

HOUSE BILL REPORT

ESSB 5079

As Passed House - Amended:
March 5, 2019

Title: An act relating to enacting the Native American voting rights act of Washington.

Brief Description: Enacting the Native American voting rights act of Washington.

Sponsors: Senate Committee on State Government, Tribal Relations & Elections (originally sponsored by Senators McCoy, Billig, Cleveland, Conway, Frockt, Hunt, Kuderer, Saldaña and Van De Wege).

Brief History:

Committee Activity:

State Government & Tribal Relations: 2/19/19, 2/20/19 [DPA].

Floor Activity:

Passed House - Amended: 3/5/19, 95-3.

**Brief Summary of Engrossed Substitute Bill
(As Amended by House)**

- Permits online voter registration using a tribal identification card.
- Permits those living on an Indian reservation or Indian lands to use a tribally designated building as their mailing or residential address when registering to vote.
- Allows tribes to request voter registration services and ballot drop boxes on Indian reservations.
- Creates a civil cause of action to enforce certain violations of this section in certain circumstances.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass as amended. Signed by 9 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Appleton, Dolan, Hudgins, Mosbrucker and Smith.

Staff: Jason Zolle (786-7124).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Washington law regulates voter registration and voting procedures.

Voter Registration.

How to Register to Vote. The Governor and Secretary of State (Secretary) designate certain state agencies to provide voter registration services. These designated agencies provide voter registration services for employees and the public in each office of the agency.

Applicants registering to vote must submit an application with their name, residential address, and date of birth, and they must check a box confirming their United States citizenship. The applicant must also sign the application to attest to the truth of the information provided.

An applicant may register to vote online if the applicant has a Washington driver's license or state identification card. The Secretary must obtain a digital copy of the driver's license or identification card from the Department of Licensing.

Designating an Address. The applicant's residential address must identify the applicant's actual physical residence—that is, the applicant's permanent address where he or she physically resides and "maintains his or her abode." The residential address may be either a traditional address or a nontraditional address. A traditional address is a street number and street name, whereas a nontraditional address is a narrative description of the location of the voter's residence. A voter may use a nontraditional address to register to vote only if the voter lacks a traditional address. A voter lacks a traditional address if living in a shelter, park, motor home, marina, or other identifiable location that the voter deems to be the voter's residence.

Voting.

All registered voters in Washington receive a ballot in the mail that they may return by mail or by depositing in a ballot drop box. Voters may also cast a ballot in person at a voting center.

Ballot Drop Boxes. The county auditor must establish at least one ballot drop box per 15,000 registered voters in the county. The auditor must also establish one ballot drop box in each city, town, and census-designated place in the county with a post office.

Voting in Person. A person who votes in person at a voting center must either sign a ballot declaration or provide photo identification. The signature on the ballot declaration must be compared to the signature on the voter registration record before the ballot may be counted. Valid photo identification includes a driver's license, state identification card, tribal identification card, or employer identification card.

Summary of Amended Bill:

Several changes are made to voter registration and voting procedures for people living on Indian lands or people with tribal identification cards.

Voter Registration.

How to Register to Vote. An applicant may register to vote online if the applicant has a valid tribal identification card, so long as the Secretary is able to obtain a copy of the applicant's signature from the federal government or the tribal government. The Secretary must obtain a digital copy of the tribal identification card from the tribal issuing authority.

An Indian tribe may request that the Governor designate state facilities or state-funded facilities or programs located on the tribe's lands to provide voter registration services. The tribe may also request that voter registration services be provided at state facilities or state-funded facilities or programs that provide services to Indian tribes. The tribe may select which particular facilities or programs will offer these services.

Designating an Address. A tribe may select one or more tribal government buildings for voters on Indian reservations or Indian lands to use as their residential or mailing address when registering to vote. The tribe may choose whether the address may be used for residential purposes or for mailing purposes or both. However, a voter who lives in a different precinct than the building may not use the building as a residential address.

A voter applicant who resides on an Indian reservation or on Indian lands may also register to vote using a nontraditional address.

A voter lacks a traditional address if living in an unmarked home that the voter deems to be the voter's residence.

Voting.

Ballot Drop Boxes. An Indian tribe may request that the county auditor establish at least one ballot drop box on the Indian reservation at a site selected by the tribe. A tribe may also designate buildings as ballot pickup and collection locations from which the county auditor must collect ballots at no cost to the tribe. Designated locations for ballot drop off or collection must be accessible to the county auditor by a public road.

Voting in Person. To be considered valid photo identification for voting purposes, a tribal identification card need not include a residential address or expiration date.

Enforcement.

Violations of some of these provisions may be enforced through a civil action for declaratory or injunctive relief.

For a violation of the provisions relating to ballot drop boxes and ballot collection on Indian reservations, a civil action may be brought by the Attorney General.

For a violation of those provisions, provisions allowing the use of a nontraditional residential address or a tribally designated building when registering to vote, or provisions requiring the Governor to provide voter registration services on Indian lands, a civil action may be brought by a person or tribal government if:

- the violation occurs more than 120 days before the election, notice was provided to the Secretary, and the violation remains 90 days after the Secretary received the notice;
- the violation occurs 120 days or fewer before the election, notice was provided to the Secretary, and the violation remains 20 days after the Secretary received the notice; or
- the violation occurs 30 days or fewer before an election.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill is a response to what happened in North Dakota in the 2018 elections. Not all reservations have standard addresses, and residents need an alternative address to identify where they live. A tribal identification card is a federal document and must be recognized for voter registration. There has been some resistance to placing ballot boxes on tribal lands; sometimes the boxes may be up to 100 miles away and may have limited hours. These provisions will impact voter turnout, which for Native Americans is lower than other demographic groups.

(Opposed) None.

(Other) If the tribe has the authority to choose where to place a ballot box, there should be a requirement that the ballot box be accessible to the county auditor by a public road.

Persons Testifying: (In support) Senator McCoy, prime sponsor; July Simpson, Office of the Attorney General; and Alex Hur, OneAmerica.

(Other) Michael Shaw, Washington Association of County Auditors.

Persons Signed In To Testify But Not Testifying: None.