

FINAL BILL REPORT

ESSB 5079

C 6 L 19

Synopsis as Enacted

Brief Description: Enacting the Native American voting rights act of Washington.

Sponsors: Senate Committee on State Government, Tribal Relations & Elections (originally sponsored by Senators McCoy, Billig, Cleveland, Conway, Frockt, Hunt, Kuderer, Saldaña and Van De Wege).

Senate Committee on State Government, Tribal Relations & Elections

House Committee on State Government & Tribal Relations

Background: Indian Tribes. Federal law recognizes Indian tribes as sovereign governments with inherent powers of self-governance. Tribal sovereignty includes the power to regulate within tribal territory and certain immunity from state authority.

In the 1850s, the federal government entered into a series of treaties with the tribes occupying lands within the Washington Territory. In the treaties, the tribes ceded their interest in vast portions of the territory to the federal government in exchange for monetary compensation, certain lands reserved for their exclusive use, and other rights reserved by the tribes. The state cannot abrogate the treaty rights. Most of the 29 federally-recognized Indian tribes in Washington State today are parties to and beneficiaries of the guarantees in the territorial treaties.

Voter Registration. Persons who are age 18 or older and who are United States citizens that have lived in the state, county, and precinct for 30 days immediately preceding an election are entitled to vote. To register to vote, a person must provide a name, traditional or nontraditional residential address, date of birth, signature attesting the truth of the information provided, and an indication of United States citizenship. Nontraditional residential addresses consist of a narrative description of the voter's residence, and may be used if a traditional address number has not been assigned to the residence, as in the case of a shelter, park, motor home, marine, or other identifiable location.

Washington adopted the Motor Voter Act, requiring the Department of Licensing (DOL) to provide voter registration services. In addition to DOL, the following agencies and programs offer voter registration:

- the Department of Social and Health Services (DSHS) Community Services Division;
- the DSHS Aging and Long-Term Support Administration;
- the DSHS Division of Vocational Rehabilitation;

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- the DSHS Developmental Disabilities Administration;
- the DSHS Aging and Disabilities Service Administration;
- the Department of Services for the Blind;
- the Health Care Authority; and
- the Health Benefits Exchange.

Persons may also register to vote electronically through the Secretary of State's website. Persons seeking to register electronically must have a valid Washington State driver's license or state identification card so the Secretary of State may obtain a copy of the person's signature.

Ballot Drop Locations. All counties in the state conduct elections entirely by mail. For a ballot to be counted, the voter must either return the ballot to the county auditor no later than 8:00 p.m. on election day, or mail the ballot to the county auditor with a postmark dated no later than election day. Counties must establish ballot drop boxes for voters to return ballots. Each county must establish at least one ballot drop box per 15,000 registered voters in the county, and a ballot drop box in each city, town, and census-designated place with a post office.

Ballots must be removed from each ballot drop box by at least two people, with a record of the date and time ballots were removed and the persons removing the ballots, which are transported to the county auditor in secured containers. Containers are verified by the county auditor at the ballot counting center.

Summary: Ballot Drop Locations. At a tribe's request, the county auditor must establish at least one ballot drop box on the tribe's reservation on a site selected by the tribe. Tribes may designate ballot pickup and collection locations at no cost. The county auditor must collect ballots from designated pickup and collection locations using the same procedures as collection from ballot drop boxes. Ballot drop boxes and ballot pickup and collection locations must be accessible to the county auditor by public road.

Nontraditional Residential Addresses. Voters who reside on an Indian reservation or lands may use nontraditional residential addresses for voter registration purposes. A voter may use a designated tribal government building as their residential and mailing address if the voter's residence is in the same precinct, or mailing address if the voter's residence is in a different precinct.

Use of Tribal Identification. A person with a valid tribal identification card may use that identification card to register to vote on the Secretary of State's website if the Secretary of State can obtain a copy of the applicant's signature from the tribal identification issuer. Tribal identification does not need to include a residential address to be considered valid.

Voter Registration. At a tribe's request, the Governor must designate any state or state-funded facility located on the tribe's reservation, or that provides services to Indian tribes, to provide voter registration services.

Enforcement. The Attorney General may sue the county auditor for failure to establish a tribally-requested ballot drop box or collect ballots from a tribally-designated pickup and

collection location. Any person or a tribal government may sue the county auditor for failure to establish a tribally-requested ballot drop box or collect ballots from a tribally-designated pickup and collection location, the Secretary of State for failure to allow a tribal voter to use a nontraditional residential address, or the Governor for failure to designate a facility to provide voter registration services. If more than 30 days before an election, the person or tribal government must provide notice to the Secretary of State. If notice is filed more than 120 days before an election, the Secretary of State has 90 days to act before a suit may be filed; otherwise, the Secretary of State has 20 days to act before a suit may be filed.

Votes on Final Passage:

Senate	34	13	
House	95	3	(House amended)
Senate	45	3	(Senate concurred)

Effective: July 28, 2019