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**SUBSTITUTE HOUSE BILL 1501**

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**State of Washington                      52nd Legislature                      1991 Regular Session**

**By** House Committee on State Government (originally sponsored by Representatives McLean, Anderson, Miller, Bowman, Chandler, Silver, Holland and Paris).

Read first time February 22, 1991.

1            AN ACT Relating to voting by mail; amending RCW 29.36.120,  
2 29.36.122, 29.36.126, 29.36.130, 29.36.130, 29.36.139, 29.36.150, and  
3 29.10.180; adding a new section to chapter 29.36 RCW; and providing an  
4 effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            **Sec. 1.** RCW 29.36.120 and 1983 1st ex.s. c 71 s 1 are each amended  
7 to read as follows:

8            At any primary or election, general or special, the county auditor  
9 may, in any precinct having fewer than ((~~one~~)) two hundred registered  
10 voters at the time of closing of voter registration as provided in RCW  
11 29.07.160, conduct the voting in that precinct by mail ballot. For any  
12 precinct having fewer than ((~~one~~)) two hundred registered voters where  
13 voting at a primary or a general election is conducted by mail ballot,  
14 the county auditor shall, not less than fifteen days prior to the date  
15 of that primary or general election, mail or deliver to each registered

1 voter within that precinct a notice that the voting in that precinct  
2 will be by mail ballot, an application form for a mail ballot, and a  
3 postage prepaid envelope, preaddressed to the issuing officer. A mail  
4 ballot shall be issued to each voter who returns a properly executed  
5 application to the county auditor no later than the day of that primary  
6 or general election. Such application is valid for all subsequent mail  
7 ballot elections in that precinct so long as the voter remains  
8 qualified to vote.

9 At any nonpartisan special election not being held in conjunction  
10 with a state primary or general election, the county, city, town, or  
11 district requesting the election pursuant to RCW 29.13.010 or 29.13.020  
12 may also request that the election be conducted by mail ballot. The  
13 county auditor may honor the request or may determine that the election  
14 is not to be conducted by mail ballot. The decision of the county  
15 auditor in this regard is final.

16 In no instance shall any special election be conducted by mail  
17 ballot in any precinct with (~~more than one~~) two hundred or more  
18 registered voters if candidates for partisan office are to be voted  
19 upon.

20 For all special elections not being held in conjunction with a  
21 state primary or state general election where voting is conducted by  
22 mail ballot, the county auditor shall, not less than fifteen days prior  
23 to the date of such election, mail or deliver to each registered voter  
24 a mail ballot and an envelope, preaddressed to the issuing officer.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 29.36 RCW  
26 to read as follows:

27 (1) At any nonpartisan special election not being held in  
28 conjunction with a state primary or general election, the county, city,  
29 town, or district requesting the election pursuant to RCW 29.13.010 or

1 29.13.020 may also request that the election be conducted by mail  
2 ballot. The county auditor may honor the request or may determine that  
3 the election is not to be conducted by mail ballot. The decision of  
4 the county auditor in this regard is final.

5 (2) In an odd-numbered year, the county auditor may conduct by mail  
6 ballot a primary or a special election concurrently with the primary:

7 (a) For any office or ballot measure of a special purpose district  
8 which is entirely within the county;

9 (b) For any office or ballot measure of a special purpose district  
10 which lies in the county and one or more other counties if the auditor  
11 first secures the concurrence of the county auditors of those other  
12 counties to conduct the primary in this manner district-wide; and

13 (c) For any ballot measure or nonpartisan office of a county, city,  
14 or town if the auditor first secures the concurrence of the legislative  
15 authority of the county, city, or town involved.

16 A primary in an odd-numbered year may not be conducted by mail  
17 ballot in any precinct with two hundred or more registered voters if a  
18 partisan office or state office or state ballot measure is to be voted  
19 upon at that primary in the precinct.

20 (3) For all special elections not being held in conjunction with a  
21 state primary or state general election where voting is conducted by  
22 mail ballot, the county auditor shall, not less than fifteen days  
23 before the date of such election, mail or deliver to each registered  
24 voter a mail ballot and an envelope, preaddressed to the issuing  
25 officer. The county auditor shall notify an election jurisdiction for  
26 which a primary is to be held that the primary will be conducted by  
27 mail ballot.

28 (4) Wherever the county auditor deems it feasible, the laws  
29 governing the conduct of mail ballot special elections also apply to  
30 nonpartisan primaries conducted by mail ballot.

1       **Sec. 3.** RCW 29.36.122 and 1983 1st ex.s. c 71 s 2 are each amended  
2 to read as follows:

3       For any special election conducted by mail, the county auditor  
4 shall send a mail ballot with a return identification envelope to each  
5 registered voter of the district in which the special election is being  
6 conducted not sooner than the twenty-fifth day before the date of the  
7 election and not later than the fifteenth day before the date of the  
8 election. The envelope in which the ballot is mailed (~~shall be~~  
9 ~~clearly marked "Do Not Forward — Return to Sender — Return Postage~~  
10 ~~Guaranteed."~~) must clearly indicate that the ballot is not to be  
11 forwarded and is to be returned to the sender with return postage  
12 guaranteed.

13       **Sec. 4.** RCW 29.36.126 and 1983 1st ex.s. c 71 s 4 are each amended  
14 to read as follows:

15       Upon receipt of the mail ballot, the voter shall mark it, sign the  
16 return identification envelope supplied with the ballot, and comply  
17 with the instructions provided with the ballot. The voter may return  
18 the marked ballot to the county auditor (~~by United States mail or to~~  
19 ~~any other place of deposit designated by the county auditor~~). The  
20 ballot must be returned in the return identification envelope. If  
21 mailed, a ballot must be postmarked not later than the date of the  
22 election. Otherwise, the ballot must be deposited at the office of the  
23 county auditor or the designated place of deposit not later than 8:00  
24 p.m. on the date of the election.

25       **Sec. 5.** RCW 29.36.130 and 1983 1st ex.s. c 71 s 5 are each amended  
26 to read as follows:

27       All mail ballots authorized by RCW 29.36.120 or section 2 of this  
28 act shall contain the same offices, names of candidates, and

1 propositions to be voted upon, including precinct offices, as if the  
2 ballot had been voted in person at the polling place. Except as  
3 otherwise provided in (~~RCW 29.36.120 and 29.36.122 through 29.36.126~~  
4 ~~and 29.36.139, such~~) this chapter, mail ballots shall be issued and  
5 canvassed in the same manner as absentee ballots issued pursuant to the  
6 request of the voter. The county canvassing board, at the request of  
7 the county auditor, may direct that mail ballots be counted on the day  
8 of the election. If such count is made, it must be done in secrecy in  
9 the presence of (~~at least three election officials~~) the canvassing  
10 board or their authorized representatives and the results not revealed  
11 to any unauthorized person until (~~the polls have closed~~) 8:00 p.m. or  
12 later if the auditor so directs. If electronic vote tallying devices  
13 are used, political party observers shall be afforded the opportunity  
14 to be present, and a test of the equipment must be performed as  
15 required by RCW 29.34.163 prior to the count of ballots. Political  
16 party observers (~~shall be allowed to count by hand ballots from up to~~  
17 ~~ten precincts selected by the observers~~) may select at random ballots  
18 to be counted by hand as provided by RCW 29.34.163. Any violation of  
19 the secrecy of such count shall be subject to the same penalties as  
20 provided for in RCW 29.54.035.

21 **Sec. 6.** RCW 29.36.130 and 1990 c 59 s 76 are each amended to read  
22 as follows:

23 All mail ballots authorized by RCW 29.36.120 or section 2 of this  
24 act shall contain the same offices, names of candidates, and  
25 propositions to be voted upon, including precinct offices, as if the  
26 ballot had been voted in person at the polling place. Except as  
27 otherwise provided in (~~RCW 29.36.120 and 29.36.122 through 29.36.126~~  
28 ~~and 29.36.139, such~~) this chapter, mail ballots shall be issued and  
29 canvassed in the same manner as absentee ballots issued pursuant to the

1 request of the voter. The county canvassing board, at the request of  
2 the county auditor, may direct that mail ballots be counted on the day  
3 of the election. If such count is made, it must be done in secrecy in  
4 the presence of ~~((at least three election officials))~~ the canvassing  
5 board or their authorized representatives and the results not revealed  
6 to any unauthorized person until ~~((the polls have closed))~~ 8:00 p.m. or  
7 later if the auditor so directs. If electronic vote tallying devices  
8 are used, political party observers shall be afforded the opportunity  
9 to be present, and a test of the equipment must be performed as  
10 required by RCW 29.33.350 prior to the count of ballots. Political  
11 party observers ~~((shall be allowed to count by hand ballots from up to~~  
12 ~~ten precincts selected by the observers))~~ may select at random ballots  
13 to be counted by hand as provided by RCW 29.34.163. Any violation of  
14 the secrecy of such count shall be subject to the same penalties as  
15 provided for in RCW 29.85.225.

16 **Sec. 7.** RCW 29.36.139 and 1983 1st ex.s. c 71 s 6 are each amended  
17 to read as follows:

18 (1) A mail ballot shall be counted only if it is returned in the  
19 return identification envelope, if the envelope is signed by the  
20 registered voter to whom the ballot is issued, and if the signature is  
21 verified as provided in this subsection. The county auditor shall  
22 verify the signature of each voter on the return identification  
23 envelope with the signature on the voter's registration record. ~~((If~~  
24 ~~the county auditor determines that a registered voter to whom a~~  
25 ~~replacement ballot has been issued has voted more than once, the county~~  
26 ~~auditor shall not count any ballot cast by that voter. The county~~  
27 ~~auditor must notify both the county prosecuting attorney and the state~~  
28 ~~attorney general of every instance in which a voter has voted more than~~  
29 ~~once.))~~ A person who votes or attempts to vote more than once in a

1 mail ballot election is subject to the penalties provided in chapter  
2 29.85 RCW.

3 (2) Any mail ballot may be challenged in the same manner as an  
4 absentee ballot.

5 **Sec. 8.** RCW 29.36.150 and 1987 c 346 s 19 are each amended to read  
6 as follows:

7 The secretary of state shall adopt rules (~~((not inconsistent with~~  
8 ~~the provisions of this chapter))~~) to:

9 (1) Establish standards and procedures to prevent fraud and to  
10 facilitate the accurate processing and canvassing of absentee ballots  
11 and mail ballots;

12 (2) Establish standards and procedures to guarantee the secrecy of  
13 absentee ballots and mail ballots;

14 (3) Provide uniformity among the counties of the state in the  
15 conduct of absentee voting and mail ballot elections; and

16 (4) Facilitate the operation of the provisions of this chapter  
17 regarding out-of-state voters, overseas voters, and service voters.

18 The secretary of state shall produce and furnish envelopes and  
19 instructions for out-of-state voters, overseas voters, and service  
20 voters to the county auditors.

21 **Sec. 9.** RCW 29.10.180 and 1989 c 261 s 1 are each amended to read  
22 as follows:

23 (1) Whenever any vote-by-mail ballot, notification to voters  
24 following reprecincting of the county, notification to voters of  
25 selection to serve on jury duty, or initial voter identification card  
26 is returned by the postal service as undeliverable, the county auditor  
27 shall, in every instance, inquire into the validity of the registration  
28 of that voter.

1           (2) The county auditor shall initiate his or her inquiry by  
2 sending, by first-class mail, a written notice to the challenged voter  
3 at the address indicated on the voter's permanent registration record  
4 and to any other address at which the county auditor could reasonably  
5 expect mail to be received by the voter. The county auditor shall not  
6 request any restriction on the forwarding of such notice by the postal  
7 service. The notice shall contain the nature of the inquiry and  
8 provide a suitable form for reply. The notice shall also contain a  
9 warning that the county auditor must receive a response within ninety  
10 days from the date of mailing the notice in case of a returned vote-by-  
11 mail ballot or forty-five days from the date of mailing in all other  
12 cases or the individual's voter registration will be canceled.

13           (3) The voter, in person or in writing, may state that the  
14 information on the permanent voter registration record is correct or  
15 may request a change in the address information on the permanent  
16 registration record no later than the ninetieth day or forty-fifth day,  
17 as appropriate, after the date of mailing the inquiry.

18           (4) Upon the timely receipt of a response signed by the voter, the  
19 county auditor shall consider the inquiry satisfied and will make any  
20 address corrections requested by the voter on the permanent  
21 registration record. The county auditor shall cancel the registration  
22 of a voter who fails to respond to the notice of inquiry within ninety  
23 days after the date of mailing the notice in case of a returned vote-  
24 by-mail ballot or, in all other cases, within forty-five days after the  
25 date of mailing.

26           (5) The county auditor shall notify any voter whose registration  
27 has been canceled by sending, by first class mail, a written notice to  
28 the address indicated on the voter's permanent registration record and  
29 to any other address to which the original inquiry was sent. Upon



1 receipt of a satisfactory voter response, the auditor shall reinstate  
2 the voter.

3 (6) A voter whose registration has been canceled under this section  
4 and who offers to vote at the next ensuing election shall be issued a  
5 questioned ballot. Upon receipt of such a questioned ballot the  
6 auditor shall investigate the circumstances surrounding the original  
7 cancellation. If he or she determines that the cancellation was in  
8 error, the voter's registration shall be immediately reinstated, and  
9 the voter's questioned ballot shall be counted. If the original  
10 cancellation was not in error, the voter shall be afforded the  
11 opportunity to reregister at his or her correct address, and the  
12 voter's questioned ballot shall not be counted.

13 NEW SECTION. **Sec. 10.** Section 6 of this act shall take effect  
14 July 1, 1992.