

SENATE BILL REPORT

E2SHB 2595

As Reported by Senate Committee On:
State Government, Tribal Relations & Elections, February 19, 2018
Transportation, February 26, 2018

Title: An act relating to increasing opportunities for citizens to participate in elections by streamlining procedures in order to automatically register citizens to vote.

Brief Description: Concerning procedures in order to automatically register citizens to vote.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Hudgins, Dolan, Appleton, Gregerson, Pellicciotti, Jinkins, Senn, Wylie, Peterson, Sawyer, Fitzgibbon, Valdez, Stanford, Pollet, Doglio, Goodman, Ormsby, Macri, Riccelli, Robinson and Stonier; by request of Governor Inslee).

Brief History: Passed House: 2/12/18, 50-48.

Committee Activity: State Government, Tribal Relations & Elections: 2/16/18, 2/19/18 [DPA-TRAN, DNP, w/oRec].

Transportation: 2/21/18, 2/26/18 [DPA].

Brief Summary of Amended Bill

- Provides for an automatic voter registration procedure for enhanced driver's license and identicaid applicants.
- Requires that the Health Benefit Exchange (HBE) automatically provide voter registration information to the Secretary of State (SOS) for persons who consent to such transfer.
- Requires the HBE to report on the feasibility of implementing automatic voter registration.
- Encourages other agencies, including those providing public assistance or services to persons with disabilities, the Department of Agriculture, Veterans Affairs, the Military Department, and the business professions division of the Department of Licensing (DOL), to offer the option to be automatically registered to vote.
- Prohibits disclosure of certain information about voters, including the month and day of a registered voter's birth.

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.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Majority Report: Do pass as amended and be referred to Committee on Transportation.
Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Saldaña.

Minority Report: Do not pass.
Signed by Senator Miloscia, Ranking Member.

Minority Report: That it be referred without recommendation.
Signed by Senator Zeiger.

Staff: Samuel Brown (786-7470)

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended.
Signed by Senators Hobbs, Chair; Saldaña, Vice Chair; King, Ranking Member; Chase, Cleveland, Dhingra, Fortunato, Lias, McCoy, Sheldon, Takko, Walsh, Wellman and Zeiger.

Staff: Bryon Moore (786-7726)

Background: National Voter Registration Act. Among the provisions of the National Voter Registration Act of 1993 (NVRA), popularly known as Motor Voter, is a requirement for states to provide opportunities for voter registration when citizens apply for a new or renew an existing driver's license or identification card.

In Washington, driver's licensing agents ask driver's license or identicard applicants whether the applicant wants to register to vote or update an existing voter registration. An applicant for a standard driver's license or identicard is not asked to disclose the applicant citizenship or legal residency status unless the applicant chooses to register to vote. If an applicant registers to vote, DOL transmits that voter's registration information to the SOS.

The NVRA also requires that certain designated social services agencies perform voter registration activities. In addition to DOL, the Governor has designated the following as voter registration assistance agencies:

- the Department of Health (DOH);
- the Department of Services for the Blind;
- the Department of Social and Health Services;
- the HBE; and
- the Health Care Authority.

Since 2015, nine states and the District of Columbia have enacted laws requiring the automatic voter registration of eligible applicants for services at state agencies, predominantly at motor vehicle departments, unless the applicant opts out.

Voter Registration Database. The SOS maintains a centralized voter registration database containing the name and registration information of every legally registered voter in the state.

Registration information shared with the SOS through the DOL database is validated and added to this official list of registered voters. The electronic signature on a drivers' license, identicard application, or renewal may serve as the electronic signature for voter registration purposes.

Crimes and Penalties. Voter violations, including knowingly registering to vote when unqualified, providing false voter registration information, and making a false declaration about voter qualifications, are punishable as Class C felonies.

A person who knowingly tampers with a registration form or intentionally fails to return another person's registration form is guilty of a gross misdemeanor. This does not apply to the voter who completed the form or to a county auditor who is acting as authorized by law.

The Address Confidentiality Program (ACP). The ACP, administered by the SOS, keeps secret the addresses of certain criminal justice employees and victims of domestic violence, sexual assault, trafficking, or stalking. Program participants may register to vote without creating a public record.

Birth Certificates. State laws regarding birth certificates and other vital records are administered by DOH, and establish a standard birth certificate form, use the requirements for completing and forwarding birth certificate information, and requirements for issuing new or amended birth certificates.

Summary of Amended Bill: Automatic Voter Registration With Enhanced Identification. An applicant for an enhanced driver's license or identicard is automatically registered to vote or update an existing registration if the applicant is over 18 years of age and United States citizenship is verified at the time of application unless the applicant opts not to register.

DOL must provide the voter registration information for every person who does not decline to be automatically registered to vote or update an existing registration to SOS. For every complete application, the county auditor must mail the applicant an acknowledgement notice and voter registration card within 60 days. For every incomplete application, the auditor shall promptly mail the applicant a verification notice and register the person if missing information is supplied within 45 days.

DOL must immediately notify the SOS and county auditor if the enhanced driver's license or identicard is cancelled due to the failure of a licensee who was automatically registered to vote to give correct information. DOL may not share data used by the SOS to verify voters with federal agencies or state agencies other than SOS.

Automatic Voter Registration Information Transmission at the HBE. Contingent on approval from the Centers for Medicare and Medicaid Services for any process changes, the HBE must transmit the name, address, and date of birth of each consenting applicant who is a citizen and at least 18 years old to the SOS for the purpose of the applicant being registered to vote. HBE must report known barriers to implementation of this process to the Governor and appropriate legislative committees by December 1, 2019.

Automatic Voter Registration at Other State Agencies. State agencies providing public assistance or services to persons with disabilities, the Department of Agriculture, the Department of Veterans Affairs, the Military Department, and the business professions division of DOL are encouraged to provide automatic voter registration to applicants for services. Eligible agencies which opt to provide automatic voter registration must consult with the SOS to establish criteria and procedures. Eligible agencies which do not intend to provide automatic voter registration services must submit a report to the Governor and appropriate legislative committees detailing the reasons doing so would be unfeasible by December 1, 2019. The Governor will make the final decision whether the agency will provide automatic voter registration.

Each agency opting to offer automatic voter registration must inform applicants for assistance that the applicant will be registered to vote unless the applicant declines or is found to be ineligible. The applicant's transaction with the agency will not be completed until the applicant is given the opportunity to decline being registered to vote. The agency must also disclose to applicants:

- the qualifications for becoming a registered voter;
- the penalties for knowingly registering when ineligible or providing false registration information;
- that voter registration is voluntary and will not impact that individual's eligibility for other services or benefits;
- that the person's choice to register or not register will not be used for any other purpose; and
- about the ACP.

Each agency must provide the SOS the following voter registration information for individuals who do not decline to be registered:

- the person's name, residential and mailing addresses, and birth date;
- acknowledgment that the person is a U.S. citizen;
- a digital copy of the person's signature; and
- an affirmation of the person's eligibility to be a registered voter.

Agencies may not share information used to verify identity with federal agencies unless required by law.

The SOS determines whether the person is eligible to be registered to vote or requires an updated voter registration, and provides that information to the county auditor where the person may be registered. The county auditor must then register that person to vote or update the registration information. If voter registration information is received within eight days of an election, information is not submitted to the county auditor until after the election.

Crimes and Penalties. If a person does not know the person is ineligible to vote and becomes registered through automatic processes, or subsequently unknowingly attempts to vote or votes illegally as a result of being registered automatically, that person is presumed to have acted with official authorization and is not guilty of a Class C felony.

An employee of a qualified voter registration agency is guilty of a gross misdemeanor if an employee:

- willfully neglects, refuses to perform, or performs in an incorrect manner any duty required by law in connection with the registration of voters;
- enters, causes, or permits to be entered on the voter registration records the name of any person not entitled to be registered; or
- destroys, conceals, or alters any registration record except as authorized by voter registration law.

If an ineligible person is automatically registered to vote, SOS and the relevant agency must jointly determine the cause of the registration.

Information Disclosure. SOS may only disclose the year of a registered voter's birth, rather than the month, date, and year.

EFFECT OF TRANSPORTATION COMMITTEE AMENDMENT(S): Adds the Department of Agriculture, the Department of Veterans Affairs, the Military Department, and the business professions division of DOL to the list of agencies encouraged to provide automatic voter registration to applicants for services.

EFFECT OF STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS COMMITTEE AMENDMENT(S): Automatic Voter Registration With Enhanced Identification. DOL must offer automatic voter registration to every person who is applying for a new or renewing an existing enhanced driver's license or identicard, or applying to change their address for an existing enhanced driver's license or identicard.

Automatic Voter Registration at Other State Agencies. State agencies providing public assistance or services to persons with disabilities are encouraged to provide automatic voter registration to applicants for services. Eligible agencies which opt to provide automatic voter registration must consult with the SOS to establish criteria and procedures. Eligible agencies which do not intend to provide automatic voter registration services must submit a report to the Governor and appropriate legislative committees detailing the reasons doing so would be unfeasible by December 1, 2019. The Governor will make the final decision whether the agency will provide automatic voter registration. Procedures are provided for automatic voter registration at agencies providing public assistance or services to persons with disabilities.

Automatic Voter Registration Study. The requirement that the SOS conduct a study regarding the creation of automatic voter registration processes at birth and for recently naturalized citizens who reside in Washington is removed.

Crimes and Penalties. The presumption that a person who did not know they were ineligible to vote and was automatically registered to vote acted with official authorization is removed. An employee of a qualified voter registration agency is guilty of a gross misdemeanor if an employee:

- willfully neglects, refuses to perform, or performs in an incorrect manner any duty required by law in connection with the registration of voters;
- enters, causes, or permits to be entered on the voter registration records the name of any person not entitled to be registered; or

- destroys, conceals, or alters any registration record except as authorized by voter registration law.

If an ineligible person is automatically registered to vote, SOS and the relevant agency must jointly determine the cause of the registration.

Information Disclosure. SOS may only disclose the year of a registered voter's birth, rather than the month, date, and year.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Second Engrossed House Bill (State Government, Tribal Relations & Elections): *The committee recommended a different version of the bill than what was heard.* PRO: Every eligible voter should be able to fully participate in our democracy, and this furthers that goal. This will make our democracy more accessible. We support the more expansive language in the Senate bill. County auditors see this as essential to making same-day voter registration work, but would like to make the bill effective upon implementation of the new voter registration database in December 2019. Other states that have implemented automatic voter registration have seen increases in turnout.

OTHER: We support most aspects of the bill, but would prefer to see all social service agencies represented. We also have concerns about language stating that inadvertent false registrants committed an authorized act and about studying automatic voter preregistration of all recorded births.

Persons Testifying (State Government, Tribal Relations & Elections): PRO: Alex Hur, Washington Voting Justice Coalition; Toby Guevin, Thurston County Auditor's Office; Vicky Dalton, Spokane County Auditor; RaShelle Davis, Governor's Office.

OTHER: David Elliott, Office of the Secretary of State.

Persons Signed In To Testify But Not Testifying (State Government, Tribal Relations & Elections): No one.

Staff Summary of Public Testimony on Bill as Amended by State Government, Tribal Relations & Elections (Transportation): *The committee recommended a different version of the bill than what was heard.* PRO: This expands the voter registration process similar to what other states have already done. It is narrowed from how it was introduced. It is really an attempt to lower the hurdles for voter registration. This modernizes our voter registration system and is an efficient way to increase civic engagement.

OTHER: The date of birth exclusion is problematic because it will not allow positive identification for people with similar names born in the same year.

Persons Testifying (Transportation): PRO: Representative Zack Hudgins, Prime Sponsor; Salvador Salazar Cano, Olympia Advocate for the University of Washington Bothell; Rosa Rice-Pelepko, Associated Students of Western Washington University; James Paribello, Washington Voting Justice Coalition.

OTHER: David Elliott, Office of the Secretary of State.

Persons Signed In To Testify But Not Testifying (Transportation): No one.