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## State Government & Tribal Relations Committee

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### HB 1916

**Brief Description:** Amending voter registration challenges and managing voter registration lists.

**Sponsors:** Representative Doglio.

#### Brief Summary of Bill

- Amends the process, permitted evidence, and penalties for challenging a voter's registration.
- Clarifies when a voter's registration is canceled or removed from the voter registration list.

**Hearing Date:** 2/11/25

**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

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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.*

- not currently incarcerated for a federal or out-of-state felony conviction.

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

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 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.

The county auditor must publish the content of a voter challenge on the auditor's website within 72 hours of receipt. The information may be removed 45 days after the certification of an election.

The Office of the Secretary of State (OSOS) must provide forms for voter registration challenges.

#### *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 meets these requirements, the county auditor must schedule and preside over 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.

#### The National Voter Registration Act.

The National Voter Registration Act (NVRA) requires states to conduct a general voter registration list maintenance program that makes a reasonable effort to remove ineligible persons from the voter rolls. The NVRA also permits states to remove the name of a person from the voter registration list upon the request of the voter. A voter may request to be removed from the voter rolls by: 1) requesting to remove the voter's name from the voting registration list; 2) completing and returning a notice card indicating an address change outside the jurisdiction; or 3) submitting a new application registering to vote a second time in a new jurisdiction, and providing information regarding the registrant's prior voter registration address on the new application, which the state may treat as a request to cancel or transfer the voter's prior registration.

### *Voter Registration List.*

A county auditor must immediately cancel a voter's registration upon receipt of official information that a voter has registered to vote in another state or died. The county auditor or the OSOS must also cancel a voter's registration upon receipt of a statement from a voter that another registered voter is deceased.

### **Summary of Bill:**

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

Voters may only challenge the registration of a voter who is registered in the same county. Types of evidence that can be used to challenge a voter's registration are limited. A challenger may no longer base their challenge on:

- a search of county auditor records to determine whether the voter owns any property in the county; or
- a search of local telephone directories, property records, or 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 and signed affidavit for each voter whose registration is being challenged. Each form must include certain information, including a statement of the factual basis for the challenge. Each affidavit must be signed by hand.

The timelines for which a county auditor publishes and removes information about a voter challenge from the auditor's website are amended.

### *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 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 the challenge lacks merit by a preponderance of the evidence, then the county auditor may dismiss the challenge. A county auditor must attempt to reconfirm registration before scheduling a hearing. A hearing may 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.

In addition to the county auditor, an auditor's designee is permitted to preside over the hearing. 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.

The notice to the challenged voter of the challenge and the scheduled hearing must provide additional information, including methods to confirm eligibility. Processes for successful voter registration challenges are provided.

*Challenger Penalties.*

Penalties are established for knowingly providing false information as part of a challenge and knowingly challenging a voter registration without reasonable cause. Each instance constitutes a separate offense.

*Voter Registration Challenge Forms.*

The voter registration challenge form must include additional information, including the factual basis for the challenge and a clear statement that certification is subject to the penalty of perjury.

Voter Registration List.

After receiving a signed statement from a voter that another registered voter is deceased, the county auditor must confirm that the voter is deceased before removing the registration from the official state voter registration list. A county auditor must also remove an inactive voter registration upon receipt of a signed notification from the voter that the voter wishes to have the voter's registration canceled. The county auditor must verify that the signature on the notification matches the signature in the voter registration file.

It is specified that the official information stating that a voter has registered to vote in another state must come from an elections office in that state and include a prior address or social security number that matches an auditor's records.

**Appropriation:** None.

**Fiscal Note:** Requested on February 7, 2025.

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