

HOUSE BILL REPORT

HB 1229

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: Representatives Simmons, Gregerson, Macri, Hackney, Goodman, Ryu, Senn, Mena, Fey, Peterson, Ramel, Street, Alvarado, Thai, Reeves, Reed, Ortiz-Self, Ormsby, Duerr, Doglio, Berry, Bateman, Morgan, Callan, Bergquist, Fosse, Pollet, Lekanoff, Slatter, Stonier and Santos; by request of Secretary of State.

Brief History:

Committee Activity:

State Government & Tribal Relations: 2/7/23, 2/15/23 [DPS];
Transportation: 2/20/23, 2/23/23 [DP2S(w/o sub SGOV)].

Brief Summary of Second Substitute Bill

- 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: The substitute bill be substituted therefor and the substitute bill do pass.

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.

Signed by 7 members: Representatives Ramos, Chair; Stearns, Vice Chair; Abbarno, Ranking Minority Member; Christian, Assistant Ranking Minority Member; Gregerson, Low and Mena.

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. The deadline to register to vote is eight days before an election if registering by mail or online, or 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 Substitute 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 DOL to the OSOS daily. Through this process, the person is automatically registered to vote.

Within five 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.

An applicant who is automatically registered to vote at the DOL is initially considered pending, and they are added to the list of registered voters if they do not respond to the acknowledgment package within 15 days of the date of mailing. They are considered registered as of 21 days following the transaction. A voter utilizing automatic voter registration is considered registered as of the date that the election official receives the information to register the person to vote, unless they decline to register to vote in a reply that is received by the county auditor within 15 days of the mailing of the packet, or if an election official receives the information to register to vote after the deadline to register to vote by mail or electronically. If a notice declining registration is returned after that deadline, the county auditor must cancel the voter's registration.

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
- digital images of the documents used by the voter to prove citizenship.

The bill removes language that provided a safe harbor from certain criminal punishments for any voter who was registered to vote automatically unless they willfully and knowingly voted or attempted to vote knowing that they were not entitled to do so.

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

Changes Regarding Inactive and Cancelled Voters and Challenges to a Voter's Registration.
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.

Other Provisions.

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.

Substitute Bill Compared to Original Bill:

Language is added to state that a voter utilizing automatic voter registration is considered registered as of the date that the election official receives the information to register the person to vote, unless they decline to register to vote in a reply that is received by the county auditor within 15 days of the mailing of the packet, or if an election official receives the information to register to vote after the deadline to register to vote by mail or electronically. If a notice declining registration is returned after that deadline, the county auditor must cancel the voter's registration.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 17, 2023.

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

Staff Summary of Public Testimony:

(In support) This bill is Secretary of State request legislation to improve the integrity of voter rolls and to increase access to registration. It was passed unanimously from the Senate State Government and Elections Committee and nearly so from the Senate Transportation Committee. The policy is based on models in Colorado, Oregon, Alaska, and other states. It is the most secure and efficient way to get voters registered and to keep voter rolls up to date and complete. People applying for enhanced licenses automatically meet voter requirements, and once someone is registered to vote they are more likely to participate. There is virtually no risk of inadvertently registering someone who is not eligible. When people move, they don't think about changing their voter registration, but they do change their driver's license address. A number of friendly amendments have been suggested and some were accepted by the Senate.

(Opposed) None.

(Other) This policy makes elections safe and secure. There is a concern wholly unrelated to this bill about witness signatures that people should be aware of.

Persons Testifying: (In support) Representative Tarra Simmons, prime sponsor; Steve Hobbs, Office of the Secretary of State; Carol Sullivan; Alex Tischenko, Center for Secure and Modern Elections; Julie Wise, King County Elections; and Alex Alston, Washington Voting Justice Coalition.

(Other) Eric Pratt.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on State Government & Tribal Relations. Signed by 16 members: Representatives Fey, Chair; Donaghy, 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 11 members: Representatives Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Dent, Goehner, Griffey, Klicker, Orcutt, Schmidt, Volz and

Walsh.

Minority Report: Without recommendation. Signed by 1 member: Representative Low, Assistant Ranking Minority Member.

Staff: Michael Hirsch (786-7195).

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

The substitute bill as recommended by the House Transportation Committee removes the category of "pending voters" created by the original bill, and removes language stating that an automatically-registered voter is considered registered to vote 21 days after the DOL transaction.

An automatic voter acknowledgement notice package must be sent within five business days, rather than five days, and may be delayed until after an election if the election official receives information about the applicant after the deadline to register to vote by mail or electronically.

The DOL must send copies of the documents that an individual uses to prove citizenship only if requested by the OSOS. The DOL must 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 substitute bill as recommended by the House Transportation Committee reinstates a safe harbor provision about various voter registration crimes that had been stricken in the original bill.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The bill upgrades automatic voter registration to improve the integrity of the rolls and increase access. The bill adopts gold standard measures regarding voter registration already implemented in other states. Applicants for enhanced licenses who have to prove citizenship are those affected by the bill. The changes to the registration system can reduce DOL transaction times. This is a secure way to register eligible voters and keep the voter rolls accurate and up to date.

(Opposed) None.

(Other) Voters are distrustful of the voting process. Voter rolls are managed autonomously by the Secretary of State and the county auditors. The Legislature should determine what documents determine proof of citizenship, not the Secretary of State. The opt-out system created by the bill will lead to false registrations. A checkbox for an affidavit of citizenship is not proof of anything and will lead to people registering erroneously or accidentally.

Persons Testifying: (In support) Alex Tischenko, Center for Secure and Modern Elections.

(Other) C Davis.

Persons Signed In To Testify But Not Testifying: None.