

CHAPTER 288

[Substitute House Bill No. 291]

VOTER CHALLENGES

AN ACT Relating to voting challenges; amending RCW 29.10.125, 29.10.127, 29.10.130, and 29.10.140; and repealing RCW 29.10.123.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 30, Laws of 1983 1st ex. sess. and RCW 29.10.125 are each amended to read as follows:

Registration of a person as a voter is presumptive evidence of his or her right to vote at any primary or election, general or special(~~(, but)~~). A person's right to vote may be challenged at the polls only by a precinct election officer (and he or she may be required then and there to establish his or her right to vote. Each precinct election officer shall challenge a person offering to vote when the officer knows or suspects the person to be unqualified as a voter). A challenge may be made only upon the belief or knowledge of the challenging officer that the voter is unqualified. The challenge must be supported by evidence or testimony given to the county canvassing board under RCW 29.10.127 and may not be based on unsupported allegations or allegations by anonymous third parties. The identity of the challenger, and any third person involved in the challenge, shall be public record and shall be announced at the time the challenge is made.

Challenges (~~(may be)~~) initiated by a registered voter (~~(subject to the following conditions:~~

~~(1) Challenges on grounds other than residence may be made at the polls and the person challenged may be required then and there to establish his or her right to vote to the precinct election officers;~~

~~(2) Challenges on the grounds of residence alone))~~ must be filed not later than ~~((seven))~~ the day((s)) before any primary or election, general or special, at the office of the appropriate county auditor. A challenged voter may properly transfer or reregister until three days before the primary or election, general or special, by applying personally to the county auditor.

Sec. 2. Section 3, chapter 30, Laws of 1983 1st ex. sess. and RCW 29.10.127 are each amended to read as follows:

When the right of a person has been challenged under RCW 29.10.125 or 29.10.130(2), ~~((the officers conducting the election at the polling place shall require))~~ the challenged person shall be permitted to vote a ballot which shall be placed in a sealed envelope separate from other voted ballots. In precincts where voting machines are used, any person whose right to vote is challenged under RCW 29.10.125 or 29.10.130(2) shall be furnished ((with)) a paper ballot, which shall be placed in a sealed envelope after being marked. Included with the challenged ballot shall be (1) an affidavit filed under RCW 29.10.130 challenging the person's right to vote or (2) an

affidavit signed by the precinct election officer and any third party involved in the officer's challenge and stating the reasons the voter is being challenged. The sealed ballots of challenged voters shall be transmitted at the close of the election to the canvassing board or other authority charged by law with canvassing the returns of the particular primary or election. The county auditor shall notify the challenger and the challenged voter, by certified mail, of the time and place at which the county canvassing board will meet to rule on challenged ballots. If the challenge is made by a precinct election officer under RCW 29.10.125, the officer must appear in person before the board unless he or she has received written authorization from the canvassing board to submit an affidavit supporting the challenge. If the challenging officer has based his or her challenge upon evidence provided by a third party, that third party must appear with the challenging officer before the canvassing board, unless he or she has received written authorization from the canvassing board to submit an affidavit supporting the challenge. If the challenge is filed under RCW 29.10.130, the challenger must either appear in person before the board or submit an affidavit supporting the challenge. The challenging party must prove to the canvassing board by clear and convincing evidence that the challenged voter's registration is improper. If the challenging party fails to meet this burden, the challenged ballot shall be accepted as valid and counted. The canvassing board shall give the challenged voter the opportunity to present testimony, either in person or by affidavit, and evidence to the canvassing board before making their determination. All challenged ballots must be determined no later than the time of canvassing for the particular primary or election. The decision of the canvassing board or other authority charged by law with canvassing the returns shall be final. Challenges of absentee ballots shall be determined according to RCW 29.36.100.

Sec. 3. Section 2, chapter 156, Laws of 1965 ex. sess. as last amended by section 4, chapter 30, Laws of 1983 1st ex. sess. and RCW 29.10.130 are each amended to read as follows:

(1) 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 Article VI, section 1 of the state Constitution or that voter no longer maintains a legal voting residence at the address shown on his or her registration record. The challenger shall ((sign a form;)) file with the county auditor a signed affidavit subject to the penalties of perjury, to the effect 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 and that the voter in question is not protected by the provisions of Article VI, section 4, of the Constitution of the state of Washington. The person filing the challenge must furnish the address at which the challenged voter actually resides ((in order to assure that proper notice will be received by the challenged voter)).

(2) Any such challenge of a voter's registration and right to vote made less than thirty days before a primary or election, special or general, shall be administered under RCW 29.10.127. The county auditor shall notify the challenged voter and the precinct election officers in the voter's precinct that a challenge has been filed, provide the name of the challenger, and instruct both the precinct election officers and the voter that, in the event the challenged voter desires to vote at the ensuing primary or election, a challenged ballot will be provided. The voter shall also be informed that the status of his or her registration and the disposition of any challenged ballot will be determined by the county canvassing board in the manner provided by RCW 29.10.127. If the challenged voter does not vote at the ensuing primary or election, the challenge shall be processed in the same manner as challenges made more than thirty days prior to the primary or election under RCW 29.10.140.

Sec. 4. Section 3, chapter 156, Laws of 1965 ex. sess. as last amended by section 5, chapter 30, Laws of 1983 1st ex. sess. and RCW 29.10.140 are each amended to read as follows:

All challenges of voter registration under RCW 29.10.130 made thirty days or more before a primary or election, general or special, shall be delivered to the appropriate county auditor who shall ((send)) notify the challenged voter, by certified mail, ((a notice of intent to cancel the registration on account of a challenge of residence to that address at which the challenged voter is alleged to reside.

~~Any voter whose registration has been so challenged and who believes that the allegation is not true shall, within twenty days of such mailing, file a written response with the county auditor. The county auditor shall immediately request, by certified mail, the challenger and))~~ that his or her voter registration has been challenged.

The notification shall be mailed to the address at which the challenged voter is registered, any address provided by the challenger under RCW 29.10.130, and to any other address at which the individual whose registration is being challenged is alleged to reside or at which the county auditor would reasonably expect that individual to receive notice of the challenge of his or her voter registration. Included in the notification shall be a request that the challenged voter ((to)) appear at a ((meeting)) hearing to be held within ten days of the mailing of the request, at ((x)) the place, day, and hour ((to be)) stated ((in the request, for determination of)), in order to determine the validity of ((such)) his or her registration. The challenger shall be provided with a copy of this notification and request. If either the challenger or the challenged voter is unable to appear in person, he or she may file a reply by means of an affidavit stating under oath the reasons he or she believes the registration to be invalid or valid((, and if the challenger is unable to appear in person he or she may file a statement by means of affidavit stating the reasons he or she believes the registration to be invalid)).

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

The county auditor shall hold a hearing at which time both parties ~~((shall))~~ may present their facts and arguments. After reviewing the facts and arguments, including any evidence submitted by either side, the county auditor shall rule as to the validity or invalidity of the ~~((challenge))~~ challenged registration. His or her ruling is final subject only to a petition for judicial review by the superior court under chapter 34.04 RCW. If ~~((the challenger))~~ either party, or both parties, fail((s)) to appear at the meeting or fail((s)) to file an affidavit, the ~~((registration in question may remain in full effect as determined by the county auditor. If the challenged voter fails to appear at the meeting or fails to file an affidavit, then the registration shall be canceled and the voter so notified))~~ county auditor shall determine the status of the registration based on his or her evaluation of the available facts.

NEW SECTION. Sec. 5. Section 1, chapter 30, Laws of 1983 1st ex. sess. and RCW 29.10.123 are each repealed.

Passed the House April 15, 1987.

Passed the Senate April 9, 1987.

Approved by the Governor May 8, 1987.

Filed in Office of Secretary of State May 8, 1987.

CHAPTER 289

[Substitute Senate Bill No. 6023]

PORT DISTRICTS—USE OF INDUSTRIAL DEVELOPMENT FACILITIES AS SECURITY—PORT PROPERTY AND FACILITIES INCLUDES CERTAIN AGRICULTURAL PRODUCT FACILITIES

AN ACT Relating to port industrial bonding; amending RCW 53.40.020; and adding a new section to chapter 53.40 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A new section is added to chapter 53.40 RCW to read as follows:

The port commission of any port district, as security for the payment of the principal of and interest on any revenue bonds issued and any agreements made in connection therewith, may mortgage, pledge, or otherwise encumber the particular industrial development facility or facilities or any part or parts thereof that are being financed by the revenue bonds, whether then owned or thereafter acquired, and may assign any mortgage and repledge any security conveyed to the port district for that particular facility or facilities.