

SECTIONAL ANALYSIS – HB 286 / SB 167

As described in the sectional analysis below, this bill would eliminate automatic voter registration for PFD applicants; require regulations for list maintenance, the precinct ballot count, and precinct tabulators; prohibit Division of Elections (DOE) from accepting private funds; create an election offense hotline; prohibit influence by those providing voter assistance; allow DOE to initiate additional hand counts; require the destruction of election materials; implement signature matching, notice, and cure for absentee ballots; provide postage-paid return envelopes with absentee ballots; allow voters to request absentee ballots for four years at a time; prohibit voters from providing alternate forms of identification; amend or create the crimes of unlawful interference with voting, unlawful interference with an election, election fraud, and election official misconduct; and require that police officers receive training related to election offenses.

Section 1: This section, along with sections 2 - 5, 31, and 32 of the bill, address voter registration for PFD applicants. PFD applicants will have to request registration in order to be registered. This section clarifies that the identification requirements for voter registration apply only when PFD applicants request registration.

Section 2: This section directs DOE to register those who submit a PFD application and request registration. It also clarifies that PFD applications may create new voter registrations or update existing voter registrations.

Section 3: This section requires that PFD applications include a way for applicants to request voter registration.

Section 4: This section requires DOE to send notices to PFD applicants who request voter registration. These notices provide applicants opportunity to decline registration, maintain their current address, and select a political affiliation. They also inform applicants that their registration may be cancelled in other jurisdictions.

Section 5: This section requires DOE to register applicants that request registration if the applicants do not thereafter decline registration in response to the notice from DOE.

Section 6: This section adds two new subsections relating to DOE's list of registered voters. The first requires DOE to adopt list-maintenance regulations requiring it to review certain records, including records of deceased voters, those convicted of certain felonies, those not qualified to vote, those registered in other states, the number of registered voters compared to the number of eligible voters, and voter registration data breaches.

The next subsection requires DOE to select and consult a nationally recognized subject-matter expert, to audit the list of registered voters, and to issue a report every other year.

Section 7: This section prohibits DOE from accepting or spending private funding for the administration of elections.

Section 8: This section and the following section concern poll watchers. These sections reorganize the existing statute and provide that political parties, candidates, and organizations may have poll watchers during general, special, and special primary elections, while only candidates and organizations may have poll watchers during primary elections.

Section 9: This section includes the deleted language from the prior section, with the addition that written proof of a poll watcher's appointment must be signed by the party, candidate, or organization.

Section 10: This section requires DOE to create and publicize a toll-free election offense hotline.

Section 11: This section prohibits election officials and others providing assistance at the polls from influencing the voting decisions of those they are assisting.

Section 12: This section requires DOE to adopt regulations for the precinct ballot count.

Section 13: This section allows DOE to conduct hand counts for more than one randomly selected precinct in house districts, except those house districts that have only uncontested offices.

Section 14: This section shortens the retention period for election materials from four years to 22 months. It also requires that used and unused ballots, absentee certificates and envelopes, and other paper records be destroyed at one of two locations in the state, with the director witnessing and certifying to the destruction.

Section 15: This section requires DOE to provide absentee voters instructions on how to use the free online system for tracking absentee ballots, created in section 23.

Section 16: This section requires DOE to provide postage-paid return envelopes with absentee ballots.

Section 17: This section prohibits DOE from sending absentee ballots to voters who do not request them, except when DOE is conducting an election by mail.

Section 18: This section allows voters to request absentee ballots for four years, after which DOE will send notification and the voters can reapply. If absentee ballots or other DOE mail is returned as undeliverable, DOE will stop sending absentee ballots.

Section 19: This section directs DOE to begin to review absentee ballot certificates ten days before the election. It also requires that DOE review these certificates before it counts the accompanying ballots.

Section 20: This section requires DOE to match the signatures on absentee ballot certificates with signatures in voter registration records.

Section 21: This section adds inconsistent signatures as a reason absentee ballots will not be counted. It also eliminates the ability of voters to provide utility bills, government documents, and other alternate forms of identification.

Section 22: This section explains how signature matching will occur. The signature verification process will include the use of signature comparison software, according to regulations adopted by DOE.

Section 23: This section adds two new sections of law. The first creates a free, online absentee ballot tracking system. This system will indicate whether DOE has reviewed a certificate and how the voter can cure the certificate, if necessary. It will also indicate whether DOE has counted a ballot and, if applicable, why it did not count.

The second allows voters to cure their certificates when their signatures do not match. DOE will provide notification within 48 hours of its determination, and voters will then have to confirm that they mailed a ballot and provide identification and a signature. Voters have 14 days after election day to cure. If a voter does not confirm that he or she voted, or does not respond to DOE's notice, the matter will be referred to the attorney general for investigation.

Section 24: This section requires DOE to adopt regulations for routine forensic examinations and strict chain-of-custody protocols for precinct tabulators.

Section 25: This section provides that unlawful interference with voting includes a person knowingly possessing another voter's ballot, unless the person is a family member, caregiver, election official, or delivery person.

Section 26: This section provides that unlawful interference with an election includes tampering with absentee ballot materials, ballots, and election machinery.

Section 27: This section creates the offense of election fraud, which is committed when a person commits unlawful interference with an election and causes the outcome of the election to change.

Section 28: This section provides that election official misconduct includes knowingly disclosing, before the polls close on election day, election returns or results to someone who is not an election official.

Section 29: This section requires that the official election pamphlet include the election offense hotline.

Section 30: This section requires that police officers receive more than four hours of training on detecting and investigating election offenses.

Section 31: This section relates to PFD voter registration. It requires that the PFD application form include a way for applicants to request voter registration.

Section 32: This section requires the Department of Revenue to send DOE the records of those applicants potentially eligible to register who requested voter registration as described in section 31.

Section 33: This section repeals the statute that allows voters to provide utility bills, government documents, and other alternate forms of identification. It also repeals the statutes that create the existing free access system for absentee ballots, because this system is replaced by the ballot tracking system added in section 23.

Section 34: This section provides for the applicability of the amendments to the election offenses in sections 25 - 28.

Section 35: This section authorizes DOE to adopt transition regulations.

Section 36 - 38: These sections provide that the signature matching sections (20 - 22), the ballot tracking and cure section (23), and the precinct tabulator regulation section (24) take effect on July 1, 2022. The transition regulations section (35) takes effect immediately and the rest of the bill takes effect on April 1, 2022.