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DRIVER LICENSE/VOTER ADDRESS

Senate Bill 306 (Substitute H-1) First Analysis (5-26-99)

Sponsor: Sen. Mike Rogers
House Committee: Transportation
**Senate Committee: Government
Operations**

THE APPARENT PROBLEM:

According to the secretary of state, over 600,000 people per year change the address on their driver licenses. Under the Michigan Vehicle Code, this transaction is done in person at a branch office. It would be more convenient to Michigan drivers and would reduce branch office traffic if the change of address could be carried out by other means, such as by mail, telephone or electronic mail.

At the same time, legislation has been proposed by the Department of State that would require notifying a driver who changes the address on a driver license that the same change will automatically be made to the person's voter registration record in the qualified voter file or QVF. The QVF was established by Public Act 441 of 1994, which amended the Michigan Election Law to implement the federal National Motor Voter Registration Act (or "motor/voter" law). The federal law, generally speaking, aimed at allowing people the opportunity to register to vote when engaging in driver license transactions and when applying for certain public benefits and services. (Michigan, of course, already had instituted combined driver license/voter registration transactions nearly 20 years earlier and was said to be a model for the federal law.) The QVF, which is still in the process of being implemented, is intended to be the official file for the conduct of all elections in the state. The file is compiled by the secretary of state and local clerks from driver licenses, applications for benefits or services made at designated voter registration agencies, and direct applications to register to vote taken by local clerks. It makes sense under this system to make the addresses in the driver license file and the addresses in the qualified voter file conform.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Vehicle Code to do the following:

** Provide new methods for a person to use in changing the residence address on his or her driver license.

** Require the application for a driver license to contain a notice that the secretary of state is required by Sections 509o and 509r of the Michigan Election Law to use the residence address on the driver license application as the applicant's residence address on the qualified voter file for voter registration and voting, and that the secretary of state will automatically change the applicant's voter registration to make it match the residence address on the license application.

** Prohibit a person from reporting a change of address to the secretary of state for himself or herself that is not his or her residence address, and prohibit reporting a change of address for another person without that person's consent. Both offenses would be misdemeanors punishable by imprisonment for not more than 93 days or a fine of \$1,000 or both. A second or subsequent conviction would be a misdemeanor punishable by imprisonment for not more than 93 days or a fine of \$5,000 or both. A first conviction would result in the suspension of the person's license for six months and a second conviction would result in the revocation of the license; neither the suspension or the revocation would be appealable.

** Define "residence address" to mean the place that is the settled or permanent home or domicile at which a person resides as defined in Section 11 of the Michigan Election Law. (Section 11 defines "residence" as "that place at which a person habitually sleeps, keeps his or her personal effects and has a regular place of lodging." It adds that, "If a person has more than one residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time

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shall be his or her official residence for the purposes of this act.")

The bill's effective date would be October 1, 1999.

Driver License Address Change. Currently, the vehicle code requires a person whose residence changes before his or her driver license expires to "immediately return such license to the local examining board or the department, whose duty it shall be to write the new address on the reverse side of the license and the date of change." The bill would require the person to notify the secretary of state of his or her new residence address in a manner prescribed by the secretary of state, which could include a personal appearance at a branch office or other designated place or notification by mail, telephone, electronically, by submitting a voter registration application, or by any other prescribed means. The secretary of state would have to notify the person changing his or her residence address that the secretary of state is required to use the residence address provided on the application as the person's residence address on the qualified voter file for voter registration and voting.

Upon receiving a change-of-address notification, the secretary of state would have to change the person's driver license record to indicate the new residence address, and provide the person with a new license or a label or some other mechanism containing the address. The person would affix the mechanism or label to the license. If the secretary of state provided a new license, the person would have to destroy his or her old license and replace it with the new license.

Voter Registration Notification. The bill would require the following notice be included on an application for a driver (operator's or chauffeur's) license:

"Notice: Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide in this application differs from your voter registration address as it appears on the qualified voter file, the secretary of state will automatically change your voter registration to match the residence on this application, after which your voter registration at your former address will no longer be valid for voting purposes. A new voter registration card, containing the information of your polling place, will be provided to you by the clerk of the jurisdiction where your residence address is located."

MCL 257.307 et al.

HOUSE COMMITTEE ACTION:

The House Transportation Committee adopted a substitute that differs in several ways from the Senate-passed version as regards the changing of voter records. The Senate-passed version contained a provision requiring the secretary of state to change a person's residence address on the qualified voter file if the residence address on the application for license differs from the address on the qualified voter file. This provision is not in the House substitute, which instead includes a notice on the application that the change to the qualified voter file "will automatically" be made. Further, the notice provision in the Senate-passed version has been re-written in the House substitute to specify that the secretary of state is required by the Michigan Election Law to make this change (rather than saying that the change will be made). Further, the House substitute contains a maximum 93-day imprisonment penalty for a second or subsequent conviction for using a false address or changing the address of another without consent rather than one year in the Senate-passed bill.

BACKGROUND INFORMATION

Michigan Election Law. Section 509o of the Michigan Election Law says, "The secretary of state or a designated voter registration agency shall not allow a person to indicate a different address than the address in either the secretary of state's or designated voter registration agency's files to be placed in the qualified voter file."

Section 509r says, "the secretary of state and county, city, township, and village clerks shall compile the qualified voter file that consists of all qualified electors from the following sources and in the following priority:

- (a) A driver's license or, if there is no driver's license, a state personal identification card, including renewals and changes of address with the department of state.
- (b) An application for benefits or services, including renewals and changes of address, taken by a designated voter registration agency.
- (c) An application to register to vote taken by a county, city, township, or village clerk or secretary of a school board."

Attorney General's Opinion. An attorney general's opinion (No. 7010) issued March 1, 1999 said that "Section 509o(3) of the Michigan Election Law does not prohibit a voter from registering to vote at an address different from that listed on his or her driver's license." The opinion, in response to a question from Representatives Brater and Baird, noted that while the section in question says that the secretary of state or a designated voter registration agency cannot allow a person to indicate a different address that the address in either the secretary of state's or designated voter registration agency's files to be placed in the qualified voter file, the section does not include local clerks in the prohibition. (Some other exceptions are cited as well.) The opinion concludes that "section 509o(3) does not preclude local clerks from accepting voter registration applications reciting addresses different from those listing on the applicant's driver's license."

FISCAL IMPLICATIONS:

The Senate Fiscal Agency in its analysis of an earlier (but similar) version of the bill says that there is no data at present to indicate how many people would fall under the bill's provisions. The SFA points out that an applicant for license reinstatement must pay a \$125 fee to regain a license. In addition, the Department of State could incur some increases in administrative costs due to the additional requirements imposed. The new crime proposed by the bill could result in increased jail commitments. Jail incarceration costs vary by county. There are no data currently available that might indicate the number of annual violators. (SFA analysis dated 3-17-99)

ARGUMENTS:

For:

Allowing the Department of State to permit methods of changing driver license addresses other than personal visits to branch offices will improve customer convenience and reduce branch office traffic. At the same time, new criminal penalties and license sanctions will discourage people from attempting to make fraudulent use of the more convenient address change mechanisms. Reportedly, the department also intends to implement other safeguards to protect the integrity of the system.

For:

The bill will make the Michigan Vehicle Code conform to the election law by acknowledging that changes in driver license addresses will produced changes in voter registration records. It also imports the definition of "residence" from the Michigan Election Law into the vehicle code. The addresses

people use for driver licenses and voting registration should be the same. This will improve the operation of both files. The bill will help in fully implementing an accurate qualified voter file, which in turn will eventually improve the conduct of elections. It should be noted that the election law now says that the secretary of state cannot accept an address for voter registration purposes that is different from the address on a driver license. It should also be noted that both the driver license files and qualified voter files allow for mailing addresses different from the address on the license or voter registration record (if people want their mail to go to some other address.) The bill is not telling people what they must do; it is, in a sense, telling them that they must declare the same residence address for both driver license and voter registration purposes.

Against:

The driver license/voter registration provisions have become controversial because many people use different addresses for driver license and voter registration purposes and probably would like to continue to do so. College students are perhaps the most obvious example (but there are others) of people of voting age with what might be considered multiple residences and allegiances. A student who leaves the home of parents to spend nine months per year for four or five (or more) years at school might want to leave the address on his or her driver license the same but register to vote and participate in politics where they are in school. Such a student might move numerous times during the school years and changing a driver license address each time would be a nuisance. But students are not the only especially mobile people. (There are reports of senior citizens who hold Florida driver licenses, perhaps for cheaper auto insurance, and Michigan voter registrations for homestead property tax purposes.) Amendments have been offered, for example, that would exempt not only students but people in the military, merchant marines, in nursing homes, and others by allowing them to change the address on their driver licenses without changing their voting addresses. Critics of the bill are concerned that the legislation will discourage voting and decrease participation, particularly among students in college towns. (Indeed, some people suspect this is the intent of the bill, to dilute student voting.) There is no problem with the current system so serious as to deny people the choice of using different addresses on driver licenses and voter registration records.

Response:

People ought to vote where they live (whether in person or by absentee ballot) and their driver licenses should carry addresses indicating where they live. This is hardly onerous. Making address changes is relatively easy, particularly with the changes to the process that would be made by this bill. The automatic change in voter registration would be a convenience for many people and keep voter records up to date.

The Michigan Municipal League has no position on the bill. (5-25-99)

The Michigan League of Women Voters has no official position on the bill. (5-25-99)

Against:

Some people believe that this bill is an attempt to amend the election law through the vehicle code. There is, for example, an attorney general's opinion that says that the election law does not prohibit people from registering to vote (with local clerks) using an address different from the address on the driver license. The same opinion notes that the federal voter registration law permits registering at an address not consistent with a driver license address. What is needed, say some knowledgeable observers, is a redrafting of the election law to make all of the existing old registration and cancellation of registration provisions consistent with the kind of statewide system envisioned in the recently enacted qualified voter file provisions. This should be done straightforwardly, not through the driver license statute.

Against:

Some people oppose the criminal penalties in the bill. Civil infractions would be preferable. It seems severe to make it a crime for a person to "report a change of address to the secretary of state for himself or herself that is not his or her residence address," particularly given the possibility of confusion for some people over what is the appropriate residence address to list (since many people now use different addresses for the driver license and voter registration records). This is an intimidating provision that could discourage voter participation.

POSITIONS:

The Department of State supports the bill. (5-20-99)

The Michigan Association of County Clerks supports the concept of the bill but is concerned about provisions that might diminish voter participation, such as criminal penalties for wrong addresses. (5-25-99)

Michigan Citizen Action testified in opposition to the bill. (5-20-99)

A representative of the College Democrats of Michigan testified in opposition to the bill. (5-20-99)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.