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## State Government & Tribal Relations Committee

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### HB 1223

**Brief Description:** Limiting frivolous claims by modifying forms, processes, and methods of adjudication for voter registration challenges.

**Sponsors:** Representatives Doglio, Mena, Reed, Wylie, Pollet, Ormsby and Hill.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Amends the process, permitted evidence, and penalties for challenging a voter's registration.</li></ul>
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**Hearing Date:** 1/28/25

**Staff:** Connor Schiff (786-7093).

**Background:**

Voter Registration.

Any individual who wishes to vote and is eligible to do so must first register. To be eligible to vote in Washington, an individual must be:

- a citizen of the United States;
- a resident of Washington;
- at least 18 years old;
- not disqualified from voting due to a court order;
- not currently serving a sentence of total confinement in prison under the jurisdiction of the Department of Corrections for a felony conviction; and
- not currently incarcerated for a federal or out-of-state felony conviction.

Challenges to a Voter's Registration.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

A registered voter or county prosecuting attorney may challenge a voter's registration for failure to meet the legal qualifications, such as not being a citizen of the United States, serving a sentence of total confinement for a felony conviction, or not living at the residential address provided.

If the challenge is because the voter does not live at the address provided, the challenger must provide the challenged voter's actual residence or submit evidence that the challenger exercised due diligence to verify that the address is incorrect. In the latter case, the challenger must personally send a letter with return service requested to the voter's address, search county auditor records to determine whether the voter owns any property in the county, search local telephone directories and property records, and search the voter registration database to determine whether the voter is registered at another address in the state. The challenger must sign an affidavit attesting that they exercised due diligence in verifying the evidence.

#### *Voter Challenge Proceedings.*

The county auditor may dismiss a challenge that is not in proper form or if the factual basis does not meet the legal grounds for a challenge. If the challenge is in proper form and the factual basis meets the legal grounds for a challenge, the county auditor must schedule a hearing and provide notice of the hearing to the challenger and the challenged voter.

The challenger must prove that registration is improper by clear and convincing evidence. If either the challenger or the challenged voter fails to appear at the hearing, the challenge is resolved based on the available facts. If the challenger fails to prove that the registration is improper, the challenge is dismissed. Any pending challenged ballots are accepted as valid.

#### *Voter Registration Challenge Forms.*

The Office of the Secretary of State (OSOS) must provide forms for voter registration challenges. A challenge is not required to be submitted on the form, but a form may be prepared using an official electronic template and signed by the challenger.

#### Cancelled Voters.

When a county auditor learns that a voter has registered to vote in another state, the auditor must immediately cancel the voter's registration.

Registrations of deceased voters are canceled by the OSOS after receiving a periodic list of people who died from the state Registrar of Vital Statistics. County auditors may also use government agencies and newspaper obituary articles to identify deceased voters to cancel their registrations. A voter may also sign a statement for the county auditor or the OSOS, subject to the penalties of perjury, that another registered voter is deceased. Upon receipt of the statement, the county auditor or the OSOS must cancel the voter's registration.

### **Summary of Bill:**

#### Challenges to a Voter's Registration.

Voters challenging another's voter registration must be registered in the same city, town, or, if residing in an unincorporated area, the same county. Types of evidence that can be used to challenge a voter's registration are limited. The challenger can no longer base their challenge on:

- a search of county auditor records to determine whether the voter owns any property in the county;
- a search of local telephone directories and property records, or
- a search of the voter registration database to determine whether the voter is registered at another address in the state.

If the challenger's proof is that the challenger sent a letter with return service to the challenged voter's address, the letter must be certified and use a form provided by the OSOS outlining the reason for the challenge.

Challengers must file a separate voter registration challenge form for each voter whose registration is being challenged. Each form must include certain information, including a statement of the factual basis for the challenge. The challenger must also file a separate signed affidavit for each voter whose registration is challenged. Each affidavit must be signed by hand.

#### *Voter Challenge Proceedings.*

It is mandatory, rather than permissive, that a county auditor dismiss a challenge if the challenge is not in proper form or the factual basis for the challenge does not meet the legal grounds for a challenge.

Before notifying the voter of a challenge, a county auditor may conduct an initial review of the merits of the challenge. If the county auditor determines that it is probable that the challenge lacks merit, then the county auditor may dismiss the challenge.

The notice to the challenged voter of the challenge must be in a form provided by the OSOS and provide additional information, including:

- a copy of the challenge form;
- methods to confirm voter eligibility; and
- consequences for failing to respond to a challenge.

A county auditor must attempt to reconfirm registration before scheduling a hearing. A hearing can only be scheduled if the county auditor is unable to confirm the voter's eligibility and there is probable cause that the challenged voter is not eligible to vote. If a county auditor independently verifies a voter's eligibility at any point, the county auditor may dismiss a challenge.

The county auditor must notify a challenged voter of a scheduled hearing through additional methods. Notice must include additional information, including methods to confirm eligibility.

The challenger must appear in person. If the challenger does not attend the hearing in person, the challenge is dismissed. The challenged voter may appear in person or submit an affidavit. The challenger must prove that the registration is improper beyond a reasonable doubt, rather

than by clear and convincing evidence.

*Successful Voter Registration Challenge.*

If a voter registration is successfully challenged, the county auditor must send notice to the challenged voter. The voter is not removed from the official state voter registration list unless the voter fails to respond to the notice and fails to vote and confirm the registration address during the time period that includes the next two general elections.

*Challenger Penalties.*

A challenger that knowingly provides false information as part of a challenge is guilty of perjury. A challenger that knowingly challenges a voter registration without reasonable cause is guilty of a misdemeanor. Each instance constitutes a separate offense.

*Voter Registration Challenge Forms.*

The voter registration challenge form must include additional information, including:

- the challenger's name, voting precinct, address, and phone number;
- the factual basis for the challenge;
- the challenger's certification by signature; and
- a clear statement that certification is subject to penalty of perjury.

Inactive and Cancelled Voters.

After receiving a signed statement from a voter that another registered voter is deceased, the county auditor or the OSOS must confirm that the voter is deceased before removing the registration from the official state voter registration list.

The county auditor must cancel an inactive voter registration when the auditor receives information that indicates that the inactive voter has moved out of state and remained inactive for two federal general elections. Rather than canceling a voter registration after learning that a voter has registered in another state, a county auditor must send a notice to the voter and change the voter's status to inactive. The voter is not removed from the official state voter registration list unless the voter fails to respond to the notice or confirm their voter registration in a certain time period.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.