
SENATE BILL 5856

State of Washington

68th Legislature

2024 Regular Session

By Senators Hunt, Kuderer, Nobles, Valdez, and C. Wilson

Prefiled 12/15/23. Read first time 01/08/24. Referred to Committee on State Government & Elections.

1 AN ACT Relating to voter registration challenges; and amending
2 RCW 29A.08.810, 29A.08.820, 29A.08.835, and 29A.08.840.

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

4 **Sec. 1.** RCW 29A.08.810 and 2023 c 466 s 28 are each amended to
5 read as follows:

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

9 (a) The challenged voter has been convicted of a felony that
10 includes serving a sentence of total confinement under jurisdiction
11 of the department of corrections, or a felony conviction in another
12 state's court or federal court and the voter is serving that sentence
13 of total confinement and the person's voting rights have not been
14 restored under RCW 29A.08.520;

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

17 (c) The challenger has searched the current official voter
18 registration database of another state and determined the challenged
19 voter is registered to vote in another state more recently than the
20 voter's Washington state registration;

1 (d) The challenged voter will not be 18 years of age by the next
2 general election;

3 (e) The challenged voter is not a citizen of the United States;
4 or

5 (f) The challenged voter resides at a different address than the
6 residential address provided, and is not subject to RCW 29A.04.151 or
7 29A.08.112, in which case the challenger must either:

8 (i) Provide the challenged voter's actual residence on the
9 challenge form; or

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

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

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

22 ~~(C)) Searched county ((auditor)) property records to determine~~
23 ~~whether the challenged voter owns any property in the county; and~~

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

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

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

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

32 (2) A person's right to vote may be challenged by another
33 registered voter or the county prosecuting attorney.

34 (3) The challenger must file a signed affidavit subject to the
35 penalties of perjury swearing that, to his or her personal knowledge
36 and belief, having exercised due diligence to personally verify the
37 evidence presented, the challenged voter either is not qualified to
38 vote or does not reside at the address given on his or her voter
39 registration record based on one of the reasons allowed in subsection
40 (1) of this section. The challenger must provide the factual basis

1 for the challenge, including any information required by subsection
2 (1)(~~(e)~~) (f) of this section, in the signed affidavit. The
3 challenge may not be based on unsupported allegations or allegations
4 by anonymous third parties. All documents pertaining to the challenge
5 are public records.

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

9 (5) Voters whose registration has been made inactive do not
10 receive ballots and are not subject to voter registration challenges.

11 (6) Any form created for use under subsection (1)(f)(ii)(A) of
12 this section must include the following warning at the top of the
13 form: "THIS IS NOT A GOVERNMENT DOCUMENT AND ANY CLAIM CONTAINED
14 WITHIN HAS NOT BEEN SUBSTANTIATED. YOU ARE NOT REQUIRED TO RESPOND TO
15 MAINTAIN YOUR CURRENT VOTER REGISTRATION."

16 **Sec. 2.** RCW 29A.08.820 and 2023 c 466 s 29 are each amended to
17 read as follows:

18 (1) Challenges must be filed with the county auditor of the
19 county in which the challenged voter is registered no later than 45
20 days before the election. The county auditor or auditor's designee
21 presides over the hearing.

22 (2) Challenges may be filed after 45 days before the election,
23 only when the challenged voter registered to vote less than 60 days
24 before the election, or changed residence less than 60 days before
25 the election without updating the residence address of the voter's
26 voter registration. A challenge may then be filed not later than 10
27 days before any primary or election, general or special, or within 10
28 days of the voter being added to the voter registration database,
29 whichever is later.

30 (a) If the challenge is filed after 45 days before an election at
31 which the challenged voter is eligible to vote, a notation of the
32 challenge must be made immediately to the challenged voter's
33 registration in the voter registration system, and the county
34 canvassing board shall preside over the hearing.

35 (b) If the challenge is filed before the challenged voter's
36 ballot is received, the ballot must be processed as a challenged
37 ballot, and held until the challenge is resolved.

1 (c) If the challenge is filed after the challenged voter's ballot
2 is received, the challenge cannot affect the current election.
3 However, the process shall proceed until the challenge is resolved.

4 (3) The county auditor may dismiss the challenge if the voter is
5 qualified under RCW 29A.04.151 or 29A.08.112, or if the challenged
6 voter's registration is inactive.

7 (4) Prior to any hearing the county auditor shall attempt to
8 resolve the question through one or more of the following methods:

9 (a) Contacting the challenged voter in order to:

10 (i) Update the voter's residence address for voting within the
11 county or state;

12 (ii) Confirm that the voter no longer considers themselves a
13 resident for voting purposes and obtaining a cancellation signed by
14 the voter; or

15 (iii) Learn whether the voter is currently residing at a
16 temporary address with the intent to return to the registered
17 address;

18 (b) Search the statewide voter registration database to determine
19 if the voter is registered at any other address within the state, and
20 resolve the error; or

21 (c) Determine if the voter is currently qualified under RCW
22 29A.04.151 or 29A.08.112.

23 (5) If the county auditor is successful in resolving the
24 challenge through any of the methods contained in subsection (4) of
25 this section the auditor shall dismiss the challenge and notify the
26 challenger of the dismissal.

27 **Sec. 3.** RCW 29A.08.835 and 2023 c 466 s 30 are each amended to
28 read as follows:

29 (1) ~~((The))~~ For challenges that have not been dismissed for
30 administrative reasons and that cannot be resolved under RCW
31 29A.08.820(4), the county auditor shall, within ~~((seventy-two hours))~~
32 10 business days of receipt, publish on the auditor's internet
33 website the ~~((entire content))~~ affidavit of any voter challenge filed
34 under this chapter ~~((29A.08 RCW))~~. Immediately after publishing any
35 voter challenge, the county auditor shall notify any person who
36 requests to receive such notifications on an ongoing basis.

37 (2) The information on the website may be removed 45 days
38 following certification of an election. Information related to the
39 challenge must be maintained by the county auditor for the

1 appropriate retention period, and is subject to disclosure upon
2 request.

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

5 (1) The county auditor shall determine within 10 business days of
6 receipt of a challenge whether the challenge is in proper form and
7 the factual basis meets the legal grounds for a challenge. If the
8 challenge is not in proper form or the factual basis for the
9 challenge does not meet the legal grounds for a challenge, the county
10 auditor may dismiss the challenge and, when permitted, shall notify
11 the challenger of the reasons for the dismissal. A challenge is not
12 in proper form if it is incomplete on its face or does not
13 substantially comply with the form issued by the secretary of state
14 as described in RCW 29A.08.810.

15 (2) If the challenge is in proper form and the factual basis
16 meets the legal grounds for a challenge, and the challenge has not
17 been dismissed for administrative reasons, or resolved by the voter
18 updating information, the county auditor must notify the challenged
19 voter ~~((and provide a copy of the affidavit))~~ via certified mail to
20 the mailing address and residential address provided in the voter
21 registration record. If the affidavit is returned as undeliverable,
22 the county auditor shall move the challenged voter to an inactive
23 status and send a confirmation notice pursuant to RCW 29A.08.030.
24 ~~((The county auditor shall also provide to any person, upon request,~~
25 ~~a copy of all materials))~~ Materials provided to the challenged voter
26 are not exempt from copying or inspection under chapter 42.56 RCW,
27 except for voters qualifying for exemption under RCW 29A.04.151 or
28 29A.08.112.

29 (a) If the challenge is to the residential address provided by
30 the voter, the challenged voter must be provided notice of the
31 exceptions allowed in RCW 29A.08.112 and 29A.04.151, and Article VI,
32 section 4 of the state Constitution, ~~((and))~~ or may update the
33 residence address on the voter's voter registration, or reregister
34 until 8:00 p.m. the day of the election.

35 (b) The county auditor must schedule a hearing and notify the
36 challenger and the challenged voter of the time and place for the
37 hearing.

38 (3) All notice must be by certified mail with return requested to
39 the ~~((address))~~ addresses provided in the voter registration record

1 for residence and for mailing, and any other addresses at which the
2 challenged voter is alleged to reside or the county auditor
3 reasonably expects the voter to receive notice. The challenger and
4 challenged voter may either appear in person or submit testimony by
5 affidavit. Personal appearance may be accomplished using video
6 telecommunications technology if the auditor or canvassing board
7 chooses.

8 (4) The challenger has the burden to prove by clear and
9 convincing evidence that the challenged voter's registration is
10 improper. The challenged voter must be provided a reasonable
11 opportunity to respond. If the challenge is to the residential
12 address provided by the voter, the challenged voter may provide
13 evidence that he or she resides at the location described in his or
14 her voter's registration records, or meets one of the exceptions
15 allowed in RCW 29A.08.112 or 29A.04.151, or Article VI, section 4 of
16 the state Constitution. If either the challenger or challenged voter
17 fails to appear at the hearing, the challenge must be resolved based
18 on the available facts.

19 (5) If the challenge is based on an allegation under RCW
20 29A.08.810(1) (a), (b), (c), (d), or (e) and the auditor, auditor's
21 designee, or canvassing board sustains the challenge, the voter
22 registration shall be canceled and any challenged ballot shall not be
23 counted. If the challenge is based on an allegation under RCW
24 29A.08.810(1) ~~((e))~~ (f) and the auditor, auditor's designee, or
25 canvassing board sustains the challenge prior to certification, the
26 ~~((board shall permit the voter))~~ voter shall be permitted to correct
27 the residence address on the voter registration and any races and
28 ballot measures on any challenged ballot that the voter would have
29 been qualified to vote for had the registration been correct shall be
30 counted.

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

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