

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0097.01 Bob Lackner x4350

HOUSE BILL 16-1126

HOUSE SPONSORSHIP

Windholz,

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ROLE OF ELECTION WATCHERS IN CONNECTION
102 WITH THE CONDUCT OF ELECTIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

In connection with the role of watchers in elections, the bill does the following:

- ! **Section 2** of the bill requires the chairperson of the county central committee of each political party to select the names of the persons who will represent their political party in each precinct in the county as a watcher. If such

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

chairperson is not able to make the appointments, the chairperson of the state central committee of the political party or another official of the state political party are required to make the appointments. To the extent possible, the chairperson is required to submit the names no later than the 25th day before the election.

- ! **Section 3** of the bill requires that, in the case of an issue committee, the registered agent of the issue committee is the authorized representative of the issue committee entitled to appoint one or more watchers. To the extent possible, the particular appointing authority is required to submit the names no later than the 25th day before the election. **Section 4** of the bill imposes the same requirements with respect to proponents and opponents of a ballot issue.
- ! **Section 5** of the bill specifies procedures to be followed if a watcher sees a potential discrepancy. This section of the bill also allows the watcher to observe the process of signature verification. This section of the bill additionally contains an oath or affirmation that a person appointed as a watcher is to recite before beginning his or her service.
- ! **Section 6** of the bill specifies that statutory provisions prohibiting the disclosure of certain election-related information does not apply to the disclosure of any such information to an individual performing the duties of a watcher who has also successfully passed a criminal background check. Nothing in the bill prohibits a watcher who has also successfully passed a criminal background check from viewing signatures during the conduct of an election.
- ! **Section 7** of the bill requires that a background check be conducted of any individual who is to be appointed to serve as a watcher in any election with access to confidential election information. This section of the bill also allows a county clerk and recorder to access the criminal history records through the public website maintained by the Colorado bureau of investigation for any such watcher.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** The general assembly
3 hereby finds, determines, and declares that, by enacting House Bill
4 16-____, the general assembly intends to facilitate the appointment of

1 election watchers and clarify the rights and responsibilities of watchers
2 in the election process.

3 **SECTION 2.** In Colorado Revised Statutes, **amend** 1-7-105 as
4 follows:

5 **1-7-105. Watchers at primary elections.** (1) Each political party
6 participating in a primary election ~~shall be~~ IS entitled to have a watcher in
7 each precinct in the county. THE CHAIRPERSON OF THE COUNTY CENTRAL
8 COMMITTEE OF EACH POLITICAL PARTY SHALL SELECT THE NAMES OF THE
9 PERSONS WHO WILL REPRESENT THEIR POLITICAL PARTY IN EACH PRECINCT
10 IN THE COUNTY AS A WATCHER. IF THE CHAIRPERSON IS NOT ABLE TO
11 MAKE THE APPOINTMENTS, THE CHAIRPERSON OF THE STATE CENTRAL
12 COMMITTEE OF THE POLITICAL PARTY OR ANOTHER OFFICIAL OF THE STATE
13 POLITICAL PARTY SHALL MAKE THE APPOINTMENTS. The chairperson of
14 the county central committee of each political party shall certify the
15 persons selected as watchers on forms provided by the county clerk and
16 recorder and submit the names of the persons selected as watchers to the
17 county clerk and recorder. To the extent possible, the chairperson shall
18 submit the names ~~by the close of business on the Friday immediately~~
19 ~~preceding~~ NO LATER THAN THE TWENTY-FIFTH DAY BEFORE the election.

20 (2) In addition, candidates for nomination on the ballot of any
21 political party in a primary election ~~shall be~~ ARE entitled to appoint some
22 person to act on their behalf in every precinct in which they are a
23 candidate. Each candidate shall certify the persons appointed as watchers
24 on forms provided by the county clerk and recorder and submit the names
25 of the persons selected as watchers to the county clerk and recorder. To
26 the extent possible, the candidate shall submit the names ~~by the close of~~
27 ~~business on the Friday immediately preceding~~ NO LATER THAN THE

1 TWENTY-FIFTH DAY BEFORE the election.

2 **SECTION 3.** In Colorado Revised Statutes, **amend** 1-7-106 as
3 follows:

4 **1-7-106. Watchers at general and congressional vacancy**
5 **elections.** Each participating political party or issue committee whose
6 candidate or issue is on the ballot, and each unaffiliated and write-in
7 candidate whose name is on the ballot for a general or congressional
8 vacancy election, is entitled to have no more than one watcher at any one
9 time in each voter service and polling center in the county and at each
10 place where votes are counted in accordance with this article. IN THE CASE
11 OF AN ISSUE COMMITTEE, THE REGISTERED AGENT OF THE ISSUE
12 COMMITTEE IS THE AUTHORIZED REPRESENTATIVE OF THE ISSUE
13 COMMITTEE ENTITLED TO APPOINT ONE OR MORE WATCHERS UNDER THIS
14 SECTION. The chairperson of the county central committee of each major
15 political party, the county chairperson or other authorized official of each
16 minor political party, the issue committee, or the write-in or unaffiliated
17 candidate shall certify the names of one or more persons selected as
18 watchers on forms provided by the county clerk and recorder and submit
19 the names of the persons selected as watchers to the county clerk and
20 recorder. To the extent possible, the chairperson, authorized official, issue
21 committee, or candidate shall submit the names ~~by the close of business~~
22 ~~on the Friday immediately preceding~~ NO LATER THAN THE TWENTY-FIFTH
23 DAY BEFORE the election. The watchers shall surrender the certificates to
24 the election judges at the time they enter the voter service and polling
25 center and are sworn by the judges. This section does not prevent party
26 candidates or county party officers from visiting voter service and polling
27 centers or drop-off locations to observe the progress of voting.

1 **SECTION 4.** In Colorado Revised Statutes, **amend** 1-7-107 as
2 follows:

3 **1-7-107. Watchers at nonpartisan elections.** Candidates for
4 office in nonpartisan elections, and proponents and opponents of a ballot
5 issue, are each entitled to appoint one person to act as a watcher in every
6 polling place in which they are a candidate or in which the issue is on the
7 ballot. IN THE CASE OF PROPONENTS AND OPPONENTS OF A BALLOT ISSUE,
8 THE REGISTERED AGENT OF THE PROPONENTS OR OPPONENTS, AS
9 APPLICABLE, IS THE AUTHORIZED REPRESENTATIVE OF SUCH PROPONENTS
10 AND OPPONENTS ENTITLED TO APPOINT ONE OR MORE WATCHERS UNDER
11 THIS SECTION. The candidates or proponents and opponents shall certify
12 the names of persons so appointed to the designated election official on
13 forms provided by the official and submit the names of the persons
14 selected as watchers to the county clerk and recorder. To the extent
15 possible, the candidate, proponent, or opponent shall submit the names ~~by~~
16 ~~the close of business on the Friday immediately preceding~~ NO LATER
17 THAN THE TWENTY-FIFTH DAY BEFORE the election.

18 **SECTION 5.** In Colorado Revised Statutes, 1-7-108, **amend** (3);
19 and **add** (4) and (5) as follows:

20 **1-7-108. Election watchers - requirements - duties - oath or**
21 **affirmation - definition.** (3) (a) Each watcher ~~shall have the right to~~
22 MAY maintain a list of eligible electors who have voted, ~~to~~ witness and
23 verify each step in the conduct of the election from prior to the opening
24 of the polls through the completion of the count and announcement of the
25 results, ~~to~~ challenge ineligible electors, and ~~to~~ assist in the correction of
26 discrepancies. IF A WATCHER SEES A POTENTIAL DISCREPANCY, HE OR SHE
27 MAY COMMUNICATE WITH THE SUPERVISOR JUDGE OR WATCHER CONTACT

1 ANDREQUEST THAT THE DISCREPANCY BE CORRECTED. IF THE SUPERVISOR
2 JUDGE REVIEWS THE POTENTIAL DISCREPANCY AND DISAGREES WITH THE
3 WATCHER, THE WATCHER SHALL INFORM HIS OR HER APPOINTING
4 AUTHORITY OF THE POTENTIAL DISCREPANCY. THE WATCHER'S
5 APPOINTING AUTHORITY MAY THEN CONTACT THE COUNTY CLERK AND
6 RECORDER OR THE SECRETARY OF STATE IN AN ATTEMPT TO RESOLVE THE
7 ISSUE, FILE AN ACTION UNDER SECTION 1-1-113 (1), OR TAKE ANY OTHER
8 ACTION THE APPOINTING AUTHORITY DEEMS APPROPRIATE UNDER THE
9 CIRCUMSTANCES.

10 (b) IN ORDER TO PERFORM THE DUTIES AND RESPONSIBILITIES
11 ASSIGNED TO AN ELECTION WATCHER UNDER THIS CODE, THE WATCHER
12 MAY OBSERVE THE PROCESS OF SIGNATURE VERIFICATION.

13 (4) BEFORE BEGINNING THE DUTIES OF A WATCHER, EACH PERSON
14 APPOINTED AS A WATCHER SHALL TAKE AN OATH OR AFFIRMATION IN
15 SUBSTANTIALLY THE FOLLOWING FORM:

16 "I,, DO SOLEMNLY SWEAR (OR AFFIRM) THAT I AM A
17 CITIZEN OF THE UNITED STATES AND THE STATE OF COLORADO; THAT I AM
18 AN ELIGIBLE ELECTOR WHO RESIDES IN THE COUNTY OF OR
19 WITHIN THE POLITICAL SUBDIVISION; (IN CONNECTION WITH A
20 PARTISAN ELECTION) THAT I AM A MEMBER OF THE PARTY AS
21 SHOWN ON THE REGISTRATION BOOKS OF THE COUNTY CLERK AND
22 RECORDER (OR THAT I AM UNAFFILIATED WITH A POLITICAL PARTY, AS
23 APPLICABLE, OR THAT, IN THE CASE OF AN ELECTION IN WHICH A BALLOT
24 ISSUE IS ON THE BALLOT, I AM A SUPPORTER OR OPPONENT OF THE BALLOT
25 ISSUE, AS APPLICABLE); THAT I WILL PERFORM THE DUTIES OF WATCHER
26 ACCORDING TO LAW AND THE BEST OF MY ABILITY; THAT I WILL NOT TRY
27 TO DETERMINE HOW ANY ELECTOR VOTED, NOR WILL I DISCLOSE HOW ANY

1 ELECTOR VOTED IF IN THE DISCHARGE OF MY DUTIES AS WATCHER SUCH
2 KNOWLEDGE COMES TO ME; THAT I HAVE NEVER BEEN CONVICTED OF ANY
3 ELECTION OFFENSE OR FRAUD AND THAT, IF ANY BALLOTS ARE COUNTED
4 BEFORE THE POLLS CLOSE ON THE DATE OF THE ELECTION, I WILL NOT
5 DISCLOSE THE RESULT OF THE VOTES UNTIL AFTER THE POLLS HAVE
6 CLOSED AND THE RESULTS ARE FORMALLY ANNOUNCED BY THE
7 DESIGNATED ELECTION OFFICIAL."

8 (5) FOR PURPOSES OF THIS PART 1, "APPOINTING AUTHORITY"
9 MEANS THE PERSON RESPONSIBLE FOR SELECTING AN INDIVIDUAL TO
10 SERVE AS A WATCHER.

11 **SECTION 6.** In Colorado Revised Statutes, 1-2-302, **amend** (8)
12 as follows:

13 **1-2-302. Maintenance of computerized statewide voter**
14 **registration list - confidentiality.** (8) The secretary of state shall provide
15 adequate technological security measures to prevent unauthorized access
16 to the computerized statewide voter registration list. The secretary of
17 state, the department of revenue, the department of public health and
18 environment, the department of corrections, and the clerk and recorders
19 shall not sell, disclose, or otherwise release a social security number, a
20 driver's license or a state-issued identification number, or the unique
21 identification number assigned by the secretary of state to the voter
22 pursuant to section 1-2-204 (2.5) or electronic copies of signatures
23 created, transferred, or maintained pursuant to this section or section
24 42-1-211, C.R.S., to any individual other than the elector who created
25 such signature absent such elector's consent; except that nothing in this
26 subsection (8) prohibits the sale, disclosure, or release of an electronic
27 copy of such signature for use by any other public entity in carrying out

1 its functions, or the sale, disclosure, or release of a photocopied or
2 microfilmed image of an elector's signature, INCLUDING THE DISCLOSURE
3 OF ANY SUCH INFORMATION TO AN INDIVIDUAL PERFORMING THE DUTIES
4 OF A WATCHER IN ACCORDANCE WITH SECTION 1-7-108 WHO HAS ALSO
5 SUCCESSFULLY PASSED A CRIMINAL BACKGROUND CHECK IN ACCORDANCE
6 WITH SECTION 24-72-305.6 (4), C.R.S. NOTHING IN THIS SECTION
7 PROHIBITS A WATCHER, IN ACCORDANCE WITH SECTION 1-7-108, WHO HAS
8 ALSO SUCCESSFULLY PASSED A CRIMINAL BACKGROUND CHECK IN
9 ACCORDANCE WITH SECTION 24-72-305.6, C.R.S., FROM VIEWING
10 SIGNATURES DURING THE CONDUCT OF AN ELECTION.

11 **SECTION 7.** In Colorado Revised Statutes, 24-72-305.6, **add** (4)
12 as follows:

13 **24-72-305.6. County clerk and recorder access to criminal**
14 **history records of election judges, employees, and watchers.**

15 (4) (a) BEFORE AN INDIVIDUAL IS TO BE APPOINTED UNDER THE "UNIFORM
16 ELECTION CODE OF 1992", ARTICLES 1 TO 13 OF TITLE 1, C.R.S., TO SERVE
17 AS A WATCHER IN ANY ELECTION WITH ACCESS TO CONFIDENTIAL
18 ELECTION INFORMATION, A BACKGROUND CHECK OF THE APPOINTEE MUST
19 BE CONDUCTED. ONLY WATCHERS WHO HAVE ACCESS TO CONFIDENTIAL
20 ELECTION INFORMATION ARE REQUIRED TO UNDERTAKE A BACKGROUND
21 CHECK PURSUANT TO THIS SECTION. IN COLLABORATION WITH THE
22 COUNTY CLERKS AND RECORDERS, THE SECRETARY OF STATE SHALL
23 CREATE A SYSTEM WHEREBY WATCHERS WITH ACCESS TO CONFIDENTIAL
24 INFORMATION ARE EASILY RECOGNIZABLE TO ELECTION OFFICIALS AND
25 OTHERS EMPLOYED IN VOTING SERVICE AND POLLING CENTERS SUCH AS,
26 FOR EXAMPLE, THROUGH THE USE OF COLOR-CODED IDENTIFICATION
27 BADGES.

1 (b) THE COST OF CONDUCTING THE BACKGROUND CHECK REQUIRED
2 BY PARAGRAPH (a) OF THIS SUBSECTION (4) MUST BE ASSUMED BY THE
3 APPOINTING AUTHORITY, AS DEFINED IN SECTION 1-7-108 (5), C.R.S. NOT
4 LATER THAN JANUARY 1, 2017, THE SECRETARY OF STATE SHALL
5 RESEARCH THE MOST COST-EFFECTIVE OPTIONS FOR CONDUCTING THE
6 BACKGROUND CHECKS REQUIRED UNDER PARAGRAPH (a) OF THIS
7 SUBSECTION (4) AND WILL POST ITS FINDINGS OF THIS RESEARCH ON THE
8 PUBLIC WEBSITE MAINTAINED BY THE SECRETARY OF STATE. THIS
9 RESEARCH MUST INCLUDE ALTERNATIVE MEANS FOR A POTENTIAL
10 WATCHER TO PROVIDE A RECENT BACKGROUND CHECK.

11 (c) A COUNTY CLERK AND RECORDER MAY ACCESS THE CRIMINAL
12 HISTORY RECORDS THAT ARE MAINTAINED BY OR WITHIN THE STATE
13 DIRECTLY THROUGH THE PUBLIC WEBSITE MAINTAINED BY THE COLORADO
14 BUREAU OF INVESTIGATION FOR ANY WATCHER WHO HAS BEEN DULY
15 APPOINTED BY LAW AND WHO IS PROVIDED ACCESS TO CONFIDENTIAL
16 ELECTION INFORMATION. THE COUNTY CLERK AND RECORDER MAY
17 REQUEST THE RECORDS NOT MORE THAN ONCE EACH CALENDAR YEAR
18 PRIOR TO THE FIRST ELECTION OF THE YEAR.

19 **SECTION 8. Act subject to petition - effective date -**
20 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
21 the expiration of the ninety-day period after final adjournment of the
22 general assembly (August 10, 2016, if adjournment sine die is on May 11,
23 2016); except that, if a referendum petition is filed pursuant to section 1
24 (3) of article V of the state constitution against this act or an item, section,
25 or part of this act within such period, then the act, item, section, or part
26 will not take effect unless approved by the people at the general election
27 to be held in November 2016 and, in such case, will take effect on the

- 1 date of the official declaration of the vote thereon by the governor.
- 2 (2) This act applies to elections conducted on or after the
- 3 applicable effective date of this act.