

SENATE BILL REPORT

E2SSB 5112

As Passed Senate, February 15, 2023

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 & Elections: 1/10/23, 1/13/23 [DPS-TRAN].
Transportation: 1/30/23, 2/02/23 [DP2S, DNP, w/oRec].

Floor Activity: Passed Senate: 2/15/23, 38-10.

Brief Summary of Engrossed Second Substitute Bill

- Requires that the Department of Licensing make voter registration, signing up to register, or voter registration updates automatic for enhanced driver's license and enhanced identicard applicants unless subsequently declined in writing.
- Modifies procedures and timelines related to challenges of a voter's eligibility.
- Exempts date of birth, rather than year of birth, in voter registration files from public disclosure requirements.
- Sets penalties for failure to transmit voter registration information automatically and intentional registration of ineligible persons.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5112 be substituted therefor, and the substitute bill do pass and be referred to Committee on Transportation.

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 Senators Hunt, Chair; Valdez, Vice Chair; Wilson, J., Ranking Member; Dozier, Fortunato, Hasegawa and Kuderer.

Staff: Samuel Brown (786-7470)

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Second Substitute Senate Bill No. 5112 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Lias, Chair; Lovick, Vice Chair; Shewmake, Vice Chair; King, Ranking Member; Holy, Assistant Ranking Member; Cleveland, Hawkins, Lovelett, MacEwen, Nobles, Valdez, Wilson, C. and Wilson, J..

Minority Report: Do not pass.

Signed by Senator Fortunato.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: Bryon Moore (786-7726)

Background: Registering to Vote. 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 and are not serving a sentence of total confinement and have not been declared judicially incompetent are entitled to vote. The National Voter Registration Act (NVRA) requires states to provide the opportunity to register to vote for federal elections at various state agencies. To register to vote, an eligible individual must provide their name, residential address, date of birth, a signature attesting the truth of the information provided, and an indication that the individual is a United States citizen.

Automatic Voter Registration. In 2018, the Legislature passed E2SHB 2595, which provides for an automatic voter registration process at two state agencies. At the Department of Licensing (DOL), applicants for new enhanced driver's licenses or identicards, or those changing the address on an existing enhanced driver's license or identicard, are automatically registered to vote or update an existing registration if the applicant is over 18 years of age and United States citizenship is verified, unless the applicant opts not to register. On a daily basis, DOL transmits to the Office of the Secretary of State (SOS) the name, address, date of birth, gender, driver's license number, signature image, and date of application for each applicant opting to register to vote.

The Health Benefits Exchange (HBE) transmits the name, address, and date of birth of each consenting applicant who is a citizen and at least 18 years old to the SOS for the purpose of the applicant being registered to vote. At both agencies, the applicant may decline voter registration at the time of the agency transaction. If the information transmitted is

incomplete, the county auditor subsequently mails a verification notice to the applicant, who has 45 days to provide the missing information.

Voter Eligibility Challenges. The county prosecuting attorney or any registered voter may submit a challenge to any registered voter's ability to vote for failure to meet the legal qualifications to be registered to vote. If the challenge is because the challenged voter allegedly does not live at the address at which they are registered, the challenger must provide the challenged voter's actual residence or:

- send a letter, with return service requested, to the residential address provided;
- visit the residential address provided or obtain an affidavit from any residents of or employees at the address provided that the challenged voter does not reside there;
- search local telephone directories and property records to determine if the challenged voter resides elsewhere in the county; and
- search the state voter registration database to determine if the challenged voter is registered at another address.

Challenges to a voter's eligibility must generally be filed within 45 days before an election. The exception is if the challenged voter is alleged to have registered to vote or changed residences less than 60 days before the election, in which case the challenge may be filed up to ten days before any subsequent election, or ten days after the voter is added to the voter rolls, whichever is later.

Summary of Engrossed Second Substitute Bill: Acknowledgment Notices. Applicants for enhanced driver's licenses or identicards are automatically registered to vote, signed up to register to vote, or have an existing voter registration updated at the time of the agency transaction and may opt out of registration after returning a subsequent acknowledgment notice from county auditors.

On a daily basis, DOL must also transmit to the SOS the language preference if provided, e-mail address, and phone number for all persons applying for, renewing, or updating enhanced driver's licenses or enhanced identicards.

Within five days of receipt of voter registration information from DOL, the county auditor must send the individual an acknowledgment notice package by nonforwardable mail. The notice must contain:

- a statement explaining that the individual has been registered to vote or signed up to register to vote and describes voter registration qualifications;
- a prepaid, preaddressed form allowing the individual to decline the voter registration or update;
- instructions on how the individual can obtain more information in their preferred language; and
- any other information SOS may require.

If the individual returns the acknowledgment notice within 15 days of the date of mailing,

their voter registration is cancelled.

Voter Registration Prompts. Applicants for standard forms of identification who provide documentation indicating status as a noncitizen will not be provided an opportunity to register to vote. DOL and SOS shall determine types of documentation which indicate status as a noncitizen.

Voter Registration Documentation. Presentation of documents confirming United States citizenship during a government transaction constitute affirmation of citizenship for the purposes of voter registration. If requested by the Secretary of State, the Department of Licensing must transmit copies of documents used by applicants who are being automatically registered to vote to demonstrate United States citizenship.

List Maintenance. County auditors must cancel inactive voter registrations when receiving information that the inactive voter has moved out of state or died.

Voter Eligibility Challenges. For challenges to a voter's registration on the basis that the voter resides at a different address:

- the challenger is not required to attempt to contact the challenged voter at their address of record, but must instead search the voter registration database of another state to determine whether the voter is registered in any other state; and
- the challenged voter may update their address until 8:00 p.m. on the night of the election.

The county auditor may remove the contents of a voter registration challenge from the auditor's website 45 days after election certification.

Disclosure of Voter Registration Information. A voter's year of birth, rather than date of birth as recorded on the voter rolls is disclosable.

Penalties. The intentional registration of ineligible persons to vote by a public agency employee providing voter registration services is a gross misdemeanor. Intentional failure to transmit collected voter registration forms to an election office is a class C felony.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Proposed Substitute (State Government & Elections): *The committee recommended a different version of the bill than what was*

heard. PRO: Under this bill, Washingtonians who receive REAL ID-compliant documents would automatically be registered to vote. These Washingtonians are already eligible to vote. This bill would make the voter registration system faster, easier, and safer. Previously unregistered voters will be more likely to vote and participate. There is virtually no risk of someone accidentally registering without being eligible. We ask for clearer language to ensure that non-citizens are not provided the option to register when obtaining standard licenses if they present DOL with a document such as a green card showing that they are not eligible to vote. Streamlining voter registration processes would increase voter turnout, including from communities that have been historically disadvantaged. This will save money by shortening transaction times for DOL and reducing the number of undeliverable ballots mailed and the number of paper registrations that are processed. Other states have implemented similar bills, with Colorado nearly doubling the registration rate for previously unregistered voters.

OTHER: Ballots currently have spots for two witness signatures, which are not verified against any list—this issue should be addressed in the context of voter registration.

Persons Testifying (State Government & Elections): PRO: Carol Sullivan, League of Women Voters of WA; Jeff Pack, Me; Alex Tischenko, Center for Secure and Modern Elections; Steve Hobbs, Office of Secretary of State; Cindy Black, Fix Democracy First; Caron Cargill, Center for Secure & Modern Elections.

OTHER: Eric Pratt, America.

Persons Signed In To Testify But Not Testifying (State Government & Elections): No one.

Staff Summary of Public Testimony on First Substitute (Transportation): *The committee recommended a different version of the bill than what was heard.* PRO: The changes are about making the voter registration more simple and convenient for eligible voters. By automatically registering individuals getting their enhanced driver's license, the legislation streamlines the voter registration process. This will also result in reduced transaction times in DOL licensing service offices. Other states have adopted similar changes and have seen increases in voter registrations. This was accomplished while keeping their voter registration process safe and secure. The changes around non-citizens will make it less likely that ineligible individuals will be registered to vote and will also provide additional safeguards for the privacy of these individuals. The bill could get improved by making some technical changes to make the timelines more workable and addressing workload issues around elections.

Persons Testifying (Transportation): PRO: Senator Sam Hunt, Prime Sponsor; Carol Sullivan, League of Women Voters of WA; Steve Hobbs, Office of Secretary of State; Julie Wise, King County Director of Elections; Alex Tischenko, Center for Secure & Modern Elections; Caron Cargill, CSME & WVJC.

Persons Signed In To Testify But Not Testifying (Transportation): No one.