

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2624

Chapter 130, Laws of 2016

64th Legislature
2016 Regular Session

ELECTION ERRORS AND IRREGULARITIES--BALLOT MEASURES

EFFECTIVE DATE: 6/9/2016

Passed by the House February 17, 2016
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 1, 2016
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved March 31, 2016 4:19 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2624** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 1, 2016

**Secretary of State
State of Washington**

HOUSE BILL 2624

Passed Legislature - 2016 Regular Session

State of Washington

64th Legislature

2016 Regular Session

By Representatives S. Hunt and Bergquist; by request of Secretary of State

Read first time 01/18/16. Referred to Committee on State Government.

1 AN ACT Relating to election errors involving measures; amending
2 RCW 29A.68.011, 29A.68.020, 29A.68.030, 29A.68.050, 29A.68.070,
3 29A.68.080, 29A.68.090, 29A.68.110, and 29A.68.120; and adding a new
4 section to chapter 29A.68 RCW.

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

6 **Sec. 1.** RCW 29A.68.011 and 2013 c 11 s 71 are each amended to
7 read as follows:

8 Any justice of the supreme court, judge of the court of appeals,
9 or judge of the superior court in the proper county shall, by order,
10 require any person charged with error, wrongful act, or neglect to
11 forthwith correct the error, desist from the wrongful act, or perform
12 the duty and to do as the court orders or to show cause forthwith why
13 the error should not be corrected, the wrongful act desisted from, or
14 the duty or order not performed, whenever it is made to appear to
15 such justice or judge by affidavit of an elector that:

16 (1) An error or omission has occurred or is about to occur in
17 printing the name of any candidate on official ballots; or

18 (2) An error other than as provided in subsections (1) and (3) of
19 this section has been committed or is about to be committed in
20 printing the ballots; or

1 (3) The name of any person has been or is about to be wrongfully
2 placed upon the ballots(~~(; or~~

3 ~~(4) A wrongful act other than as provided for in subsections (1)~~
4 ~~and (3) of this section has been performed or is about to be~~
5 ~~performed by any election officer; or~~

6 ~~(5) Any neglect of duty on the part of an election officer other~~
7 ~~than as provided for in subsections (1) and (3) of this section has~~
8 ~~occurred or is about to occur; or~~

9 ~~(6) An error or omission has occurred or is about to occur in the~~
10 ~~official certification of the election)).~~

11 An affidavit of an elector under (~~subsections (1) and (3) of~~)
12 this section when relating to a primary election must be filed with
13 the appropriate court no later than two days following the closing of
14 the filing period for such office and shall be heard and finally
15 disposed of by the court not later than five days after the filing
16 thereof. An affidavit of an elector under (~~subsections (1) and (3)~~
17 ~~of~~) this section when relating to a general election must be filed
18 with the appropriate court no later than three days following the
19 official certification of the primary election returns, or official
20 certification of candidates qualified to appear on the general
21 election ballot, whichever is later, and shall be heard and finally
22 disposed of by the court not later than five days after the filing
23 thereof. (~~An affidavit of an elector under subsection (6) of this~~
24 ~~section shall be filed with the appropriate court no later than ten~~
25 ~~days following the official certification of the election as provided~~
26 ~~in RCW 29A.60.190, 29A.60.240, or 29A.60.250 or, in the case of a~~
27 ~~recount, ten days after the official certification of the amended~~
28 ~~abstract as provided in RCW 29A.64.061.))~~

29 NEW SECTION. **Sec. 2.** A new section is added to chapter 29A.68
30 RCW to read as follows:

31 Any justice of the supreme court, judge of the court of appeals,
32 or judge of the superior court in the proper county shall, by order,
33 require any person charged with error, wrongful act, or neglect to
34 forthwith correct the error, desist from the wrongful act, or perform
35 the duty and to do as the court orders or to show cause forthwith why
36 the error should not be corrected, the wrongful act desisted from, or
37 the duty or order not performed, whenever it is made to appear to
38 such justice or judge by affidavit of an elector that:

1 (1) A wrongful act other than as provided for in RCW 29A.68.011
2 has been performed or is about to be performed by any election
3 officer; or

4 (2) Any neglect of duty on the part of an election officer other
5 than as provided for in RCW 29A.68.011 has occurred or is about to
6 occur; or

7 (3) An error or omission has occurred or is about to occur in the
8 official certification of any primary or election, including a
9 challenge to the certification of any measure.

10 An affidavit of an elector under this subsection shall be filed
11 with the appropriate court no later than ten days following the
12 official certification of the primary or election as provided in RCW
13 29A.60.190, 29A.60.240, or 29A.60.250 or, in the case of a recount,
14 ten days after the official certification of the amended abstract as
15 provided in RCW 29A.64.061.

16 **Sec. 3.** RCW 29A.68.020 and 2013 c 11 s 72 are each amended to
17 read as follows:

18 Any of the following causes may be asserted by a registered voter
19 to challenge the right to assume office of a candidate declared
20 elected to that office, to challenge the right of a candidate to
21 appear on the general election ballot after a primary, or to
22 challenge certification of the result of an election on any measure:

23 (1) For misconduct on the part of any election officer involved
24 therein;

25 (2) Because the person whose right is being contested was not, at
26 the time the person was declared elected, eligible to that office;

27 (3) Because the person whose right is being contested was,
28 previous to the election, convicted of a felony by a court of
29 competent jurisdiction, the conviction not having been reversed nor
30 the person's civil rights restored after the conviction;

31 (4) Because the person whose right is being contested gave a
32 bribe or reward to a voter or to an election officer for the purpose
33 of procuring the election, or offered to do so;

34 (5) On account of illegal votes.

35 (a) Illegal votes include but are not limited to the following:

36 (i) More than one vote cast by a single voter;

37 (ii) A vote cast by a person disqualified under Article VI,
38 section 3 of the state Constitution.

1 (b) Illegal votes do not include votes cast by improperly
2 registered voters who were not properly challenged under RCW
3 29A.08.810 and 29A.08.820.

4 All election contests must proceed under RCW 29A.68.011 or
5 section 2 of this act.

6 **Sec. 4.** RCW 29A.68.030 and 2007 c 374 s 5 are each amended to
7 read as follows:

8 An affidavit of an elector filed pursuant to ((RCW
9 ~~29A.68.011(6)~~)) section 2(3) of this act must set forth specifically:

10 (1) The name of the contestant and that he or she is a registered
11 voter in the county, district or precinct, as the case may be, in
12 which the office or measure is to be exercised;

13 (2) The name of the person whose right is being contested or the
14 name of the measure being contested;

15 (3) The office;

16 (4) The particular causes of the contest.

17 No statement of contest may be dismissed for want of form if the
18 particular causes of contest are alleged with sufficient certainty.
19 The person charged with the error or omission must be given the
20 opportunity to call any witness, including the candidate.

21 **Sec. 5.** RCW 29A.68.050 and 2003 c 111 s 1705 are each amended to
22 read as follows:

23 The clerk shall issue subpoenas for witnesses in such contested
24 election at the request of either party, which shall be served by the
25 sheriff or constable, as other subpoenas, and the superior court
26 shall have full power to issue attachments to compel the attendance
27 of witnesses who shall have been duly subpoenaed to attend if they
28 fail to do so.

29 The court shall meet at the time and place designated to
30 determine such contested election by the rules of law and evidence
31 governing the determination of questions of law and fact, so far as
32 the same may be applicable, and may dismiss the proceedings if the
33 statement of the cause or causes of contest is insufficient, or for
34 want of prosecution. After hearing the proofs and allegations of the
35 parties, the court shall pronounce judgment in the premises, either
36 confirming or annulling and setting aside such election, according to
37 the law and right of the case.

1 If in any such case it shall appear that another person than the
2 one returned has the highest number of legal votes, said court shall
3 declare such person duly elected. If in any such case it shall appear
4 that the results of a measure are reversed, said court shall declare
5 the change in result.

6 **Sec. 6.** RCW 29A.68.070 and 2011 c 10 s 65 are each amended to
7 read as follows:

8 No irregularity or improper conduct in the proceedings of any
9 county canvassing board or any member of the board amounts to such
10 malconduct as to annul or set aside any election unless the
11 irregularity or improper conduct was such as to either, reverse the
12 outcome of an election measure or procure the person whose right to
13 the office may be contested, to be declared duly elected although the
14 person did not receive the highest number of legal votes.

15 **Sec. 7.** RCW 29A.68.080 and 2011 c 10 s 66 are each amended to
16 read as follows:

17 When any election for an office exercised in and for a county is
18 contested on account of any malconduct on the part of a county
19 canvassing board, or any member thereof, the election shall not be
20 annulled and set aside upon any proof thereof, unless the rejection
21 of the vote of such precinct or precincts will change the result as
22 to such office or measure in the remaining vote of the county.

23 **Sec. 8.** RCW 29A.68.090 and 2003 c 111 s 1709 are each amended to
24 read as follows:

25 When the reception of illegal votes is alleged as a cause of
26 contest, it is sufficient to state generally that illegal votes were
27 cast, that, if given to the person whose election is contested, or to
28 the winning choice for a measure, in the specified precinct or
29 precincts, will, if taken from that person, or winning choice for a
30 measure, reduce the number of the person's legal votes below the
31 number of legal votes given to some other person for the same office
32 or reverse the outcome of the measure.

33 **Sec. 9.** RCW 29A.68.110 and 2003 c 111 s 1711 are each amended to
34 read as follows:

35 (1) No election for an office may be set aside on account of
36 illegal votes, unless it appears that an amount of illegal votes has

1 been given to the person whose right is being contested, that, if
2 taken from that person, would reduce the number of the person's legal
3 votes below the number of votes given to some other person for the
4 same office, after deducting therefrom the illegal votes that may be
5 shown to have been given to the other person.

6 (2) No election for a measure may be set aside on account of
7 illegal votes, unless it appears that an amount of illegal votes has
8 been given to the winning choice being contested, that, if taken from
9 that winning choice, would reduce the number of legal votes for the
10 winning choice below the number of votes given to the other choice,
11 after deducting therefrom the illegal votes that may be shown to have
12 been given to the other choice.

13 **Sec. 10.** RCW 29A.68.120 and 2007 c 374 s 6 are each amended to
14 read as follows:

15 If an election is set aside by the judgment of the superior court
16 and if no appeal is taken therefrom within ten days, the election of
17 the person challenged or the outcome of the measure challenged, shall
18 be thereby rendered void.

Passed by the House February 17, 2016.

Passed by the Senate March 1, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

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