

SENATE BILL REPORT

SB 6565

As of January 25, 2006

Title: An act relating to valid voter registrations.

Brief Description: Concerning valid voter registrations.

Sponsors: Senators Kastama, Kohl-Welles and Kline; by request of Secretary of State.

Brief History:

Committee Activity: Government Operations & Elections: 1/12/06.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Staff: Mac Nicholson (786-7445)

Background: Registration of a person as a voter is presumptive evidence of his or her right to vote. Any registered voter may request that the registration of another voter be canceled if he or she believes that the voter does not meet the requirements of the constitution or that the voter no longer maintains a legal voting residence at the address shown on his or her registration record. The challenger must file a signed affidavit, subject to the penalties of perjury, that to his or her personal knowledge and belief another registered voter does not actually reside at the address as given on his or her registration record or is otherwise not a qualified voter. The person filing the challenge must furnish the address at which the challenged voter actually resides.

Challenges initiated by a registered voter must be filed no later than the day before the election. A challenged voter may properly transfer or re-register until three days before the election. The county auditor must provide notice to the challenged voter and inform the voter that he or she will be issued a challenged ballot. The canvassing board must meet to rule on challenged ballots, and the challenging party must prove that the challenged voter's registration is improper by clear and convincing evidence. The challenged voter has the opportunity to present testimony and evidence to the canvassing board. Challenged ballots must be determined by the time of certification.

If the challenged voter does not vote, or if the challenge is made thirty or more days before the election, the county auditor must hold a hearing at which time both parties may present their arguments. The county auditor must then rule as to the validity of the challenged registration. The qualifications of any absentee voter may be challenged at the time the signature on the return envelope is verified and the ballot is processed by the canvassing board.

A voter who has a nontraditional address is registered at the county courthouse or other public building near the area the voter considers his or her residence.

Summary of Bill: The voter challenge statutes are re-written as follows:

Voters who lack a traditional address will be registered at the location provided, and they have the option of using the address of a county courthouse or other public building. A voter without a traditional address must provide a valid mailing address and meet the 30 day residence requirement in Article VI, section 1 of the state Constitution.

A challenge may be filed by another registered voter if the challenge is filed anytime other than election day, or by the poll site judge or inspector if the challenge is filed on election day. The challenger must provide the factual basis for the challenge and may not base the challenge on unsupported allegations or allegations by anonymous third parties. The Secretary of State must provide forms for voter registration challenges.

A voter challenge must be based on personal knowledge that: the voter has been convicted of a felony and civil rights have not been restored; the voter has been declared mentally incompetent by a judge; the voter does not live at the residential address provided on his or her registration; the residential address does not constitute a residence; the voter is or will not be 18 by the election; or the voter is not a citizen. If the challenge is based on an allegation that the voter does not live at the address provided, the challenger must provide the voter's actual residence.

If the challenge is filed before the ballot has been received, the ballot must be treated as a challenged ballot. If the challenge is filed after the ballot has been received, the challenge cannot affect the current election. If the challenge is filed at least 30 days before the election, the county auditor presides over the hearing. If the challenge is filed less than 30 days before the election, the canvassing board presides over the hearing.

A challenge may be dismissed by the auditor if it is not in proper form or is incomplete on its face. The auditor must provide notice by certified mail of the challenge to the challenged voter, and if the challenge is based on the residential address, the auditor must give notice of exceptions to the residency requirement allowed by the constitution and statute (nontraditional address and excused absence from the state due to military service, college, prison, and navigation of high seas). A challenged voter may transfer or re-register until four days before the election.

If the challenger fails to prove by clear and convincing evidence that the registration is improper, the challenge must be dismissed and the ballot must be counted.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Two situations arose last year that prompted this re-write of the challenge statutes. One was the challenge of thousands of voters who had Hispanic last names, and the other was the King County challenges. In each case, it was unclear whether the auditors had the authority to dismiss the challenges outright. This bill clarifies challenge grounds and processes, including the ability of county auditors to dismiss challenges outright if the challenges are not in proper form or if not based on proper grounds. The current statutes

governing challenges of absentee voters are complicated and this bill clarifies that as well. Challenged voters should be given notice of exceptions to the residency requirement, and challenges filed after a ballot is received should not affect the outcome of that election. This bill also provides that a voter with a nontraditional address has the option to register at a public building. Some concern was raised about transient voters and how transient they have to be under the statute, and there is no definition of valid residence.

Testimony Against: None.

Who Testified: PRO: Sam Reed, Secretary of State; Nick Handy, Katie Blinn, and Shane Hamlin, Office of the Secretary of State; Bob Terwilliger, Snohomish County Auditor and Washington State Association of County Auditors; David Anderson, Your Vote Counts.