

HOUSE BILL REPORT

E2SHB 2595

As Amended by the Senate

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:

Committee Activity:

State Government, Elections & Information Technology: 1/16/18, 1/30/18 [DPS];
Transportation: 2/5/18, 2/6/18 [DP2S].

Floor Activity:

Passed House: 2/12/18, 50-48.
Senate Amended.
Passed Senate: 2/28/18, 29-20.

Brief Summary of Engrossed Second Substitute Bill

- Provides for an automatic voter registration (AVR) procedure for enhanced driver's license and Identocard applicants.
- Requires the Health Benefit Exchange (HBE) to provide voter registration information to the Secretary of State for persons who consent to such transfer.
- Requires the HBE to report on the feasibility of implementing AVR.
- Requires the Secretary of State to study the feasibility of providing AVR for recently naturalized citizen state residents and for voter preregistration at birth.

HOUSE COMMITTEE ON STATE GOVERNMENT, ELECTIONS & INFORMATION TECHNOLOGY

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Hudgins, Chair; Dolan, Vice Chair; Appleton, Gregerson and Pellicciotti.

Minority Report: Do not pass. Signed by 3 members: Representatives McDonald, Ranking Minority Member; Kraft, Assistant Ranking Minority Member; Johnson.

Minority Report: Without recommendation. Signed by 1 member: Representative Irwin.

Staff: Sean Flynn (786-7124).

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 14 members: Representatives Clibborn, Chair; Fey, Vice Chair; Wylie, Vice Chair; Chapman, Gregerson, Kloba, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Riccelli, Tarleton and Valdez.

Minority Report: Do not pass. Signed by 11 members: Representatives Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Hayes, Irwin, Pike, Rodne, Shea, Stambaugh, Van Werven and Young.

Staff: Patricia Hasan (786-7292).

Background:

Voter Registration. Any eligible voter must register in order to vote in any primary, special, or general election. Voter registration requires a person to provide his or her name, residential address, date of birth, affirmation of citizenship, and a signature attesting to the truth of the information provided. The Secretary of State (SOS) maintains a statewide voter registration database that includes information on every registered voter.

In order to vote in an election, a person must submit his or her registration application online or by mail no later than 29 days before the election date, or in person at his or her county auditor's office no later than eight days before the election date. A person may update his or her registration at least 29 days before an election for the change to be effective for that election. A voter who does not transfer his or her residential information by that deadline may still vote according to his or her previous address.

Motor Voter. The National Voter Registration Act (NVRA) requires states to provide the opportunity to register to vote for federal elections. Washington adopted the Motor Voter Act requiring the Department of Licensing (DOL) to provide voter registration services when a person applies for or renews a driver's license or state identification card. It also allows the Governor, in consultation with the SOS, to designate agencies that offer services to the public to provide an opportunity to register to vote.

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

Summary of Engrossed Second Substitute Bill:

Voter registration procedures are adjusted in several ways.

Enhanced Driver's License and Enhanced Identification Applicants. Any person who is at least 18 years old may be automatically registered to vote or have his or her voter registration updated upon being issued or renewing his or her EDL or EID, so long as the DOL's records verify citizenship, include all other required voter registration information, and contain a signature image. The applicant must be offered an opportunity to decline to register.

Within 60 days of such automatic registration, the county auditor must mail an acknowledgement to the voter, which contains the person's designated precinct and other information the SOS may require. Such a mailing may not be forwarded to any other address. If the automatic registration is missing 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.

If the EDL or EID applicant has not declined registration to vote, the DOL must transmit the applicant's information to the SOS, including name, address, date of birth, gender, license number, signature image, and date the application was submitted. The DOL is prohibited from sharing data files used by the SOS to certify voter registration with a federal or state agency unless required by law. Personal information used for obtaining a driver's license or identocard is exempt from public disclosure.

The DOL must notify the SOS and county auditor when an EDL is cancelled due to inaccurate or incorrect application information that was transferred to the SOS.

Health Benefit Exchange Participants. Beginning July 1, 2019, the Health Benefit Exchange (HBE) must provide voter registration information to the SOS for each person who consents to the transfer and meets voter qualification requirements. Such information includes the person's name, residential and mailing address, and date of birth. The SOS must first review the information to determine whether the person is already registered to vote, and then submit the information to the appropriate county auditor. The county auditor must notify the person that he or she is registered to vote. If the SOS receives the information within eight days of an election, the SOS must wait until after the election to provide the registration information to the county auditor.

The HBE must consult with the SOS to ensure compliance with federal and state voting registration and privacy laws, as well as procedures for ensuring the SOS is able to obtain a person's digital signature. The HBE also must consult with the Health Care Authority to determine if implementation of the data sharing requirements would require approval from the Centers for Medicare and Medicaid Services.

Protections for Unintentional Registration. If an ineligible person becomes registered to vote through the DOL or HBE registration process, their registration is deemed to be an authorized act and such an act may not be considered as a claim to citizenship. The same standard applies to an ineligible voter who becomes registered through the same process and illegally votes in an election, if he or she did not have knowledge of his or her ineligibility. The voter registration or record of vote must be removed from the voter registration database for any ineligible person who became registered to vote through the DOL or HBE process. The SOS must investigate instances where ineligible voters incidentally become registered to vote.

Automatic Voter Registration Studies. The HBE must study the feasibility of implementing AVR, including an examination of federal and state voter registration and privacy laws, potential barriers to implementation, recommendations to mitigate barriers, a process for data transfers, and anticipated costs and timeline for implementation. By December 1, 2020, the HBE must report to the Governor and the Legislature on the study.

The SOS must study creating an AVR process for recently naturalized residents who are state residents and creating an automatic preregistration process for citizen's born in the state. For the automatic preregistration at birth process, the SOS should consult with relevant state agencies and consider ways for transferring and sharing such information. Consideration should include data-sharing procedures, coordination for updating voting registration records, methods for collecting and verifying personal information, opt-out procedures, cybersecurity measures or standards, and delegation of authority necessary for implementation. For the AVR process for recently naturalized residents, the the SOS should consult with federal agencies to determine the feasibility of options for developing an AVR process for such persons.

By December 1, 2019, the SOS must report to the Legislature on the study and include any recommendations for implementation.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment requires the DOL to notify the SOS of the cancellation of any enhanced driver's license (EDL) for failure to provide correct information if such information was transferred to the SOS for purpose of voter registration. The Health Benefit Exchange (HBE) must report any barriers to implementation of automatic voter registration or the transfer of information to the SOS for voter registration purposes. The HBE's feasibility study on automatic voter registration is removed.

Qualified voter registration agencies that collect names, addresses, birthdates citizenship verification, and signatures, as part of their services, should seek to provide automatic voter registration services. Such qualified agencies that do not intend to provide automatic voter registration must provide a report to the Governor and Legislature. Processes are established for qualified agencies providing automatic voter registration. Qualified agencies must provide certain information to applicants, including the option to decline to register, the penalty for registering when ineligible, and information about the address confidentiality program. For applicants who do not decline, voter registration information must be

transferred to the SOS. The Department of Social and Health Services is not required to follow the automatic registration process if it has verified that a person has already been provided an opportunity to automatically register at another agency. Qualified agencies are prohibited from sharing information used to verify identity with any federal agency unless required by law, and may not retain records used to certify eligibility once certification is complete. Qualified agency employees are subject to gross misdemeanor criminal liability for willfully neglecting or refusing to perform a duty, or alters information in connection with the voter registration process.

For ineligible voters who become registered to vote through the automatic registration process, the person's registration or vote is presumed not to be the fault of that person, in the absence of a knowing violation of law. The SOS and the registering agency jointly must investigate instances where an ineligible person becomes registered to vote. The SOS studies on voter registration of naturalized citizens and preregistration at birth are removed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 101 through 202 and sections 204 through 207, relating to voter registration processes for the DOL and the HBE, which take effect July 1, 2019, and sections 203, 301, and 302, relating to the HBE's automatic voter registration (AVR) study on feasibility and the SOS's AVR study for recent naturalized residents and preregistration at birth, which take effect July 1, 2018. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (State Government, Elections & Information Technology):

(In support) Automatic voter registration will make voting more efficient and save money in processing registration forms. It makes voter registration rolls more accurate than processing paper forms. Voters often do not update their registration records themselves, and this will make sure voter's information is current. This bill also includes important protections to prevent ineligible voters from becoming registered. Protections are important for persons who inadvertently register to vote, especially in minority and immigrant populations. The data protection provisions are important to ensure information is shared only where necessary.

This bill offers a fresh approach to addressing voter registration and incorporates the benefit from experiences in other states. Automatic voter registration has worked well in other states across the country, including different geographic and demographic areas. Over 200,000 new voters have been registered through Oregon's AVR. Automatic voter registration will have a similar positive effect in Washington.

Voting is a right, and every eligible voter should be able to participate in the election process. Voter registration should include as many people as possible, especially the large percentage of young voters and other new voters who otherwise could be left behind. Automatic voter

registration makes registration as simple and accessible as possible. This will reach as many eligible voters as possible.

Automatic voter registration should not be limited just to people who get drivers licenses; it should include other agencies that serve broad and diverse segments of the population, including minority groups. This bill strikes a balance between agencies that are ready to implement AVR and those that still have barriers to overcome.

(Opposed) None.

(Other) People should not be automatically registered if they have already interacted with an agency and affirmatively declined to register. These people already have been offered a chance to register, and declined.

Staff Summary of Public Testimony (Transportation):

(In support) The state should be doing everything it can to ensure accessibility and equitability in state elections. Automatic voter registration modernizes and simplifies the election system and voting process, allowing for greater accessibility and opportunity. More registered voters leads to more people engaging in elections, thereby creating a more representative democracy. The simplest and most efficient way to get people to vote is to have state agencies ask them to register to vote.

Many young people in the state are passionate about affecting change, but are not registered to vote even though they are eligible to vote. Students and young adults are not currently fully represented in state elections, which is reflected in the high age of the average voter in Washington. Students on college campuses have difficulties registering to vote because of commitments to classes, work, and other on-campus programs. Allowing AVR when a person turns 18 or when a person gets a driver's license would remove the confusion and extra steps involved with registering for the first time. Young adult registration would increase leading to greater voter turnout of this population.

As technology evolves, the government should work to make it easier for eligible voters to register to vote. This bill would allow eligible voters who apply for an Enhanced Driver's License or an Enhanced Identicard or access the HBE to register to vote at that time, while also safeguarding personal information and creating protections so that ineligible voters are not inadvertently added to the voter file.

Nine states and the District of Columbia have implemented AVR legislation, and Washington is one of 32 states currently considering AVR legislation. In Oregon, the youth voter turnout has increased by 6 percent and person-of-color turnout has increased by 26 percent since implementing their AVR process.

It is highly likely that same-day voter registration is going to pass in Washington this year, which means that county auditors are trying to prepare for an increased volume of people coming into the offices to register and vote on the same day. The current projection is that at least 1 percent of the voting population will do same-day voter registration. Having automatic voter registration will increase the accuracy of voter registrations because there are

fewer opportunities for errors in data entry. People looking to register to vote will already be screened by agencies for all of the requirements needed to be eligible to vote. Automatic voter registration will lighten the county auditors' workloads because the more people that can be registered in advance, the more manageable the workload will be to conduct same-day registrations on election days.

(Opposed) None.

Persons Testifying (State Government, Elections & Information Technology): (In support) Representative Hudgins, prime sponsor; Kathy Sakahara, League of Women Voters of Washington; Elise Orlick and Madison Longbottom, WashPIRG; Alex Hur, Washington Voting Justice Coalition; Cindy Black, Fix Democracy First; Arne Nelson, Washington Student Association; Rosa Rice-Pelepko, Associated Students of Western Washington; Samantha Grad, United Food and Commercial Workers 21; Salvador Salazar-Cano, Associated Students of University of Washington–Bothell; Eric Gonzalez, Washington State Labor Council, AFL-CIO; Derek Lum, Asian Pacific Islander Americans for Civic Empowerment; Julie Anderson, Washington State Association of County Auditors; Mary Hall, Thurston County Auditor's Office; and RaShelle Davis, Office of the Governor.

(Other) Lori Augino, Office of the Secretary of State.

Persons Testifying (Transportation): Representative Hudgins, prime sponsor; James Farrell, Washington Voting Justice Coalition; Rosa Rice-Pelepko and Michael Scott, Associated Students of Western Washington University; Olivia Reed, The Washington Bus; and Julie Anderson, Pierce County Auditor.

Persons Signed In To Testify But Not Testifying (State Government, Elections & Information Technology): None.

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