

# HOUSE BILL REPORT

## HB 2539

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As Reported By House Committee On:  
State Government

**Title:** An act relating to voting.

**Brief Description:** Implementing the National Voter Registration Act.

**Sponsors:** Representatives Anderson, Veloria, Dunshee, Johanson, Pruitt, King, Conway and Springer; by request of Secretary of State.

**Brief History:**

Reported by House Committee on:  
State Government, February 1, 1994, DPS.

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### HOUSE COMMITTEE ON STATE GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Anderson, Chair; Veloria, Vice Chair; Reams, Ranking Minority Member; L. Thomas, Assistant Ranking Minority Member; Campbell; Conway; Dyer; King and Pruitt.

**Staff:** Kenneth Hirst (786-7105).

**Background:** In May 1993, Congress passed the National Voter Registration Act of 1993. The act applies to voter registration for participation in federal elections. In general, the act takes effect on January 1, 1995. An extension of the effective date is granted to certain states. This extension of approximately one year applies to a state which would have to change its constitution to offer the same programs for registering persons to vote in state elections as apply under the act to registering to vote for federal offices.

The federal act requires that each state establish procedures for registering persons to vote: (1) simultaneously with an application for or a renewal of a driver's license, (2) by mail, and (3) in person. A specified in-person registration program must be provided in all offices in the state that provide public assistance and in all offices that provide state-funded programs primarily engaged in providing services to persons with disabilities.

These offices must be designated by the state. Persons who have moved within a county and congressional district but who have not notified the auditor of their changes of address before election day must be permitted to vote for federal offices. General administrative requirements are established by the act for voter registration lists. For example, the circumstances under which the names of voters may be removed from registration lists are specified by the act as are requirements for maintaining and disclosing registration information.

Each state must designate an officer or employee as the chief state election official responsible for the coordination of state responsibilities under the act.

Washington's Constitution entitles persons to vote who satisfy certain criteria and who have lived in the state, county, and precinct 30 days immediately preceding the election at which they offer to vote. State law permits an election day transfer from one address to another whether the transfer is within one county or from one county to another in the state. Notwithstanding Article VI, Section 1 of the constitution, statutory law currently requires the person making such a transfer to vote in the precinct serving his or her pre-transfer registration address.

**Summary of Substitute Bill:** Among the duties of the Secretary of State is the duty to coordinate state election activities required by federal law.

Agency-Based Registration. The Governor, in consultation with the secretary, must designate agencies which are to provide voter registration services in compliance with federal law. The secretary is to design standard voter registration forms to be used by these agencies. A person may register to vote or transfer a voter registration when he or she applies for service or assistance at such an agency. The person may also register with each renewal, recertification, or change of address. A prospective applicant is to be provided a voter registration form which complies with all applicable state and federal statutes regarding content.

The secretary prescribes the method of voter registration for each designated agency. The agency must use either the state voter registration-by-mail form with a separate form for the applicant to indicate that he or she declines to register (a declination form) or the agency may use another form approved by the secretary. The person providing service at the agency must offer voter registration services to every client whenever he or she applies for service or assistance and with each renewal, recertification, or change

of address. The person providing service must give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents.

The secretary must adopt rules: governing the delivery and processing of voter registration application forms submitted by designated state agencies, ensuring the integrity of the voter registration process, and ensuring the integrity and confidentiality of data on registered voters collected.

Motor Voter. The Department of Licensing's change-of-address form must permit the applicant to indicate whether the address change is for voting purposes. The department must provide change-of-address information obtained from registered voters, other than changes which are expressly not for voting purposes, to the Secretary of State in a machine readable form.

Registration-by-Mail. If a register-by-mail application form is received by a county auditor within five days of the close of the date for new registrations for an election and the postal cancellation date on the registration is illegible, the registration shall be deemed to have arrived before such closure. Registrations made by mail are considered to be effective as of the date of the mailing. An acknowledgement notice, rather than simply a registration card, is to be forwarded to the new registrant. If this acknowledgement notice is returned to the auditor as undeliverable, the registration is no longer automatically cancelled, as under current law. A second notice, a confirmation notice, is to be sent to the registrant and the registration is to be placed on inactive status.

Crimes. It is now a class C felony for a person to: cause knowingly himself or herself to be registered in two or more counties; or offer payment to another, on a per-registration basis, to assist in registering voters or to accept such payment.

Inactive Voters. A provision of the Election Code is repealed which requires a person's voter registration to be cancelled for the person's failure to vote. However, a county auditor must assign a registered voter to inactive status if any of the following documents are returned by the postal service as undeliverable: an acknowledgement of registration; an acknowledgement of transfer to a new address; a vote-by-mail ballot, absentee ballot, or application for a ballot; notification to a voter after precinct reassignment; notification to serve on jury duty; or any document, other than a confirmation notice, required by statute, to be mailed by the county auditor to the voter.

A voter is also to be placed in inactive status whenever change-of-address information received from the Department of Licensing, or from any other agency designated to provide voter registration services, indicates that the voter has moved to an address outside the county or the auditor receives postal change of address information indicating that the voter has moved out of the county.

Maintaining Voter Lists. Each county auditor must establish a uniform and nondiscriminatory, general program for maintaining registration lists. Any use of such a program must be completed not later than 90 days before a primary or general election for federal office. Two programs are now specified by statute as satisfying this requirement. One involves sending confirmation notices, case-by-case, based on postal change-of-address information and the other is a direct mailing to each registered voter in the county requesting address correction information. The secretary may authorize others.

Procedures for sending and responding to confirmation notices regarding voter registrations are established. Confirmation notices must be on a form approved by the secretary. The notice must request that the voter confirm that he or she continues to reside at the address of record and desires to continue to use that address for voting purposes.

An auditor may not cancel a voter's registration until the day after the second general election for federal office which occurs after a confirmation notice is sent to the inactive voter. The auditor must return an inactive voter to active status if, before that deadline, the voter notifies the auditor of a change of address within the county, votes or attempts to vote and resides in the county, responds to a confirmation notice with information indicating that the voter continues to reside within the county, or signs any petition authorized by statute for which signatures are required by law to be verified by the county auditor. If the inactive voter fails to take such an action by the second federal election, the voter's registration must be cancelled.

Each county auditor must maintain all records concerning the implementation of programs and activities conducted for the purpose of insuring the accuracy and currency of official lists of eligible voters. The records must be maintained for at least two years and must be available for public inspection and copying. They must contain lists of all persons removed from the list of eligible voters and the reasons why the voters were removed.

Voting: Inactive Voters and Cancelled Registrations. If a voter whose registration has been placed on the inactive list offers to vote at an ensuing election before two federal elections have been held, the voter is entitled to vote a regular ballot and the voter's registration must be restored to active status. If a voter whose registration has been properly canceled offers to vote, the voter must vote a special ballot. The ballot is to be voted in secrecy and placed in a security envelope. The security envelope must be placed in a special ballot envelope and the reasons for the use of the special ballot noted. Upon receiving such a special ballot, the auditor must investigate the circumstances surrounding the cancellation of the registration. If the auditor determines that the cancellation was in error, the voter's registration is immediately reinstated, and the special ballot is counted. If the original cancellation was not in error, the voter's special ballot is not to be counted.

Such a "special ballot" is also to be issued to a voter at the polling place on election day if: the voter's name does not appear in the poll book; there is an indication in the poll book that the voter has requested an absentee ballot, but the voter wishes to vote at the polling place; or there is a question on the part of the voter concerning the issues or candidates on which the voter is qualified to vote.

Active v. Inactive Registrations. The precinct sizes specified by statute are to be based on active registrations. Those who are "ongoing" absentee voters are not counted in determining the size of precincts served by voting devices or machines. In small, vote-by-mail precincts and when special elections are conducted by mail ballot, inactive voters are to be sent applications for mail ballots. Inactive voters are not to be included in the count of registered voters for the purpose of dividing precincts, creating vote-by-mail precincts, determining voter turnout, or other purposes in law for which the determining factor is the number of registered voters. In special elections conducted exclusively by mail ballot, auditors choose whether inactive voters are to be sent applications for ballots rather than ballots.

Felony Convictions. Within 14 days of the entry of a judgment of conviction of an individual for a felony, the clerk of the court must send a notice of the conviction to the county auditor in the county of the person's residence. If the individual is registered to vote in the county, the auditor must cancel the registration.

Other. The information required for voter registration is stated to be the minimum information required by a county

auditor to place a voter applicant on the registration rolls, including the applicant's name, residence address, date of birth and signed attestation regarding the veracity of such information. If an applicant fails to provide such information when applying for registration, the auditor shall send him or her a verification notice. If the notice is returned as undeliverable or if the applicant fails to respond to the notice within 45 days, the auditor must not register the applicant. If the applicant provides the missing information for a registration-by-mail application, the applicant is considered to be registered as of the date of mailing of the original application.

The attestation in an oath of registration now applies to all information provided in the application.

Deputy registrars are renamed "registration assistants." The registration assistant appointed for a common school or fire station need no longer be a school official or employee or fire station employee. Various certifications made by auditors and the secretary regarding voter registrations are altered or eliminated.

Repealers. Provisions of the Election Code are repealed which: distinguish between permanent and temporary voter registration facilities; declare city clerks to be deputy registrars; require oaths to be administered to voter registration officers; specify registration information needed for in-person registrations other than those conducted by the Department of Licensing; provide for out-of-county temporary registrations; permit temporary registration facilities to be established in cities; and require quarterly reports from vital statistic officials regarding the number of deaths occurring during a quarter.

**Substitute Bill Compared to Original Bill:** The substitute bill supplies the provisions which: expressly prohibit disclosing to the public the agency, or office - for motor voter registrations, at which a particular voter registered or a person's choice not to register; apply by reference, rather than recite, the registration form requirements of federal law and the notices which must accompany those forms; make uniform the procedures to be used by auditors when they receive registration applications or change-of-address information which identifies new residence addresses; specify the period during which an action taken by a voter on inactive status reactivates the registration and expressly authorize auditors to cancel a registration for which such actions have not been taken in a timely manner; exempt "ongoing" absentee voters in calculating the size of certain precincts; and authorize auditors to

determine whether applications rather than ballots are to be mailed to inactive voters in certain vote-by-mail elections.

**Fiscal Note:** Requested January 18, 1994.

**Effective Date of Substitute Bill:** Sections 1-3, 7, 10-12, 21, 22, 25, 27, 28, 31-34, 37-40, 42, 44-52, and 54 take effect January 1, 1995. The remaining sections take effect ninety days after adjournment of session in which bill is passed.

**Testimony For:** (1) The federal voter registration law established new rules that apply to voter registrations for federal elections. This bill applies those rules to all voter registrations in this state so that separate voter registration lists do not have to be maintained for federal elections and for state and local elections. (2) The federal law places the burden on government to keep track of a mobile population. (3) The state's motor voter program has been very successful in adding new names to the county voter registration lists. This bill will add thousands of additional people who are not currently registered. (4) The bill enables a county auditor to cancel a felon's voter registration when the auditor is notified of a felony conviction. (5) The bill prohibits a person from being paid on a per-registration basis for registering voters, similar to the prohibition of state law regarding gathering petition signatures. (6) All of the entities with a role in registering voters under the federal law have worked with the Secretary of State in developing this bill.

**Testimony Against:** None.

**Witnesses:** Ralph Munro, Secretary of State (in favor); Gary McIntosh, Office of the Secretary of State (in favor); Bob Terwilliger, Snohomish County Auditor (in favor); and Bill Wegeleben, Office of the Governor, (in favor of provisions regarding agency-based registration).