HOUSE BILL REPORT
E2SSB 5112

As Reported by House Committee On:
State Government & Tribal Relations
Transportation

Title: An act relating to updating processes related to voter registration.

Brief Description: Updating processes related to voter registration.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Hunt, Hasegawa, Kuderer, Valdez, Wilson, C. and Wilson, J.; by request of Secretary of State).

Brief History:
Committee Activity:
State Government & Tribal Relations: 3/10/23, 3/15/23 [DPA];
Transportation: 3/23/23, 3/29/23 [DPA(TR w/o SGOV)].

Brief Summary of Engrossed Second Substitute Bill
(As Amended By Committee)

- Provides that a person who applies for, renews, or updates an enhanced driver's license or enhanced state identification card at the Department of Licensing (DOL) is automatically registered to vote, and they may subsequently decline to register in writing, rather than being given the opportunity to decline to register to vote while at the DOL.

- Makes minor administrative or technical changes to provisions of law related to voter registration, inactive and cancelled voters, and voter registration challenges.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass as amended. Signed by 5 members: Representatives Ramos, Chair; Stearns, Vice Chair; Abbarno, Ranking Minority Member; Gregerson and Mena.

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

Minority Report: Without recommendation. Signed by 2 members: Representatives Christian, Assistant Ranking Minority Member; Low.

Staff: Jason Zolle (786-7124).

Background:

Voter Registration.
Any citizen who wishes to vote and is eligible to do so must first register. The registration process requires a person to provide their name, residential address, date of birth, affirmation of citizenship, and a signature attesting to the truth of the information provided. An application to register to vote must be received by an election official eight days before an election if registering by mail or online, or by 8:00 p.m. on the day of an election if registering in person at a designated location.

An applicant may register to vote online if the applicant has a Washington driver's license or state identification card. In this case, the Office of the Secretary of State (OSOS) must obtain a digital copy of the voter's signature as provided on their driver's license or state identification card from the Department of Licensing (DOL).

Enhanced Driver's Licenses and Identicards..
Any state resident who is also a citizen of the United States may obtain an enhanced driver's license (EDL) or enhanced state identification card (EID). The applicant must provide the same information required for a driver's license, as well as proof of their identity, citizenship, and state residency. Applicants also must complete an in-person interview with a DOL employee.

The Motor Voter Law and Automatic Registration.
The National Voter Registration Act (NVRA) requires states to provide the opportunity to register to vote for federal elections. To comply with the NVRA, Washington requires the DOL to provide voter registration services when a person applies for or renews a driver's license or state identification card. The DOL employee must ask the applicant if they wish to register to vote or update their voter registration.

Washington also has enacted an automatic voter registration program for anyone age 18 or older who applies for or renews an EDL or EID at the DOL. If the data collected by the DOL contains sufficient information to determine whether the applicant meets the requirements for voter registration, and it includes a signature image, the applicant must be told that their information will be used to register them to vote unless they wish to decline to register. If the applicant does not decline, the DOL must transmit this information to the OSOS. Additionally, an applicant who is already registered to vote but is changing their address on their EDL or EID will have their voter registration address updated automatically under this process, unless they decline.

If the automatic registration is missing any required information, the county auditor must mail a request to the person to provide the missing information, which must be provided within 45 days, in order to complete an application.

Inactive and Cancelled Voters.
All registered voters are classified as active unless they are assigned to inactive status by the county auditor. The county auditor must place a voter on inactive status if they receive information from the postal service, the DOL, or another agency providing voter registration services that the voter has moved out of the county. A voter is also placed on inactive status if election mail to the voter is returned as undeliverable without a new address.

Registrations of deceased voters are canceled by the OSOS after receiving a periodic list of people who died from the state Registrar of Vital Statistics. County auditors may also use government agencies and newspaper obituary articles to identify deceased voters to cancel their registrations. A voter may also sign a statement for the county auditor or the OSOS, subject to the penalties of perjury, that another registered voter is deceased. A voter's registration is also canceled if a person is subject to a court-imposed guardianship and the court determines that the person is incompetent for the purpose of rationally exercising the right to vote.

A voter whose registration is inactive and requests to vote before two federal general elections have been held must be allowed to vote a regular ballot, and their registration is restored to active status. A voter whose registration is canceled and requests to vote is given a provisional ballot. The county auditor must then investigate the reason for the cancellation. If the cancellation was in error, the provisional ballot is counted. If it was not in error, the voter must be given the option to reregister to vote, and the provisional ballot is not counted.

Challenges to a Voter's Registration.
A registered voter or a county prosecuting attorney may challenge a voter's registration for failure to meet the legal qualifications, such as not being a citizen of the United States, having been convicted of a felony without having their civil rights restored, or not living at the residential address provided. If the challenge is because the voter does not live at the address provided, the challenger must provide the challenged voter's actual residence or submit evidence that the challenger exercised due diligence to verify that the address is incorrect. In the latter case, the challenger must personally send a letter with return service requested to the voter's address, visit the address provided and obtain an affidavit that the voter does not live there, search local telephone directories and property records, and search the voter registration database to determine whether the voter is registered at another address in the state.

Challenges to a voter's eligibility must be filed no later than 45 days before an election, unless the voter registered to vote or changed addresses fewer than 60 days before the

election. The county canvassing board presides over a hearing on the challenge. The procedures for challenges are provided in statute.

Summary of Amended Bill:

Changes to Automatic Voter Registration.
Rather than asking an individual who applies for, renews, or updates an EDL or EID if they would like to register to vote or update their address, the DOL must collect and transmit their voter registration information to the OSOS, as long as the person is a citizen and they meet the requirements for voter registration and provide a signature image. This information must be transmitted from the DOL to the OSOS daily. Through this process, the person is automatically registered to vote.

Within five business days after a person is automatically registered to vote or has their address automatically changed at the DOL, the county auditor must send the person an automatic voter registration acknowledgement notice package. This is a package of information sent by nonforwardable mail by the county auditor to a person who was automatically registered to vote or had their address changed at the DOL. The package must include a prepaid return form that the person may return by mail to decline to be registered to vote or have their address changed. The package must also include a notice stating that if the person does not meet the qualifications to vote, they must return the form and decline to be registered. The OSOS may require other information to be included in the package. If the county auditor receives information from the DOL regarding the applicant after the deadline to register to vote by mail or electronically (eight days before the election), then the package may be sent after the election.

If a person replies stating that they do not wish to be registered to vote, and the reply is received by the county auditor within 15 days after the package is mailed, the person is removed from the list of registered voters and is deemed to have never registered to vote. If a notice declining registration is returned after that deadline, the county auditor must cancel the voter's registration.

An applicant who is automatically registered to vote at the DOL is considered registered to vote as of the date that an election official receives their information from the DOL, unless:
- the voter declines registration; or
- the elections official receives the voter's information after the deadline to register to vote by mail or electronically, in which case the voter is considered registered to vote as of the day after the election.

Along with the information required to register to vote at a driver's license facility, the DOL must also transmit to the OSOS any of the following information, if it is provided by the individual registering to vote:
- a language preference;

- a phone number;
- an email address; and
- if requested by the OSOS, copies of the documents used by the voter to prove citizenship.

The DOL may not ask a person if they wish to register to vote if the identification document used for their transaction shows they are not a United States citizen.

The OSOS may enact rules related to automatic voter registration. Other minor administrative or technical changes are made.

<u>Changes Regarding Inactive and Cancelled Voters and Challenges to a Voter's Registration</u>. An eligible voter whose registration has been made inactive or cancelled must be allowed to register and vote at their current residential address, rather than voting a provisional ballot. A voter whose registration is challenged may update their registration or reregister until 8:00 p.m. on election day, rather than by the day before the election.

A county auditor must cancel an inactive voter registration when receiving information that the person has moved out of state or died.

A person who challenges a voter for not residing at their address no longer has to attempt to contact the challenged voter to learn their actual residence, or visit the residential address provided and contact persons there. Instead, the person may search the voter registration database of another state to determine if the voter is registered to vote in another state, among other methods that remain permissible.

Other minor administrative or technical changes are made.

<u>Other Provisions</u>.
The voter's year of birth, rather than their full birthdate, is available for public inspection and copying from the state voter registration records.

Language throughout is updated to correspond with new acts related to the voting eligibility for those convicted of a felony.

Amended Bill Compared to Engrossed Second Substitute Bill:

The amended bill specifies that a voter utilizing automatic voter registration at the DOL is considered registered to vote as of the time that an election official receives their information, not as of the date of the transaction. The amended bill also clarifies that in order to be deemed to have never registered to vote, a person who has been automatically registered to vote must decline registration in a reply that is received by the auditor within 15 days. It further specifies that auditors must cancel a voter's registration when they receive replies declining to register to vote after the 15-day deadline.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony:

(In support) Voter registration should be simple and convenient. The changes to automatic voter registration in this bill help streamline the process. It takes the burden off of the DOL service agent to ask whether someone wants to go through the process of registering. But the voter still has the chance to decline when they get the notice package in the mail. This puts the onus on the voter, where it should be, and not the staff at the DOL. Anyone applying for an enhanced license is a citizen, so they are eligible to vote. The bill also adds guardrails to ensure that noncitizens applying for standard licenses are not registered to vote. Automatic transfer of data from the DOL for people who update their enhanced licenses will also help keep voter rolls updated. This policy is done in several other states.

(Opposed) This policy has the potential for confusing people who do not want to register to vote, as they may not realize they have been automatically registered to vote and need to actively unenroll.

(Other) This bill is a great opportunity to reinforce public trust. Legislators should consider amending the bill to address an unrelated concern about witness signatures.

Persons Testifying: (In support) Senator Sam Hunt, prime sponsor; Carol Sullivan, League of Women Voters of Washington; Steve Hobbs, Office of the Secretary of State; Alex Tischenko, Center for Secure and Modern Elections; and Alex Alston, Washington Voting Justice Coalition.

(Opposed) Joshua Hardwick.

(Other) Eric Pratt.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended by Committee on Transportation and without amendment by Committee on State Government & Tribal Relations. Signed by 17 members: Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Berry, Bronoske, Chapman, Cortes, Doglio, Duerr, Entenman, Hackney, Mena, Ramel, Ramos, Taylor and Wylie.

Minority Report: Do not pass. Signed by 9 members: Representatives Hutchins, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Goehner, Griffey, Klicker, Orcutt, Schmidt, Volz and Walsh.

Minority Report: Without recommendation. Signed by 3 members: Representatives Barkis, Ranking Minority Member; Low, Assistant Ranking Minority Member; Dent.

Staff: Michael Hirsch (786-7195).

Summary of Recommendation of Committee On Transportation Compared to Recommendation of Committee On State Government & Tribal Relations:

The Transportation Committee recommended changing the list of factors that may be used as evidence in a voter registration challenge that a voter does not reside at their address to a mandatory list of actions that must be taken by the challenger.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony:

(In support) This bill automatically registers Washington citizens who show proof that they meet voter registration requirements. The bill puts the onus on the voter to say that they do not want to be registered to vote.

Voter registration should be simple and convenient. This system is used in other states and is considered the gold standard. Once registered, people are more likely to vote. This bill keeps voting records up to date which supports the integrity of the system and voter confidence. The current system lets people who are not eligible to vote register in error. This bill removes the risk of registering a person who is not eligible. The bill increases privacy by restricting public information to birth year rather than birth date. It has additional guardrails to prevent people from voting through the standard license process. Under the bill, a person presenting evidence that they are not a citizen is not asked if they are a citizen and whether they want to vote.

(Opposed) None.

Persons Testifying: Senator Sam Hunt, prime sponsor; Carol Sullivan, League of Women Voters of Washington; Brian Hatfield, Office of Secretary of State; and Alex Tischenko, Center for Secure and Modern Elections.

Persons Signed In To Testify But Not Testifying: None.