State Government & Tribal Affairs Committee

SSB 5270

Brief Description: Modifying voter registration provisions.

Sponsors: Senate Committee on Government Operations & Elections (originally sponsored by Senators McDermott, Swecker, Fairley, Oemig, Tom and Shin; by request of Secretary of State).

Brief Summary of Substitute Bill

- Updates and revises the state voter registration laws.

Hearing Date: 3/19/09

Staff: Marsha Reilly (786-7135)

Background:

Voter Registration Procedures. The State Constitution requires that a person must be a U.S. citizen, at least 18 years of age and a resident of the state, county, and precinct for at least 30 days before the election to be eligible to vote. A person loses the right to vote if he or she is judicially declared incompetent or is convicted of an "infamous" crime (a felony) and the person's civil rights have not been restored.

A voter registration applicant must provide a valid Washington state driver's license (WSDL) number or identification card number, or, if the applicant does not have a license or identification card, the last four digits of his or her social security number. If the applicant does not have a driver's license, an identification card, or a social security number, he or she is issued a unique voter registration number. The Secretary of State (Secretary) must match the WSDL number or the identification card number with information maintained by the Department of Licensing (DOL), or the last four digits of the social security number with information maintained by the

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Social Security Administration. Any discrepancies must be resolved before the applicant is registered to vote.

If an applicant registers by mail and does not have a valid driver's license, an identification card, or a social security number, he or she must provide a copy of a document from an approved list of alternative documents prior to or at the time of voting. If one of the alternate forms of identification is not provided, the voter's ballot will be treated as a provisional ballot and will only be counted if the voter's signature on the outside envelope matches the signature in the voter registration records.

Voter Registration Deadlines. Voter registration files are closed for the 30 days immediately preceding an election. However, a person may register to vote, and vote, up to 15 days before an election if he or she registers in person at the office of the county auditor. In order to prevent duplicate registrations, transfers made within 30 days of an election are not to be processed until after an election. Persons transferring registrations within the 30 day period may vote according to the address on file. County auditors are required to publish notice of closing registration files 35 days before the election in a newspaper of general circulation.

Persons or organizations collecting voter registration application forms must transmit the forms to the Secretary or a county auditor at least once weekly.

Voter Registration Database (VRDB). In compliance with the Help America Vote Act (HAVA), the Secretary established the VRDB, a centralized voter registration database. The Secretary is required to conduct a quarterly review of the VRDB to update records of all registered voters to make additions and corrections. The quarterly review includes a comparison of lists maintained by the Department of Corrections, the Washington State Patrol, and the Office of the Administrator of the Courts. Periodically, the Secretary must remove the names of deceased voters from the database based on information prepared by the registrar of vital statistics.

Court Rulings. In 2006 the U.S. District Court Western District of Washington issued a preliminary injunction prohibiting the enforcement of matching a potential voter's name to either a Social Security Administration database or to the DOL database before allowing that person to register to vote. In *Washington Association of Churches, et. al., v. Sam Reed*, the Court found that the "matching" statute violated HAVA because HAVA does not require matching as a precondition to registering to vote. In issuing its order, the court said the intent of HAVA was clear in that it "requires matching for the purpose of verifying the identity of the voter before casting or counting that person's vote, but not as a prerequisite to registering to vote." The court issued a final order and judgment against the state on March 16, 2007.

Summary of Bill:

Voter Registration Procedures.
The requirement that an applicant provide his or her Washington state driver's license, Washington state identification card number, or the last four digits of the applicant's social security number for voter registration is eliminated. The voter who does not provide this identification must be provisionally registered to vote. An identification notice must be sent to a provisionally registered voter that he or she must provide information as to his or her identity.

To become a registered voter, the provisionally registered voter must still provide: the correct driver's license number; the correct state identification card number; the correct last four digits of the social security number; a valid photo identification; a valid enrollment card of a federally recognized Indian tribe in Washington; a copy of a current utility bill; a current bank statement; a copy of a current government check; a copy of a current paycheck; or a government document, other than a voter registration card, that shows both the name and address of the voter.

The ballot of a provisionally registered voter may not be counted until he or she provides the required identification information. The identification must be provided no later than the day before the certification of a primary or election. If the voter provides the identification information required, his or her status must be changed to registered.

Voter Registration Deadlines.
A person who is not registered to vote in Washington must submit a registration application no later than 29 days before the date of the primary, special election or general election. A person may register in person at the county auditor's office no later than eight days before the day of the primary, special election, or general election, and he or she will be issued an absentee ballot.

A person who is registered to vote in Washington may update his or her registration no later than 29 days before the primary, special election, or general election in order for it to be in effect for that election. If a person fails to meet this deadline, he or she may vote according to his or her previous registration address. The notice of registration deadlines must be published in a newspaper of general circulation in the county at least 35 days before the primary or general election. This increases the time of the notice from five days prior and eliminates a notice requirement for special elections.

Voter Registration Database (VRDB).
Motor-voter requirements are updated to reflect the electronic procedures for voter registration, including allowing for name changes to be transferred from the DOL to the Secretary. Procedures for address changes within a county are made consistent.

The Secretary will no longer use the Washington State Patrol in order to compare a list of known felons with the statewide voter registration list. The Secretary must use a reliable list of felons who are ineligible to vote to perform the name and date of birth comparison and suspend a voter registration.

County auditors may use government agencies as a resource for identifying deceased voters and canceling a registration.

Other Provisions.
Service voters include members of a reserve component of the armed forces. The term "out-of-state voter" is eliminated. The county auditor shall mail all absentee ballots and related material to the overseas and service voters; however, the requirement that return envelopes be postage free is removed.

The definition of "infamous crime" is clarified to exclude adjudications in juvenile court, and convictions for a misdemeanor or gross misdemeanor. The oath on the voter registration form is

updated to reflect that the applicant is not presently denied the right to vote due to a felony conviction. The reference to civil rights is eliminated.

The duplicative oath/affirmation on the voter registration form is eliminated. The oath is updated to reflect that the applicant is not presently denied the right to vote due to a felony conviction.

The requirement that the Secretary provide a separate agency form for voter registration is eliminated. The time period for the agency to transmit the voter registration application is changed from 10 days to three business days.

The time period for the county auditor to process an application or transfer and the nonforwardable acknowledgement notice is increased from within 45 days to within 60 days of receipt of the application or transfer.

Each county auditor must request change of address information from the U.S. Postal Service (USPS) for all absentee and mail ballots. A voter who votes at the polls must be mailed an election related document, with change of address information requested, at least once every two years and at least 90 days prior to the date of a primary or general election for federal office. If a county auditor receives information from the USPS, the DOL or another agency designated to provide voter registration services that a voter has moved within the county, the county auditor shall transfer the registration of the voter and send an acknowledgement notice to the new address informing the voter of the transfer.

Inactive voters who merely sign an initiative or referendum petition do not have their voter registration reactivated. A response from a voter, not just any person, that the voter has moved out of the county will cause the cancellation of the current voter registration. If the voter has moved to another county, the county auditor of the voter's new county of residence will be notified.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.