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SENATE BILL 6362

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State of Washington

59th Legislature

2006 Regular Session

By Senators Kohl-Welles, Keiser, Jacobsen and Kline

Read first time 01/11/2006. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to voter registration; amending RCW 29A.08.010,  
2 29A.08.112, 29A.08.810, 29A.08.820, 29A.08.830, 29A.08.840, and  
3 29A.40.140; and adding a new section to chapter 29A.08 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 29A.08 RCW  
6 to read as follows:

7 Any major political party may file with the county auditor the  
8 name, address, and contact phone number of a party representative  
9 authorized by the party to receive notice of voter challenges. The  
10 county auditor shall provide the contact information of all such party  
11 representatives upon request to a registered voter challenging the  
12 registration of another voter. Any registered voter challenging the  
13 registration of another voter must, within twenty-four hours of filing  
14 the challenge, provide notice of the challenge to every political party  
15 who has filed with the county auditor under this section by mailing a  
16 copy of the challenge to every designated party representative in the  
17 county where the challenge is filed.

1       **Sec. 2.** RCW 29A.08.010 and 2005 c 246 s 2 are each amended to read  
2 as follows:

3       As used in this chapter: "Information required for voter  
4 registration" means the minimum information provided on a voter  
5 registration application that is required by the county auditor in  
6 order to place a voter registration applicant on the voter registration  
7 rolls. This information includes:

8       (1) Name;

9       (2) Residential address;

10       (3) Mailing address, if different from the residential address;

11       (4) Date of birth;

12       ~~((+4))~~ (5) Washington state driver's license number or Washington  
13 state identification card number, or the last four digits of the  
14 applicant's Social Security number if the applicant does not have a  
15 Washington state driver's license or Washington state identification  
16 card;

17       ~~((+5))~~ (6) A signature attesting to the truth of the information  
18 provided on the application; and

19       ~~((+6))~~ (7) A check or indication in the box confirming the  
20 individual is a United States citizen.

21       If the individual does not have a driver's license, state  
22 identification card, or Social Security number, the registrant must be  
23 issued a unique voter registration number in order to be placed on the  
24 voter registration rolls. All other information supplied is ancillary  
25 and not to be used as grounds for not registering an applicant to vote.  
26 Modification of the language of the official Washington state voter  
27 registration form by the voter will not be accepted and will cause the  
28 rejection of the registrant's application.

29       **Sec. 3.** RCW 29A.08.112 and 2005 c 246 s 6 are each amended to read  
30 as follows:

31       No person registering to vote, who meets all the qualifications of  
32 a registered voter in the state of Washington, shall be disqualified  
33 because ~~((of a nontraditional address being used as a residence~~  
34 ~~address. Voters using such an)) he or she lacks a traditional~~  
35 residential address. A voter who lacks a traditional residential  
36 address will be registered and assigned to a precinct based on the  
37 location provided~~((. Voters without a traditional address will be~~

1 ~~registered at the~~)), and has the option of using the address of a  
2 county courthouse, city hall, or other public building near the area  
3 that the voter considers his or her residence. (~~Registering at a~~  
4 ~~nontraditional address will not disqualify a voter from requesting~~  
5 ~~ongoing absentee voter status if the voter designates a valid mailing~~  
6 ~~address.~~

7 ~~For the purposes of this section, "nontraditional address" includes~~  
8 ~~shelters, parks, or other identifiable locations that the voter deems~~  
9 ~~to be his or her residence.)~~ A voter who registers under this section  
10 must provide a valid mailing address, and must still meet the  
11 requirement in Article VI, section 1 of the state Constitution that he  
12 or she live in the area for at least thirty days before the election.

13 A person who has a traditional residential address must use that  
14 address for voter registration purposes and is not eligible to register  
15 under this section.

16 **Sec. 4.** RCW 29A.08.810 and 2003 c 111 s 253 are each amended to  
17 read as follows:

18 Registration of a person as a voter is presumptive evidence of his  
19 or her right to vote at any primary or election, general or special.  
20 A person's right to vote may be challenged at the polls only by a  
21 precinct judge or inspector. A challenge may be made only upon the  
22 belief or knowledge of the challenging officer that the voter is  
23 unqualified. The challenge must be supported by evidence or testimony  
24 given to the county canvassing board under RCW 29A.08.820 and may not  
25 be based on unsupported allegations or allegations by anonymous third  
26 parties. The identity of the challenger, and any third person involved  
27 in the challenge, shall be public record and shall be announced at the  
28 time the challenge is made.

29 Challenges initiated by a registered voter against a voter who  
30 registered to vote less than sixty days before the election, or who  
31 changed residence less than sixty days before the election without  
32 transferring his or her registration, must be filed not later than  
33 ((the)) ten days before any primary or election, general or special, at  
34 the office of the appropriate county auditor. Challenges initiated by  
35 a registered voter against any other voter must be filed not later than  
36 forty-five days before the election. A challenged voter may properly  
37 transfer or reregister until ((three days)) the day before the primary

1 or election, general or special, by applying personally to the county  
2 auditor. Challenges may also be initiated by the office of the county  
3 prosecuting attorney and must be filed in the same manner as challenges  
4 initiated by a registered voter.

5 **Sec. 5.** RCW 29A.08.820 and 2003 c 111 s 254 are each amended to  
6 read as follows:

7 When the right of a person has been challenged under RCW 29A.08.810  
8 or 29A.08.830(2), the challenged person shall be permitted to vote a  
9 ballot which shall be placed in a sealed envelope separate from other  
10 voted ballots. In precincts where voting machines are used, any person  
11 whose right to vote is challenged under RCW 29A.08.810 or 29A.08.830(2)  
12 shall be furnished a paper ballot, which shall be placed in a sealed  
13 envelope after being marked. Included with the challenged ballot shall  
14 be (1) an affidavit filed under RCW 29A.08.830 challenging the person's  
15 right to vote or (2) an affidavit signed by the precinct election  
16 officer and any third party involved in the officer's challenge and  
17 stating the reasons the voter is being challenged. The sealed ballots  
18 of challenged voters shall be transmitted at the close of the election  
19 to the canvassing board or other authority charged by law with  
20 canvassing the returns of the particular primary or election. The  
21 county auditor shall notify the challenger and the challenged voter, by  
22 certified mail, of the time and place at which the county canvassing  
23 board will meet to rule on challenged ballots. If the challenge is  
24 made by a precinct election officer under RCW 29A.08.810, the officer  
25 must appear in person before the board unless he or she has received  
26 written authorization from the canvassing board to submit an affidavit  
27 supporting the challenge. If the challenging officer has based his or  
28 her challenge upon evidence provided by a third party, that third party  
29 must appear with the challenging officer before the canvassing board,  
30 unless he or she has received written authorization from the canvassing  
31 board to submit an affidavit supporting the challenge. If the  
32 challenge is filed under RCW 29A.08.830, the challenger must either  
33 appear in person before the board or submit an affidavit supporting the  
34 challenge. The challenging party must prove to the canvassing board by  
35 clear and convincing evidence that the challenged voter's registration  
36 is improper. If the challenging party fails to meet this burden, the  
37 challenged ballot shall be accepted as valid and counted. The

1 canvassing board shall give the challenged voter and any major  
2 political party that objects to the challenge the opportunity to  
3 present testimony, either in person or by affidavit, and evidence to  
4 the canvassing board before making their determination. All challenged  
5 ballots must be determined no later than the time of canvassing for the  
6 particular primary or election. If the challenge is based on one of  
7 the following allegations and the canvassing board sustains the  
8 challenge, the challenged ballot shall not be counted: The voter has  
9 been convicted of a felony and the voter's civil rights have not been  
10 restored; the voter has been judicially declared ineligible to vote due  
11 to mental incompetency; the voter will not be eighteen years of age or  
12 older by the election; or the voter is not a citizen of the United  
13 States. If the challenge is based on an allegation that the voter does  
14 not actually reside at the address given on the voter's registration  
15 record and the canvassing board sustains the challenge, the board shall  
16 permit the voter to correct his or her voter registration and any races  
17 and ballot measures on the challenged ballot that the voter would have  
18 been qualified to vote for had the registration been correct shall be  
19 counted. The decision of the canvassing board or other authority  
20 charged by law with canvassing the returns shall be final. Party  
21 observer challenges of absentee ((ballots)) voters shall be determined  
22 according to RCW 29A.40.140.

23 **Sec. 6.** RCW 29A.08.830 and 2003 c 111 s 255 are each amended to  
24 read as follows:

25 (1) Any registered voter may request that the registration of  
26 another voter be canceled if he or she believes that the voter does not  
27 meet the requirements of Article VI, section 1 of the state  
28 Constitution or that voter no longer maintains a legal voting residence  
29 at the address shown on his or her registration record. The challenger  
30 shall file with the county auditor a signed affidavit subject to the  
31 penalties of perjury, to the effect that to his or her personal  
32 knowledge and belief another registered voter does not actually reside  
33 at the address as given on his or her registration record or is  
34 otherwise not a qualified voter and that the voter in question is not  
35 protected by the provisions of Article VI, section 4, of the  
36 Constitution of the state of Washington. ~~((The person filing the~~  
37 ~~challenge must furnish))~~ If the challenge is based on an allegation

1 that the voter does not reside at the address as given on the voter's  
2 registration record, the affidavit must include the address at which  
3 the challenged voter actually resides.

4 (2) Any such challenge of a voter's registration and right to vote  
5 made less than (~~thirty~~) forty-five days before a primary or election,  
6 special or general, shall be administered under RCW 29A.08.820. The  
7 county auditor shall notify the challenged voter and the precinct  
8 election officers in the voter's precinct that a challenge has been  
9 filed, provide the name of the challenger, and instruct both the  
10 precinct election officers and the voter that, in the event the  
11 challenged voter desires to vote at the ensuing primary or election, a  
12 challenged ballot will be provided. The county auditor shall at the  
13 same time provide to the challenged voter the names, addresses, and  
14 contact phone numbers, if provided, of all political party  
15 representatives that have been designated under section 1 of this act.  
16 The county auditor shall also provide to each party representative a  
17 copy of all materials provided to the challenged voter. The voter  
18 shall also be informed that the status of his or her registration and  
19 the disposition of any challenged ballot will be determined by the  
20 county canvassing board in the manner provided by RCW 29A.08.820. If  
21 the challenged voter does not vote at the ensuing primary or election,  
22 the challenge shall be processed in the same manner as challenges made  
23 more than thirty days prior to the primary or election under RCW  
24 29A.08.840.

25 **Sec. 7.** RCW 29A.08.840 and 2003 c 111 s 256 are each amended to  
26 read as follows:

27 All challenges of voter registration under RCW 29A.08.830 made  
28 (~~thirty~~) forty-five days or more before a primary or election,  
29 general or special, shall be delivered to the appropriate county  
30 auditor who shall notify the challenged voter, by certified mail, that  
31 his or her voter registration has been challenged. The county auditor  
32 shall at the same time provide to the challenged voter the names,  
33 addresses, and contact phone numbers, if provided, of all political  
34 party representatives that have been designated under section 1 of this  
35 act. The county auditor shall also provide to each party  
36 representative a copy of all materials provided to the challenged  
37 voter.

1 The notification shall be mailed to the address at which the  
2 challenged voter is registered, any address provided by the challenger  
3 under RCW 29A.08.830, and to any other address at which the individual  
4 whose registration is being challenged is alleged to reside or at which  
5 the county auditor would reasonably expect that individual to receive  
6 notice of the challenge of his or her voter registration. Included in  
7 the notification shall be a request that the challenged voter appear at  
8 a hearing to be held within ten days of the mailing of the request, at  
9 the place, day, and hour stated, in order to determine the validity of  
10 his or her registration. The challenger shall be provided with a copy  
11 of this notification and request. If either the challenger or the  
12 challenged voter is unable to appear in person, he or she may file a  
13 reply by means of an affidavit stating under oath the reasons he or she  
14 believes the registration to be invalid or valid.

15 If both the challenger and the challenged voter file affidavits  
16 instead of appearing in person, an evaluation of the affidavits by the  
17 county auditor constitutes a hearing for the purposes of this section.

18 The county auditor shall hold a hearing at which time both parties  
19 may present their facts and arguments. After reviewing the facts and  
20 arguments, including any evidence submitted by either side or the  
21 representative of any political party that objects to the challenge,  
22 the county auditor shall rule as to the validity or invalidity of the  
23 challenged registration. His or her ruling is final subject only to a  
24 petition for judicial review by the superior court under chapter 34.05  
25 RCW. If either party, or both parties, fail to appear at the meeting  
26 or fail to file an affidavit, the county auditor shall determine the  
27 status of the registration based on his or her evaluation of the  
28 available facts.

29 **Sec. 8.** RCW 29A.40.140 and 2003 c 111 s 1014 are each amended to  
30 read as follows:

31 A party observer may challenge the qualifications of any absentee  
32 voter ((~~may be challenged~~)) who registers to vote less than sixty days  
33 before the election, or who changed residence less than sixty days  
34 before the election without transferring his or her registration, at  
35 the time the signature on the return envelope is verified and the  
36 ballot is processed by the canvassing board. The board has the

1 authority to determine the legality of any absentee ballot challenged  
2 under this section. Challenged ballots must be handled in accordance  
3 with chapter 29A.08 RCW.

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