
HOUSE BILL 2752

State of Washington 59th Legislature 2006 Regular Session

By Representatives Haigh, Nixon, Armstrong and P. Sullivan; by request of Secretary of State

Read first time 01/12/2006. Referred to Committee on State Government Operations & Accountability.

1 AN ACT Relating to valid voter registrations; amending RCW
2 29A.08.112, 29A.08.810, 29A.08.820, 29A.08.840, 29A.08.850, and
3 29A.40.140; and repealing RCW 29A.08.830.

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

5 **Sec. 1.** RCW 29A.08.112 and 2005 c 246 s 6 are each amended to read
6 as follows:

7 No person registering to vote, who meets all the qualifications of
8 a registered voter in the state of Washington, shall be disqualified
9 because ~~((of a nontraditional address being used as a residence~~
10 ~~address. Voters using such an))~~ he or she lacks a traditional
11 residential address. A voter who lacks a traditional residential
12 address will be registered and assigned to a precinct based on the
13 location provided((. Voters without a traditional address will be
14 registered at the)), and has the option of using the address of a
15 county courthouse, city hall, or other public building near the area
16 that the voter considers his or her residence. ((Registering at a
17 nontraditional address will not disqualify a voter from requesting
18 ongoing absentee voter status if the voter designates a valid mailing
19 address.

1 ~~For the purposes of this section, "nontraditional address" includes~~
2 ~~shelters, parks, or other identifiable locations that the voter deems~~
3 ~~to be his or her residence.)) A voter who registers under this section~~
4 ~~must provide a valid mailing address, and must still meet the~~
5 ~~requirement in Article VI, section 1 of the state Constitution that he~~
6 ~~or she live in the area for at least thirty days before the election.~~

7 A person who has a traditional residential address must use that
8 address for voter registration purposes and is not eligible to register
9 under this section.

10 **Sec. 2.** RCW 29A.08.810 and 2003 c 111 s 253 are each amended to
11 read as follows:

12 (1) Registration of a person as a voter is presumptive evidence of
13 his or her right to vote ((at any primary or election, general or
14 special. A person's right to vote may be challenged at the polls only
15 by a precinct judge or inspector. A challenge may be made only upon
16 the belief or knowledge of the challenging officer that the voter is
17 unqualified. The challenge must be supported by evidence or testimony
18 given to the county canvassing board under RCW 29A.08.820 and may not
19 be based on unsupported allegations or allegations by anonymous third
20 parties. The identity of the challenger, and any third person involved
21 in the challenge, shall be public record and shall be announced at the
22 time the challenge is made.

23 ~~Challenges initiated by a registered voter must be filed not later~~
24 ~~than the day before any primary or election, general or special, at the~~
25 ~~office of the appropriate county auditor. A challenged voter may~~
26 ~~properly transfer or reregister until three days before the primary or~~
27 ~~election, general or special, by applying personally to the county~~
28 ~~auditor. Challenges may also be initiated by the office of the county~~
29 ~~prosecuting attorney and must be filed in the same manner as challenges~~
30 ~~initiated by a registered voter)). A challenge to the person's right~~
31 ~~to vote must be based on personal knowledge of one of the following:~~

32 (a) The challenged voter has been convicted of a felony and the
33 voter's civil rights have not been restored;

34 (b) The challenged voter has been judicially declared ineligible to
35 vote due to mental incompetency;

36 (c)(i) The challenged voter does not live at the residential

1 address provided, in which case the challenger must provide the
2 challenged voter's actual residence; or

3 (ii) The residential address provided does not constitute a
4 residence;

5 (d) The challenged voter is not eighteen years of age or older, or
6 will not be eighteen years of age by the next election; or

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

8 (2) A person's right to vote may be challenged: By another
9 registered voter or the county prosecuting attorney if the challenge is
10 filed anytime other than election day, or by the poll site judge or
11 inspector if the challenge is filed on election day.

12 (3) The challenger must file a signed affidavit subject to the
13 penalties of perjury swearing that, to his or her personal knowledge
14 and belief, the challenged voter either is not qualified to vote or
15 does not reside at the address given on his or her voter registration
16 record based on one of the reasons allowed in subsection (1) of this
17 section. The challenger must provide the factual basis for the
18 challenge in the signed affidavit. The challenge may not be based on
19 unsupported allegations or allegations by anonymous third parties. All
20 documents pertaining to the challenge are public records.

21 **Sec. 3.** RCW 29A.08.820 and 2003 c 111 s 254 are each amended to
22 read as follows:

23 ~~((When the right of a person has been challenged under RCW~~
24 ~~29A.08.810 or 29A.08.830(2), the challenged person shall be permitted~~
25 ~~to vote a ballot which shall be placed in a sealed envelope separate~~
26 ~~from other voted ballots. In precincts where voting machines are used,~~
27 ~~any person whose right to vote is challenged under RCW 29A.08.810 or~~
28 ~~29A.08.830(2) shall be furnished a paper ballot, which shall be placed~~
29 ~~in a sealed envelope after being marked. Included with the challenged~~
30 ~~ballot shall be (1) an affidavit filed under RCW 29A.08.830 challenging~~
31 ~~the person's right to vote or (2) an affidavit signed by the precinct~~
32 ~~election officer and any third party involved in the officer's~~
33 ~~challenge and stating the reasons the voter is being challenged. The~~
34 ~~sealed ballots of challenged voters shall be transmitted at the close~~
35 ~~of the election to the canvassing board or other authority charged by~~
36 ~~law with canvassing the returns of the particular primary or election.~~
37 ~~The county auditor shall notify the challenger and the challenged~~

1 voter, by certified mail, of the time and place at which the county
2 canvassing board will meet to rule on challenged ballots. If the
3 challenge is made by a precinct election officer under RCW 29A.08.810,
4 the officer must appear in person before the board unless he or she has
5 received written authorization from the canvassing board to submit an
6 affidavit supporting the challenge. If the challenging officer has
7 based his or her challenge upon evidence provided by a third party,
8 that third party must appear with the challenging officer before the
9 canvassing board, unless he or she has received written authorization
10 from the canvassing board to submit an affidavit supporting the
11 challenge. If the challenge is filed under RCW 29A.08.830, the
12 challenger must either appear in person before the board or submit an
13 affidavit supporting the challenge. The challenging party must prove
14 to the canvassing board by clear and convincing evidence that the
15 challenged voter's registration is improper. If the challenging party
16 fails to meet this burden, the challenged ballot shall be accepted as
17 valid and counted. The canvassing board shall give the challenged
18 voter the opportunity to present testimony, either in person or by
19 affidavit, and evidence to the canvassing board before making their
20 determination. All challenged ballots must be determined no later than
21 the time of canvassing for the particular primary or election. The
22 decision of the canvassing board or other authority charged by law with
23 canvassing the returns shall be final. Challenges of absentee ballots
24 shall be determined according to RCW 29A.40.140.) (1)(a) If the
25 challenge is filed within thirty days before an election at which the
26 challenged voter is eligible to vote, a notation of the challenge must
27 be made in the poll book or voter registration system, and the county
28 canvassing board presides over the hearing.

29 (b) If the challenge is filed before the challenged voter's ballot
30 is received, the ballot must be treated as a challenged ballot. A
31 challenged ballot received at a polling place must be placed in a
32 sealed envelope separate from other voted ballots.

33 (c) If the challenge is filed after the challenged voter's ballot
34 is received, the challenge cannot affect the current election.

35 (2) If the challenge is filed at least thirty days before an
36 election at which the challenged voter is eligible to vote, the county
37 auditor presides over the hearing.

1 **Sec. 4.** RCW 29A.08.840 and 2003 c 111 s 256 are each amended to
2 read as follows:

3 ~~((All challenges of voter registration under RCW 29A.08.830 made
4 thirty days or more before a primary or election, general or special,
5 shall be delivered to the appropriate county auditor who shall notify
6 the challenged voter, by certified mail, that his or her voter
7 registration has been challenged.~~

8 ~~The notification shall be mailed to the address at which the
9 challenged voter is registered, any address provided by the challenger
10 under RCW 29A.08.830, and to any other address at which the individual
11 whose registration is being challenged is alleged to reside or at which
12 the county auditor would reasonably expect that individual to receive
13 notice of the challenge of his or her voter registration. Included in
14 the notification shall be a request that the challenged voter appear at
15 a hearing to be held within ten days of the mailing of the request, at
16 the place, day, and hour stated, in order to determine the validity of
17 his or her registration. The challenger shall be provided with a copy
18 of this notification and request. If either the challenger or the
19 challenged voter is unable to appear in person, he or she may file a
20 reply by means of an affidavit stating under oath the reasons he or she
21 believes the registration to be invalid or valid.~~

22 ~~If both the challenger and the challenged voter file affidavits
23 instead of appearing in person, an evaluation of the affidavits by the
24 county auditor constitutes a hearing for the purposes of this section.~~

25 ~~The county auditor shall hold a hearing at which time both parties
26 may present their facts and arguments. After reviewing the facts and
27 arguments, including any evidence submitted by either side, the county
28 auditor shall rule as to the validity or invalidity of the challenged
29 registration. His or her ruling is final subject only to a petition
30 for judicial review by the superior court under chapter 34.05 RCW. If
31 either party, or both parties, fail to appear at the meeting or fail to
32 file an affidavit, the county auditor shall determine the status of the
33 registration based on his or her evaluation of the available facts.)~~

34 ~~(1) If the challenge is not in proper form and the factual basis for
35 the challenge does not meet the legal grounds for a challenge, the
36 county auditor may dismiss the challenge and notify the challenger of
37 the reasons for the dismissal. A challenge is not in proper form if it~~

1 is incomplete on its face or does not substantially comply with the
2 form issued by the secretary of state.

3 (2) If the challenge is in proper form and the factual basis meets
4 the legal grounds for a challenge, the county auditor must notify the
5 challenged voter and provide a copy of the affidavit. If the challenge
6 is to the residential address provided by the voter, the challenged
7 voter must be provided notice of the exceptions allowed in RCW
8 29A.08.112 and 29A.04.151, and Article VI, section 4 of the state
9 Constitution. A challenged voter may transfer or reregister until four
10 days before the election. The county auditor must schedule a hearing
11 and notify the challenger and the challenged voter of the time and
12 place for the hearing. If the challenge is filed at least thirty days
13 before an election at which the challenged voter is eligible to vote,
14 the county auditor presides over the hearing. If the challenge is
15 filed within the thirty days before an election at which the challenged
16 voter is eligible to vote, the county canvassing board presides over
17 the hearing.

18 (3) All notice must be by 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 can
21 reasonably expect the voter to receive notice. The challenger and
22 challenged voter may either appear in person or submit testimony by
23 affidavit.

24 (4) The challenger has the burden to prove by clear and convincing
25 evidence that the challenged voter's registration is improper. The
26 challenged voter must be provided a reasonable opportunity to respond.
27 If the challenge is to the residential address provided by the voter,
28 the challenged voter may prove that he or she meets one of the
29 exceptions allowed in RCW 29A.08.112 or 29A.04.151, or Article VI,
30 section 4 of the state Constitution. If either the challenger or
31 challenged voter fails to appear at the hearing, the challenge must be
32 resolved based on the available facts.

33 (5) If the challenger fails to prove by clear and convincing
34 evidence that the registration is improper, the challenge must be
35 dismissed and the pending challenged ballot must be accepted as valid.
36 Challenged ballots must be resolved before certification of the
37 election. The decision of the county auditor or canvassing board is

1 final subject only to judicial review by the superior court under
2 chapter 34.05 RCW.

3 **Sec. 5.** RCW 29A.08.850 and 2003 c 111 s 257 are each amended to
4 read as follows:

5 The secretary of state (~~(as chief elections officer shall cause~~
6 ~~appropriate forms to be designed to carry out the provisions of RCW~~
7 ~~29A.08.830 and 29A.08.840. The county auditors and registration~~
8 ~~assistants shall have such forms available. Further, a reasonable~~
9 ~~supply of such forms shall be at each polling place on the day of a~~
10 ~~primary or election, general or special)) must provide forms for voter
11 registration challenges, and the county auditor must make such forms
12 available.~~

13 **Sec. 6.** RCW 29A.40.140 and 2003 c 111 s 1014 are each amended to
14 read as follows:

15 The qualifications of any absentee voter may be challenged (~~(at the~~
16 ~~time)) before the (~~(signature on the return envelope is verified and~~
17 ~~the ballot is processed by the canvassing board)) voted ballot is
18 received. The board has the authority to determine the legality of any
19 absentee ballot challenged under this section. Challenged ballots must
20 be handled in accordance with chapter 29A.08 RCW.~~~~

21 NEW SECTION. **Sec. 7.** RCW 29A.08.830 (Affidavit--Administration,
22 notice of challenge) and 2003 c 111 s 255 are each repealed.

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