.S. Constitution states that a citizen may not be prevented from voting through failure to pay a poll tax or other tax. But this does not forbid a small tax imposed for *not* voting.  
(7) The recent Supreme Court decision on the Affordable Care Act (signed into law in 2010, affirmed by the Supreme Court in 2012) has opened the door to the legality of Congress imposing a tax on any citizen for *failing* to carry out some reasonable general requirement of every citizen [2],

**AND WHEREAS**, (1) Midterm elections show a considerably lower turnout than general elections [3], for example, California 2008 turnout: 62%, 2006 turnout: 41%,

(2) A poor election turnout appears to favor the candidates of the incumbent party [5]. As a consequence, the American Legislative Exchange Council (*ALEC*) is moving aggressively to restrict voting and registration in various ways [6],

(3) Many citizens now feel there is no point in voting, given the huge number of voters, the binary selection system, and few choices offered. This is called *voter apathy* [7],

(4) There is no personal reward for voting, other than a general satisfaction of having fulfilled a citizenship requirement,

(5) There is no penalty imposed for not voting,

(6) There is no reward in registering to vote, or penalty for failing to register, and the process of registration requires time and effort on the part of the registrant,

(7) A tax on the failure to register and vote in a general election is imposed on every citizen of Australia, aside from those with certain disabilities, and has resulted in more than a 95% turnout in every election [4],

**AND WHEREAS**, it is in the long-term interests of the nation and the Democratic Party in particular that more of the Latino, and recent immigrant citizenship vote in all elections,

**RESOLVED**, (1) That the Congress of the United States impose a fine of \$20, adjusted regularly for inflation, upon every person eligible to vote who has failed to vote in any official election, and

(2) That the Congress shall consider reasonable exemptions to the levy, *e.g.* physical or mental disability, extended time outside the country, etc., and

(3) That the Federal Election Commission and the Internal Revenue Service be authorized to levy this tax through income tax and other election databases, and be authorized to waive the tax under exemptions established by the Congress.

## Discussion

This idea occurred to me at a recent Democratic party club meeting. I've also followed the recent Supreme Court decision on the Affordable Care Act with considerable interest, in which it now appears that the Congress may impose a tax on any citizen who *fails* to carry out a particular act. Through the ACA, every American citizen is required to carry a basic health insurance policy, and is subject to a fine if he/she refuses to carry such a policy. While this is not the place to discuss the pros and cons of the ACA, it is now clear that a modest tax levied for a person *failing* to carry out some basic and necessary act of citizenship may well be considered constitutional by our highest court.

Please note that a significant fine may be imposed on a citizen who fails to report for jury duty. While that fine strikes only a small fraction of registered voters in a random way, it could conceivably be imposed on anyone at any time.

The issue of voting and voter registration has also been of concern of me and others. Large numbers of otherwise intelligent and caring citizens just don't bother to register or to vote if registered. While there are many reasons for this, at least one can be identified - the lack of any tangible incentive associated with registration and voting. The registration process involves first finding a place of registration (you can't do it through the internet or at your local supermarket), then filling out a lengthy form, then signing it and ensuring that it finds its way to a local election official's office. No money or other tangible good may be exchanged in return for a registration or vote, for obvious reasons, nor may the registrar impose any obstacle or discrimination based on religion, race, gender or party preference.

Yes, we consider voting both a right and a privilege, and we should be proud that our election system is generally free of fraud. Whether or not we personally agree with the results of any particular election, we as a people accept its results. Having said that, our democracy would be better served with a high election turnout, and that requires some incentive for every eligible voter to actually vote.

*Rewarding* each voter monetarily, as an incentive, would surely lead to corruption, as well as adding a huge public expense to an already expensive election process. That's not practical, would be costly to the public treasury, and would probably be found unconstitutional.

However, *requiring* every citizen to vote, with a small penalty for failing to vote, is now an accepted practice in several countries. It may well be found constitutional in the United States, provided that any penalties are uniformly enforced and applied, and are reasonable.

Australia has long had such a system. Please see reference [4] for more details.

Would a high voter turnout solve all of our nation's problems? Of course not. But it should cause many more of the currently non-voting minorities to not only vote, but to give some thought to the workings of our democracy. That should also encourage more minority candidates to seek office, for example, Latinos from heavily Latino districts in California and other border states. That in turn should work toward a more humane approach to immigration, path to citizenship, and general acceptance of minorities within our multicultural society.

Let us therefore adopt a *compulsory voting policy* -- but one in which the penalty for not voting is monetary and relatively modest, *e.g.* just sufficient to incentivize the loss in time and effort needed to register and vote.

This is *not* a proposal to send people into court or imprison them for failing to vote, merely a small fee intended to incentivize everyone to vote who is eligible to vote.

There should also be a significant revenue stream accruing to a state or the federal treasury from the fines.

## Enforcement

Any new law accompanied with some kind of penalty must specify a reasonable means of enforcement. This particular fine for not voting happens to be especially easy to enforce, at least in states with a state income tax filing requirement, such as California. Or the federal government.

Though I am not a lawyer, it seems to me that any state could set up a voting requirement law. Perhaps California could be a test case in that regard. The first state to do so would almost surely find itself challenged in the courts, and that poses a certain risk of court costs that could not be recovered should the law be found unconstitutional by the Supreme Court. That risk has to be balanced against the significant revenues that would accrue, should the law be found constitutional. (See the next section for an estimate of revenues).

Some may argue that a huge new bureaucracy would have to be set up and financed. I claim that is simply not the case.

In California, with a state income tax, the Board of Equalization is charged with discovering every citizen old enough to file a state income tax return, whether or not he/she must actually pay a tax. Employers are also required to register every employee with the state Board. The Social Security Administration also informs the Board of social security recipients. The Board also has other legal ways of tracking down eligible citizens, such as tracking federal income tax records, DMV registrations, birth records, police records, bank records, etc. In short, it's pretty difficult to reach voting age without becoming an entry in the Board of Equalization's database.

So the data exists to identify every California citizen eligible to vote. Removing those under voting age is simple, given that the data includes a birth date. Some extra means is needed to exempt certain persons from the fine for not voting, such as dementia or disabling physical condition, extreme poverty, etc. That might be facilitated by exempting every person with a DMV-issued disability parking sign, for example. Of course, even those with certain physical disabilities should be able to vote through the mail, or with the assistance of a caregiver, so the number of exemptions would likely be a tiny fraction of the total.

Voting records are also public records, and are generally available in electronic form. So the only real administrative issue is one of writing the software to compare the voting database and the Board income tax database, looking for those in the tax database but not in a particular voting database. For those familiar with SQL, this is a matter of writing a few pages of database software instructions. Of course, secure and legal access to both databases is essential, and that requires enabling language in the law as well as some technical software work.

Adjusting the income tax forms would also be required.

The fine would be imposed through the state income tax. Non-voting fines would appear as a direct charge in one's income tax -- if a person votes, the fine will not appear on one's tax record.

Informing the public about the new fine and requirement to register to vote might best be handled through the Secretary of State's office, which writes, prints and distributes voting information before every state-wide election. Adding a page to the state's voting guide would be easy and cheap.

So there are state databases already in place, *e.g.* those of the Board of Equalization and the Secretary of State, that could be used to administer this new law. A few new personnel would be needed to field questions from the media and the public, to manage a website, gather statistics, etc., but that's about it.

## Eligible Voters; Income from the Fine

Once set up, this system should generate revenues for the state in excess of the cost of enforcement. One can estimate the expected revenue by looking at the population and voting statistics. We'll do that for California. Similar figures would apply to other states, except that the state's population would of course differ. As to eligible vs. registered voters, here are two figures from the 2008 general election in California, state-wide [8]

- Eligible: 23,208,710 persons
- Actually voting: 17,304,091 persons

The population of California in 2008 is estimated to be 36,250,000 persons, from the 2000 and 2010 census data [9]. This was distributed among age groups as follows:

age group	Persons, millions
0-4 years	2.55
5-9 years	2.40
10-14 years	2.68
15-19 years	1.40*
0-19 years	9.03

\* adjusted for voting age 17

So the number of *eligible* voters in 2008 was about 36.25 - 9.03 million, or 27,220,000, which is higher than the Secretary of State's figure of 23,208,710. The difference is about 15% of the total population, which suggests that 15% of the population eligible to vote in the 2008 general election were not registered.

Now suppose that 10% of the overall population chooses to pay a fine of \$20 rather than vote. (The Australian percentage is about 5%, but it's likely the figure will be higher in the U.S. for a few years). That would have been 2,722,000 persons paying \$20 each in that year, for a net revenue increase of \$54 million to the state. Something approaching that revenue stream would accrue on each election, and since there is roughly one election per year, a revenue stream of roughly \$50 million would accrue to the state.

Perhaps a fourth to a half of that revenue would be needed in the first year to cover the cost of organizing software, etc. After the first year, the enforcement costs would likely drop to less than \$5 million per year, and mostly go into financing a public information office. That would leave a significant surplus in subsequent years, roughly \$50 million/year in new state revenue.

## A Fine or a New Tax?

Should this be considered a new tax? Or a fine, along the lines of a parking ticket fine? One should think of it in the latter terms, as it is only imposed on those failing to observe a new law requiring every eligible citizen to vote. We impose a fine on those parking without paying a parking meter, or for littering a public park. Or for driving a vehicle without a driver's license. Or for driving an unregistered vehicle. A large fine may be imposed on a salesperson caught selling liquor to an underage customer. Any registered voter may be required to serve on a jury, and a large fine will be imposed for failing to appear for jury duty.

So a fine imposed for failing to observe some reasonable law is commonplace. Failing to vote may be a small civilian crime, but -- in my humble opinion -- it should be regarded as such in any democratic system.

## Extension to the United States

As with California, the federal government has an agency charged with ensuring that every eligible citizen file a federal income tax return - the Internal Revenue Service. Should the Congress choose to enact a voting requirement law, imposing a fine would most easily be imposed through the IRS.

Tracking down the non-voters is mostly a matter of acquiring electronic voting records from each state, and these have separate databases in general. The software system work required would clearly be larger than for a single state like California, but in general follows the same principle.

The federal government has access to Social Security data, which could be used for this purpose under a suitable act of Congress. The Census bureau carries detailed information on every person, but under the Constitution, could not be used for this purpose.

In any case, the federal government already has sufficient bureaus and databases to impose a suitable non-voting tax on every American citizen in an accurate and fair manner. The additional bureaucracy should be small, and be more than paid for by revenues from the new law.

The revenues accruing under such a law would be significant. The U.S. population in mid 2008 was about 305 million, or 8.4 times the California population. Assuming that 10% of the eligible voters would pay a \$20 fine instead of voting, the revenue to the U.S. Treasury should be approximately \$420 million per year. That's nearly a half billion dollars, and could be used to bolster school systems, Medicare, Medicaid, or other social causes, or used to reduce the federal deficit.

## References

[1] [http://www.ppic.org/main/publication\\_show.asp?i=255](http://www.ppic.org/main/publication_show.asp?i=255)

[2]

[http://topics.nytimes.com/top/reference/timestopics/organizations/s/supreme\\_court/affordable\\_care\\_act/index.html](http://topics.nytimes.com/top/reference/timestopics/organizations/s/supreme_court/affordable_care_act/index.html)

[3] [http://elections.gmu.edu/voter\\_turnout.htm](http://elections.gmu.edu/voter_turnout.htm)

[4] [http://www.aec.gov.au/FAQs/Voting\\_Australia.htm#compulsory](http://www.aec.gov.au/FAQs/Voting_Australia.htm#compulsory)

[5] <http://illinoisissuesblog.blogspot.com/2012/03/low-voter-turnout-favored-well.html>

[6] [http://www.alecexposed.org/wiki/ALEC\\_Exposed](http://www.alecexposed.org/wiki/ALEC_Exposed)

[7] [http://en.wikipedia.org/wiki/Voter\\_turnout](http://en.wikipedia.org/wiki/Voter_turnout)

[8] <http://www.sos.ca.gov/elections/ror/ror-pages/15day-presgen-08/hist-reg-stats.pdf>

[9]

[http://www.google.com/publicdata/explore?ds=kf7tgg1uo9ude\\_&met\\_y=population&idim=state:06000&dl=en&hl=en&q=population+of+california](http://www.google.com/publicdata/explore?ds=kf7tgg1uo9ude_&met_y=population&idim=state:06000&dl=en&hl=en&q=population+of+california)