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**THIRD SUBSTITUTE SENATE BILL 6353**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Transportation (originally sponsored by Senators Hunt, Billig, Kuderer, Saldaña, Conway, Carlyle, Hasegawa, Dhingra, McCoy, Nelson, Mullet, Liias, Rolfes, Hobbs, Keiser, Cleveland, Chase, Darneille, Frockt, Palumbo, Van De Wege, Ranker, Wellman, Takko, and Pedersen; by request of Governor Inslee)

AN ACT Relating to increasing opportunities for citizens to participate in elections by streamlining procedures in order to automatically register citizens to vote; amending RCW 29A.08.350, 29A.08.410, 29A.08.420, 29A.08.720, 29A.08.110, and 29A.08.710; adding new sections to chapter 29A.08 RCW; adding a new section to chapter 46.20 RCW; adding new sections to chapter 29A.04 RCW; adding a new section to chapter 29A.84 RCW; creating new sections; prescribing penalties; providing an effective date; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  This act may be known and cited as the automatic voter registration act of 2018.

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) The right to vote is enshrined as one of the greatest virtues of our democracy and that an engaged citizenry is essential at each level of government to ensure that all voices are heard; and

(b) State and local governments should take every step possible to make it easier to vote in Washington state and ensure that fundamental values of a true democracy with full participation remains one of our most important functions. Providing additional opportunities for people to register to vote and helping them make their own choices about who represents them in this democracy and about important issues that are central to their lives and communities are essential to upholding these values.

(2) Therefore, the legislature intends to increase the opportunity to register to vote for persons qualified under Article VI of the Washington state Constitution by expanding the streamlined voter registration process that will increase opportunities for voter registration without placing new undue burdens on government agencies.

**PART I**

**AUTOMATIC VOTER REGISTRATION FOR ENHANCED DRIVER'S LICENSE**

NEW SECTION. **Sec.**  A new section is added to chapter 29A.08 RCW to read as follows:

A person age eighteen years or older who is a citizen of the United States applying for or renewing an enhanced driver's license or identicard issued under RCW 46.20.202 or changing the address for an existing enhanced driver's license or identicard pursuant to RCW 46.20.205 may be registered to vote or update voter registration information at the time of registration or renewal by automated process if the department of licensing record associated with the applicant verifies United States citizenship, contains the data required for voter registration under RCW 29A.08.010, and includes a signature image. The person must be informed that his or her record will be used for voter registration, and offered an opportunity to decline to register.

NEW SECTION. **Sec.**  A new section is added to chapter 29A.08 RCW to read as follows:

(1) If the applicant in section 101 of this act does not decline registration, the application is submitted pursuant to RCW 29A.08.350.

(2) For each such application, the secretary of state must obtain a digital copy of the applicant's signature image from the department of licensing.

NEW SECTION. **Sec.**  A new section is added to chapter 29A.08 RCW to read as follows:

(1)(a) For persons age eighteen years and older registering under section 101 of this act, an application is considered complete only if it contains the information required by RCW 29A.08.010 and verification of citizenship. The applicant is considered to be registered to vote as of the original date of application or renewal of an enhanced driver's license or identicard issued under RCW 46.20.202 or application for change of address for an existing enhanced driver's license or identicard pursuant to RCW 46.20.205. The auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. Any mailing address provided shall be used only for mail delivery purposes, and not for precinct assignment or residency purposes. Within sixty days after the receipt of an application or transfer, the auditor shall send to the applicant, by first-class nonforwardable mail, an acknowledgment notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The United States postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable.

(b) An auditor may use other means to communicate with potential and registered voters such as, but not limited to, email, phone, or text messaging. The alternate form of communication must not be in lieu of the first-class mail requirements. The auditor shall act in compliance with all voter notification processes established in federal law.

(2) If an application is not complete, the auditor shall promptly mail a verification notice to the applicant. The verification notice must require the applicant to provide the missing information. If the applicant provides the required information within forty-five days, the applicant must be registered to vote. The applicant must not be placed on the official list of registered voters until the application is complete.

(3) If the prospective registration applicant declines to register to vote or the information provided by the department of licensing does not indicate citizenship, the information must not be included on the list of registered voters.

(4) The department of licensing is prohibited from sharing information used to verify identity with any federal agency unless required by law. The department may not retain any records or documentation used to certify eligibility to vote under this section once the certification process has been completed and recorded unless required by law. Personal information supplied for the purposes of obtaining a driver's license or identicard is exempt from public inspection pursuant to RCW 42.56.230.

NEW SECTION. **Sec.**  A new section is added to chapter 46.20 RCW to read as follows:

For persons eighteen years of age or older who the department has verified United States citizenship, who are applying for or renewing an enhanced driver's license or identicard under RCW 46.20.202 or applying for a change of address for an existing enhanced driver's license or identicard pursuant to RCW 46.20.205, and who have not declined to register to vote, the department shall produce and transmit to the secretary of state the following information from the records of each individual: The name, address, date of birth, gender of the applicant, the driver's license number, signature image, and the date on which the application was submitted. The department and the secretary of state shall process information as an automated application on a daily basis.

**Sec.**  RCW 29A.08.350 and 2013 c 11 s 18 are each amended to read as follows:

The department of licensing shall produce and transmit to the secretary of state the following information from the records of each individual who requested a voter registration or update at a driver's license facility: The name, address, date of birth, gender of the applicant, the driver's license number, signature image, and the date on which the application for voter registration or update was submitted. The secretary of state shall process the registrations and updates as an electronic application.

**PART II**

**ENHANCING VOTER REGISTRATION AT THE HEALTH BENEFIT EXCHANGE**

NEW SECTION. **Sec.**  A new section is added to chapter 29A.04 RCW to read as follows:

(1) The health benefit exchange shall provide the following information to the secretary of state's office for Washington healthplanfinder applicants, including applicants who file changes of address, who reside in Washington, are age eighteen years or older, are verified citizens, and do not decline the option, for the purpose of the applicants being registered to vote:

(a) Names;

(b) Traditional or nontraditional residential addresses; and

(c) Dates of birth.

(2) The health benefit exchange shall consult with the secretary of state's office to ensure that sufficient information is provided to allow the secretary of state to obtain a digital copy of the person's signature when available from the department of licensing.

(3) If applicable, the health benefit exchange shall report any known barriers or impediments to implementation of this section to the appropriate committees of the legislature and the governor no later than December 1, 2019.

(4) The health benefit exchange is prohibited from sharing information used to verify identity with any federal agency unless required by law. The exchange may not retain any records or documentation used to certify eligibility to vote under this section once the certification process has been completed and recorded unless required by law. The exchange must protect the confidentiality of information to be shared pursuant to RCW 43.71.050.

NEW SECTION. **Sec.**  A new section is added to chapter 29A.04 RCW to read as follows:

(1) The health benefit exchange shall consult with the secretary of state's office to establish automatic voter registration criteria and procedures. If the exchange implements automatic voter registration, it shall do so as a qualified voter registration agency under sections 301 through 309 of this act.

(2) If the health benefit exchange determines, in consultation with the health care authority, that implementation of automatic voter registration will require application or process changes subject to approval from the centers for medicare and medicaid services, implementation is contingent on approval from the centers for medicare and medicaid services. If applicable, the exchange shall report any known barriers or impediments to implementation of automatic voter registration to the appropriate committees of the legislature and the governor no later than December 1, 2019.

**PART III**

**AUTOMATIC VOTER REGISTRATION AT QUALIFIED VOTER REGISTRATION AGENCIES**

NEW SECTION. **Sec.**  A new section is added to chapter 29A.04 RCW to read as follows:

(1) "Qualified voter registration agency" means the department of agriculture, the department of veterans affairs, the military department, and the business professions division of the department of licensing, or a state agency providing public assistance or services to persons with disabilities, designated pursuant to RCW 29A.08.310(1), that collects, processes, and stores the following information as part of providing assistance or services:

(a) Names;

(b) Traditional or nontraditional residential addresses;

(c) Dates of birth;

(d) A signature attesting to the truth of the information provided on the application for assistance or services; and

(e) Verification of citizenship information, via social security administration data match or manually verified by the agency during the client transaction.

(2) Qualified voter registration agencies should seek to provide automatic voter registration services under section 302 of this act with any or all agency transactions. If a qualified voter registration agency chooses to provide automatic voter registration services, the agency:

(a) Must consult with the secretary of state's office to establish automatic voter registration criteria and procedures; and

(b) May adopt rules to enable the agency to provide automatic voter registration services.

(3) Qualified voter registration agencies that do not intend to seek to provide automatic voter registration services shall submit a report to the governor and appropriate legislative committees no later than December 1, 2019, detailing the reasons that make providing automatic voter registration services not feasible.

(4) For agencies submitting a report under subsection (3) of this section, the governor shall consult with the secretary of state's office to make a decision as to whether the agency should implement automatic voter registration. The governor shall make the final decision at the governor's sole discretion.

(5) Once an agency has implemented automatic voter registration, it shall continue to provide automatic voter registration unless legislation is enacted that directs the agency to do otherwise.

NEW SECTION. **Sec.**  A new section is added to chapter 29A.08 RCW to read as follows:

(1) With each application for assistance or services listing the information described in section 301 of this act, and with each related recertification, renewal, or change of address, each qualified voter registration agency that chooses to or is required to provide automatic voter registration services, as provided in section 301 of this act, shall inform the person of the following:

(a) Unless the person declines to register to vote or update an existing voter registration, or is found to be ineligible to vote, the person will be registered to vote or, if applicable, the person's voter registration will be updated;

(b)(i) The qualifications to be registered to vote;

(ii) The penalties under chapter 29A.84 RCW for registering to vote when ineligible or providing false registration information; and

(iii) That the person should not register to vote if the person does not meet the qualifications to register;

(c) That voter registration is voluntary, and the person's choice to register or decline to register to vote will not affect the availability of agency services or benefits, and that the person's choice to register or decline to register to vote will not be used for any other purposes or retained by the agency; and

(d) Information about the address confidentiality program established under chapter 40.24 RCW, including how to register for the address confidentiality program and how voter registration may impact participation in the program.

(2) Each qualified voter registration agency shall:

(a) Ensure that each application for service or assistance, and each related recertification, renewal, or change of address, cannot be completed until the person is given the opportunity to decline being registered to vote;

(b) Promptly provide to the secretary of state, in a format to be determined by the secretary in consultation with the agency, the following information for each person who does not decline to register to vote:

(i) The person's name;

(ii) The person's traditional or nontraditional residential address;

(iii) The person's mailing address, if different from the person's traditional or nontraditional residential address;

(iv) The person's date of birth;

(v) Confirmation that the person is a citizen of the United States;

(vi) A digital copy of the person's signature; and

(vii) An affirmation of the person's eligibility to register to vote; and

(c) Offer each person an opportunity to decline to register to vote or to update an existing registration at each application for service or assistance, and each related recertification, renewal, or change of address, regardless of whether the person previously declined to register to vote or update an existing registration.

(3) A qualified voter registration agency shall not use a person's declination to register to vote to affect the person's eligibility for services or benefits provided by a qualified voter registration agency.

(4) The secretary of state shall consult with each qualified voter registration agency to establish a procedure for transmitting digital copies of signatures of persons who do not decline to register to vote.

(5) Each qualified voter registration agency is prohibited from sharing information used to verify identity with any federal agency unless required by law. The agency may not retain any records or documentation used to certify eligibility to vote under this section once the certification process has been completed and recorded unless required by law. Personal information in files maintained for patients or clients of agencies providing public assistance or services to persons with disabilities is exempt from public inspection pursuant to RCW 42.56.230, 74.04.060, and 74.18.127.

NEW SECTION. **Sec.**  A new section is added to chapter 29A.08 RCW to read as follows:

(1)(a) Except as provided in (b) of this subsection, upon receiving the data for, and a digital copy of the signature of, a person as provided in section 302(2)(b) of this act, the secretary of state shall determine whether the person is already registered to vote. If the person is not already registered to vote, the secretary of state shall provide the information to the county auditor of the county in which the person may be registered as a voter, and the auditor shall register the person to vote.

(b) If the secretary of state receives information about a person pursuant to section 302 of this act within eight days of an election in which that person would otherwise be eligible to vote, the secretary of state shall wait until after the election to provide the information to the county auditor of the county in which that person may be registered as a voter.

(2) If the person is already registered to vote, but the residential address transmitted by the qualified voter registration agency is different from the residential address on the person's current registration, the secretary of state shall direct the auditor of the county in which the person may be registered as a voter to update the person's voter registration.

(3) The county auditor shall promptly send a notification to each person who is registered to vote or whose existing voter registration is updated under this section.

(4) A voter registration submitted under this section is otherwise considered an electronic voter registration.

NEW SECTION. **Sec.**  A new section is added to chapter 29A.08 RCW to read as follows:

(1) Each qualified voter registration agency that elects to provide automatic voter registration services shall promptly transmit to the secretary of state the information of each person for whom it retains all the information listed in section 302(2)(b) (i) through (vi) of this act on July 1, 2020.

(2) The secretary of state shall:

(a) Identify persons whose information is transmitted pursuant to subsection (1) of this section who are eligible to be, but are not currently, registered to vote;

(b) Promptly send each person identified notice, which must not identify the agency transmitting the information, but which must include:

(i) An explanation that voter registration is voluntary, but that if the person does not decline to register within sixty days, the person will be registered to vote;

(ii) A statement offering the opportunity to decline voter registration through any means determined by the secretary of state and consistent with this act;

(iii) The eligibility criteria for voting in federal and state elections;

(iv) The instruction that the person should decline registration if ineligible to vote;

(v) Instructions for correcting an erroneous registration;

(vi) Instructions for providing any additional information required for voter registration purposes; and

(vii) Information about the address confidentiality program established under chapter 40.24 RCW, including notification that registration to vote does not affect any existing program participation;

(c) Promptly register to vote any person who does not decline to register within sixty days of the notification, unless the secretary of state receives information about a person pursuant to this section within twenty-one days of an election in which that person would otherwise be eligible to vote, in which case the secretary of state shall wait until after the election to register the person to vote.

(3) Information transmitted to the secretary of state pursuant to subsection (1) of this section shall be used for voter registration purposes, is not available for public inspection, and shall not be disclosed to the public.

NEW SECTION. **Sec.**  A new section is added to chapter 29A.08 RCW to read as follows:

(1) If a person who is ineligible to vote becomes automatically registered to vote under section 101 or 302 of this act in the absence of a knowing violation by that person of RCW 29A.84.140, that person's registration is presumed to not be the fault of that person.

(2) If a person who is ineligible to vote becomes automatically registered to vote under section 102 or 302 of this act and votes or attempts to vote in the absence of a knowing violation by that person of RCW 29A.84.130, that person's vote is presumed not to be the fault of that person.

(3) An ineligible voter who successfully completes the voter registration process must have their voter registration invalidated.

(4) Should an ineligible individual become registered to vote, the office of the secretary of state and the relevant agency shall jointly determine the cause.

**Sec.**  RCW 29A.08.410 and 2009 c 369 s 22 are each amended to read as follows:

A registered voter who changes his or her residence from one address to another within the same county may transfer his or her registration to the new address in one of the following ways:

(1) Sending the county auditor a request stating both the voter's present address and the address from which the voter was last registered;

(2) Appearing in person before the county auditor and making such a request;

(3) Telephoning or emailing the county auditor to transfer the registration; ((~~or~~))

(4) Submitting a voter registration application;

(5) Submitting information to the department of licensing;

(6) Submitting information to the health benefit exchange; or

(7) Submitting information to a qualified voter registration agency.

**Sec.**  RCW 29A.08.420 and 2009 c 369 s 23 are each amended to read as follows:

A registered voter who changes his or her residence from one county to another county must do so by submitting a voter registration form or by submitting information to the department of licensing, the health benefit exchange, or a qualified voter registration agency. The county auditor of the voter's new county shall transfer the voter's registration from the county of the previous registration.

**Sec.**  RCW 29A.08.720 and 2011 c 10 s 18 are each amended to read as follows:

(1) In the case of voter registration records received through the department of licensing, the health benefit exchange, or an agency designated under RCW 29A.08.310, the identity of the office or agency at which any particular individual registered to vote must be used only for voter registration purposes, is not available for public inspection, and shall not be disclosed to the public. Any record of a particular individual's choice not to register to vote at an office of the department of licensing or a state agency designated under RCW 29A.08.310 is not available for public inspection and any information regarding such a choice by a particular individual shall not be disclosed to the public.

(2) Subject to the restrictions of RCW 29A.08.710 and 40.24.060, precinct lists and current lists of registered voters are public records and must be made available for public inspection and copying under such reasonable rules and regulations as the county auditor or secretary of state may prescribe. The county auditor or secretary of state shall promptly furnish current lists of registered voters in his or her possession, at actual reproduction cost, to any person requesting such information. The lists shall not be used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. However, the lists and labels may be used for any political purpose. The county auditor or secretary of state must provide a copy of RCW 29A.08.740 to the person requesting the material that is released under this section.

(3) For the purposes of this section, "political purpose" means a purpose concerned with the support of or opposition to any candidate for any partisan or nonpartisan office or concerned with the support of or opposition to any ballot proposition or issue. "Political purpose" includes, but is not limited to, such activities as the advertising for or against any candidate or ballot measure or the solicitation of financial support.

NEW SECTION. **Sec.**  A new section is added to chapter 29A.84 RCW to read as follows:

An employee of a qualified voter registration agency is guilty of a gross misdemeanor, if he or she willfully:

(1) Neglects or refuses to perform any duty required by law in connection with the registration of voters;

(2) Neglects or refuses to perform such duty in the manner required by voter registration law;

(3) Enters or causes or permits to be entered on the voter registration records the name of any person in any other manner or at any other time than as prescribed by voter registration law, or enters or causes or permits to be entered on such records the name of any person not entitled to be thereon; or

(4) Destroys, mutilates, conceals, changes, or alters any registration record in connection therewith except as authorized by voter registration law.

**PART IV**

**STUDY OF AUTOMATIC VOTER REGISTRATION AT BIRTH AND OF NATURALIZED CITIZENS**

NEW SECTION. **Sec.**  The legislature finds that advances in database integration and technology can create streamlined, less bureaucratic, and more efficient processes for citizens in the voter registration system. Information from certificates of birth filed with the state should be automatically integrated into the existing voter registration process in preparation for those citizens' participation in voting. Voter registration should not be an impediment or hurdle to participation in the election process, but rather a function of properly administered elections. Continued improvement in database integration across state and local agencies should be applied to a modernized voter registration process and database in order to facilitate eligible citizens' participation in future elections. Voter registration should automatically occur at birth when a certificate of live birth has been filed with the state, bringing that new state citizen a step closer to fulfilling the current registration requirements, without changing those existing regulations. A task force should facilitate proper implementation of this streamlining technology integration project.

NEW SECTION. **Sec.**  A new section is added to chapter 29A.08 RCW to read as follows:

(1) The office of the secretary of state must conduct a study and prepare recommendations for creating an automatic voter registration process for residents who recently completed the naturalization process, and for an automatic voter registration process at birth.

(2) For the automatic registration of residents who recently completed the naturalization process, the office should consult with federal agencies involved with naturalization to determine the feasibility of options for developing an automatic voter registration process for such persons.

(3) For automatic registration at birth, the office should consult with relevant state agencies that collect and maintain records containing personal information and consider ways for transferring and sharing such information with voter registration databases. Such considerations should include issues regarding data-sharing agreements and procedures, coordination among state and local agencies for updating voting registration records, address confirmation procedures, methods and procedures for collecting and verifying personally identifiable information, public notice and opt-out procedures, cybersecurity measures or standards, and delegation of authority necessary for implementation.

(4) The office must prepare a report to the appropriate legislative standing committees by December 1, 2019, that includes each study and proposed recommendations, including any legislative authority that may be needed to implement the proposed recommendations.

(5) This section expires June 30, 2020.

**PART V**

**MISCELLANEOUS**

**Sec.**  RCW 29A.08.110 and 2009 c 369 s 10 are each amended to read as follows:

(1) For persons registering under RCW 29A.08.120, 29A.08.123, 29A.08.330, and 29A.08.340, an application is considered complete only if it contains the information required by RCW 29A.08.010. The applicant is considered to be registered to vote as of the original date of mailing or date of delivery, whichever is applicable. The auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. Any mailing address provided shall be used only for mail delivery purposes, and not for precinct assignment or residency purposes. Within sixty days after the receipt of an application or transfer, the auditor shall send to the applicant, by first-class nonforwardable mail, an acknowledgment notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable.

(2) If an application is not complete, the auditor shall promptly mail a verification notice to the applicant. The verification notice shall require the applicant to provide the missing information. If the applicant provides the required information within forty-five days, the applicant shall be registered to vote as of the original date of application. The applicant shall not be placed on the official list of registered voters until the application is complete.

**Sec.**  RCW 29A.08.710 and 2005 c 246 s 17 are each amended to read as follows:

(1) The county auditor shall have custody of the original voter registration records for each county. The original voter registration form must be filed without regard to precinct and is considered confidential and unavailable for public inspection and copying. An automated file of all registered voters must be maintained pursuant to RCW 29A.08.125. An auditor may maintain the automated file in lieu of filing or maintaining the original voter registration forms if the automated file includes all of the information from the original voter registration forms including, but not limited to, a retrievable facsimile of each voter's signature.

(2) The following information contained in voter registration records or files regarding a voter or a group of voters is available for public inspection and copying, except as provided in RCW 40.24.060: The voter's name, address, political jurisdiction, gender, ((~~date~~)) year of birth, voting record, date of registration, and registration number. No other information from voter registration records or files is available for public inspection or copying.

NEW SECTION. **Sec.**  Sections 101 through 309 of this act take effect July 1, 2019. Automatic voter registration at the department of licensing under sections 101 through 105 of this act must be implemented by July 1, 2019.

**--- END ---**