

**First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 17-0530.01 Bob Lackner x4350

**SENATE BILL 17-138**

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**SENATE SPONSORSHIP**

**Tate,**

**HOUSE SPONSORSHIP**

**Foote,**

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**Senate Committees**

State, Veterans, & Military Affairs

**House Committees**

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**A BILL FOR AN ACT**

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

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**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://leg.colorado.gov>.)*

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

- !      **Section 1** of the bill authorizes each political party participating in a primary election to have at least one watcher at any one time in each voter service and polling center in the county and at each place where votes are

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.*

SENATE  
Amended 2nd Reading  
April 10, 2017

counted. This section 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 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. The date by which the chairperson is required to submit the names of the watchers is specified.

- ! **Section 2** 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. The date by which the appointing authority is required to submit the names of the appointees is specified.
- ! **Section 3** imposes the same requirements with respect to proponents and opponents of a ballot issue.
- ! **Section 4** 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 5** removes an existing exception to a prohibition on the sale, disclosure, or release of a photocopied or microfilmed image of an elector's signature to effect an overall ban on the sale, disclosure, or release of certain confidential personal information.
- ! **Section 6** gives county clerk and recorders the same access to the criminal history records of watchers as they currently have with respect to election judges and gives the secretary of state the power to require that certain duties may only be performed by watchers for whom the county clerk and recorder has requested their criminal justice records. This section further clarifies that such duties performed by a watcher include observing electors' records in the statewide voter registration system.

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

2 **SECTION 1. In Colorado Revised Statutes, 1-1-104, add (52) as**  
3 **follows:**

1            **1-1-104. Definitions.** As used in this code, unless the context  
2 otherwise requires:

3            (52) "WITNESS AND VERIFY" MEANS TO WATCH, OBSERVE,  
4 MONITOR, OR COMMUNICATE REGARDING THE ACTIONS OF ELECTION  
5 OFFICIALS IN CONNECTION WITH EACH STEP IN THE CONDUCT OF AN  
6 ELECTION WITHOUT UNDUE HINDRANCE, OBSTRUCTION, OR DELAY.

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

9            **1-7-105. Watchers at primary elections.** (1) Each political party  
10 participating in a primary election ~~shall be~~ IS entitled to have ~~a watcher in~~  
11 each precinct in the county AT LEAST ONE WATCHER AT ANY ONE TIME IN  
12 ANY LOCATION IN WHICH THE CONDUCT OF AN ELECTION OCCURS. THE  
13 CHAIRPERSON OF THE COUNTY CENTRAL COMMITTEE OF EACH POLITICAL  
14 PARTY SHALL SELECT THE NAMES OF THE PERSONS WHO WILL REPRESENT  
15 THEIR POLITICAL PARTY IN THE COUNTY AS A WATCHER. IF THE  
16 CHAIRPERSON IS NOT ABLE TO MAKE THE APPOINTMENTS, THE  
17 CHAIRPERSON OF THE STATE CENTRAL COMMITTEE OF THE POLITICAL  
18 PARTY OR ANOTHER OFFICIAL OF THE STATE POLITICAL PARTY SHALL MAKE  
19 THE APPOINTMENTS. The chairperson OR OTHER OFFICIAL of the county  
20 central committee of each political party shall certify the persons selected  
21 as watchers on forms provided by the county clerk and recorder and  
22 submit the names of the persons selected as watchers to the county clerk  
23 and recorder. To the extent possible, the chairperson OR OTHER OFFICIAL  
24 shall submit the names ~~by the close of business on the Friday immediately~~  
25 ~~preceding the election~~ NO LATER THAN THE WEDNESDAY BEFORE THE  
26 DATE ON WHICH THE VOTING SERVICE AND POLLING CENTERS ARE  
27 REQUIRED TO BE OPEN.

1           (2) In addition, candidates for nomination on the ballot of any  
2 political party in a primary election ~~shall be~~ ARE entitled to appoint ~~some~~  
3 ~~person~~ WATCHERS to act on their behalf in every ~~precinct~~ COUNTY in  
4 which they are a candidate. Each candidate shall certify the persons  
5 appointed as watchers on forms provided by the county clerk and recorder  
6 and submit the names of the persons selected as watchers to the county  
7 clerk and recorder. To the extent possible, the candidate shall submit the  
8 names ~~by the close of business on the Friday immediately preceding the~~  
9 ~~election~~ NO LATER THAN THE WEDNESDAY BEFORE THE DATE ON WHICH  
10 THE VOTING SERVICE AND POLLING CENTERS ARE REQUIRED TO BE OPEN.

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

13           **1-7-106. Watchers at general and congressional vacancy**  
14 **elections.** Each participating political party or issue committee whose  
15 candidate or issue is on the ballot, and each unaffiliated and write-in  
16 candidate whose name is on the ballot for a general or congressional  
17 vacancy election, is entitled to have ~~no more than~~ AT LEAST one watcher  
18 at any one time in each voter service and polling center in the county and  
19 at each place where votes are counted in accordance with this article ANY  
20 LOCATION IN WHICH THE CONDUCT OF AN ELECTION OCCURS. IN THE CASE  
21 OF AN ISSUE COMMITTEE, THE REGISTERED AGENT OF THE ISSUE  
22 COMMITTEE IS THE AUTHORIZED REPRESENTATIVE OF THE ISSUE  
23 COMMITTEE ENTITLED TO APPOINT ONE OR MORE WATCHERS UNDER THIS  
24 SECTION. The chairperson of the county central committee of each major  
25 political party, the county chairperson or other authorized official of each  
26 minor political party, the issue committee, or the write-in or unaffiliated  
27 candidate shall certify the names of one or more persons selected as

1 watchers on forms provided by the county clerk and recorder and submit  
2 the names of the persons selected as watchers to the county clerk and  
3 recorder. To the extent possible, the chairperson, authorized official, issue  
4 committee, or candidate shall submit the names ~~by the close of business~~  
5 ~~on the Friday immediately preceding the election. The watchers shall~~  
6 ~~surrender the certificates to the election judges at the time they enter the~~  
7 ~~voter service and polling center and are sworn by the judges~~ NO LATER  
8 THAN THE WEDNESDAY BEFORE THE DATE ON WHICH THE VOTING SERVICE  
9 AND POLLING CENTERS ARE REQUIRED TO BE OPEN. This section does not  
10 prevent party candidates or county party officers from visiting voter  
11 service and polling centers or drop-off locations to observe the progress  
12 of voting.

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

15 **1-7-107. Watchers at nonpartisan elections.** Candidates for  
16 office in nonpartisan elections, and proponents and opponents of a ballot  
17 issue, are each entitled to appoint ~~one person to act as a watcher~~  
18 WATCHERS in every ~~polling place~~ COUNTY in which they are a candidate  
19 or in which the issue is on the ballot. IN THE CASE OF PROPONENTS AND  
20 OPPONENTS OF A BALLOT ISSUE, THE REGISTERED AGENT OF THE  
21 PROPONENTS OR OPPONENTS, AS APPLICABLE, IS THE AUTHORIZED  
22 REPRESENTATIVE OF SUCH PROPONENTS AND OPPONENTS ENTITLED TO  
23 APPOINT ONE OR MORE WATCHERS UNDER THIS SECTION. The candidates  
24 or proponents and opponents shall certify the names of persons so  
25 appointed to the designated election official on forms provided by the  
26 official and submit the names of the persons selected as watchers to the  
27 county clerk and recorder. To the extent possible, the candidate,

1 proponent, or opponent shall submit the names ~~by the close of business~~  
2 ~~on the Friday immediately preceding the election~~ NO LATER THAN THE  
3 WEDNESDAY BEFORE THE DATE ON WHICH THE VOTING SERVICE AND  
4 POLLING CENTERS ARE REQUIRED TO BE OPEN.

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

7 **1-7-108. Election watchers - requirements - oath or**  
8 **affirmation - definitions.** (3) (a) (I) Each watcher ~~shall have~~ HAS the  
9 right to maintain a list of eligible electors who have voted, ~~to~~ witness  
10 and verify each step in the conduct of the election from prior to the  
11 opening of the polls through the completion of the count and  
12 announcement of the results, ~~to~~ challenge ineligible electors, and ~~to~~ assist  
13 in the correction of discrepancies IN ACCORDANCE WITH SUBSECTION  
14 (3)(a)(II) OF THIS SECTION.

15 (II) IF A WATCHER SEES A POTENTIAL DISCREPANCY, HE OR SHE  
16 MAY COMMUNICATE WITH THE CONTACT DESIGNATED BY THE CLERK AND  
17 RECORDER AND REQUEST THAT THE DISCREPANCY BE CORRECTED. IF THE  
18 SUPERVISOR JUDGE REVIEWS THE POTENTIAL DISCREPANCY AND  
19 DISAGREES WITH THE WATCHER, THE WATCHER MAY INFORM HIS OR HER  
20 APPOINTING AUTHORITY OF THE POTENTIAL DISCREPANCY. THE  
21 WATCHER'S APPOINTING AUTHORITY MAY THEN CONTACT THE COUNTY  
22 CLERK AND RECORDER OR THE SECRETARY OF STATE IN AN ATTEMPT TO  
23 RESOLVE THE ISSUE OR FILE AN ACTION UNDER SECTION 1-1-113 (1).

24 (b) THE WATCHER MAY WITNESS AND VERIFY THE PROCESS OF  
25 SIGNATURE VERIFICATION.

26 (4) BEFORE WATCHING, EACH PERSON APPOINTED AS A WATCHER  
27 SHALL TAKE AN OATH OR AFFIRMATION IN SUBSTANTIALLY THE

1 FOLLOWING FORM:

2 "I, ....., DO SOLEMNLY SWEAR (OR AFFIRM) THAT I AM A  
3 CITIZEN OF THE UNITED STATES AND THE STATE OF COLORADO; THAT I AM  
4 AN ELIGIBLE ELECTOR WHO RESIDES IN THE COUNTY OF ..... OR  
5 WITHIN THE ..... POLITICAL SUBDIVISION; (IN CONNECTION WITH A  
6 PARTISAN ELECTION) THAT I AM A MEMBER OF THE ..... PARTY AS  
7 SHOWN IN THE STATEWIDE VOTER REGISTRATION DATABASE (OR THAT I  
8 AM UNAFFILIATED WITH A POLITICAL PARTY, AS APPLICABLE, OR THAT, IN  
9 THE CASE OF AN ELECTION IN WHICH A BALLOT ISSUE IS ON THE BALLOT,  
10 I AM A SUPPORTER OR OPPONENT OF THE BALLOT ISSUE, AS APPLICABLE);  
11 THAT I WILL PERFORM MY SERVICE AS A WATCHER ACCORDING TO LAW  
12 AND THE BEST OF MY ABILITY; THAT I WILL NOT TRY TO DETERMINE HOW  
13 ANY ELECTOR VOTED, NOR WILL I DISCLOSE HOW ANY ELECTOR VOTED IF  
14 IN THE DISCHARGE OF MY SERVICE AS A WATCHER SUCH KNOWLEDGE  
15 COMES TO ME NOR WILL I DISCLOSE OR RECORD ANY CONFIDENTIAL VOTER  
16 INFORMATION THAT I MAY OBSERVE; THAT I HAVE NEVER BEEN  
17 CONVICTED OF ANY ELECTION OFFENSE OR CRIME OF DISHONESTY AND  
18 THAT, IF ANY BALLOTS ARE COUNTED BEFORE THE POLLS CLOSE ON THE  
19 DATE OF THE ELECTION, I WILL NOT DISCLOSE THE RESULT OF THE VOTES  
20 UNTIL AFTER THE POLLS HAVE CLOSED AND TABULATED RESULTS OF THE  
21 ELECTION ARE FORMALLY ANNOUNCED BY THE DESIGNATED ELECTION  
22 OFFICIAL."

23 (5) FOR PURPOSES OF THIS PART 1, "APPOINTING AUTHORITY"  
24 MEANS THE PERSON RESPONSIBLE FOR SELECTING AN INDIVIDUAL TO  
25 SERVE AS A WATCHER, AND "CONDUCT OF THE ELECTION" MEANS ANY  
26 ELECTION ACTIVITY AT WHICH AN ELECTION JUDGE OR AN ELECTION  
27 OFFICIAL MAY BE PRESENT.

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

3           **1-2-302. Maintenance of computerized statewide voter**  
4 **registration list - confidentiality.** (8) The secretary of state shall provide  
5 adequate technological security measures to prevent unauthorized access  
6 to the computerized statewide voter registration list. The secretary of  
7 state, the department of revenue, the department of public health and  
8 environment, the department of corrections, and the clerk and recorders  
9 shall not sell, disclose, or otherwise release a social security number, a  
10 driver's license or a state-issued identification number, or the unique  
11 identification number assigned by the secretary of state to the voter  
12 pursuant to section 1-2-204 (2.5) or electronic copies of signatures  
13 created, transferred, or maintained pursuant to this section or section  
14 42-1-211 C.R.S., to any individual other than the elector who created such  
15 signature absent such elector's consent; except that nothing in this  
16 subsection (8) prohibits the sale, disclosure, or release of ~~an electronic~~ A  
17 copy of such signature for use by any other public entity in carrying out  
18 its functions. ~~or the sale, disclosure, or release of a photocopied or~~  
19 ~~microfilmed image of an elector's signature.~~ NOTHING IN THIS SECTION OR  
20 THIS CODE PROHIBITS A WATCHER APPOINTED IN ACCORDANCE WITH  
21 SECTION 1-7-108 FROM WITNESSING AND VERIFYING THE PROCESS OF  
22 SIGNATURE VERIFICATION.

23           **SECTION 7.** In Colorado Revised Statutes, 24-72-305.6, **amend**  
24 (2) as follows:

25           **24-72-305.6. County clerk and recorder access to criminal**  
26 **history records of election judges and employees - rules.** (2) A county  
27 clerk and recorder may request, in his or her discretion, the criminal



1 history records from the public website maintained by the Colorado  
2 bureau of investigation for an election judge OR WATCHER, AS DEFINED IN  
3 SECTION 1-1-104 (51), serving in the county. The secretary of state may,  
4 by rule promulgated in accordance with article 4 of this ~~title~~ TITLE 24,  
5 require that certain duties may be performed only by those election judges  
6 OR WATCHERS for whom a county clerk and recorder has requested  
7 criminal history records pursuant to this subsection (2). Such duties may  
8 include accessing, OR OBSERVING ELECTORS' RECORDS IN, the statewide  
9 voter registration system established pursuant to section 1-2-301. ~~C.R.S.~~

10 **SECTION 8. Act subject to petition - effective date -**  
11 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
12 the expiration of the ninety-day period after final adjournment of the  
13 general assembly (August 9, 2017, if adjournment sine die is on May 10,  
14 2017); except that, if a referendum petition is filed pursuant to section 1  
15 (3) of article V of the state constitution against this act or an item, section,  
16 or part of this act within such period, then the act, item, section, or part  
17 will not take effect unless approved by the people at the general election  
18 to be held in November 2018 and, in such case, will take effect on the  
19 date of the official declaration of the vote thereon by the governor.

20 (2) This act applies to elections conducted on or after the  
21 applicable effective date of this act.