

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1644

53rd Legislature
1993 Regular Session

Passed by the House March 16, 1993
Yeas 97 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 21, 1993
Yeas 31 Nays 16

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1644** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1644

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Representatives Anderson, Reams, Veloria, Vance, Campbell, Dyer, Pruitt, Conway, Patterson, Brough, King, Springer, Forner, Wineberry and J. Kohl

Read first time 02/03/93. Referred to Committee on State Government.

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

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

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

7 At any primary or election, general or special, the county auditor
8 may, in any precinct having fewer than ((one)) two hundred registered
9 voters at the time of closing of voter registration as provided in RCW
10 29.07.160, conduct the voting in that precinct by mail ballot. For any
11 precinct having fewer than ((one)) two hundred registered voters where
12 voting at a primary or a general election is conducted by mail ballot,
13 the county auditor shall, not less than fifteen days prior to the date
14 of that primary or general election, mail or deliver to each registered
15 voter within that precinct a notice that the voting in that precinct
16 will be by mail ballot, an application form for a mail ballot, and a
17 postage prepaid envelope, preaddressed to the issuing officer. A mail
18 ballot shall be issued to each voter who returns a properly executed
19 application to the county auditor no later than the day of that primary

1 or general election. Such application is valid for all subsequent mail
2 ballot elections in that precinct so long as the voter remains
3 qualified to vote.

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

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

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

20 NEW SECTION. Sec. 2. A new section is added to chapter 29.36 RCW
21 to read as follows:

22 (1) At any nonpartisan special election not being held in
23 conjunction with a state primary or general election, the county, city,
24 town, or district requesting the election pursuant to RCW 29.13.010 or
25 29.13.020 may also request that the election be conducted by mail
26 ballot. The county auditor may honor the request or may determine that
27 the election is not to be conducted by mail ballot. The decision of
28 the county auditor in this regard is final.

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

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

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

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

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

8 (3) For all special elections not being held in conjunction with a
9 state primary or state general election where voting is conducted by
10 mail ballot, the county auditor shall, not less than fifteen days
11 before the date of such election, mail or deliver to each registered
12 voter a mail ballot and an envelope, preaddressed to the issuing
13 officer. The county auditor shall notify an election jurisdiction for
14 which a primary is to be held that the primary will be conducted by
15 mail ballot.

16 (4) To the extent they are not inconsistent with subsections (1)
17 through (3) of this section, the laws governing the conduct of mail
18 ballot special elections apply to nonpartisan primaries conducted by
19 mail ballot.

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

22 For any special election conducted by mail, the county auditor
23 shall send a mail ballot with a return identification envelope to each
24 registered voter of the district in which the special election is being
25 conducted not sooner than the twenty-fifth day before the date of the
26 election and not later than the fifteenth day before the date of the
27 election. The envelope in which the ballot is mailed (~~shall be~~
28 ~~clearly marked "Do Not Forward — Return to Sender — Return Postage~~
29 ~~Guaranteed."~~) must clearly indicate that the ballot is not to be
30 forwarded and is to be returned to the sender with return postage
31 guaranteed.

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

34 Upon receipt of the mail ballot, the voter shall mark it, sign the
35 return identification envelope supplied with the ballot, and comply
36 with the instructions provided with the ballot. The voter may return
37 the marked ballot to the county auditor (~~by United States mail or to~~

1 ~~any other place of deposit designated by the county auditor~~). The
2 ballot must be returned in the return identification envelope. If
3 mailed, a ballot must be postmarked not later than the date of the
4 election. Otherwise, the ballot must be deposited at the office of the
5 county auditor or the designated place of deposit not later than 8:00
6 p.m. on the date of the election.

7 **Sec. 5.** RCW 29.36.130 and 1990 c 59 s 76 are each amended to read
8 as follows:

9 All mail ballots authorized by RCW 29.36.120 or section 2 of this
10 act shall contain the same offices, names of candidates, and
11 propositions to be voted upon, including precinct offices, as if the
12 ballot had been voted in person at the polling place. Except as
13 otherwise provided in (~~RCW 29.36.120 and 29.36.122 through 29.36.126~~
14 ~~and 29.36.139, such~~) this chapter, mail ballots shall be issued and
15 canvassed in the same manner as absentee ballots issued pursuant to the
16 request of the voter. The county canvassing board, at the request of
17 the county auditor, may direct that mail ballots be counted on the day
18 of the election. If such count is made, it must be done in secrecy in
19 the presence of (~~at least three election officials~~) the canvassing
20 board or their authorized representatives and the results not revealed
21 to any unauthorized person until (~~the polls have closed~~) 8:00 p.m. or
22 later if the auditor so directs. If electronic vote tallying devices
23 are used, political party observers shall be afforded the opportunity
24 to be present, and a test of the equipment must be performed as
25 required by RCW 29.33.350 prior to the count of ballots. Political
26 party observers (~~shall be allowed to count by hand ballots from up to~~
27 ~~ten precincts selected by the observers~~) may select at random ballots
28 to be counted manually as provided by RCW 29.54.025. Any violation of
29 the secrecy of such count shall be subject to the same penalties as
30 provided for in RCW 29.85.225.

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

33 (1) A mail ballot shall be counted only if it is returned in the
34 return identification envelope, if the envelope is signed by the
35 registered voter to whom the ballot is issued, and if the signature is
36 verified as provided in this subsection. The county auditor shall
37 verify the signature of each voter on the return identification

1 envelope with the signature on the voter's registration record. ((If
2 the county auditor determines that a registered voter to whom a
3 replacement ballot has been issued has voted more than once, the county
4 auditor shall not count any ballot cast by that voter. The county
5 auditor must notify both the county prosecuting attorney and the state
6 attorney general of every instance in which a voter has voted more than
7 once.)) A person who votes or attempts to vote more than once in a
8 mail ballot election is subject to the penalties provided in chapter
9 29.85 RCW.

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

12 **Sec. 7.** RCW 29.36.150 and 1987 c 346 s 19 are each amended to read
13 as follows:

14 The secretary of state shall adopt rules ((not inconsistent with
15 the provisions of this chapter)) to:

16 (1) Establish standards and procedures to prevent fraud and to
17 facilitate the accurate processing and canvassing of absentee ballots
18 and mail ballots;

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

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

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

25 The secretary of state shall produce and furnish envelopes and
26 instructions for out-of-state voters, overseas voters, and service
27 voters to the county auditors.

28 **Sec. 8.** RCW 29.10.180 and 1991 c 363 s 31 are each amended to read
29 as follows:

30 (1) The county auditor may enter one or more contracts with the
31 United States postal service, or its licensee, which permit the auditor
32 to use postal service change-of-address information. If the auditor
33 finds that information received under such a contract gives the
34 appearance that a voter has changed his or her residence address, the
35 auditor shall notify the voter concerning the requirements of state and
36 federal laws governing voter registration and residence.

1 (2) Whenever any vote-by-mail ballot, notification to voters
2 following reprecincting of the county, notification to voters of
3 selection to serve on jury duty, notification under subsection (1) of
4 this section, or initial voter identification card is returned by the
5 postal service as undeliverable, the county auditor shall, in every
6 instance, inquire into the validity of the registration of that voter.

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

20 (4) The voter, in person or in writing, may state that the
21 information on the permanent voter registration record is correct or
22 may request a change in the address information on the permanent
23 registration record no later than the ninetieth day or forty-fifth day,
24 as appropriate, after the date of mailing the inquiry.

25 (5) Upon the timely receipt of a response signed by the voter, the
26 county auditor shall consider the inquiry satisfied and will make any
27 address corrections requested by the voter on the permanent
28 registration record. The county auditor shall cancel the registration
29 of a voter who fails to respond to the notice of inquiry within ninety
30 days after the date of mailing the notice in a case resulting from a
31 returned vote-by-mail ballot, or, in all other cases, within forty-five
32 days after the date of mailing.

33 (6) The county auditor shall notify any voter whose registration
34 has been canceled by sending, by first class mail, a written notice to
35 the address indicated on the voter's permanent registration record and
36 to any other address to which the original inquiry was sent. Upon
37 receipt of a satisfactory voter response, the auditor shall reinstate
38 the voter.

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

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