

HOUSE BILL REPORT

HB 2152

As Passed Legislature

Title: An act relating to election certification dates.

Brief Description: Regarding election certification.

Sponsors: By Representatives Appleton, Seaquist, Rolfes, Haigh, Eickmeyer, Lantz and Ormsby.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/20/07, 2/21/07 [DP].

Floor Activity:

Passed House: 3/12/07, 97-1.

Passed Senate: 4/11/07, 49-0.

Passed Legislature.

<h3>Brief Summary of Bill</h3>

- Clarifies that official certification of an election occurs when the county canvassing board certifies the election.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 9 members: Representatives Hunt, Chair; Appleton, Vice Chair; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Green, Kretz, McDermott, Miloscia and Ormsby.

Staff: Alison Hellberg (786-7152).

Background:

A County Canvassing Board must complete the canvass and certify the results within 21 days of a general election. Immediately following the ascertainment of the result of a county election, the county auditor must notify the elected person and issue that person a certificate of election.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Registered voters may contest the right of a person who is declared elected to office to be issued a certificate of election. Among other reasons, a voter may contest the election if he or she believes that an error or omission has occurred or is about to occur in the issuance of a certificate of election. To commence an action of this nature, a voter must submit an affidavit to the appropriate court within 10 days of official certification. If an election is set aside by a superior court and not appealed within 10 days, the certificate issued is rendered void.

Summary of Bill:

Immediately following the ascertainment of the result of a county election, the county auditor must notify the person elected to office and issue the person a ceremonial certificate of election.

Registered voters may challenge the right to assume office of a candidate who is declared elected to that office for a variety of reasons. One of these reasons is if the voter believes that an error or omission has occurred or is about to occur in the official certification of the election. To commence an action of this nature, a voter must submit an affidavit to the appropriate court within 10 days of the official certification. If an election is set aside by a superior court and not appealed within 10 days, the election of the challenged person is rendered void.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) This bill came about because of a court case in Kitsap County. A candidate's election was contested 31 days after the election had been certified. A challenge to an election must occur within 10 days of certification. The county had issued a certificate of election a few weeks after the election and the challenge had been commenced within 10 days of the issuance of that certificate. The judge denied the candidate's motion to dismiss because the current law was confusing as to when the actual date of certification was. Sometimes the statute refers to "official certification" and sometimes it refers to "issuance of a certificate of election." This issue also came up during the 2004 gubernatorial election.

It is important to clarify the language in the statute so candidates and the government have certainty as to the date of certification, the starting date of elected officials, and the time within which the election may be contested. Most counties only issue a ceremonial certificate of election that has no relation to the actual certification of the election. The Secretary of State

tried to clean up the statute in 2005, but missed some parts. This is an effort to fix the remaining parts of the statute that are confusing.

(Opposed) None.

Persons Testifying: (In support) Representative Appleton, prime sponsor; and Karen Flynn, Kitsap County Auditor.

Persons Signed In To Testify But Not Testifying: None.