

Legislative Analysis



AUTOMATIC VOTER REGISTRATION PROCEDURES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4983 as enrolled
Sponsor: Rep. Penelope Tsernoglou

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4984 as enrolled
Sponsor: Rep. Phil Skaggs

House Bill 4985 as enrolled
Sponsor: Rep. Emily E. Dievendorf

House Bill 4986 as enrolled
Sponsor: Rep. Jimmie Wilson, Jr.

House Committee: Elections
Senate Committee: Elections and Ethics
Complete to 11-8-23

(Enacted as Public Acts 268 and 260 to 262 of 2023)

SUMMARY:

House Bills 4983, 4984, 4985, and 4986 would modify Michigan's automatic voter registration procedures and clarify an individual's ability to opt out of automatic registration. The bills would take effect June 30, 2025.

Currently, the Michigan Election Law requires the Secretary of State (SOS) to automatically register all qualified electors who submit applications or change of address applications for driver's licenses or state personal ID cards (or enhanced versions of those forms of ID) to vote, as long as the elector does not opt out of registration.¹ The SOS can only register applicants who indicate on the form that they are citizens of the United States. (An applicant for a license or ID card must present documentation verifying their legal presence in the United States, identity, and Michigan residency.)

The SOS must add the required information to the Qualified Voter File (QVF) and forward the name of each voter automatically registered to their respective city or township clerk. The SOS may not transmit any information to the QVF if the individual opts out of voter registration.

House Bill 4983 would amend the Michigan Election Law to require the following information to be added to the QVF for each individual who applies for a Michigan-issued driver's license, applies for a state ID card, or is issued a graduated license, if they are of sufficient age to register to vote, provide documentation demonstrating their United States citizenship, and are not already registered to vote:

- The individual's name, residence address, and date of birth.
- The individual's driver's license number, state ID card number, or a similar number issued by a designated voter registration agency.
- The individual's digitized signature, if available.

As is current law, the SOS would have to electronically forward an individual's information to their city or township clerk so that the clerk can register the individual.

¹ The passage of Proposal 3 of 2018 added the right to automatic voter registration when registering for a driver's license or personal ID card to the Michigan Constitution. 2018 PA 603 amended the Michigan Election Law to implement this change and others made by Proposal 3:
<http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-1238-7DD61512.pdf>.

The SOS would then have to send a notice by nonforwardable mail to the individual's address that does all of the following:

- Informs the individual that they have been registered to vote.
- Provides information on how the individual can cast an absentee ballot.
- Includes a postage prepaid and preaddressed return form for the individual to decline the registration, in a form prescribed by the SOS.
- Includes an explanation of the eligibility requirements to register to vote and a statement that the individual must decline the registration if they are not eligible.
- Includes a statement that the individual may choose to decline the registration even if they meet the eligibility requirements and that their declining would be confidential and only used for the purposes of voter registration statistics.
- Includes a statement that if the individual does not decline the registration and remains registered to vote, the office at which they were registered remains confidential and may only be used for voter registration purposes.

If the notice is returned to the SOS as undeliverable, then the appropriate city or township clerk would have to mail the notice that is required by the Michigan Election Law when a clerk receives reliable information that a registered voter has moved.

To decline the automatic voter registration, the individual would have to complete and return the notice. If an individual declines the registration and has not voted in an election, they would be considered never to have been registered to vote, and all information added to the QVF for that individual would have to be removed. If an individual has voted in an election and then declines the registration, the SOS would have to contact the individual to determine whether the individual wishes to remain registered to vote or decline the registration. If an individual returns the notice without selecting the option to decline the voter registration, they would remain registered to vote. The SOS would also have to develop procedures for processing new automatic voter registrations for individuals who have previously declined the registration.

Each eligible individual who indicates on an application that they are a United States citizen but does not provide documentation demonstrating their citizenship would also be offered the opportunity to be automatically registered. Instead of receiving a notice providing the opportunity to decline the automatic registration, they would have to opt out on the application itself, as is currently done.²

If an individual becomes automatically registered to vote, the QVF would have to include an indication as such for that individual, including a designation that the individual has indicated that they are a United States citizen but did not provide documentation (if applicable).

The SOS would also have to use the procedures described above to automatically *preregister* any eligible individual who applies for a driver's license, state ID card, or a change of address.³ (The notice sent by the SOS would be modified to reflect that the individual has been preregistered and not fully registered to vote.)

² House Bills 4984 and 4985, described below, would specifically require space on a license or ID card application to be provided to decline the use of the application as a voter registration application.

³ House Bill 4569 would allow certain individuals to preregister to vote if they are at least 16 years of age. For a summary of the bill as passed by the House, see: <http://www.legislature.mi.gov/documents/2023-2024/billanalysis/House/pdf/2023-HLA-4569-F76237B9.pdf>.

The bill would specify that the SOS could not register or preregister an individual who provides documentation demonstrating that they are not a United States citizen.

Monthly reports

The SOS would have to publicize monthly data reports on the following information, subcategorized by sex and age without including any personally identifying information:

- The number of individuals who completed voter registration or preregistration after applying for a driver's license or state ID, applying for a change of address, or being issued a graduated license and providing documentation of their citizenship.
- The number of eligible individuals who declined voter registration or preregistration.
- The number of individuals who indicated without providing documentation that they are a United States citizen when becoming registered or preregistered to vote.
- The number of individuals who indicated without providing documentation that they are a United States citizen and declined voter registration or preregistration.
- The number of individuals whose registration or preregistration were updated in accordance with the act's requirement that the SOS use the address provided on a driver's license or state ID as the applicant's residence in the QVF.

Automatic voter registration agencies

If the SOS verifies that a state agency collects sufficient information through its regular course of business to confirm an individual's eligibility to register to vote or update an existing registration, it could designate that agency as an automatic voter registration agency. A designated automatic voter registration agency would retain its designation unless it no longer collects sufficient information for those purposes.

A designated automatic voter registration agency would have to establish, with the SOS, a procedure and schedule to automatically electronically transmit information to the SOS for individuals who are eligible to register or preregister or to update registration information in the QVF. The SOS would also have to develop procedures for processing records that do not include a digitized image of an individual's signature. Subject to any instruction issued and determined to be necessary by the SOS to conform with a designated state agency transaction, the SOS and clerk of each city and township would have to comply with the bill's procedures for automatic registrations and preregistrations (as described above).

If the SOS receives information from a designated automatic voter registration agency for an individual who is already registered or preregistered to vote, the SOS would have to update the QVF with the most recent address or name received from the state agency. The SOS would then have to notify the individual of the change by forwardable mail to the new address and provide a postage prepaid and preaddressed return form for the individual to verify or correct the information. If the individual returns the notice to indicate that the change was an error, the SOS would have to immediately revert the updated information in the QVF to the prior record.

Medicaid applications

As part of an application for Medicaid coverage, the Department of Health and Human Services (DHHS) would have to automatically electronically transmit the following information to the SOS for each individual who is eligible to register or preregister to vote and who is a verified United States citizen, subject to compliance with all applicable federal laws and regulations:

- The individual's name, address, and date of birth.
- The individual's digitized signature, if available.

- The individual's driver's license number or state ID number, a similar number issued by a designated voter agency, or the last four digits of the individual's Social Security number.

The procedures followed by the SOS and local clerks to process the information for automatic voter registration and preregistration purposes would be subject to any instructions issued by the SOS as necessary to conform with the structure of a DHHS application.

Tribal nations

An Indian nation or tribe in Michigan could request SOS approval to allow its governing body, an election board, an election official, or another designated representative to electronically submit the following information to the SOS to register and preregister tribal members to vote or to update an individual's existing information, subject to compliance with all applicable federal laws and regulations:

- The individual's name, address, and date of birth.
- The individual's digitized signature, if available.
- The individual's driver's license number or state ID number, a similar number issued by a designated voter agency, or the last four digits of the individual's Social Security number.

If a nation or tribe requests to transmit information to the SOS and the governing body, election board, election official, or other designated representative collects sufficient information to confirm an eligibility for registration or update an existing registration, then the SOS would have to enter into a memorandum of understanding with the nation or tribe regarding the transmission and processing of information for voter registration.

The procedures followed by the SOS and local clerks to process information for automatic voter registration and preregistration purposes would be subject to any instructions issued by the SOS as necessary to conform with any Indian nation or tribal procedures.

Department of Corrections

The SOS and Michigan Department of Corrections would have to coordinate to ensure that eligible individuals are automatically registered to vote with the ability to decline voter registration when they are released from incarceration. The required notice and procedures would have to be modified to reflect the fact that the individual would not be registered to vote until released on parole or discharged after completing their maximum sentence, and both the SOS and Department of Corrections would be responsible for ensuring that an individual does not become registered to vote until they are eligible.

For any individual who is released from incarceration and is not otherwise subject to these provisions, the Department of Corrections and the SOS would have to establish a procedure and schedule for automatically and electronically transmitting registration information to the SOS for individuals who are eligible to register or preregister to vote, in accordance with the bill's requirements for a designated automatic voter registration agency.

Additional provisions

If an individual who is ineligible to vote becomes automatically registered and votes or attempts to vote in an election held after their registration becomes effective, the individual

would be presumed to have a defense for a violation of the act.⁴ (This defense would not apply to an individual who knowingly and willfully makes a false statement to effectuate voter registration or an individual who intentionally acts to register to vote or vote knowing that they are not entitled to vote.)

The bill is tie-barred to House Bill 4569, a bill that would allow eligible individuals who are at least 16 years old to preregister to vote, meaning that it cannot go into effect unless HB 4569 is also enacted.

MCL 168.493a et seq.

House Bill 4984 would amend the Michigan Vehicle Code to require an application for a driver's license to include space for an applicant to indicate that they are a citizen of the United States but do not have documentation of their citizenship. The bill would also require the application to include space to allow such an applicant to decline the use of the application as a voter registration application.

Additionally, the bill would provide that if an individual's application for a driver's license is used for automatic voter registration or preregistration and the individual provides documentation demonstrating that they are a United States citizen, a printed notice provided to the applicant at the end of the license application transaction would have to include a notice that the application will be used for automatic voter registration and that the individual will receive the notice required by HB 4983. If the applicant has indicated that they are a United States citizen but has not provided documentation, then the notice would have to indicate that it serves as a receipt verifying the voter registration application.

MCL 257.307

House Bill 4985 would amend 1972 PA 222, the state personal identification card act, to require an application for a state ID card to include space for an applicant to indicate that they are a citizen of the United States but do not have documentation of their citizenship. The bill would also require the application to include space to allow such an applicant to decline the use of the application as a voter registration application.

MCL 28.291

House Bill 4986 would amend the Enhanced Driver License and Enhanced Official State Personal Identification Card Act to remove a provision stating that an application for an enhanced license or enhanced state ID card must allow the applicant to indicate that they decline to use the application as a voter registration application.

MCL 28.305

House Bills 4984, 4985, and 4986 are each tie-barred to House Bill 4983, meaning that none of those bills can go into effect unless HB 4983 is also enacted.

⁴ Section 932a(c) of the Michigan Election Law provides that a person who is not a qualified and registered elector who willfully offers to vote or attempts to vote at an election in Michigan, or a person who aids or counsels an unqualified or unregistered person to vote or offer to vote at an election, is guilty of a felony.

BACKGROUND:

Twenty-four states (including Michigan) and Washington, D.C., currently use an automatic voter registration system.⁵ Michigan, like seventeen other states and D.C., provides individuals with the opportunity to decline voter registration during driver's license applications or other interactions with designated state agencies, while the remaining states notify an individual of their registration after the transaction, with the opportunity to then opt out. House Bill 4983 would add Michigan to the latter set of "back-end" opt-out states.

BRIEF DISCUSSION:

According to committee testimony, Michigan's current automatic voter registration system misses hundreds of thousands of potential registrations, such as individuals who do not have a driver's license or state ID card or young individuals who received a driver's license before they were eligible to register to vote. Supporters of House Bills 4983 to 4986 believe that expanding automatic registration to other state agencies would address gaps in the current system to reach more qualified electors and would streamline the state's automatic voter registration procedures.

No arguments opposing the bills were presented during committee testimony, but concerns were raised about ensuring an appropriate timeline for implementation.

FISCAL IMPACT:

The bills would result in additional costs for the Department of State (DOS) as well as, potentially, other state departments and agencies that would be designated as an "automatic voter registration agency". DOS would be subject to one-time IT computer programming costs to implement changes to the Qualified Voter File information system that would enable the automatic information sharing required under the bill. Other state departments and agencies, including the Department of Corrections, the Department of Transportation, and the Department of Health and Human Services, may also be subject to IT costs for any necessary changes to connect their systems to the QVF. It is not yet known how many departments and agencies would be designated an automatic voter registration agency under the bill. The IT costs of the bill have not yet been determined, nor has it been determined if any required changes to the QVF under the bill could be supported by existing funding for ongoing programming changes to the QVF related to prior statutory requirements. The average cost of a state IT project is approximately \$300,000. However, costs can often be much greater.

DOS would also incur ongoing administrative costs for implementing requirements that may require one or more additional employees. New responsibilities under the bill would include contacting individuals to confirm their voter registration preference, compiling and submitting monthly reports, and other data management responsibilities.

There may also be marginal ongoing costs to DOS related to sending notices with prepaid return postage to individuals informing them of their automatic voter registration and the option to decline. DOS reports that most notices, including those sent to graduated driver license holders, would be sent with existing mailings and would not incur additional mailing and

⁵ See: <https://www.ncsl.org/elections-and-campaigns/automatic-voter-registration>.

postage costs. It is not yet known how many additional mailings and additional postage costs would be required related to settling discrepancies between addresses given on state forms for individual voters and those on file in the QVF.

POSITIONS:

A representative of the Michigan Department of State testified in support of the bills in concept. (9-26-23)

Representatives of the following entities testified in support of House Bill 4983 (9-26-23):

- Canton Township Clerk
- Detroit City Clerk
- Healthy Democracy Healthy People
- Institute for Responsible Government
- Promote the Vote
- Voters Not Politicians

The following entities indicated support for the bills (9-26-23):

- American Civil Liberties Union of Michigan
- League of Conservation Voters of Michigan
- Michigan Association of County Clerks (in concept)
- Michigan Association of Municipal Clerks (in concept)
- Michigan Democratic Party

The following entities indicated support for House Bill 4983:

- All Voting Is Local Michigan (9-26-23)
- Campaign Legal Center (9-26-23)
- Detroit Disability Power (10-3-23)
- Detroit Regional Chamber (9-26-23)
- National Vote at Home Institute (9-26-23)
- Protect Democracy (9-26-23)
- Secure Democracy (10-3-23)

The following entities indicated opposition to the bills (10-3-23):

- Election Integrity Network
- Pure Integrity for Michigan Elections

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