



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Emily E. Wendel

H.B. 179

131st General Assembly
(As Introduced)

Reps. Stinziano and Sykes, Bishoff, Boyd, Cera, Curtin, G. Johnson, Leland, Lepore-Hagan, Phillips, Ramos, Sheehy, K. Smith

BILL SUMMARY

- Establishes an automatic voter registration system using the information on file with the Bureau of Motor Vehicles (BMV).
- Requires the Registrar of Motor Vehicles to provide electronic records to the Secretary of State concerning each person in the BMV database who appears to be eligible to register to vote or to update the person's registration.
- Requires a board of elections, if it determines that a person is eligible to register to vote or to update the person's registration, to send the person a notice by nonforwardable mail that the person will be registered or have the person's registration updated unless the person declines to do so.
- Specifies procedures for the board to follow if the person declines or if the notice is undeliverable.
- Requires a person who is automatically registered to have submitted the person's information to the BMV, either online or on a form prescribed by the Registrar, not later than the 30th day before an election to vote in that election.
- Requires the Secretary of State to adopt rules to implement the automatic voter registration system.
- Specifies procedures to cancel any previous registration of a person who is automatically registered to vote or who has the person's registration automatically updated.

- Requires every application for a state identification (ID) card or duplicate to include the applicant's residence address, instead of any type of address, as well as the applicant's country of citizenship.
- Prohibits any person from knowingly providing a false name, residence address, driver's license or state ID card number, or Social Security number on a BMV vehicle registration form, driver's license form, or state ID card form, under penalty of election falsification.
- Requires the BMV's vehicle registration forms, driver's license forms, and state ID card forms to include certain information concerning automatic voter registration.
- Specifies that a person who is automatically registered to vote or has the person's registration automatically updated may not use the person's notice of voter registration as voter ID.
- Prohibits any election official, person assisting in the registration of electors, or police officer from knowingly refusing, neglecting, or unnecessarily delaying, hindering, or preventing the registration of a qualified elector who should be registered automatically under the bill.
- Changes the information that must be included in the Secretary of State's informational brochure about voter registration to accommodate the changes made by the bill.
- Makes conforming changes to several Revised Code sections to acknowledge the automatic voter registration system described above.
- Removes existing requirements that the BMV share information in its database with the Secretary of State for the purpose of maintaining the Statewide Voter Registration Database.
- Eliminates certain reporting requirements that apply to BMV deputy registrars and the Registrar concerning the number of customers served and the number of voter registration applications processed.
- Eliminates several provisions of law that applied to compensated voter registration workers, since those provisions are not being enforced because they have been ruled unconstitutional.

CONTENT AND OPERATION

Automatic voter registration

Generally

The bill establishes an automatic voter registration system using the information on file with the Bureau of Motor Vehicles (BMV). Currently, the BMV must offer a customer who applies to receive or renew a driver's license or state identification (ID) card the opportunity to register to vote or to update the person's voter registration (see **COMMENT**).

Under the bill, the Registrar of Motor Vehicles must provide electronic records to the Secretary of State, on a schedule established by the Secretary by rule, concerning each person in the BMV database who appears to be eligible to register to vote or to update the person's registration. The Registrar must transmit all of the following information to the Secretary:

- The person's legal name;
- The person's residence address;
- The person's date of birth;
- The person's driver's license or state ID card number or, if the person does not have one of those, the person's Social Security number;
- Whether the person is a U.S. citizen;
- The person's electronic signature.

The Secretary of State then must send that information to the board of elections of the person's county. If the board determines that the person is eligible to register to vote or to update the person's registration, the board must send the person a notice by nonforwardable mail that the person will be registered or have the person's registration updated unless the person declines to do so.

The notice must include the procedure to decline to register or update, the precinct in which the person will be registered to vote, and the same language that currently is included in a notice of voter registration concerning the ID that voters must bring to the polls. At least 21 days after the board sends the notice, if the person has not declined, the board must register the person to vote or update the person's registration.

The electronic records transmitted to the board are considered to be the person's voter registration form.

If a person declines to register after the board has already registered the person, the board must cancel the registration. If the person declines to update the person's registration after the board has completed the update, the board must correct the person's registration to reflect the information it contained before the board made the update. And, if the person has been automatically registered in the wrong precinct by mistake, upon application of the person and proof of the person's true residence, the board must correct the person's registration.

To be eligible to vote in an election, a person who is automatically registered must have submitted the person's information to the BMV, either online or on a form prescribed by the Registrar, not later than the 30th day before the election. (Current law requires a person to submit a voter registration form not later than that date in order to vote.) Under continuing law, a person who is registered to vote in Ohio but has moved within Ohio and has not updated the person's registration by that deadline still may vote in the election, either by casting a regular ballot or a provisional ballot, depending on the circumstances.

The bill requires the Secretary of State to adopt rules to implement the automatic voter registration system.¹

Undeliverable notice of voter registration

If a board of elections sends a notice of automatic voter registration and the notice is returned to the board, the board must investigate and send the notice to the correct address. If the board cannot verify the person's correct address, the board must register the person and send the person a confirmation notice by forwardable mail. If the person fails to respond to the confirmation notice, update the person's registration, or vote in any election during the period of two federal elections after the mailing of the notice, the board must cancel the person's registration.

When the board sends that confirmation notice, the board also must mark the person's name in the official registration list and in the pollbook to indicate that the person must vote by provisional ballot. At the first election at which the person appears to vote, the person must provide ID to the election officials and cast a provisional ballot. If the person's ballot is counted, the board must correct the person's registration, if needed, and remove the marking from the person's name. If the ballot is not counted,

¹ R.C. 3501.05(R)(2), 3503.11, 3503.16, 3503.19, 3503.21, 3503.30, 4506.07, 4507.06, and 4507.51. See also existing R.C. 3503.11, repealed by the bill.



the board must cancel the person's registration and notify the person of the cancelation by U.S. mail.²

Cancelation of previous registration

When a board of elections conducts an automatic voter registration or update under the bill, if the board is aware of the person's previous address, and the address is in another state or county, the board must send a notice to cancel the previous registration, along with a copy of the person's most recent registration information, to the board of elections or comparable agency of the proper state and county where the person's previous registration is located. Upon receiving a notice to cancel, a board of elections must compare the person's signature included with the notice with the signature in the board's registration files, remove the registration from the files, and keep the registration and the notice in a separate file for two calendar years.

If the person later declines to register or to update the person's registration, the board that registered the person or updated the person's registration must notify the board of elections or comparable agency to which the board sent the notice to cancel, and the person's previous registration must be restored and treated as though it were never canceled.

Under continuing law, a person who registers or updates the person's registration must authorize the cancelation of any previous voter registration, and the board of elections must send that authorization to the appropriate board of elections or other agency. A board of elections that receives such an authorization must compare it with the person's signature on the person's previous registration, remove the previous registration from the files, and keep the registration and the notice in a separate file for two calendar years.³

BMV forms

The bill requires every application for a state ID card or duplicate to include the applicant's residence address, instead of any type of address, as well as the applicant's country of citizenship. That information is necessary in order to register to vote. Under continuing law, the BMV's other vehicle registration and license forms require that information.

Further, the bill prohibits any person from knowingly providing a false name, residence address, driver's license or state ID card number, or Social Security number

² R.C. 3503.11(C)(2) and 3505.181(A)(4).

³ R.C. 3503.33.



on a BMV vehicle registration form, driver's license form, or a state ID form. Whoever violates that prohibition is guilty of election falsification, which under continuing law is a fifth degree felony and is punishable by a maximum penalty of 12 months in prison and a \$2,500 fine. Currently, a person who provides false information on a BMV form is guilty of falsification, which is a first degree misdemeanor and is punishable by a maximum penalty of 180 days in jail and a \$1,000 fine.

Under the bill, the BMV's vehicle registration forms, driver's license forms, and state ID card forms must include all of the following information:⁴

- That if the applicant is eligible to register to vote or to update the applicant's name or address on the applicant's voter registration, the applicant will be automatically registered or the applicant's registration will be automatically updated, as applicable;
- That if the applicant does not wish to register to vote or update the applicant's voter registration, the applicant will receive instructions from the board of elections describing the process to decline;
- That whoever knowingly provides a false name, residence address, driver's license or state ID card number, or Social Security number on the form is guilty of election falsification, which is a fifth degree felony.

Voter identification

The bill specifies that a person who is automatically registered to vote or has the person's registration automatically updated may not use the person's notice of voter registration as voter ID. Continuing law prohibits a person from using a notice of voter registration received as a result of submitting a voter registration or update form as voter ID.⁵

Preventing the registration of a qualified elector

The bill prohibits any election official, person assisting in the registration of electors, or police officer from knowingly refusing, neglecting, or unnecessarily delaying, hindering, or preventing the registration of a qualified elector who should be registered automatically under the bill. Whoever violates that prohibition is guilty of a first degree misdemeanor.

⁴ R.C. 4503.10, 4506.04, 4506.07, 4507.05, 4507.06, 4507.09, 4507.36, and 4507.51. See also R.C. 2921.13, 2929.14, 2929.18, 2929.24, and 2929.28, not in the bill.

⁵ R.C. 3503.14, 3505.18, 3505.181, 3505.183, 3509.03, 3509.05, 3511.02, and 3511.09.



Under continuing law, no such person may knowingly refuse, neglect, or unnecessarily delay, hinder, or prevent the registration of a qualified elector who lawfully applies for registration. A person who violates that prohibition also is guilty of a first degree misdemeanor.⁶

Informational brochure

Under the bill, the Secretary of State's informational brochure about voter registration must include the locations and manner in which a person may register to vote and the manner in which a person may opt out of automatic voter registration. Continuing law requires the brochure to include information about the applicable voter registration deadlines and the ID required to vote.

The bill also removes information from the brochure related to separate requirements for compensated voter registration workers (see "**Compensated voter registration workers**," below).

Conforming changes

The bill makes conforming changes to several Revised Code sections to acknowledge the automatic voter registration system described above. And, the bill removes existing requirements that the BMV share information in its database with the Secretary of State for the purpose of maintaining the Statewide Voter Registration Database, because the bill requires the BMV to share that information in a different manner.

Further, the bill eliminates a requirement that a BMV deputy registrar file semiannual reports with the Registrar listing the number of applicants for licenses the deputy has served, the number of voter registration applications the deputy has processed, and the number of voter registration applications declined. Likewise, the bill removes a requirement that the Registrar report to the Secretary of State at least once annually the number of applicants for licenses served. Continuing law requires the Registrar to report the number of voter registration transactions completed.⁷

Compensated voter registration workers

The bill also eliminates several provisions of law that applied to compensated voter registration workers. Under that law, a compensated registration worker was required to do all of the following:

⁶ R.C. 3599.18.

⁷ R.C. 3503.09, 3503.12, 3503.13, 3503.15, 3503.16, 4501.023, and 4503.03.



- Pre-register with the Secretary of State and complete an online training;
- Include the worker's own name, address, and employer on each registration form;
- Personally deliver or mail the completed form to the Secretary of State or a board of elections;
- Sign and submit with each batch of voter registration forms an affirmation that the worker has completed the training and complied with all laws governing voter registration activities.

This law has not been enforced since 2006 because a federal court ruled that it violates the First Amendment to the U.S. Constitution.⁸

COMMENT

The bill might be vulnerable to a challenge on the ground that it violates the First Amendment to the U.S. Constitution. The U.S. Supreme Court has ruled that because "there are individuals for whom . . . the choice not to register implicates political thought and expression," the First Amendment gives a person the right not to register to vote.⁹ If a reviewing court found that the bill impermissibly burdened that right by requiring a person who did not wish to register to vote to follow the procedure to decline to do so, the court might rule the bill unconstitutional. It appears that this particular issue has not been litigated.

HISTORY

ACTION	DATE
Introduced	04-29-15

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⁸ R.C. 3503.14, 3503.19, 3503.28, and 3599.11 and repeal of R.C. 3503.29. See also *Project Vote v. Blackwell*, 455 F.Supp. 2d 694 (N.D. Ohio 2006) and *Project Vote v. Blackwell*, 2008 U.S. Dist. LEXIS 9878 (N.D. Ohio 2008).

⁹ *Buckley v. American Constitutional Law Foundation*, 525 U.S. 182, 195 (1999).

