

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.

HB26-1113 be amended as follows:

1 Amend reengrossed bill, page 51, strike lines 10 through 27.

2 Strike page 52.

3 Page 53, strike lines 1 through 20 and substitute:

4 **"SECTION 53.** In Colorado Revised Statutes, **repeal and**
5 **reenact, with amendments,** 1-9-101 as follows:

6 **1-9-101. Challenge of incorrect registration.** (1) (a) ANY
7 REGISTERED ELECTOR MAY PROTEST THE REGISTRATION OF ANY PERSON
8 WHOSE NAME APPEARS IN A COUNTY REGISTRATION RECORD FOR THE
9 COUNTY IN WHICH THE CHALLENGING ELECTOR RESIDES. A PROTEST MAY
10 CHALLENGE A PERSON'S REGISTRATION AS INCORRECT BECAUSE THE
11 PERSON IS:

12 (I) NOT A CITIZEN OF THE UNITED STATES;

13 (II) NOT A LEAST FIFTEEN YEARS OLD;

14 (III) DECEASED; OR

15 (IV) NO LONGER A RESIDENT OF THE STATE, BUT HAS NOT YET
16 BEEN MARKED "INACTIVE" IN THE VOTER REGISTRATION RECORD.

17 (b) A PROTEST MUST BE SUBMITTED FOR EACH PERSON WHOSE
18 REGISTRATION IS BEING CHALLENGED. THE PROTEST MUST BE MADE IN
19 WRITING ON A FORM PRESCRIBED BY THE SECRETARY OF STATE AND MUST
20 INCLUDE:

21 (I) THE NAME OF THE PERSON WHOSE REGISTRATION IS
22 CHALLENGED;

23 (II) THE BASIS FOR THE CHALLENGE, INCLUDING SUPPORTING
24 FACTS;

25 (III) ALL DOCUMENTARY EVIDENCE SUPPORTING THE FACTUAL
26 BASIS FOR THE CHALLENGE; AND

27 (IV) THE SIGNATURE AND ADDRESS OF THE CHALLENGER.

28 (c) A PROTEST MUST BE FILED WITH THE COUNTY CLERK AND
29 RECORDER OF THE COUNTY WHERE THE CHALLENGED REGISTRATION
30 RECORD RESIDES NO LATER THAN ONE HUNDRED TWENTY DAYS BEFORE
31 ANY ELECTION CONDUCTED BY THAT COUNTY CLERK AND RECORDER. A
32 PROTEST FEE OF FIFTY DOLLARS MUST BE PAID TO THE COUNTY CLERK AND
33 RECORDER RESPONSIBLE FOR ADJUDICATING THE CHALLENGE AT THE TIME
34 THAT A PROTEST IS SUBMITTED. A FEE PAYMENT IS REQUIRED FOR EACH
35 WRITTEN PROTEST. IF A PROTEST IS SUCCESSFUL, THE PROTEST FEE MUST
36 BE REFUNDED TO THE CHALLENGER.

37 (d) UPON RECEIPT OF A PROTEST, A COUNTY CLERK AND RECORDER

1 SHALL REVIEW THE PROTEST TO DETERMINE IF IT SUFFICIENTLY ALLEGES
2 A BASIS FOR A CHALLENGE IN ACCORDANCE WITH SUBSECTION (1)(a) OF
3 THIS SECTION. IF A PROTEST DOES NOT ALLEGE A SUFFICIENT BASIS FOR A
4 CHALLENGE PURSUANT TO THIS SECTION, THE COUNTY CLERK AND
5 RECORDER SHALL DISMISS THE CHALLENGE AND NOTIFY THE CHALLENGER
6 OF THE DISMISSAL. IF A PROTEST SUFFICIENTLY ALLEGES A BASIS FOR A
7 CHALLENGE PURSUANT TO THIS SECTION, THE COUNTY CLERK AND
8 RECORDER SHALL NOTIFY AND MAIL A COPY OF THE CHALLENGE TO THE
9 PERSON WHOSE REGISTRATION IS BEING CHALLENGED. THE COUNTY CLERK
10 AND RECORDER SHALL NOTIFY THE PERSON WHOSE REGISTRATION IS BEING
11 CHALLENGED AND THE CHALLENGER OF THE DATE, TIME, AND LOCATION
12 SET FOR THE CHALLENGE HEARING REQUIRED BY SUBSECTION (1)(e) OF
13 THIS SECTION.

14 (e) IF A COUNTY CLERK AND RECORDER DETERMINES THAT A
15 PROTEST SUFFICIENTLY ALLEGES A BASIS FOR A CHALLENGE PURSUANT TO
16 THIS SECTION, THEN THE COUNTY CLERK AND RECORDER MUST SET A
17 HEARING DATE THAT IS NO LATER THAN THIRTY DAYS FROM THE DATE THE
18 PROTEST WAS FILED AND MUST PROVIDE NOTICE IN ACCORDANCE WITH
19 SUBSECTION (1)(d) OF THIS SECTION. THE CHALLENGER WHO SUBMITTED
20 THE PROTEST MUST APPEAR AT THE HEARING AND SHALL BEAR THE
21 BURDEN OF PROVING THE ALLEGATIONS MADE IN THE PROTEST ARE TRUE.
22 THE PERSON WHOSE REGISTRATION IS BEING CHALLENGED MUST HAVE THE
23 OPPORTUNITY TO APPEAR AT THE HEARING, BUT MAY NOT BE PENALIZED
24 OR SUBJECT TO A NEGATIVE PRESUMPTION OR INFERENCE IF THEY DO NOT
25 APPEAR. THE COUNTY CLERK AND RECORDER SHALL CONDUCT THE
26 HEARING AND MAY RECEIVE EVIDENCE AND HEAR TESTIMONY. NO LATER
27 THAN FIVE DAYS AFTER THE DATE OF THE HEARING, BUT IN NO EVENT
28 LATER THAN NINETY DAYS BEFORE AN ELECTION CONDUCTED BY THE
29 COUNTY CLERK AND RECORDER, THE COUNTY CLERK AND RECORDER MUST
30 RENDER A DECISION IN ACCORDANCE WITH SUBSECTION (1)(f) OF THIS
31 SECTION AND NOTIFY BOTH PARTIES OF THE DECISION.

32 (f) IN RENDERING A DECISION AFTER THE HEARING ON A PROTEST,
33 A COUNTY CLERK AND RECORDER MUST PROCEED AS FOLLOWS:

34 (I) IF THEY FIND SUFFICIENT EVIDENCE TO SUPPORT THE
35 ALLEGATIONS IN THE PROTEST, AND THE BASIS OF THE CHALLENGE IS THAT
36 THE PERSON IS DECEASED, LESS THAN FIFTEEN YEARS OLD, OR NOT A
37 CITIZEN OF THE UNITED STATES, THE COUNTY CLERK AND RECORDER
38 SHALL CANCEL THE PERSON'S VOTER REGISTRATION RECORD IN THE
39 STATEWIDE VOTER REGISTRATION SYSTEM;

40 (II) IF THEY FIND SUFFICIENT EVIDENCE TO SUPPORT THE
41 ALLEGATIONS IN THE PROTEST, AND THE BASIS FOR THE CHALLENGE IS
42 THAT THE PERSON IS NOT A RESIDENT OF THE STATE, THE COUNTY CLERK
43 AND RECORDER SHALL MARK THE PERSON'S VOTER REGISTRATION RECORD

1 "INACTIVE", SEND A CONFIRMATION CARD, AND OTHERWISE FOLLOW THE
2 REQUIREMENTS OF SECTION 1-2-302.5; OR
3 (III) IF THEY DO NOT FIND SUFFICIENT EVIDENCE TO SUPPORT THE
4 ALLEGATIONS IN THE PROTEST, THE COUNTY CLERK AND RECORDER SHALL
5 DENY THE CHALLENGE.
6 (2) ALL APPEALS FROM A DECISION OF THE COUNTY CLERK AND
7 RECORDER MUST BE TO THE DISTRICT COURT AND FILED WITHIN THREE
8 DAYS FROM THE DATE THE DECISION IS ISSUED. AN APPELLANT MUST FILE
9 IN THE DISTRICT COURT A VERIFIED PETITION SETTING FORTH THE FACTS
10 PRESENTED AT THE HEARING, IF ANY, THE DECISION OF THE COUNTY CLERK
11 AND RECORDER, AND THE BASIS FOR THE APPEAL. WITHIN TWENTY-FOUR
12 HOURS, THE CLERK OF THE DISTRICT COURT MUST MAIL TO THE OTHER
13 PARTY A NOTICE OF THE APPEAL, INCLUDING THE TIME OF ANY HEARING.
14 A HEARING MUST BE HELD NO LESS THAN THREE DAYS NOR MORE THAN
15 FIVE DAYS AFTER THE DATE THE VERIFIED PETITION IS FILED.
16 (3) (a) A DISTRICT COURT MUST HEAR TESTIMONY AND OTHER
17 EVIDENCE AND INVESTIGATE SUMMARILY ANY APPEAL FILED PURSUANT TO
18 SUBSECTION (2) OF THIS SECTION. ONLY COMPETENT LEGAL EVIDENCE
19 MAY BE RECEIVED AT THE HEARING OR CONSIDERED BY THE COURT. NO
20 PRESUMPTION MAY BE MADE AGAINST A PERSON WHOSE REGISTRATION IS
21 CHALLENGED MERELY BECAUSE OF THEIR FAILURE TO ATTEND THE
22 HEARING. THE COURT HAS THE POWER TO SUBPOENA ANY PERSON AS A
23 WITNESS AND TO MAKE ANY NECESSARY INVESTIGATION TO ASCERTAIN
24 THE TRUTH OF ANY CHARGES MADE IN THE PETITION, IF THE METHOD OF
25 INVESTIGATION DOES NOT CAUSE UNNECESSARY DELAY OR INTERFERE
26 WITH THE FINAL DISPOSITION OF THE PROTEST WITHIN THE TIME PROVIDED
27 IN THIS SECTION. A HEARING ON ANY PETITION IS SUMMARY AND FINAL
28 AND IS NOT SUBJECT TO DELAY.
29 (b) AT THE CLOSE OF THE HEARING, THE COURT MUST ANNOUNCE
30 IF THE PROTEST HAS BEEN SUSTAINED. IF THE PROTEST IS SUSTAINED, THE
31 COURT SHALL ORDER THE APPROPRIATE REMEDY IN ACCORDANCE WITH
32 SUBSECTION (1)(f) OF THIS SECTION. THE COURT SHALL DIRECT THE CLERK
33 OF THE COURT TO CERTIFY THE NAME OF THE PERSON WHOSE
34 REGISTRATION IS CHALLENGED AND THE REMEDY TO THE COUNTY CLERK
35 AND RECORDER. UPON RECEIPT OF THE NAME AND REMEDY, THE COUNTY
36 CLERK AND RECORDER SHALL TAKE THE ACTION REQUIRED BY THE COURT.
37 THE DECISION OF THE COURT IS FINAL AND NOT SUBJECT TO REVIEW BY
38 ANY OTHER COURT; EXCEPT THAT THE SUPREME COURT, IN ITS DISCRETION,
39 MAY REVIEW ANY SUCH PROCEEDINGS IN A SUMMARY WAY."

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