HOUSE BILL REPORT
ESSB 5743

As Passed House - Amended:

April 14, 2005

Title: An act relating to voter registration procedures.

Brief Description: Enhancing voter registration recordkeeping.

Sponsors: By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kastama, Roach, Fairley, Benson, Berkey, Haugen, McAuliffe, Shin, Parlette, Keiser, Mulliken and Rockefeller; by request of Secretary of State).

Brief History:

Committee Activity:

State Government Operations & Accountability: 3/18/05, 4/1/05 [DPA];
Appropriations: 4/2/05 [DPA(SGOA)].

Floor Activity:

Passed House - Amended: 4/14/05, 54-42.

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

- Permits the use of a state identification card for voter registration.

- Provides for the issuance of a unique voter identification number if an applicant does not have a driver's license, state identification card or social security number.

- Requires voter registration forms to include boxes the applicant can check to indicate that he or she is a United States citizen, and that he or she is a member of the armed services.

- Requires the Secretary of State to check other state agency lists or databases for the purpose of identifying felons.

HOUSE COMMITTEE ON STATE GOVERNMENT OPERATIONS & ACCOUNTABILITY

Majority Report: Do pass as amended. Signed by 5 members: Representatives Haigh, Chair; Green, Vice Chair; Hunt, McDermott and Miloscia.

Minority Report: Do not pass. Signed by 4 members: Representatives Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Schindler and Sump.

Staff: Marsha Reilly (786-7135).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on State Government Operations & Accountability. Signed by 17 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Miloscia and Schual-Berke.

Minority Report: Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Bailey, Buri, Clements, Hinkle, Pearson, Priest, Talcott and Walsh.

Staff: Nona Snell (786-7153).

Background:

The Help America Vote Act of 2002 (HAVA) requires states to make changes to elections administration practices and provides federal funds for such purposes. Specifically, HAVA requires the creation of a statewide voter registration database; provisional voting capabilities; a driver's license or social security number from an individual registering to vote; mail-in registration forms to include certain questions relating to citizenship and age; early disability access voting; the establishment of a local government grant program; and applying the administrative complaint procedures to elections. Statutory changes made to satisfy HAVA were enacted in 2004 but do not become effective until January 1, 2006.

To register to vote, an application must be submitted to the appropriate county auditor. At a minimum the application must include the applicant's name, residential address, date of birth, and a signature attesting that the information provided is true.

Effective January 1, 2006, in order to be registered to vote, an applicant must provide a Washington driver's license number or the last four digits of the applicant's social security number and must confirm that he or she is a United States citizen. If the registrant does not have a driver's license or social security number, a unique voter registration number will be issued.

The Secretary of State (Secretary) must verify that either the driver's license number or the last four digits of the social security number match information maintained by the Washington Department of Licensing (DOL) or the Social Security Administration (SSA). The Secretary must correspond with the applicant to resolve any discrepancy, and the applicant must respond with the requested information within 30 days, otherwise the Secretary must forward the application to the appropriate county auditor for document storage.

If a voter is convicted of a felony, he or she loses the right to vote. Cancellation of a felon's registration is done by the county auditor upon notification of such a conviction by the state or federal court. Effective January 1, 2006, a felon's registration may also be cancelled through a process of comparing a list of known felons provided by the Department of Corrections (DOC) with the statewide voter registration list.

Summary of Amended Bill:

The information required for voter registration is clarified. A Washington identification card will be accepted for purposes of registering to vote.

Voter application forms must contain a box the applicant may check to confirm that the applicant is a citizen of the United States. The application form and absentee ballot envelopes must also contain a box to check that will indicate if the applicant or voter is a member of the armed forces or is an overseas voter.

Requests for confirmation and verification of a registered voter's address must include a postage prepaid, pre-addressed return form.

If the applicant's driver's licence, identicard, or social security number cannot be matched with information maintained by the DOL or the SSA, the Secretary or county auditor must resolve the discrepancy with the applicant. Once notified of a problem, the applicant has 30 days to respond. The applicant will not be registered to vote and will not be placed on the official list of registered voters until his or her identity is confirmed.

Voters with nontraditional addresses may register to vote using the county courthouse, city hall, or other nearby public building as his or her residence. "Nontraditional address" is defined as a shelter, park, or other identifiable location that the voter deems as his or her residence.

Voter registration application forms collected by persons or organizations may be sent either to the Secretary or the county auditor and the effective date of those registrations is the date the registrations are received by the Secretary or the county auditor.

The Secretary must conduct a review every quarter to update records of all registered voters on the database to make additions and corrections. The Secretary, in conjunction with the DOC, the Washington State Patrol, and the Office of the Administrator of the Courts, also must conduct a quarterly comparison of lists of known felons with the statewide voter registration list. If a match is made and confirmed, the Secretary or county auditor shall suspend the voter registration and send a notice of proposed cancellation and an explanation of the requirements for appealing the suspension. The notice also will include an explanation of the requirements for restoring the right to vote. If the voter does not respond within 30 days, the registration must be cancelled.

The courts are directed to inform felons, at the time of their conviction, of the loss of the felon's right to vote, the conditions under which his or her right to vote will be restored, and

that voting prior to restoration of the right to vote is a felony. A certificate of discharge or an order restoring civil rights may be used as proof for purposes of restoring the right to vote.

The county clerk must inform the Secretary when a former felon's voting rights have been restored. The Secretary shall transmit information about the restoration of the former felon's voting rights to the county auditor where the conviction took place and, if different, the county where the felon was last known to reside. The civil right to vote is automatically restored to persons convicted of a felony upon completion of all the requirements of his or her sentence.

As part of the procedures for motor voter registrations, the DOL agents and employees of other state agencies authorized to register voters are required to ask if an applicant wishes to register to vote. If affirmative, the agent or employee must ask the applicant if he or she is a United States citizen and is or will be 18 years old on or before the next election. Unless the applicant answers in the affirmative to both questions, the agent or employee will not provide the applicant with a voter registration form.

The provision to compensate counties with less than 10,000 registered voters for maintenance of the voter registration records on electronic data processing systems is repealed.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect January 1, 2006.

Testimony For: (State Government Operations & Accountability) (With concerns on original bill) The bill requires the Secretary and county auditors to check citizenship of each applicant with the Citizenship and Immigration Services (CIS), however the CIS did not respond to an inquiry made several years ago regarding checking alien status. Federal law requires the agency to respond to requests regarding employment and benefits, but does not specifically include voter registration. Assuming we get cooperation, we have questions about accessing the index. The county auditors need to be removed from this requirement because the database is managed at the state level. It would be a burden for counties, especially smaller counties. We also have concerns about the federal write-in ballot. There should be wording to indicate what would happen to a registrants status while we wait to hear from the CIS. We recommend that the counties not be required to conduct the random investigations. The Secretary will do this, but would recommend that the wording be changed to conduct reviews. The second question regarding the motor voter registration should be changed to reflect that the applicant must be 18 years of age on or before the day of the next election. We support the check box to indicate if the voter is a military voter. This will help counties to further identify military voters. The verification process should occur logically around the six elections each year so that it does not interfere with an election.

As the database is up and running, the constant inputs are going to be in real time. Snohomish County already sends a form letter to felons when they appear on a list. The Allied Daily News would like to restore date of birth as information that is disclosable. It was exempted a number of years ago and we would like to see it restored.

It is an excellent idea that the Legislature is trying to set parameters and standards around election practices. There is no citizenship database and it is misleading to talk about it that way. Other states purge felons from the list. There should be one single repository for a felon database and an appeal process for a person who finds their name on that list. There should be a standard for when a "purge" is run so that it is uniform and people know when it will happen. The Secretary should also look at lists that have restored felons rights.

The Governor supports the strong effort to bring the database on-line. There are concerns with some of the amendments that the Senate added that the Secretary has already addressed. In section 3, the language allowing 45 days to respond for information requests does not address certain circumstances in which someone is visually impaired or out of town.

The American Civil Liberties Union is concerned about the system of restoring felon's voting rights. There should be an automatic notification once the sentencing requirements have been met that would go to the county clerk and then to the Secretary. There should also be a database that would include persons who have had their voting rights restored. We want to make sure someone in another state who has had their rights restored are not on the list. There should not be a comparison of the CIS list. Someone will make a decision based on the sound of a name, or an accent they have, and it would delay the opportunity to vote for certain groups of people.

Testimony For: (Appropriations) The bill preceded the Governor's race and would assist in implementing the Help America Vote Act (HAVA). Legislation to support HAVA passed last year. This bill fine tunes earlier legislation.

The Secretary of State and the Department of Corrections will absorb costs. The Secretary of State is in the process of developing the requirements for a unique identifier. The number will only be assigned to people who do not have a drivers license number or a social security number. The cost to develop the database is already budgeted.

Testimony Against: (State Government Operations & Accountability) (Opposed to original bill) The CIS database is not a comprehensive list of all citizens, it is a list of naturalized citizens. This provision is a tool to disenfranchise those voters who are here legally. They will loose the right to vote without a notification system or appeal process.

Where did the concerns regarding citizenship come from? Rumors are not enough. The last election did not reveal a problem with illegal aliens. This amounts to over-correcting and will result in racial profiling. The lists won't include "Schindler," "Haigh," or "Clements," it will be Latino names. There is no appeal process.

Testimony Against: (Appropriations) None.

Persons Testifying: (State Government Operations & Accountability) (With concerns on original bill) Shane Hamlin, Office of the Secretary of State; Bob Terwilliger, Snohomish County Auditor; Kim Wyman, Thurston County Auditor; Michael Slater, Project Vote; Antonio Ginatta, Governor's Executive Policy Office; Rowland Thompson, Allied Daily

Newspapers of Washington; and Jennifer Shaw, American Civil Liberties Union of Washington.

(Opposed to original bill) Erik Nicholson, United Farm Workers of America; and Lupe Gamboa, Grupo Mexico.

Persons Testifying: (Appropriations) Katie Blinn, Office of the Secretary of State.

Persons Signed In To Testify But Not Testifying: (State Government Operations & Accountability) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.