

HOUSE BILL REPORT

HB 1739

As Reported by House Committee On:

State Government

Title: An act relating to protecting the integrity of elections.

Brief Description: Protecting the integrity of elections.

Sponsors: Representatives Bush, D. Schmidt, Romero, Miloscia, Anderson, Campbell, Talcott, Esser and Casada; by request of Secretary of State.

Brief History:

Committee Activity:

State Government: 2/14/01, 2/26/01 [DPS].

Brief Summary of Substitute Bill

- Requires persons registering to vote to be reminded of the age and citizenship qualifications for voter registration.
- Provides new procedures for voter list maintenance.
- Creates new crimes relating to disenfranchised voters and voter fraud.
- Requires the Secretary of State to provide information to citizens and election officials regarding voter fraud and discrimination.
- Requires the Secretary of State to establish a web page to facilitate communications with citizens.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives McMorris, Republican Co-Chair; Romero, Democratic Co-Chair; Miloscia, Democratic Vice Chair; Schindler, Republican Vice Chair; Haigh, Lambert, McDermott and D. Schmidt.

Staff: Jim Morishima (786-7191).

Background:

I. Voter Registration

In order to register to vote in Washington, a person must be at least 18 years old, a citizen of the United States, and a resident of the state of Washington. In addition, persons convicted of felonies are ineligible to vote.

A. Registration Procedures

A qualified person may register to vote in many locations including with the county auditor, at many public buildings, when renewing or applying for a driver's license, and when applying for disability or public services. Federal law provides that the state may only ask a person registering to vote for the minimum amount of information necessary to complete the voter's registration (this requirement only applies to registering to vote for federal offices). In addition to such information, a person registering to vote must sign the following oath:

"I declare the facts on this voter registration form are true. I am a citizen of the United States, I am not presently denied my civil rights as a result of being convicted of a felony, I will have lived in Washington at this address for thirty days before the next election at which I vote, and I will be at least eighteen years old when I vote."

B. Changing Voter Registration

When a person moves out of the county in which he or she is registered, the person must re-register in his or her new county. When re-registering, the person must sign an authorization to cancel his or her old registration, which must be promptly forwarded to the county in which the person was previously registered. Upon receiving and authenticating such an authorization, the county auditor in the county in which the person was previously registered must cancel the person's registration.

C. List Maintenance

County auditors maintain their voter lists by updating information and removing voters with canceled registrations. Additionally, the county auditors participate in an annual list maintenance program with the Secretary of State to detect persons registered in more than one county.

II. Enforcement

A. Challenges

A person's right to vote may be challenged at the polls only by a precinct election

officer. Up until the day before an election, a registered voter may also challenge another person's right to vote. A person who has been challenged may still vote by paper ballot. The person making the challenge must prove to the canvassing board by clear and convincing evidence that the person challenged is not qualified to vote. If this burden is not met, the person's paper ballot is counted.

B. Criminal Penalties

There are a variety of federal and state laws providing civil and criminal sanctions for violations of the election laws. For example, federal sanctions exist for persons who deprive others of their rights to equal access to the polls. Also, under state law, a person who votes twice is guilty of a gross misdemeanor, and persons who vote knowing they are unqualified are guilty of an un-ranked class C felony.

C. Prosecuting Violations

County prosecuting attorneys must present all violations of the election laws that come to the prosecuting attorney's attention to a proper jury.

Summary of Substitute Bill:

I. Voter Registration

A. Registration Procedures

The Secretary of State must provide voter registration information in the foreign languages required of state agencies by July 1, 2002. Persons registering to vote must be given information about the age and citizenship requirements for voter registration. Voter registration forms must contain conspicuous language reminding registrants that they must be citizens to vote.

The Department of Licensing must post signs at driver licensing facilities informing the public of voter registration services and the qualifications necessary to register. A person registering to vote at a driver licensing facility, must be: 1) Asked if they want to register to vote, and 2) reminded that they must be 18 years of age and a citizen to register.

B. Changing Voter Registration

A person re-registering in a new county must provide all information necessary to cancel his or her previous voter registration. The county auditor must forward this information to the county in which the voter was previously registered. If the person was previously registered in another state, notification must be sent to the state's elections office. A county auditor receiving this information must immediately cancel the voter's registration.

C. List Maintenance

The annual list maintenance program is expanded to include the detection of persons voting more than once in an election. If a person is suspected of voting in more than one county in a single election, the county auditors in the two counties must cooperate with their respective county prosecutors to determine the voter's true residence.

II. Enforcement

A. Challenges

Only a precinct judge or inspector may challenge a person's right to vote at the polls. In addition, county prosecuting attorneys may initiate challenges in the same manner as registered voters.

B. Criminal Penalties

Persons who intentionally disenfranchise eligible citizens or discriminate against people eligible to vote by denying voter registration are guilty of a misdemeanor. A person who attempts to register to vote knowing that he or she is unqualified is guilty of a misdemeanor.

The Secretary of State must provide a "voter guide" detailing what constitutes voter fraud and discrimination under state election laws. The Secretary of State must also provide a toll-free media and web page designed to facilitate voter communications. The Secretary of State's training and certification program for state and county election administration is expanded to include training on election law violations and discrimination.

C. Prosecuting Violations

A county auditor who suspects a person of fraudulent voter registration, vote tampering, or irregularities in voting must transmit the suspicions to the canvassing board. The county auditor must also attempt to contact the person in question without delay. If the auditor is unable to contact the person, or if the auditor still suspects the person after making contact, the auditor must refer the matter to the county prosecutor who must file charges where warranted.

Substitute Bill Compared to Original Bill:

The two new crimes created in the original bill are down-graded from class C felonies to misdemeanors. The persons who can challenge a person's right to vote at the polls are narrowed to only a precinct judge or inspector. Requirements imposed by the original bill relating to the prosecutor's duties in prosecuting violations of the election laws are removed. The requirement in the original bill that motor vehicle licensing facilities

provide information on voter qualifications to persons who ask for it, or to persons who present foreign identification is removed. Auditors noticing irregularities must report them to the canvassing board, and must try to contact the person in question before referring the matter to the prosecutor. Instead of asking a registrant whether they are a citizen, a motor vehicle licensing agent must read a statement to the registrant reminding them of the citizenship and age requirements for voter registration. The requirement in the original bill that the penalties for false voter registration be posted at driver's licensing facilities is removed. The requirement in the original bill that the Secretary of State forward complaints received via the web site to the county auditors is removed.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Original bill) Standardizing registration for all counties will advance confidence in our electoral system. There is a large population of non-citizens who very much want to participate in our electoral system. Currently, non-citizens are being asked if they want to register to vote when they obtain or renew their driver's licenses. We need to protect the integrity of the process against unqualified persons who mistakenly register to vote. We also need a system where people can report violations to the Secretary of State.

Testimony Against: None.

Testified: Representative Bush, prime sponsor; Representative Talcott; and Sam Reed, Secretary of State.