

SB 7-FN-LOCAL - FINAL VERSION

03/14/2019 0849s
 03/28/2019 1157s
 8Jan2020.. 2712h
 5Mar2020... 0457h
 06/29/2020 1632EBA

2020 SESSION

19-0890
 11/05

SENATE BILL 7-FN-LOCAL

AN ACT establishing the secure modern accurate registration act (SMART ACT).

SPONSORS: Sen. Levesque, Dist 12; Sen. Sherman, Dist 24; Sen. Hennessey, Dist 5; Sen. Rosenwald, Dist 13; Sen. Kahn, Dist 10; Sen. Fuller Clark, Dist 21; Rep. Buchanan, Merr. 15; Rep. Bergeron, Hills. 29; Rep. Lane, Merr. 12

COMMITTEE: Election Law and Municipal Affairs

ANALYSIS

This bill establishes the secure modern accurate registration act (SMART ACT).

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough~~.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty

AN ACT establishing the secure modern accurate registration act (SMART ACT).

Be it Enacted by the Senate and House of Representatives in General Court convened:

I. New Subdivision; Secure Modern Accurate Registration Technology Act. Amend RSA 654 by inserting after section 15 the following new subdivision:

Secure Modern Accurate Registration Technology Act

654:15-a Voter Registration at the Division of Motor Vehicles.

I. The secretary of state, pursuant to an interagency contract and jointly-adopted criteria, shall establish a secure data transfer program that satisfies the requirements of this section and any other applicable law.

II. Any time a person applies for a driver's license, a nondriver's picture identification card, or a record change to a driver's license or nondriver's picture identification card with the division of motor vehicles, as specified below, during which he or she demonstrates that he or she is a United States citizen, 18 years of age or older, and a resident of New Hampshire, he or she shall, without taking any other action, automatically apply to register to vote unless he or she declines to submit such registration application under the procedures outlined in paragraph IV.

III. The division of motor vehicles shall electronically transmit to the secretary of state certain information as outlined in RSA 654:15-b about every eligible voter applying pursuant to this section. Such transmission shall be in a format that the secretary of state can

upload into the statewide centralized database and reviewed by election officials. The division of motor vehicles shall also transmit any updates to addresses or names to ensure that the voter checklists are kept up-to-date.

IV. The division of motor vehicles shall add a voter registration section to those online or paper forms used in connection with applying for a driver's license, a nondriver's picture identification card, or a record change related to a driver's license or nondriver's picture identification card, which shall collect information required for voter registration not already collected in such division of motor vehicles forms. "By signing and submitting this application, you are authorizing the division of motor vehicles to transmit this application to the secretary of state for voter registration purposes. YOU MAY DECLINE TO APPLY TO REGISTER. Both the location of the office through which you submit this application and your decision of whether or not to apply to register to vote will remain confidential and will be used for voter registration purposes only." A check box shall appear below such preprinted statement and next to the following statement: "Do not register me to vote or update my voter registration. I decline to register to vote or update my voter registration."

V. Upon receiving the electronic record of the applicant's information, the secretary of state shall send a mailing to each eligible applicant, including a pre-paid return to be sent to the voter's town or city hall, which shall include the following:

- (a) The process used to adopt a political party affiliation.
- (b) The registrant's polling location.
- (c) A check box with a statement next to it that reads: "Do not register me to vote or update my voter registration. I decline to register to vote or update my voter registration."

VI. An application that complies with the requirements of this section shall constitute a completed voter registration unless the city or town clerk or supervisor of the checklist finds an error in the voter registration application pursuant to paragraph VII.

VII. If, during the review of the information sent by the secretary of state, the city or town clerk or supervisor of the checklist deems there to be an error in the voter registration application, such local election official shall promptly inform the applicant that his or her registration has not been processed, and shall provide such applicant a reasonable opportunity to cure such error.

VIII. Any person applying to register to vote pursuant to this section within 30 calendar days immediately preceding an election shall be advised to apply to register to vote with a city or town clerk or supervisor of the checklist pursuant to this chapter.

654:15-b Electronic Transmission of Voter Registration Data.

I. The division of motor vehicles shall transmit, via a secure electronic transmission, data collected relevant to voter registration, including data relating to age, residency, citizenship, place of birth, and driver's license or non-driver's picture identification card, as well as a signature image, for every citizen who applies to register to vote in accordance with RSA 654:15-a to the secretary of state.

The division of motor vehicles shall transfer data in a format that can be uploaded to the statewide centralized voter registration database. The secretary of state shall format data to allow the city or town clerk or supervisor of the checklist to print the information on an 8.5 x 11 inch sheet of paper. Notwithstanding RSA 294-E and any other law to the contrary, the secretary of state, state agencies, and political subdivisions shall accept, use, and permit the use of the applicant's signature image for purposes of this subdivision.

II. The city or town clerk or supervisor of the checklist shall be alerted when a new eligible voter has been entered into the statewide centralized voter registration database.

III. The secretary of state shall also transmit for review by election officials any address or name updates to their records to ensure that the voter checklists are kept up-to-date and remove voters' registration from the previous address, in accordance with state and federal law.

654:15-c Voter Registration Data Privacy and Security.

I. The secretary of state shall regularly upgrade data security for the voter registration system, such that the system adheres to up-to-date security processes and protocols.

II. The secretary of state shall ensure the privacy of the information received from the division of motor vehicles pursuant to this subdivision by prohibiting:

- (a) Public disclosure of an individual's decision not to apply to register to vote, which shall be exempt from the provisions of RSA 91-A.
- (b) Agencies from transmitting to election officials information other than that required for voter registration or specified information relevant to the administration of elections.
- (c) The disclosure of information relating to persons in categories designated confidential by federal or state law, including victims of domestic violence or stalking, prosecutors and law enforcement personnel, and participants in a witness protection program.
- (d) Any other disclosure of information collected pursuant to this subdivision that is prohibited by federal or state law.

654:15-d Unauthorized Registration. The record and signature of an ineligible applicant that is transmitted through an electronic system by a government agency to any elections or voter registration authority shall not constitute a completed voter registration form,

and that applicant shall not be considered to have registered to vote.

654:15-e Requests for Removal from the Checklist. Any person who applies to register to vote pursuant to this subdivision may, prior to the certification of the checklist pursuant to RSA 654:28 and RSA 654:29, request that he or she be removed from the checklist by submitting such request in person at his or her town or city hall.

2 New Paragraph; Access to Governmental Records and Meetings; Exemptions. Amend RSA 91-A:5 by inserting after paragraph XI the following new paragraph:

XII. An individual's decision not to apply to register to vote under RSA 654:15-a.

3 New Paragraph; Motor Vehicles; Records and Certification. Amend RSA 260:14 by inserting after paragraph III-d the following new paragraph:

III-e. Motor vehicle records relevant to voter registration shall be provided to the secretary of state pursuant to RSA 654:15-b. These records may be further transferred or otherwise made available to city or town clerks and supervisors of the checklist for purposes of voter registration.

4 Department and Secretary of State; Election Fund. Amend RSA 5:6-d, III to read as follows:

III. The secretary of state is authorized to accept, budget, and, subject to the limitations of this paragraph, expend [monies] **moneys** in the election fund received from any party for the purposes of conducting elections, voter and election official education, the purchase or lease of equipment that complies with the Help America Vote Act of 2002, Public Law 107-252, or with RSA 659:13, V, reimbursing the department of safety for the actual cost of voter identification cards, election law enforcement, enhancing election technology, making election security improvements, and improvements to related information technology, including acquisition and operation of an automated election management system. With the exception of federal and state portions of funds associated with the 2018 Election Reform Program, the secretary of state shall not expend any monies in the election fund unless the balance in the fund following such expenditures shall be at least [42] **10** times the estimated annual cost of maintaining the programs established to comply with the Help America Vote Act of 2002, Public Law 107-252.

5 Funding. Funding for the direct Help America Vote Act related implementation of this act, including division of motor vehicles software and SMART-related training and public informational collateral, shall be provided by grants received pursuant to the 2018 Help America Vote Act Election Security Award and section 101 of the Help America Vote Act of 2002, Public Law 107-252.

6 Contingent Rerumbering. If HB 1672 of the 2020 regular legislative session becomes law, RSA 260:14, III-e as inserted by section 3 of this act shall be renumbered as RSA 260:14, III-f.

7 Effective Date. This act shall take effect July 1, 2021.

VETOED July 31, 2020

LBAO
19-0890
Amended 3/9/20

SB 7-FN-LOCAL- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2020-0457h)

AN ACT establishing the secure modern accurate registration act (SMART ACT).

FISCAL IMPACT: State County Local None

| STATE: | Estimated Increase / (Decrease) | | | |
|------------------------|--|------------------------------------|----------------------------------|--|
| | FY 2020 | FY 2021 | FY 2022 | FY 2023 |
| Appropriation | \$0 | \$0 | \$0 | \$0 |
| Revenue | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | \$543,000 | \$490,000 | \$553,000 |
| Funding Source: | <input checked="" type="checkbox"/> General Fund (RSA 5:6-d) | <input type="checkbox"/> Education | <input type="checkbox"/> Highway | <input checked="" type="checkbox"/> Other - Election |

METHODOLOGY:

This bill establishes the Secure Modern Accurate Registration Technology Act (SMART). It requires that a person automatically apply to register to vote any time the person applies for a driver's license, a nondriver's picture identification card, or a record

change to a driver's license or nondriver's picture identification card with the Department of Safety, Division of Motor Vehicles (DMV), unless they decline to submit such registration application. Funding for the provisions of the bill shall be provided by grants received pursuant to the 2018 Help America Vote Act Election Security Award and section 101 of the Help America Vote Act of 2002, Public Law 107-252.

The DMV is required to electronically submit certain voter registration information, including signature image, to the Secretary of State in a format that the Secretary of State can upload into the Statewide computerized voter registration database and reviewed by election officials. The local clerk or supervisor of the checklist shall be alerted when a new eligible voter has been entered into the statewide centralized voter registration database and the Secretary of State shall also transmit for review any updates to records.

Once transmitted information is received, the Secretary of State shall send a mailing and pre-paid return to each eligible applicant with instructions on how to adopt a political party affiliation, the registrant's polling location, and a check box to opt out of the registration process.

The Department of Safety states electronic submittal of the required voter data information on forms used throughout the state would require additional fields and a voter registration opt-out provision. The DMV would not be required to collect or maintain any supporting documentation for the sole purpose of voter registration and any documentation would adhere to license application documentation requirements. No supporting documentation would be transmitted by DMV to the Secretary of State and no validation would be performed by DMV. The DMV would only need to revise paper and online applications, renewals and record change forms for driver licenses and non-driver identifications.

The DMV assumes that any training needs for DMV staff would be minimal to answer basic voter registration questions and any associated training material would be provided by the Secretary of State's Office. The DMV assumes any ancillary voter materials would likewise be created and supplied by the Secretary of State's Office. Any costs associated with the implementation of the program would be funded by the HAVA program,. The estimated cost for electronic transmittal of the voter registration data would be a one-time design and deployment expense of approximately \$220,000, which would be incurred in FY 2021.

The Secretary of State's Office indicates the DMV would forward information it collects electronically to the Secretary of State, and using ElectioNet (the statewide, centralized voter database), forward for review by the supervisors of the checklist and city and town clerks. The DMV is not required to capture all of the information necessary to complete a voter registration form. Before being distributed to the supervisors of the checklist for processing, the Secretary of State is required to send a mailing to each new voter providing an opportunity to opt out of the voter registration, correct an address, declare a party affiliation and notify the voter of their polling place location.

The Secretary of State's Office indicates software upgrades will be necessary for ElectioNet to receive voter registration data from DMV. In the first year of implementation, the Office estimates 88,497 individuals will either be identified as new voter registrants, or will be existing voters whose address information from DMV will require reconciliation with election records. This estimate should decline over time as DMV address records and election records match more consistently. Mailings to voters will cost \$1.24 each, or \$109,736, excluding staff time to process the mailings. Additional HAVA staff time will be required to design and test software, track mail, cleanse data, and draft training manuals for supervisors of the checklist and city and town clerks. The Office anticipates needing 4 full-time staff to fulfill its responsibilities. The Office indicates there will be an indeterminable but potentially significant increase in local expenditures. Estimated Office expenses are calculated below:

| Estimated Secretary of State Expenditures | | | | |
|---|-----------|------------|------------|------------|
| Type of Expenditure | FY 2021 | FY 2022 | FY 2023 | FY 2024 |
| Additional Staff (1 FTE) for mailings | \$ - | \$ - | \$ 70,000 | \$ 70,000 |
| Additional Staff (2 FTE) for managing workload at SOS | \$ - | \$ 185,000 | \$ 190,000 | \$ 200,000 |
| Additional Staff (1 FTE): 1 for HAVA staff time expense | \$ 93,000 | \$ 95,000 | \$ 100,000 | \$ 103,000 |
| Mailings for DMV registrants @\$1.24 each | \$ - | \$ - | \$ 98,000 | \$ 100,000 |

| | | | | |
|--|------------------|-------------------|-------------------|-------------------|
| Software Upgrades, Changes and Maintenance | \$ 230,000 | \$ 210,000 | \$ 95,000 | \$ 90,000 |
| Total | \$323,000 | \$ 490,000 | \$ 553,000 | \$ 563,000 |

RSA 5:6-d, III currently prohibits the Department of State from expending moneys in the Election Fund unless the balance in the fund following such expenditures is at least 12 times the estimated annual cost to maintain the programs established to comply with HAVA. The bill changes the required measure from 12 times to 10 times such estimated annual cost of maintaining HAVA programs. The Department of State has indicated that changing this provision may lead to an earlier depletion of the fund, necessitating additional general funds to support ongoing program commitments.

The New Hampshire Municipal Association assumes more voters will be registered, but fewer will do so in person at the clerk's office, or at supervisor of the checklist sessions, or at the polls on election day. It is unlikely such changes will cause any significant increase or decrease in municipal expenditures and there will be no effect on municipal revenues.

The bill is effective July 1, 2021 (FY 2022) and it is assumed that no staff will be hired prior to July 1, 2020 (FY 2021).

AGENCIES CONTACTED:

Department of Safety, Department of State, Department of Information Technology and New Hampshire Municipal Association