
HOUSE BILL 1223

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By Representatives Doglio, Mena, Reed, Wylie, Pollet, Ormsby, and Hill

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1 AN ACT Relating to limiting frivolous claims by modifying forms,
2 processes, and methods of adjudication for voter registration
3 challenges; amending RCW 29A.08.510, 29A.08.630, 29A.08.810,
4 29A.08.840, 29A.08.850, and 29A.08.135; and prescribing penalties.

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

6 **Sec. 1.** RCW 29A.08.510 and 2009 c 369 s 26 are each amended to
7 read as follows:

8 The registrations of deceased voters may be canceled from voter
9 registration lists as follows:

10 (1) Periodically, the registrar of vital statistics of the state
11 shall prepare a list of persons who resided in each county, for whom
12 a death certificate was transmitted to the registrar and was not
13 included on a previous list, and shall supply the list to the
14 secretary of state.

15 The secretary of state shall compare this list with the
16 registration records and cancel the registrations of deceased voters.

17 (2) In addition, each county auditor may also use government
18 agencies and newspaper obituary articles as a source of information
19 for identifying deceased voters and canceling a registration. The
20 auditor must verify the identity of the voter by matching the voter's

1 date of birth or an address. The auditor shall record the date and
2 source of the information in the cancellation records.

3 (3) In addition, any registered voter may sign a statement,
4 subject to the penalties of perjury, to the effect that to his or her
5 personal knowledge or belief another registered voter is deceased.
6 This statement may be filed with the county auditor or the secretary
7 of state. (~~Upon~~) Only upon the receipt of such signed statement,
8 and confirmation by the county auditor or the secretary of state
9 (~~shall cancel the registration~~), may the voter's registration be
10 removed from the official state voter registration list.

11 **Sec. 2.** RCW 29A.08.630 and 2023 c 466 s 25 are each amended to
12 read as follows:

13 (1) The county auditor shall return an inactive voter to active
14 voter status if, prior to the passage of two federal general
15 elections, the voter:

16 (a) Notifies the auditor of a change of address;

17 (b) Responds to a confirmation notice with information that he or
18 she continues to reside at the registration address; or

19 (c) Votes or attempts to vote in a primary, special election, or
20 general election.

21 (2) If the inactive voter fails to provide a notice or take an
22 action as described in subsection (1) of this section, the auditor
23 shall cancel the person's voter registration.

24 (3) The county auditor must cancel an inactive voter registration
25 when receiving information indicating that the inactive voter has
26 moved out of state (~~or died~~) and has remained inactive for two
27 federal general elections.

28 **Sec. 3.** RCW 29A.08.810 and 2023 c 466 s 28 are each amended to
29 read as follows:

30 (1) Registration of a person as a voter is presumptive evidence
31 of his or her right to vote. A challenge to the person's right to
32 vote must be based on personal knowledge of one of the following:

33 (a) The challenged voter has been convicted of a felony that
34 includes serving a sentence of total confinement under jurisdiction
35 of the department of corrections, or a felony conviction in another
36 state's court or federal court and the voter is serving that sentence
37 of total confinement and the person's voting rights have not been
38 restored under RCW 29A.08.520;

1 (b) The challenged voter has been judicially declared ineligible
2 to vote due to mental incompetency under RCW 29A.08.515;

3 (c) The challenged voter resides at a different address than the
4 residential address provided, and is not subject to RCW 29A.04.151 or
5 29A.08.112, in which case the challenger must (~~either~~):

6 (i) Provide the challenged voter's actual residence on the
7 challenge form; (~~or~~) and

8 (ii) Submit evidence that he or she exercised due diligence to
9 verify that the challenged voter does not reside at the address
10 provided. The challenger must, at minimum, provide evidence that the
11 challenger personally(~~+~~

12 ~~(A) Sent~~) sent a certified letter with return service requested
13 to the challenged voter's residential address provided, and to the
14 challenged voter's mailing address, if provided, using a form
15 provided by the office of the secretary of state outlining the reason
16 for the challenge;

17 (~~(B) Searched local telephone directories, including online~~
18 ~~directories, to determine whether the voter maintains a telephone~~
19 ~~listing at any address in the county;~~

20 ~~(C) Searched county auditor property records to determine whether~~
21 ~~the challenged voter owns any property in the county;~~

22 ~~(D) Searched the statewide voter registration database to~~
23 ~~determine if the voter is registered at any other address in the~~
24 ~~state; and~~

25 ~~(E) Searched the voter registration database of another state to~~
26 ~~determine if the voter is registered to vote in any other state;))~~

27 (d) The challenged voter will not be eighteen years of age by the
28 next general election; or

29 (e) The challenged voter is not a citizen of the United States.

30 (2) A person's right to vote may be challenged by another
31 registered voter from the same city or town, or, if the voters reside
32 in an unincorporated area, the same county, or the county prosecuting
33 attorney.

34 (3) (a) (i) The challenger must file a separate voter registration
35 challenge form or official electronic voter challenge form, as
36 provided under RCW 29A.08.850, for each voter whose registration is
37 challenged.

38 (ii) Each form must include:

39 (A) The challenger's name, voting precinct, address, and phone
40 number;

1 (B) The challenged voter's name, voting precinct, address, and
2 phone number;

3 (C) A statement of the factual basis for the challenge, including
4 any information required by subsection (1)(c) of this section.
5 Challenges must be based on personal knowledge, which for these
6 purposes is defined as firsthand knowledge through experience or
7 observation of the facts upon each ground that the challenge is based
8 and contains any documentation or evidence supporting the facts upon
9 which each ground for the challenge is based;

10 (D) The challenger's signature certifying that all information
11 provided in the form is true and correct; and

12 (E) A clear statement providing that such certification is
13 subject to penalty of perjury under chapter 9A.72 RCW;

14 (b) The challenger must file a separate signed affidavit for each
15 voter whose registration is challenged, subject to the penalties of
16 perjury under chapter 9A.72 RCW swearing that, to his or her personal
17 knowledge and belief, having exercised due diligence to personally
18 verify the evidence presented, the challenged voter either is not
19 qualified to vote or does not reside at the address given on his or
20 her voter registration record based on one of the reasons allowed in
21 subsection (1) of this section. The challenger must provide the
22 factual basis for the challenge, including any information required
23 by subsection (1)(c) of this section, in the signed affidavit. The
24 challenge may not be based on unsupported allegations or allegations
25 by ((anonymous)) third parties. The challenger shall sign each
26 affidavit by hand, with ink. An affidavit signed electronically shall
27 be rejected. All documents pertaining to the challenge are public
28 records.

29 ~~((4) Challenges based on a felony conviction under RCW~~
30 ~~29A.08.520 must be heard according to RCW 29A.08.520 and rules~~
31 ~~adopted by the secretary of state.))~~

32 (4) Voters who do not receive ballots because their registration
33 has been made inactive pursuant to this chapter are not subject to
34 voter registration challenges.

35 **Sec. 4.** RCW 29A.08.840 and 2023 c 466 s 31 are each amended to
36 read as follows:

37 (1) If the challenge is not in proper form or the factual basis
38 for the challenge does not meet the legal grounds for a challenge,
39 the county auditor ((may)) must dismiss the challenge and notify the

1 challenger of the reasons for the dismissal. A challenge is not in
2 proper form if it is incomplete on its face or does not
3 (~~substantially~~) comply with the form issued by the secretary of
4 state.

5 (2) Prior to notifying the voter of any challenge, the county
6 auditor may conduct an initial review of the merits of the challenge.
7 In that initial review of the merits, if the county auditor
8 determines that it is more likely than not that the challenge lacks
9 merit, then the county auditor may dismiss the challenge. The
10 challenger may refile the challenge with additional evidence pursuant
11 to the requirements of RCW 29A.08.810.

12 (3) If the challenge is in proper form and the factual basis
13 meets the legal grounds for a challenge, the county auditor must
14 notify the challenged voter and provide a copy of the affidavit. The
15 county auditor shall also provide to any person, upon request, a copy
16 of all materials provided to the challenged voter.

17 (a) The notice must be in a form provided by the secretary of
18 state, sent by forwardable certified mail to the address provided in
19 the voter registration record, and any other addresses at which the
20 challenged voter is alleged to reside or the county auditor
21 reasonably expects the voter to receive notice, and by email and
22 phone, if the county auditor has such information in its records, and
23 include:

24 (i) A copy of the challenge form and affidavit;

25 (ii) Methods by which the voter can confirm eligibility,
26 including by mail, online, phone, in-person, or at a scheduled
27 hearing;

28 (iii) Notice of any consequences for failing to respond to the
29 challenge; and

30 (iv) For challenges based on a change of address, a clear
31 statement that the voter remains registered and eligible to vote in
32 that election.

33 (b) Before scheduling a hearing, the county auditor must attempt
34 to reconfirm registration pursuant to the procedures outlined in RCW
35 29A.08.107.

36 (c) If the challenge is to the residential address provided by
37 the voter, the challenged voter must be provided notice of the
38 exceptions allowed in RCW 29A.08.112 and 29A.04.151, and Article VI,
39 section 4 of the state Constitution, and may update the residence

1 address on the voter's voter registration, or reregister until 8:00
2 p.m. the day of the election.

3 ~~((b) The)~~ (d) Subject to (e) of this subsection, and only if
4 after providing notice, eligibility cannot be confirmed and the
5 challenge remains, the county auditor must schedule a hearing and
6 notify the challenger and the challenged voter of the time and place
7 for the hearing.

8 ~~((3) All notice)~~ (e) A hearing shall only be scheduled if the
9 county auditor is unable to confirm the voter's eligibility and,
10 based on the evidence submitted by the challenger, there is probable
11 cause that the challenged voter is not qualified to vote. Challenges
12 that do not meet the probable cause standard shall be dismissed
13 without a hearing.

14 (f) If, at any point, the county auditor is able to independently
15 verify the eligibility of the challenged voter, the challenge shall
16 be dismissed without a hearing.

17 (4) (a) The hearing notification must be by certified forwardable
18 mail to the address provided in the voter registration record, and
19 any other addresses at which the challenged voter is alleged to
20 reside or the county auditor reasonably expects the voter to receive
21 notice. The county auditor must also notify the challenged voter by
22 phone, including leaving a voicemail if possible, or email if the
23 county auditor has such information in its records. If the county
24 auditor receives no response from the challenged voter within 10
25 calendar days, the county auditor must provide the same such notice a
26 second time. The secretary of state shall create a standard form for
27 notification by mail and email. The challenger must appear in person
28 at the hearing. The ~~(challenger and)~~ challenged voter may either
29 appear in person or submit testimony by affidavit. Personal
30 appearance may be accomplished using video telecommunications
31 technology if the auditor or canvassing board chooses.

32 (b) The hearing notice must include:

33 (i) A copy of the challenge form and affidavit;

34 (ii) Methods by which the voter can confirm eligibility,
35 including by mail, online, phone, or in person;

36 (iii) Notice of any consequences for failing to respond to the
37 challenge; and

38 (iv) How responding to the challenge may help the voter remain
39 registered to vote.

1 (~~(4)~~) (5) The challenger has the burden to prove (~~(by clear and~~
2 ~~convincing evidence)~~) beyond a reasonable doubt that the challenged
3 voter's registration is improper. The challenged voter must be
4 provided a reasonable opportunity to respond. If the challenge is to
5 the residential address provided by the voter, the challenged voter
6 may provide evidence that he or she resides at the location described
7 in his or her voter's registration records, or meets one of the
8 exceptions allowed in RCW 29A.08.112 or 29A.04.151, or Article VI,
9 section 4 of the state Constitution. If the challenger fails to
10 appear at the hearing, then the challenge shall be dismissed. If
11 (~~either the challenger or~~) the challenged voter fails to appear at
12 the hearing or submit an affidavit in lieu of appearing at the
13 hearing, the challenge must be resolved based on the available facts
14 and the challenger must still prove beyond a reasonable doubt that
15 the challenged voter's registration is improper.

16 (~~(5)~~) (6) (a) If the challenge is based on an allegation under
17 RCW 29A.08.810(1) (a), (b), (d), or (e) and the canvassing board
18 sustains the challenge, the voter registration shall be canceled and
19 any challenged ballot shall not be counted. If the challenge is based
20 on an allegation under RCW 29A.08.810(1)(c) and the canvassing board
21 sustains the challenge, the board shall permit the voter to correct
22 the residence address on the voter registration and any races and
23 ballot measures on any challenged ballot that the voter would have
24 been qualified to vote for had the registration been correct shall be
25 counted.

26 (b) If a voter is successfully challenged under RCW
27 29A.08.810(1)(c), the county auditor shall send a notice to the voter
28 and shall not remove the voter from the official state voter
29 registration list unless the voter fails to respond to the notice and
30 fails to vote or confirm their voter registration address during the
31 time period that includes the next two general elections.

32 (~~(6)~~) (7) If the challenger fails to prove (~~(by clear and~~
33 ~~convincing evidence)~~) beyond a reasonable doubt that the registration
34 is improper, the challenge must be dismissed and any pending
35 challenged ballot must be accepted as valid. All challenged ballots
36 must be resolved before certification of the election. The decision
37 of the county auditor or canvassing board is final subject only to
38 judicial review by the superior court under chapter 34.05 RCW.

39 (8) Any challenger that knowingly provides false information as
40 part of a voter registration challenge under this chapter, either

1 before or during an election, is guilty of perjury under chapter
2 9A.72 RCW.

3 (9) Any challenger that knowingly challenges a person's voter
4 registration without reasonable cause under this chapter, either
5 before or during an election, is guilty of a misdemeanor. Each
6 instance where a challenger knowingly makes a challenge without
7 reasonable cause constitutes a separate offense.

8 **Sec. 5.** RCW 29A.08.850 and 2006 c 320 s 7 are each amended to
9 read as follows:

10 (1) The secretary of state must provide forms for voter
11 registration challenges, and the county auditor must make such forms
12 available. A challenge is not required to be submitted on the
13 provided voter challenge form, but may be prepared using an official
14 electronic voter challenge form template provided by the auditor or
15 secretary of state that has been printed and signed by the challenger
16 for submission.

17 (2) Each form must include:

18 (a) The challenger's name, voting precinct, address, and phone
19 number;

20 (b) The challenged voter's name, voting precinct, address, and
21 phone number;

22 (c) A statement of the factual basis for the challenge as
23 required under RCW 29A.08.810, including any information required by
24 RCW 29A.08.810(1)(c);

25 (d) The challenger's signature certifying that all information
26 provided in the form is true and correct; and

27 (e) A clear statement providing that such certification is
28 subject to penalty of perjury under chapter 9A.72 RCW.

29 **Sec. 6.** RCW 29A.08.135 and 2009 c 369 s 14 are each amended to
30 read as follows:

31 (1) When a person who has previously registered to vote in
32 another state applies for voter registration in Washington, the
33 person shall provide on the registration form all information needed
34 to cancel any previous registration. Notification must be made to the
35 state elections office of the applicant's previous state of
36 registration.

37 ~~(2) ((A county auditor receiving official information that a~~
38 ~~voter has registered to vote in another state shall immediately~~

1 ~~cancel that voter's registration on the official state voter~~
2 ~~registration list.))~~ (a) A county auditor receiving official
3 information that a voter has registered to vote in another state
4 shall send a notice to the voter and change the voter's status to
5 inactive. The auditor shall not remove the voter from the official
6 state voter registration list unless the voter fails to respond to
7 the notice and fails to vote or confirm their voter registration
8 address during the time period that includes the next two general
9 elections.

10 (b) Official information must come directly from a government or
11 state-led interstate source, such as the electronic registration
12 information center.

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