

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0530.01 Bob Lackner x4350

SENATE BILL 17-138

SENATE SPONSORSHIP

Tate,

HOUSE SPONSORSHIP

Foote,

Senate Committees

State, Veterans, & Military Affairs

House 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://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.*

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.

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

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

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

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~~ WATCHERS to act on their behalf in every ~~precinct~~ COUNTY in
23 which they are a candidate. Each candidate shall certify the persons
24 appointed as watchers on forms provided by the county clerk and recorder
25 and submit the names of the persons selected as watchers to the county
26 clerk and recorder. To the extent possible, the candidate shall submit the
27 names ~~by the close of business on the Friday immediately preceding the~~

1 ~~election~~ NO LATER THAN THE WEDNESDAY BEFORE THE DATE ON WHICH
2 THE VOTING SERVICE AND POLLING CENTERS ARE REQUIRED TO BE OPEN.

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

5 **1-7-106. Watchers at general and congressional vacancy**
6 **elections.** Each participating political party or issue committee whose
7 candidate or issue is on the ballot, and each unaffiliated and write-in
8 candidate whose name is on the ballot for a general or congressional
9 vacancy election, is entitled to have ~~no more than~~ AT LEAST one watcher
10 at any one time in each voter service and polling center in the county and
11 at each place where votes are counted in accordance with this article ANY
12 LOCATION IN WHICH THE CONDUCT OF AN ELECTION OCCURS. IN THE CASE
13 OF AN ISSUE COMMITTEE, THE REGISTERED AGENT OF THE ISSUE
14 COMMITTEE IS THE AUTHORIZED REPRESENTATIVE OF THE ISSUE
15 COMMITTEE ENTITLED TO APPOINT ONE OR MORE WATCHERS UNDER THIS
16 SECTION. The chairperson of the county central committee of each major
17 political party, the county chairperson or other authorized official of each
18 minor political party, the issue committee, or the write-in or unaffiliated
19 candidate shall certify the names of one or more persons selected as
20 watchers on forms provided by the county clerk and recorder and submit
21 the names of the persons selected as watchers to the county clerk and
22 recorder. To the extent possible, the chairperson, authorized official, issue
23 committee, or candidate shall submit the names ~~by the close of business~~
24 ~~on the Friday immediately preceding the election.~~ The watchers shall
25 ~~surrender the certificates to the election judges at the time they enter the~~
26 ~~voter service and polling center and are sworn by the judges~~ NO LATER
27 THAN THE WEDNESDAY BEFORE THE DATE ON WHICH THE VOTING SERVICE

1 AND POLLING CENTERS ARE REQUIRED TO BE OPEN. This section does not
2 prevent party candidates or county party officers from visiting voter
3 service and polling centers or drop-off locations to observe the progress
4 of voting.

5 **SECTION 3.** In Colorado Revised Statutes, **amend** 1-7-107 as
6 follows:

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

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

26 **1-7-108. Election watchers - requirements - oath or**
27 **affirmation - definitions.** (3) (a) (I) Each watcher ~~shall have~~ HAS the

1 right to maintain a list of eligible electors who have voted, ~~to~~ witness
2 and verify each step in the conduct of the election from prior to the
3 opening of the polls through the completion of the count and
4 announcement of the results, ~~to~~ challenge ineligible electors, and ~~to~~ assist
5 in the correction of discrepancies IN ACCORDANCE WITH SUBSECTION
6 (3)(a)(II) OF THIS SECTION.

7 (II) IF A WATCHER SEES A POTENTIAL DISCREPANCY, HE OR SHE
8 MAY COMMUNICATE WITH THE CONTACT DESIGNATED BY THE CLERK AND
9 RECORDER AND REQUEST THAT THE DISCREPANCY BE CORRECTED. IF THE
10 SUPERVISOR JUDGE REVIEWS THE POTENTIAL DISCREPANCY AND
11 DISAGREES WITH THE WATCHER, THE WATCHER MAY INFORM HIS OR HER
12 APPOINTING AUTHORITY OF THE POTENTIAL DISCREPANCY. THE
13 WATCHER'S APPOINTING AUTHORITY MAY THEN CONTACT THE COUNTY
14 CLERK AND RECORDER OR THE SECRETARY OF STATE IN AN ATTEMPT TO
15 RESOLVE THE ISSUE OR FILE AN ACTION UNDER SECTION 1-1-113 (1).

16 (b) THE WATCHER MAY OBSERVE THE PROCESS OF SIGNATURE
17 VERIFICATION.

18 (4) BEFORE WATCHING, EACH PERSON APPOINTED AS A WATCHER
19 SHALL TAKE AN OATH OR AFFIRMATION IN SUBSTANTIALLY THE
20 FOLLOWING FORM:

21 "I,, DO SOLEMNLY SWEAR (OR AFFIRM) THAT I AM A
22 CITIZEN OF THE UNITED STATES AND THE STATE OF COLORADO; THAT I AM
23 AN ELIGIBLE ELECTOR WHO RESIDES IN THE COUNTY OF OR
24 WITHIN THE POLITICAL SUBDIVISION; (IN CONNECTION WITH A
25 PARTISAN ELECTION) THAT I AM A MEMBER OF THE PARTY AS
26 SHOWN IN THE STATEWIDE VOTER REGISTRATION DATABASE (OR THAT I
27 AM UNAFFILIATED WITH A POLITICAL PARTY, AS APPLICABLE, OR THAT, IN

1 THE CASE OF AN ELECTION IN WHICH A BALLOT ISSUE IS ON THE BALLOT,
2 I AM A SUPPORTER OR OPPONENT OF THE BALLOT ISSUE, AS APPLICABLE);
3 THAT I WILL PERFORM MY SERVICE AS A WATCHER ACCORDING TO LAW
4 AND THE BEST OF MY ABILITY; THAT I WILL NOT TRY TO DETERMINE HOW
5 ANY ELECTOR VOTED, NOR WILL I DISCLOSE HOW ANY ELECTOR VOTED IF
6 IN THE DISCHARGE OF MY SERVICE AS A WATCHER SUCH KNOWLEDGE
7 COMES TO ME NOR WILL I DISCLOSE OR RECORD ANY CONFIDENTIAL VOTER
8 INFORMATION THAT I MAY OBSERVE; THAT I HAVE NEVER BEEN
9 CONVICTED OF ANY ELECTION OFFENSE OR CRIME OF DISHONESTY AND
10 THAT, IF ANY BALLOTS ARE COUNTED BEFORE THE POLLS CLOSE ON THE
11 DATE OF THE ELECTION, I WILL NOT DISCLOSE THE RESULT OF THE VOTES
12 UNTIL AFTER THE POLLS HAVE CLOSED AND THE TABULATED RESULTS OF
13 THE ELECTION ARE FORMALLY ANNOUNCED BY THE DESIGNATED ELECTION
14 OFFICIAL."

15 (5) FOR PURPOSES OF THIS PART 1, "APPOINTING AUTHORITY"
16 MEANS THE PERSON RESPONSIBLE FOR SELECTING AN INDIVIDUAL TO
17 SERVE AS A WATCHER, AND "CONDUCT OF THE ELECTION" MEANS EACH
18 STAGE OF THE ELECTION IN WHICH ELECTORS ARE MARKING AND CASTING
19 BALLOTS OR WHEN ELECTION JUDGES ARE PRESENT AND PERFORMING
20 ELECTION-RELATED ACTIVITIES.

21 **SECTION 5.** In Colorado Revised Statutes, 1-2-302, **amend** (8)
22 as follows:

23 **1-2-302. Maintenance of computerized statewide voter**
24 **registration list - confidentiality.** (8) The secretary of state shall provide
25 adequate technological security measures to prevent unauthorized access
26 to the computerized statewide voter registration list. The secretary of
27 state, the department of revenue, the department of public health and

1 environment, the department of corrections, and the clerk and recorders
2 shall not sell, disclose, or otherwise release a social security number, a
3 driver's license or a state-issued identification number, or the unique
4 identification number assigned by the secretary of state to the voter
5 pursuant to section 1-2-204 (2.5) or electronic copies of signatures
6 created, transferred, or maintained pursuant to this section or section
7 42-1-211 C.R.S., to any individual other than the elector who created such
8 signature absent such elector's consent; except that nothing in this
9 subsection (8) prohibits the sale, disclosure, or release of ~~an electronic~~ A
10 copy of such signature for use by any other public entity in carrying out
11 its functions. ~~or the sale, disclosure, or release of a photocopied or~~
12 ~~microfilmed image of an elector's signature.~~ NOTHING IN THIS SECTION,
13 THIS CODE, THE "COLORADO MUNICIPAL ELECTION CODE OF 1965",
14 ARTICLE 10 OF TITLE 31, OR THE "COLORADO LOCAL GOVERNMENT
15 ELECTION CODE", ARTICLE 13.5 OF THIS TITLE 1, PROHIBIT A WATCHER
16 APPOINTED IN ACCORDANCE WITH SECTION 1-7-108 FROM OBSERVING THE
17 PROCESS OF SIGNATURE VERIFICATION.

18 **SECTION 6.** In Colorado Revised Statutes, 24-72-305.6, **amend**
19 (2) as follows:

20 **24-72-305.6. County clerk and recorder access to criminal**
21 **history records of election judges and employees - rules.** (2) A county
22 clerk and recorder may request, in his or her discretion, the criminal
23 history records from the public website maintained by the Colorado
24 bureau of investigation for an election judge OR WATCHER, AS DEFINED IN
25 SECTION 1-1-104 (51), serving in the county. The secretary of state may,
26 by rule promulgated in accordance with article 4 of this ~~title~~ TITLE 24,
27 require that certain duties may be performed only by those election judges

1 OR WATCHERS for whom a county clerk and recorder has requested
2 criminal history records pursuant to this subsection (2). Such duties may
3 include accessing, OR OBSERVING ELECTORS' RECORDS IN, the statewide
4 voter registration system established pursuant to section 1-2-301. ~~C.R.S.~~

5 **SECTION 7. Act subject to petition - effective date -**
6 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
7 the expiration of the ninety-day period after final adjournment of the
8 general assembly (August 9, 2017, if adjournment sine die is on May 10,
9 2017); except that, if a referendum petition is filed pursuant to section 1
10 (3) of article V of the state constitution against this act or an item, section,
11 or part of this act within such period, then the act, item, section, or part
12 will not take effect unless approved by the people at the general election
13 to be held in November 2018 and, in such case, will take effect on the
14 date of the official declaration of the vote thereon by the governor.

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