

HOUSE BILL REPORT

ESHB 1916

As Amended by the Senate

Title: An act relating to amending voter registration challenges and managing voter registration lists.

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

Sponsors: House Committee on State Government & Tribal Relations (originally sponsored by Representatives Doglio and Parshley).

Brief History:

Committee Activity:

State Government & Tribal Relations: 2/11/25, 2/14/25 [DPS].

Floor Activity:

Passed House: 2/10/26, 58-38.

Senate Amended.

Passed Senate: 3/3/26, 30-19.

Brief Summary of Engrossed Substitute 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.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Mena, Chair; Stearns, Vice Chair; Doglio and Farivar.

Minority Report: Do not pass. Signed by 2 members: Representatives Walsh, Assistant

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.

Ranking Minority Member; Chase.

Minority Report: Without recommendation. Signed by 1 member: Representative Waters, Ranking Minority Member.

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.

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, search the voter registration database to determine whether the voter is registered at another address in the state, and searched the voter registration database of another state to determine whether the voter is registered to vote in a state other than Washington. The challenger must sign an affidavit under penalty of perjury 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 the removal of 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 Engrossed Substitute Bill:

Challenges to a Voter's Registration.

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;
- a search of local telephone directories to determine whether the voter maintains a telephone listing at any address in the county;
- a search of the voter registration database to determine whether the voter is registered at another address in the state; or
- a search of the voter registration database of another state to determine if the voter is registered in a state other than Washington.

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 and be signed under penalty of perjury. Each affidavit must be signed by hand with ink.

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. A challenger that knowingly provides false information as part of a voter registration challenge is guilty of False Swearing, a gross misdemeanor. 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

factual basis for the challenge.

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.

A county auditor who verifies that information in a voter's more recent voter registration in another state matches information in a Washington voter registration record must cancel the voter's Washington registration.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment limits the persons (besides county prosecuting attorneys) allowed to challenge another person's voter registration to only those persons that live in the same county as the challenged voter.

The Senate amendment permits a voter's registration to be canceled, rather than removed, from the official state voter registration list upon receipt by a county auditor or the Secretary of State of a signed statement from another registered voter that the voter is deceased and confirmation by the auditor or the Secretary of State.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill takes into account the experience of county auditors in maintaining voter registration lists and processing voter registration challenges. This proposal responds to an uptick in voter registration challenges. There is a good system in place for processing voter challenges; this bill ensures county auditors are responding to challenges in a uniform way. Voter challenges have been used to discourage or intimidate certain voters, including voters with disabilities and voters who are people of color.

(Opposed) Voter registration challenges provide public oversight. County auditors can only remove voters under certain conditions. This proposal unfairly requires challengers to appear in person; challenged voters do not have the same requirement. Restricting

challenges to voters in the same county will discourage people from participating in the process. People should be able to investigate and challenge the registration of anyone they want. People may live near each other but not in the same county. It should not be harder to challenge voter registrations. A more difficult voter registration challenge process will increase skepticism. Mass mail out ballots can lead to ineligible individuals voting. There are opportunities to improve the current law around voter registration challenges, but this proposal misses the mark. This bill does not adequately define the penalties for knowingly false challenges. There are some useful process bright line rules, but the process is overly restrictive. The proposed process requires challengers to dox the challenged voter's actual residence if challenging the voter's eligibility based on the voter's address. There are problems with the geographic restrictions on challenges, the heightened standard of proof, and the penalties. The proposed process may infringe on rights. There are parts of the bill that usurp county auditors' authority to maintain voter rolls. The proposed process has significant flaws.

(Other) The bill has been refined and improved. The bill would improve the voter registration challenge process. Voter registration challenges have their place. This bill would create unity across the state in how county auditors process challenges. There should be some language changed in Section 8 to ensure county auditors can cancel registrations in certain circumstances.

Persons Testifying: (In support) Representative Beth Doglio, prime sponsor; Alex Alston; and Alice Clapman, Brennan Center.

(Opposed) Erica Engelhart; Bryan Elliott, Kittitas County Auditor; Lorilee Gates; and Sharon Damoff.

(Other) Mary Hall, Thurston County Auditor.

Persons Signed In To Testify But Not Testifying: None.