

HB 2150, to create a process to disqualify candidates for public office

Washington state bill seeks to keep Donald Trump off the 2024 ballot

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Key Findings

1. A Washington state bill appears designed to keep Donald Trump's name from appearing on the presidential ballot.
2. HB 2150 would disqualify anyone who has "engaged in insurrection or rebellion against" the United States.
3. The bill would also bar anyone "who has been..charged with and not yet acquitted of a federal crime" while in public office.
4. The only person who fits the description in the 2024 cycle is the likely presidential candidate for one major political party.
5. The bill targeting their opponents was introduced by members of the other party, one purportedly devoted to "Defending Democracy!"
6. The bill is in committee. Since it would limit voter choices in a critical election year, lawmakers should give it careful and detailed consideration.

Introduction

A bill introduced in Washington by state Representative Kristine Reeves (D – 30th District) would likely keep Donald Trump's name from appearing on the presidential ballot in November. The bill is HB 2150, introduced on January 4th to create "processes regarding the disqualification of candidates who are ineligible for office."¹ The cosponsors are Democratic members Rep. Julia Reeve (D – 36th District)

¹ "HB 2150, concerning processes regarding disqualification of candidates who are ineligible for office," Washington state legislature, January 4, 2024, at <https://app.leg.wa.gov/bills/summary?BillNumber=2150&Year=2023&Initiative=false>.

and Rep. Steve Tharinger (D – 24th District). No Republican members are supporting the bill.

The bill would require "the filing officer" – county clerks and the Secretary of State – in each jurisdiction to "...develop a standard oath for applicants to attest that they meet all eligibility requirements for office."²

Policy analysis

The introduction of this bill in a highly-contested election year is unusual because a well-established and non-controversial eligibility process already exists in each of Washington's 39 counties. For example, candidates for state legislature must be 18 years old and a resident of the district they seek to represent.

This raises the question – why would three legislators want to introduce new legislation now? The answer is indicated in Section 2 of the bill. This provision says that no one could run for office who has "engaged in insurrection or rebellion against" the United States. In general this is an important condition, given the country's experience in the civil war of the 1860s. But this public policy has existed for over 150 years under the Fourteenth Amendment to the federal constitution, so why would a state law be so urgently needed today?

The answer to that appears further along in Section 2, in paragraph 3. It says no one could run for office "who has been convicted of, or charged with and not yet acquitted of, any state or federal crime" arising from actions taken while serving in public office.

Currently only one major party candidate for federal office has been charged with, but not yet acquitted of, a federal crime – that is Donald Trump, the likely Republican nominee for president.

² Ibid.

A practical objection might be that in 2024 the Republican candidate for president, regardless of who it is, is not going to win Washington's 12 electoral votes anyway, so why would introduction and possible passage of HB 2150 matter?

Two reasons HB 2150 is harmful to democracy

An objective analysis shows it matters for two reasons. First, as a matter of principle maintaining fair and open ballot access is a defining characteristic of a democratic system. In healthy democracies ballot access is not restricted in advance. The goal is to give voters the widest possible choice in choosing representatives to serve in public office. Allowing the people to decide, instead of limiting choices for political or other reasons, is considered the first principle of responsible self-government.

To be clear, former president Trump is not mentioned in the bill, nor is any other specific person. Still, a bill like this has never been introduced in Washington state before, so the reference to "insurrection" is clearly related to the political messaging in the current election cycle.

Second, one of the major political parties has signaled that one of its primary campaign messages at the national level will be "defending democracy." It creates an appearance of conflict when legislators of the same party at the state level seek to enact laws to bar their opponents from the ballot. Historically, restricting ballot access is one way authoritarian countries have sought to maintain control over their populations. In this view, letting citizens vote for whomever they want could prove embarrassing or, worse yet, might result in the opposing party losing public office.

Conclusion

In practical terms the Democratic candidate for president will almost certainly win this year in Washington state, regardless of who the competing candidate is. Still, the important impact of HB 2150 is not its possible electoral outcome. It is the harmful effect of a bill targeting opponents introduced by members of a party purportedly devoted to "Defending Democracy!"

It is this aspect of the bill that erodes faith in the fairness of elections and confidence in public institutions. The bill would also have a voter-suppression effect on turn-out for opposing candidates in down-ballot races at the state and local level.

The bill has been referred to the House State Government and Tribal Relations Committee. No further action has been taken yet. Since this bill is designed to limit voter choices in a critical election year, lawmakers should be sure to give it careful and detailed consideration.

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