
HOUSE BILL 2671

State of Washington

55th Legislature

1998 Regular Session

By Representatives D. Schmidt, Scott, Gardner, Doumit and D. Sommers

Read first time 01/16/98. Referred to Committee on Government Administration.

1 AN ACT Relating to voting at other than regular polling places;
2 amending RCW 29.36.010, 29.36.013, 29.36.170, 29.36.030, 29.36.035,
3 29.36.045, 29.36.060, 29.36.070, 29.36.075, 29.36.097, 29.36.100,
4 29.36.150, 29.36.160, 29.36.121, 29.36.124, 29.36.126, 29.36.130, and
5 29.36.050; reenacting and amending RCW 29.36.120; adding new sections
6 to chapter 29.36 RCW; adding a new section to chapter 29.51 RCW; adding
7 a new chapter to Title 29 RCW; creating a new section; recodifying RCW
8 29.36.010, 29.36.013, 29.36.170, 29.36.030, 29.36.035, 29.36.045,
9 29.36.060, 29.36.070, 29.36.075, 29.36.097, 29.36.100, 29.36.150,
10 29.36.160, 29.36.120, 29.36.121, 29.36.124, 29.36.126, 29.36.130, and
11 29.36.050; repealing RCW 29.36.122 and 29.36.139; and prescribing
12 penalties.

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

14 **PART I**
15 **ABSENTEE VOTING**

16 **Sec. 1.** RCW 29.36.010 and 1991 c 81 s 29 are each amended to read
17 as follows:

1 ABSENTEE BALLOT VOTING. Any registered voter of the state or any
2 out-of-state voter, overseas voter, or service voter may vote by
3 absentee ballot in any general election, special election, or primary
4 in the manner provided in this chapter. Out-of-state voters, overseas
5 voters, and service voters are authorized to cast the same ballots,
6 including those for special elections, as a registered voter of the
7 state would receive under this chapter.

8 ~~((1) Except as provided in subsections (2) and (3) of this~~
9 ~~section, in RCW 29.36.013, and in RCW 29.36.170, a registered voter or~~
10 ~~elector desiring to cast an absentee ballot must request the absentee~~
11 ~~ballot from his or her county auditor no earlier than forty five days~~
12 ~~nor later than the day before any election or primary. Except as~~
13 ~~provided in subsection (3) of this section and in RCW 29.36.170, the~~
14 ~~request may be made orally in person, by telephone, or in writing. An~~
15 ~~application or request for an absentee ballot made under the authority~~
16 ~~of any federal statute or regulation shall be considered and given the~~
17 ~~same effect as a request for an absentee ballot under this chapter.~~

18 ~~(2) For any registered voter, a request for an absentee ballot for~~
19 ~~a primary shall be honored as a request for an absentee ballot for the~~
20 ~~following general election if the voter so indicates in his or her~~
21 ~~request. For any out of state voter, overseas voter, or service voter,~~
22 ~~a request for an absentee ballot for a primary election shall also be~~
23 ~~honored as a request for an absentee ballot for the following general~~
24 ~~election.~~

25 ~~(3) A voter admitted to a hospital no earlier than five days before~~
26 ~~a primary or election and confined to the hospital on election day may~~
27 ~~apply by messenger for an absentee ballot on the day of the primary or~~
28 ~~election if a signed statement from the hospital administrator, or~~
29 ~~designee, verifying the voter's date of admission and status as a~~
30 ~~patient in the hospital on the day of the primary or election is~~
31 ~~attached to the voter's written application for an absentee ballot.~~

32 ~~(4) In a voter's request for an absentee ballot, the voter shall~~
33 ~~state the address to which the absentee ballot should be sent. A~~
34 ~~request for an absentee ballot from an out of state voter, overseas~~
35 ~~voter, or service voter shall state the address of that elector's last~~
36 ~~residence for voting purposes in the state of Washington and either a~~
37 ~~written application or the oath on the return envelope shall include a~~
38 ~~declaration of the other qualifications of the applicant as an elector~~
39 ~~of this state. A request for an absentee ballot from any other voter~~

1 shall state the address at which that voter is currently registered to
2 vote in the state of Washington or the county auditor shall verify such
3 information from the voter registration records of the county.

4 (5) A request for an absentee ballot from a registered voter who is
5 within this state shall be made directly to the auditor of the county
6 in which the voter is registered. An absentee ballot request from a
7 registered voter who is temporarily outside this state or from an out-
8 of-state voter, overseas voter, or service voter may be made either to
9 the appropriate county auditor or to the secretary of state, who shall
10 promptly forward the request to the appropriate county auditor. No
11 person, organization, or association may distribute absentee ballot
12 applications within this state that contain any return address other
13 than that of the appropriate county auditor.

14 (6) A person may request an absentee ballot for use by the person
15 as a registered voter and may request an absentee ballot on behalf of
16 any member of that person's immediate family who is a registered voter
17 for use by the family member. As a means of ensuring that a person who
18 requests an absentee ballot is requesting the ballot for only that
19 person or a member of the person's immediate family, the secretary of
20 state shall adopt rules prescribing the circumstances under which an
21 auditor: May require a person who requests an absentee ballot to
22 identify the date of birth of the voter for whom the ballot is
23 requested; and may deny a request which is not accompanied by this
24 information.))

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

27 REQUEST FOR SINGLE ABSENTEE BALLOT. (1) Except as otherwise
28 provided by law, a registered voter or out-of-state voter, overseas
29 voter, or service voter desiring to cast an absentee ballot at a single
30 election or primary must request the absentee ballot from his or her
31 county auditor no earlier than ninety days nor later than the day of
32 the election or primary at which the person seeks to vote. Except as
33 otherwise provided by law, the request may be made orally in person, by
34 telephone, electronically, or in writing. An application or request
35 for an absentee ballot made under the authority of a federal statute or
36 regulation will be considered and given the same effect as a request
37 for an absentee ballot under this chapter.

1 (2) A voter requesting an absentee ballot for a primary may also
2 request an absentee ballot for the following general election. A
3 request by an out-of-state voter, overseas voter, or service voter for
4 an absentee ballot for a primary election will be considered as a
5 request for an absentee ballot for the following general election.

6 (3) In requesting an absentee ballot, the voter shall state the
7 address to which the absentee ballot should be sent. A request for an
8 absentee ballot from an out-of-state voter, overseas voter, or service
9 voter must include the address of the last residence for voting
10 purposes in the state of Washington and either a written application or
11 the oath on the return envelope must include a declaration of the other
12 qualifications of the applicant as an elector of this state. A request
13 for an absentee ballot from any other voter must state the address at
14 which that voter is currently registered to vote in the state of
15 Washington or the county auditor shall verify that information from the
16 voter registration records of the county.

17 (4) A request for an absentee ballot from a registered voter who is
18 within this state must be made directly to the auditor of the county in
19 which the voter is registered. An absentee ballot request from a
20 registered voter who is temporarily outside this state or from an out-
21 of-state voter, overseas voter, or service voter may be made either to
22 the appropriate county auditor or to the secretary of state, who shall
23 promptly forward the request to the appropriate county auditor. No
24 person, organization, or association may distribute absentee ballot
25 applications within this state that contain a return address other than
26 that of the appropriate county auditor.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 29.36 RCW
28 to read as follows:

29 REQUESTING ABSENTEE BALLOT FOR FAMILY MEMBER. A registered voter
30 may request an absentee ballot on behalf of and for use by a member of
31 his or her immediate family who is also a registered voter. As a means
32 of ensuring that a person who requests an absentee ballot is requesting
33 the ballot for only that person or a member of the person's immediate
34 family, the secretary of state shall adopt rules prescribing the
35 circumstances under which an auditor may require a person who requests
36 an absentee ballot to identify the date of birth of the voter for whom
37 the ballot is requested and under what circumstances the auditor may
38 deny a request that is not accompanied by this information.

1 **Sec. 4.** RCW 29.36.013 and 1993 c 418 s 1 are each amended to read
2 as follows:

3 REQUEST FOR ONGOING ABSENTEE VOTER STATUS. Any registered voter
4 may apply, in writing, for status as an ongoing absentee voter. Each
5 qualified applicant shall automatically receive an absentee ballot for
6 each ensuing election or primary for which ~~((he or she))~~ the voter is
7 entitled to vote and need not submit a separate request for each
8 election. Ballots received from ongoing absentee voters shall be
9 validated, processed, and tabulated in the same manner as other
10 absentee ballots.

11 Status as an ongoing absentee voter shall be terminated upon any of
12 the following events:

- 13 (1) The written request of the voter;
- 14 (2) The death or disqualification of the voter;
- 15 (3) The cancellation of the voter's registration record; ~~((or))~~
- 16 (4) The return of an ongoing absentee ballot as undeliverable; or
- 17 (5) A voter being placed on inactive status.

18 **Sec. 5.** RCW 29.36.170 and 1991 c 81 s 35 are each amended to read
19 as follows:

20 SPECIAL ABSENTEE BALLOT. (1) As provided in this section, county
21 auditors shall provide special absentee ballots to be used for state
22 primary or state general elections. An auditor shall provide a special
23 absentee ballot ~~((shall))~~ only ~~((be provided))~~ to a registered voter
24 who completes an application stating that ~~((:~~

25 ~~((a) The voter believes that she or he will be residing or stationed~~
26 ~~or working outside the continental United States; and~~

27 ~~((b) The voter believes that))~~ she or he will be unable to vote and
28 return a regular absentee ballot by normal mail delivery within the
29 period provided for regular absentee ballots.

30 The application for a special absentee ballot may not be filed
31 earlier than ninety days before the applicable state primary or general
32 election. The special absentee ballot ~~((shall))~~ will list the offices
33 and measures, if known, scheduled to appear on the state primary or
34 general election ballot. The voter may use the special absentee ballot
35 to write in the name of any eligible candidate for each office and vote
36 on any measure.

37 (2) With any special absentee ballot issued under this section, the
38 county auditor shall include a listing of any candidates who have filed

1 before the time of the application for offices that will appear on the
2 ballot at that primary or election and a list of any issues that have
3 been referred to the ballot before the time of the application.

4 (3) Write-in votes on special absentee ballots (~~shall~~) must be
5 counted in the same manner provided by law for the counting of other
6 write-in votes. The county auditor shall process and canvass the
7 special absentee ballots provided under this section in the same manner
8 as other absentee ballots under chapters 29.36 and 29.62 RCW.

9 (4) A voter who requests a special absentee ballot under this
10 section may also request an absentee ballot under (~~RCW 29.36.010~~)
11 section 2(4) of this act. If the regular absentee ballot is properly
12 voted and returned, the special absentee ballot (~~shall be deemed~~) is
13 void, and the county auditor shall reject it in whole when special
14 absentee ballots are canvassed.

15 **Sec. 6.** RCW 29.36.030 and 1991 c 81 s 31 are each amended to read
16 as follows:

17 ISSUANCE OF ABSENTEE BALLOT. (1) The county auditor shall issue an
18 absentee ballot for the primary or election for which it was requested,
19 or for the next occurring primary or election when ongoing absentee
20 status has been requested if the information contained in a request for
21 an absentee ballot or ongoing absentee status received by the county
22 auditor is complete and correct and the applicant is qualified to vote
23 under federal or state law(~~(, the county auditor shall issue an~~
24 ~~absentee ballot for the primary or election for which the absentee~~
25 ~~ballot was requested)~~). Otherwise, the county auditor shall notify the
26 applicant of the reason or reasons why the request cannot be accepted.
27 At each general election in an even-numbered year the county auditor
28 may issue a separate ballot for the office of precinct committee
29 officer.

30 (~~At each general election in an even-numbered year, each absentee~~
31 ~~voter shall also be given a separate ballot containing the names of the~~
32 ~~candidates that have filed for the office of precinct committee officer~~
33 ~~unless fewer than two candidates have filed for the same political~~
34 ~~party in the absentee voter's precinct. The ballot shall provide space~~
35 ~~for writing in the name of additional candidates.~~

36 ~~When mailing an absentee ballot to a registered voter temporarily~~
37 ~~outside the state or to an out-of-state voter, overseas voter, or~~
38 ~~service voter, the county auditor shall send a)) (2) A registered voter~~

1 may obtain a replacement ballot if the ballot is destroyed, spoiled,
2 lost, or not received by the voter. The voter may obtain the ballot by
3 telephone request, by mail, electronically, or in person. The county
4 auditor shall keep a record of each replacement ballot provided under
5 this subsection.

6 (3) A copy of the state voters' and candidates' pamphlet must be
7 sent to registered voters temporarily outside the state, out-of-state
8 voters, overseas voters, and service voters along with the absentee
9 ballot if such a pamphlet has been prepared for the primary or
10 election. The county auditor shall mail all absentee ballots and
11 related material to voters outside the territorial limits of the United
12 States and the District of Columbia under 39 U.S.C. 3406.

13 **Sec. 7.** RCW 29.36.035 and 1984 c 27 s 2 are each amended to read
14 as follows:

15 DELIVERY OF ABSENTEE BALLOT. The delivery of an absentee ballot
16 for any primary or election shall be subject to the following
17 qualifications:

18 (1) Only the registered voter~~((, himself))~~ personally, or a member
19 of ~~((his))~~ the registered voter's immediate family may pick up an
20 absentee ballot for the voter at the office of the issuing officer
21 unless the voter is ~~((hospitalized))~~ a resident of a health care
22 facility, as defined by RCW 70.37.020(3), on election day and applies
23 by messenger ~~((in accordance with RCW 29.36.010))~~ for an absentee
24 ballot ~~((on the day of the primary or election))~~. In this latter case,
25 the messenger may pick up the ~~((hospitalized))~~ voter's absentee ballot.

26 (2) Except as noted in subsection (1) ~~((above))~~ of this section,
27 the issuing officer shall mail or deliver the absentee ballot directly
28 to each applicant.

29 ~~((3) No absentee ballot shall be issued on the day of the primary~~
30 ~~or election concerned, except as provided by RCW 29.36.010, for a voter~~
31 ~~confined to a hospital on the day of a primary or election.))~~

32 **Sec. 8.** RCW 29.36.045 and 1987 c 346 s 12 are each amended to read
33 as follows:

34 ENVELOPES AND INSTRUCTIONS. The county auditor shall send each
35 absentee voter a ballot, a security envelope in which to seal the
36 ballot after voting, a larger envelope in which to return the security
37 envelope, and instructions on how to mark the ballot and how to return

1 it to the county auditor. The larger return envelope (~~shall~~) must
2 contain a declaration by the absentee voter reciting his or her
3 qualifications and stating that he or she has not voted in any other
4 jurisdiction at this election, together with a summary of the penalties
5 for any violation of any of the provisions of this chapter. The return
6 envelope (~~shall~~) must provide space for the voter to indicate the
7 date on which the ballot was voted and for the voter to sign the oath.
8 A summary of the applicable penalty provisions of this chapter
9 (~~shall~~) must be printed on the return envelope immediately adjacent
10 to the space for the voter's signature. The signature of the voter on
11 the return envelope (~~shall~~) must affirm and attest to the statements
12 regarding the qualifications of that voter and to the validity of the
13 ballot. For out-of-state voters, overseas voters, and service voters,
14 the signed declaration on the return envelope constitutes the
15 equivalent of a voter registration for the election or primary for
16 which the ballot has been issued. The voter (~~shall~~) must be
17 instructed to either return the ballot to the county auditor by whom it
18 was issued or attach sufficient first class postage, if applicable, and
19 mail the ballot to the appropriate county auditor no later than the day
20 of the election or primary for which the ballot was issued.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 29.36 RCW
22 to read as follows:

23 DEFINITIONS. For purposes of canvassing and counting absentee
24 ballots:

25 (1) "Initial processing" means all steps taken to prepare absentee
26 ballots for tabulation, except for the reading of ballots by an
27 electronic vote tallying system. Initial processing includes, but is
28 not limited to, verification of signatures on return envelopes; removal
29 of security envelopes from the return envelopes; removal of ballots
30 from the security envelopes; manual inspection for damage, for write-in
31 votes, and for incorrect or incomplete marks; duplication of damaged
32 and write-in ballots; and other preparation of ballots for final
33 processing.

34 (2) "Final processing" means the reading of ballots by an
35 electronic vote tallying system, but does not include tabulation.

36 (3) "Tabulation" means the production of returns of votes cast
37 regarding candidates or measures in a form that can be read by a

1 person, whether as precinct totals, partial cumulative totals, or final
2 cumulative totals.

3 NEW SECTION. **Sec. 10.** A new section is added to chapter 29.36 RCW
4 to read as follows:

5 OBSERVERS. (1) Before initial processing of absentee ballots, the
6 county auditor shall notify the county chair of each major political
7 party of the time and date on which absentee processing will begin, and
8 shall request that each major political party appoint official
9 observers to observe the processing and tabulation of absentee ballots.
10 If a major political party has appointed observers, the observers may
11 be present for initial processing, final processing, or tabulation, if
12 they so choose, but failure to appoint or attend does not preclude the
13 processing or tabulation of absentee ballots.

14 (2) The auditor shall adopt administrative procedures for the
15 initial and final processing of absentee ballots. Copies of these
16 administrative procedures must be made available to the political party
17 observers, and to the public upon request.

18 **Sec. 11.** RCW 29.36.060 and 1991 c 81 s 32 are each amended to read
19 as follows:

20 PROCESSING ABSENTEE BALLOTS. (~~The opening and subsequent~~
21 ~~processing of return envelopes for any primary or election may begin on~~
22 ~~or after the tenth day prior to such primary or election. The opening~~
23 ~~of the security envelopes and tabulation of absentee ballots shall not~~
24 ~~commence until after 8:00 o'clock p.m. on the day of the primary or~~
25 ~~election.~~

26 ~~After opening the return envelopes, the county canvassing board~~
27 ~~shall place all of the ballot envelopes in containers that can be~~
28 ~~secured with numbered seals. These sealed containers shall be stored~~
29 ~~in a secure location until after 8:00 o'clock p.m. of the day of the~~
30 ~~primary or election. Absentee ballots that are to be tabulated on an~~
31 ~~electronic vote tallying system may be taken from the inner envelopes~~
32 ~~and all the normal procedural steps may be performed to prepare these~~
33 ~~ballots for tabulation before sealing the containers.))~~

34 (1) Before opening a returned absentee ballot, the canvassing
35 board, or its designated representatives, shall examine the postmark,
36 statement, and signature on ((each)) the return envelope ((containing))
37 that contains the security envelope and absentee ballot. They shall

1 verify that the voter's signature on the return envelope is the same as
2 the signature of that voter in the registration files ~~((for that~~
3 ~~voter))~~ of the county. For ~~((absentee))~~ registered voters ~~((other than~~
4 ~~out-of-state voters, overseas voters, and service voters, if the~~
5 ~~postmark is illegible))~~ casting absentee ballots, the date on the
6 return envelope to which the voter ~~((attests shall))~~ has attested
7 determines the validity, as to the time of voting~~((, of))~~ for that
8 absentee ballot ~~((under this chapter))~~ if the postmark is missing or is
9 illegible. For out-of-state voters, overseas voters, and service
10 voters, the date on the return envelope to which the voter has attested
11 determines the validity as to the time of voting for that absentee
12 ballot. For any absentee ~~((voter))~~ ballot, a variation between the
13 signature of the voter on the return envelope and the signature of that
14 voter in the registration files due to the substitution of initials or
15 the use of common nicknames is permitted so long as the surname and
16 handwriting are clearly the same.

17 (2) Absentee ballot return envelopes for a primary or election may
18 be opened for initial processing on or after the tenth day before that
19 primary or election.

20 (3) After opening the return envelopes, the county canvassing board
21 shall either:

22 (a) Place all of the security envelopes containing the absentee
23 ballots in containers, and secure the containers with numbered seals;
24 or

25 (b) In the case of absentee ballots that will be tabulated on an
26 electronic vote tallying system, open the security envelopes, perform
27 the initial processing, place the absentee ballots in containers, and
28 secure the containers with numbered seals.

29 (4) The canvassing board, or its designated representatives, shall
30 record the number of the seal for each container and the date the
31 corresponding container was sealed. After initial processing, all
32 absentee ballots must be kept in sealed containers and in secure
33 storage until they are ready for final processing.

34 (5) The secure containers of absentee ballots may not be opened for
35 final processing before 7:00 a.m. on the day of the primary or
36 election. In counties using electronic vote tallying systems, the
37 absentee ballots must be tabulated under continuous observation of
38 representatives of the major political parties, and all other security
39 provisions required by the secretary of state under RCW 29.04.210 and

1 29.36.150. No results from tabulation of absentee ballots may be
2 produced or distributed until after 8:00 p.m. on the day of the primary
3 or election.

4 **Sec. 12.** RCW 29.36.070 and 1990 c 262 s 2 are each amended to read
5 as follows:

6 COUNTING ABSENTEE BALLOTS. The absentee ballots (~~shall be grouped~~
7 ~~and~~) must be counted (~~by~~) and reported on a congressional and
8 legislative district basis without regard to precinct, except as
9 required under RCW 29.62.090(2).

10 These returns (~~shall~~) must be added to the total of the votes
11 cast at the polling places.

12 **Sec. 13.** RCW 29.36.075 and 1988 c 181 s 3 are each amended to read
13 as follows:

14 PROCESSING DETAILS. (~~In counties that do not tabulate absentee~~
15 ~~ballots on electronic vote tallying systems, canvassing boards may not~~
16 ~~tabulate or record votes cast by absentee ballots on any uncontested~~
17 ~~office except write in votes for candidates for the office of precinct~~
18 ~~committeeperson who have filed valid declarations of candidacy under~~
19 ~~RCW 29.04.180. "Uncontested office" means an office where only one~~
20 ~~candidate has filed a valid declaration of candidacy either during the~~
21 ~~regular filing period or as a write in candidate under RCW 29.04.180.)~~)

22 Each registered voter casting an absentee ballot (~~shall~~) will be
23 credited with voting on his or her voter registration record.
24 Absentee ballots (~~shall~~) must be retained for the same length of time
25 and in the same manner as ballots cast at the precinct polling places.

26 **Sec. 14.** RCW 29.36.097 and 1991 c 81 s 33 are each amended to read
27 as follows:

28 ABSENTEE BALLOT RECORDS. Each county auditor shall maintain in his
29 or her office, open for public inspection and copying, a record of the
30 requests he or she has received for absentee ballots (~~under this~~
31 ~~chapter~~), a listing of all ongoing absentee voters, and a daily
32 cumulative listing of the names of voters whose absentee ballots have
33 been returned before each primary and election.

34 The information from the requests (~~shall~~) must be recorded and
35 lists of this information (~~shall~~) must be available no later than

1 (~~twenty-four hours~~) the next business day after their receipt. Lists
2 of ongoing absentee voters must be available at all times.

3 This information about absentee voters (~~shall~~) requesting ballots
4 will be available according to the date of the requests and by
5 legislative district. It (~~shall~~) must include the name of each
6 applicant, the address and precinct in which the voter maintains a
7 voting residence, the date on which an absentee ballot was issued to
8 this voter, if applicable, the type of absentee ballot, and the address
9 to which the ballot was or is to be mailed, if applicable, and the
10 names of the voters whose absentee ballots have been returned.

11 (~~The auditor shall make copies of these records available to the~~
12 ~~public for the actual cost of production or copying.~~)

13 **Sec. 15.** RCW 29.36.100 and 1987 c 346 s 18 are each amended to
14 read as follows:

15 CHALLENGED ABSENTEE BALLOTS. The qualifications of any absentee
16 voter may be challenged at the time the signature on the return
17 envelope is verified and the ballot is processed by the canvassing
18 board. The board has the authority to determine the legality of any
19 absentee ballot challenged under this section. Challenged ballots must
20 be handled in accordance with chapter 29.10 RCW.

21 **Sec. 16.** RCW 29.36.150 and 1993 c 417 s 7 are each amended to read
22 as follows:

23 The secretary of state shall adopt rules implementing this chapter,
24 including rules to:

25 (1) Establish standards and procedures to prevent fraud and to
26 facilitate the accurate processing and canvassing of absentee ballots
27 (~~and mail ballots~~);

28 (2) Establish standards and procedures to guarantee the secrecy of
29 absentee ballots (~~and mail ballots~~);

30 (3) Provide uniformity among the counties of the state in the
31 conduct of absentee voting (~~and mail ballot elections~~); (~~and~~)

32 (4) Facilitate the operation of the provisions of this chapter
33 regarding out-of-state voters, overseas voters, and service voters;

34 (5) Provide flexible requirements for persons confined in health
35 care facilities to apply for and receive absentee ballots; and

36 (6) Provide standards for electronic requests for absentee ballots.

1 The secretary of state shall produce and furnish envelopes and
2 instructions for out-of-state voters, overseas voters, and service
3 voters to the county auditors.

4 **Sec. 17.** RCW 29.36.160 and 1994 c 269 s 2 are each amended to read
5 as follows:

6 A person who willfully violates any provision of this chapter
7 regarding the assertion or declaration of qualifications to receive or
8 cast an absentee ballot(~~(,)~~) or unlawfully casts a vote by absentee
9 ballot(~~(, or willfully violates any provision regarding the conduct of~~
10 ~~mail ballot primaries or elections under RCW 29.36.120 through~~
11 ~~29.36.139))~~) is guilty of a class C felony punishable under RCW
12 9A.20.021. Except as provided in chapter 29.85 RCW a person who
13 willfully violates any other provision of this chapter is guilty of a
14 misdemeanor.

15 **PART II**

16 **MAIL BALLOTS**

17 **Sec. 18.** RCW 29.36.120 and 1994 c 269 s 1 and 1994 c 57 s 48 are
18 each reenacted and amended to read as follows:

19 MAIL BALLOT PRECINCTS. (~~((1) At any primary or election, general~~
20 ~~or special,))~~) The county auditor may(~~(, in))~~) designate any precinct
21 having fewer than two hundred active registered voters at the time of
22 closing of voter registration as provided in RCW 29.07.160(~~(, conduct~~
23 ~~the voting in that precinct by))~~) as a mail ballot precinct. (~~(For any~~
24 ~~precinct having fewer than two hundred active registered voters where~~
25 ~~voting at a primary or a general election is conducted by mail ballot,~~
26 ~~the county auditor shall, not less than fifteen days prior to the date~~
27 ~~of that primary or general election, mail or deliver to each active and~~
28 ~~inactive registered voter within that precinct a notice that the voting~~
29 ~~in that precinct will be by mail ballot, an application form for a mail~~
30 ~~ballot, and a postage prepaid envelope, preaddressed to the issuing~~
31 ~~officer. A mail ballot shall be issued to each voter who returns a~~
32 ~~properly executed application to the county auditor no later than the~~
33 ~~day of that primary or general election. For all subsequent mail~~
34 ~~ballot elections in that precinct the application is valid so long as~~
35 ~~the voter remains active and qualified to vote.))~~) The county auditor
36 shall notify each registered voter by mail that for all future

1 primaries and elections the voting in his or her precinct will be by
2 mail ballot only. In determining the number of registered voters in a
3 precinct for the purposes of this section, persons who are ongoing
4 absentee voters under RCW 29.36.013 (as recodified by this act) shall
5 not be counted. Nothing in this section may be construed as altering
6 the vote tallying requirements of RCW 29.62.090.

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

14 ~~In no instance shall any special election be conducted by mail~~
15 ~~ballot in any precinct with two hundred or more active registered~~
16 ~~voters if candidates for partisan office are to be voted upon.~~

17 ~~For all special elections not being held in conjunction with a~~
18 ~~state primary or state general election where voting is conducted by~~
19 ~~mail ballot, the county auditor shall, not less than fifteen days prior~~
20 ~~to the date of such election, mail or deliver to each active registered~~
21 ~~voter a mail ballot and an envelope, preaddressed to the issuing~~
22 ~~officer.))~~ As soon as ballots are available, the county auditor shall
23 mail or deliver a ballot and an envelope, preaddressed to the issuing
24 officer, to each active registered voter. The auditor shall send each
25 inactive voter either a ballot or an application to receive a ballot.
26 The auditor shall determine which of the two is to be sent. If the
27 inactive voter returns a voted ballot, the ballot shall be counted and
28 the voter's status restored to active. If the inactive voter completes
29 and returns an application, a ballot shall be sent and the voter's
30 status restored to active.

31 ~~((2) For a two year period beginning on June 9, 1994, and ending~~
32 ~~two years after June 9, 1994, the county auditor may conduct the voting~~
33 ~~in any precinct by mail for any primary or election, partisan or~~
34 ~~nonpartisan, using the procedures set forth in RCW 29.36.120 through~~
35 ~~29.36.139.))~~

36 If the precinct exceeds two hundred registered voters, or the
37 auditor determines to return to a polling place election environment,
38 the auditor shall notify each registered voter, by mail, of this and
39 shall provide the address of the polling place to be used.

1 **Sec. 19.** RCW 29.36.121 and 1994 c 57 s 49 are each amended to read
2 as follows:

3 MAIL BALLOT SPECIAL ELECTIONS. (~~((1))~~) At any nonpartisan special
4 election not being held in conjunction with a state primary or general
5 election, the county, city, town, or district requesting the election
6 pursuant to RCW 29.13.010 or 29.13.020 may also request that the
7 special election be conducted by mail ballot. The county auditor may
8 honor the request or may determine that the election is not to be
9 conducted by mail ballot. The decision of the county auditor in this
10 regard is final.

11 (~~((2) In an odd numbered year, the county auditor may conduct by
12 mail ballot a primary or a special election concurrently with the
13 primary:~~

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

16 (b) ~~For any office or ballot measure of a special purpose district
17 which lies in the county and one or more other counties if the auditor
18 first secures the concurrence of the county auditors of those other
19 counties to conduct the primary in this manner district wide; and~~

20 (c) ~~For any ballot measure or nonpartisan office of a county, city,
21 or town if the auditor first secures the concurrence of the legislative
22 authority of the county, city, or town involved.~~

23 A primary in an odd numbered year may not be conducted by mail
24 ballot in any precinct with two hundred or more active registered
25 voters if a partisan office or state office or state ballot measure is
26 to be voted upon at that primary in the precinct.

27 (~~(3))~~) For all special elections not being held in conjunction with
28 a state primary or state general election where voting is conducted by
29 mail ballot, the county auditor shall, not less than fifteen days
30 before the date of such election, mail or deliver to each registered
31 voter a mail ballot (~~(and an envelope, preaddressed to the issuing
32 officer. The county auditor shall notify an election jurisdiction for
33 which a primary is to be held that the primary will be conducted by
34 mail ballot)~~). The auditor shall handle inactive voters in the same
35 manner as inactive voters in mail ballot precincts.

36 (~~((4) To the extent they are not inconsistent with subsections (1)
37 through (3) of this section, the laws governing the conduct of mail
38 ballot special elections apply to nonpartisan primaries conducted by
39 mail ballot.))~~)

1 For a special election conducted by mail ballot, the county auditor
2 shall include with the instructions a clear explanation of the
3 qualifications necessary to vote in that election and shall also advise
4 a voter with questions about his or her eligibility to contact the
5 county auditor. If this information is included, vote by mail special
6 election ballots may be forwarded to voters in the same manner as
7 absentee ballots. If the information is not included in the
8 instructions, the envelope must clearly indicate that the ballot is not
9 to be forwarded and that return postage is guaranteed.

10 NEW SECTION. Sec. 20. ODD-YEAR PRIMARIES BY MAIL. In an odd-
11 numbered year, the county auditor may conduct a primary or a special
12 election by mail ballot concurrently with the primary:

13 (1) For an office or ballot measure of a special purpose district
14 that is entirely within the county;

15 (2) For an office or ballot measure of a special purpose district
16 that lies in the county and one or more other counties if the auditor
17 first secures the concurrence of the county auditors of those other
18 counties to conduct the primary in this manner district-wide; and

19 (3) For a ballot measure or nonpartisan office of a county, city,
20 or town if the auditor first secures the concurrence of the legislative
21 authority of the county, city, or town involved.

22 The county auditor shall notify an election jurisdiction for which
23 a primary is to be held that the primary will be conducted by mail
24 ballot.

25 A primary in an odd-numbered year may not be conducted by mail
26 ballot in a precinct with two hundred or more active registered voters
27 if a partisan office or state office or state ballot measure is to be
28 voted upon at that primary in the precinct.

29 To the extent they are not inconsistent with other provisions of
30 law, the laws governing the conduct of mail ballot special elections
31 apply to nonpartisan primaries conducted by mail ballot.

32 **Sec. 21.** RCW 29.36.124 and 1983 1st ex.s. c 71 s 3 are each
33 amended to read as follows:

34 DEPOSITING BALLOTS FOR MAIL BALLOT ELECTIONS. ~~((+1))~~ If a county
35 auditor conducts an election by mail, the county auditor shall
36 designate the county auditor's office ~~((or a central location in the~~
37 ~~district in which the election is conducted))~~ as the single place to

1 obtain a replacement ballot. The county auditor also shall designate
2 one or more places for the deposit of ballots not returned by mail.
3 The places designated under this section shall be open on the date of
4 the election for a period of at least thirteen hours, beginning at 7:00
5 a.m. and ending at 8:00 p.m., and at any other times designated by the
6 county auditor.

7 ~~((2) A registered voter may obtain a replacement ballot as
8 provided in this subsection if the ballot is destroyed, spoiled, lost,
9 or not received by the voter. A registered voter seeking a replacement
10 ballot shall sign a sworn statement that the ballot was destroyed,
11 spoiled, lost, or not received and shall present the statement to the
12 county auditor no later than the day of the election. Each spoiled
13 ballot must be returned to the county auditor before a new one is
14 issued. The county auditor shall keep a record of each replacement
15 ballot provided under this subsection.))~~

16 **Sec. 22.** RCW 29.36.126 and 1993 c 417 s 4 are each amended to read
17 as follows:

18 RETURN OF VOTED BALLOT BY VOTER. ~~((Upon receipt of the mail
19 ballot, the voter shall mark it, sign the return identification
20 envelope supplied with the ballot, and comply with the instructions
21 provided with the ballot. The voter may return the marked ballot to
22 the county auditor. The ballot must be returned))~~ The voter shall
23 return the ballot to the county auditor in the return identification
24 envelope. If mailed, a ballot must be postmarked not later than the
25 date of the primary or election. Otherwise, the ballot must be
26 deposited at the office of the county auditor or the designated place
27 of deposit not later than 8:00 p.m. on the date of the primary or
28 election.

29 **Sec. 23.** RCW 29.36.130 and 1993 c 417 s 5 are each amended to read
30 as follows:

31 BALLOT CONTENTS--COUNTING. All mail ballots authorized by RCW
32 29.36.120 or 29.36.121 ~~((shall))~~ (as recodified by this act) or section
33 20 of this act must contain the same offices, names of nominees or
34 candidates, and propositions to be voted upon, including precinct
35 offices, as if the ballot had been voted in person at the polling
36 place. Except as otherwise provided ~~((in this chapter))~~ by law, mail
37 ballots ~~((shall))~~ must be ~~((issued and canvassed))~~ treated in the same

1 manner as absentee ballots issued (~~((pursuant to))~~) at the request of the
2 voter. (~~((The county canvassing board, at the request of the county
3 auditor, may direct that mail ballots be counted on the day of the
4 election. If such count is made, it must be done in secrecy in the
5 presence of the canvassing board or their authorized representatives
6 and the results not revealed to any unauthorized person until 8:00 p.m.
7 or later if the auditor so directs.))~~) If electronic vote tallying
8 devices are used, political party observers (~~((shall be afforded))~~) must
9 be given the opportunity to be present, and a test of the equipment
10 must be performed as required by RCW 29.33.350 (~~((prior to the count
11 of))~~) before tabulating ballots. Political party observers may select
12 at random ballots to be counted manually as provided by RCW 29.54.025.
13 Any violation of the secrecy of (~~((such))~~) the count (~~((shall be))~~) is
14 subject to the same penalties as provided for in RCW 29.85.225.

15 NEW SECTION. **Sec. 24.** RULES. The secretary of state shall adopt
16 rules to:

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

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

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

23 (4) Provide for requests for a replacement ballot at a mail ballot
24 election to be made electronically.

25 The secretary of state shall produce and furnish envelopes and
26 instructions for mail ballot elections for all out-of-state, overseas
27 voters, and service voters.

28 NEW SECTION. **Sec. 25.** PENALTY. A person who willfully violates
29 any provision of this chapter regarding the conduct of mail ballot
30 primaries or elections is guilty of a class C felony punishable under
31 RCW 9A.20.021.

32 **PART III**
33 **POLLING PLACE REGULATIONS**

34 **Sec. 26.** RCW 29.36.050 and 1987 c 346 s 13 are each amended to
35 read as follows:

1 A registered voter shall not be allowed to vote a regular ballot in
2 the precinct in which he or she is registered at any election or
3 primary for which that voter has (~~cast~~) requested an absentee ballot
4 or if the voter is an ongoing absentee voter. A registered voter who
5 has requested an absentee ballot for a primary or special or general
6 election or who is an ongoing absentee voter but chooses to vote at the
7 voter's precinct polling place in that primary or election (~~shall cast~~
8 ~~a ballot in the manner prescribed by RCW 29.10.127 for challenged~~
9 ~~ballots~~) must be issued and allowed to cast a special ballot. The
10 canvassing board shall not count the ballot if it finds that the voter
11 has also voted by absentee ballot in that primary or election.

12 **PART IV**
13 **TECHNICAL**

14 NEW SECTION. **Sec. 27.** The following acts or parts of acts are
15 each repealed:

16 (1) RCW 29.36.122 and 1994 c 57 s 50, 1993 c 417 s 3, & 1983 1st
17 ex.s. c 71 s 2; and

18 (2) RCW 29.36.139 and 1993 c 417 s 6 & 1983 1st ex.s. c 71 s 6.

19 NEW SECTION. **Sec. 28.** (1) RCW 29.36.010, 29.36.013, 29.36.170,
20 29.36.030, 29.36.035, 29.36.045, 29.36.060, 29.36.070, 29.36.075,
21 29.36.097, 29.36.100, 29.36.150, and 29.36.160 are each recodified
22 within chapter 29.36 RCW, in the order shown in this act, along with
23 sections 2, 3, 9, and 10 of this act.

24 (2) RCW 29.36.120, 29.36.121, 29.36.124, 29.36.126, and 29.36.130
25 are each recodified, and, along with sections 20, 24, and 25 of this
26 act, constitute a new chapter in Title 29 RCW.

27 (3) RCW 29.36.050 is recodified as a new section in chapter 29.51
28 RCW.

29 NEW SECTION. **Sec. 29.** Section captions and part headings used in
30 this act are not part of the law.

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