
SENATE BILL 6363

State of Washington

56th Legislature

2000 Regular Session

By Senators Gardner, Patterson, McCaslin, Winsley and Costa

Read first time 01/14/2000. Referred to Committee on State & Local Government.

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

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

13 **PART I**
14 **ABSENTEE VOTING**

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

17 **ABSENTEE BALLOT VOTING.** Any registered voter of the state or any
18 out-of-state voter, overseas voter, or service voter may vote by

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

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

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

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

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

1 ~~vote in the state of Washington or the county auditor shall verify such~~
2 ~~information from the voter registration records of the county.~~

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

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

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

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

37 (2) A voter requesting an absentee ballot for a primary may also
38 request an absentee ballot for the following general election. A

1 request by an out-of-state voter, overseas voter, or service voter for
2 an absentee ballot for a primary election will be considered as a
3 request for an absentee ballot for the following general election.

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

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

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

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

1 **Sec. 4.** RCW 29.36.013 and 1999 c 298 s 12 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;
- 16 (4) The return of an ongoing absentee ballot as undeliverable; or
- 17 (5) Upon placing a voter on inactive status under RCW 29.10.071.

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 Whenever two or more candidates have filed for the position of precinct
28 committee officer for the same party in the same precinct at a general
29 election held in an even-numbered year, the contest for that position
30 must be presented to absentee voters from that precinct by either
31 including the contest on the regular absentee ballot or a separate
32 absentee ballot.

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

1 ~~When mailing an absentee ballot to a registered voter temporarily~~
2 ~~outside the state or to an out-of-state voter, overseas voter, or~~
3 ~~service voter, the county auditor shall send a)) (2) A registered voter~~
4 may obtain a replacement ballot if the ballot is destroyed, spoiled,
5 lost, or not received by the voter. The voter may obtain the ballot by
6 telephone request, by mail, electronically, or in person. The county
7 auditor shall keep a record of each replacement ballot provided under
8 this subsection.

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

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

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

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

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

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

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

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

25 If the county auditor chooses to forward absentee ballots, he or
26 she must include with the ballot a clear explanation of the
27 qualifications necessary to vote in that election and must also advise
28 a voter with questions about his or her eligibility to contact the
29 county auditor. This explanation may be provided on the ballot
30 envelope, on an enclosed insert, or printed directly on the ballot
31 itself. If the information is not included, the envelope must clearly
32 indicate that the ballot is not to be forwarded and that return postage
33 is guaranteed.

34 NEW SECTION. Sec. 9. A new section is added to chapter 29.36 RCW
35 to read as follows:

36 RULES--OBSERVERS. (1) Ballots must be processed in the manner
37 provided by administrative rule adopted by the secretary of state.

1 (2) County auditors must request that observers be appointed by the
2 major political parties and be present during the processing of
3 absentee ballots. The absence of the observers will not prevent the
4 processing of absentee ballots if the county auditor has requested
5 their presence.

6 **Sec. 10.** RCW 29.36.060 and 1991 c 81 s 32 are each amended to read
7 as follows:

8 PROCESSING ABSENTEE BALLOTS. (1) The opening and subsequent
9 processing of return envelopes for any primary or election may begin on
10 or after the tenth day (~~(prior to such)~~) before the primary or
11 election. The opening of the security envelopes and tabulation of
12 absentee ballots (~~(shall)~~) must not commence until after 8:00
13 (~~(o'clock)~~) p.m. on the day of the primary or election.

14 (2) After opening the return envelopes, the county canvassing board
15 shall place all of the ballot envelopes in containers that can be
16 secured with numbered seals. These sealed containers (~~(shall)~~) must be
17 stored in a secure location until after 8:00 (~~(o'clock)~~) p.m. of the
18 day of the primary or election. Absentee ballots that are to be
19 tabulated on an electronic vote tallying system may be taken from the
20 inner envelopes and all the normal procedural steps may be performed to
21 prepare these ballots for tabulation before sealing the containers.

22 (3) Before opening a returned absentee ballot, the canvassing
23 board, or its designated representatives, shall examine the postmark,
24 statement, and signature on ((each)) the return envelope ((containing))
25 that contains the security envelope and absentee ballot. They shall
26 verify that the voter's signature on the return envelope is the same as
27 the signature of that voter in the registration files (~~(for that~~
28 ~~voter))~~ of the county. For (~~(absentee))~~ registered voters (~~(other than~~
29 ~~out-of-state voters, overseas voters, and service voters, if the~~
30 ~~postmark is illegible))~~ casting absentee ballots, the date on the
31 return envelope to which the voter ((attests shall)) has attested
32 determines the validity, as to the time of voting((, of)) for that
33 absentee ballot ((under this chapter)) if the postmark is missing or is
34 illegible. For out-of-state voters, overseas voters, and service
35 voters, the date on the return envelope to which the voter has attested
36 determines the validity as to the time of voting for that absentee
37 ballot. For any absentee (~~(voter))~~ ballot, a variation between the
38 signature of the voter on the return envelope and the signature of that

1 voter in the registration files due to the substitution of initials or
2 the use of common nicknames is permitted so long as the surname and
3 handwriting are clearly the same.

4 **Sec. 11.** 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 counted by~~) must be reported at a minimum on a congressional and
8 legislative district ((without regard to)) basis. Absentee ballots may
9 be counted by congressional or legislative basis or by individual
10 precinct, except as required under RCW 29.62.090(2).

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

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

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

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

27 **Sec. 13.** RCW 29.36.097 and 1991 c 81 s 33 are each amended to read
28 as follows:

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

35 The information from the requests (~~shall~~) must be recorded and
36 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.

10 The auditor shall make copies of these records available to the
11 public in either paper or electronic format for the actual cost of
12 production or copying.

13 **Sec. 14.** 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. 15.** RCW 29.36.150 and 1993 c 417 s 7 are each amended to read
22 as follows:

23 OVERSEAS AND SERVICE VOTERS. (~~The secretary of state shall adopt~~
24 ~~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 The secretary of state shall produce and furnish envelopes and
35 instructions for out-of-state voters, overseas voters, and service
36 voters to the county auditors.

1 **Sec. 16.** RCW 29.36.160 and 1994 c 269 s 2 are each amended to read
2 as follows:

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

12 **PART II**

13 **MAIL BALLOTS**

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

16 MAIL BALLOT PRECINCTS. (~~((1) At any primary or election, general~~
17 ~~or special,)) The county auditor may(, in) designate any precinct
18 having fewer than two hundred active registered voters at the time of
19 closing of voter registration as provided in RCW 29.07.160(~~(, conduct~~
20 ~~the voting in that precinct by)) as a mail ballot precinct. (~~For any~~
21 ~~precinct having fewer than two hundred active registered voters where~~
22 ~~voting at a primary or a general election is conducted by mail ballot,~~
23 ~~the county auditor shall, not less than fifteen days prior to the date~~
24 ~~of that primary or general election, mail or deliver to each active and~~
25 ~~inactive registered voter within that precinct a notice that the voting~~
26 ~~in that precinct will be by mail ballot, an application form for a mail~~
27 ~~ballot, and a postage prepaid envelope, preaddressed to the issuing~~
28 ~~officer. A mail ballot shall be issued to each voter who returns a~~
29 ~~properly executed application to the county auditor no later than the~~
30 ~~day of that primary or general election. For all subsequent mail~~
31 ~~ballot elections in that precinct the application is valid so long as~~
32 ~~the voter remains active and qualified to vote.)) The county auditor
33 shall notify each registered voter by mail that for all future
34 primaries and elections the voting in his or her precinct will be by
35 mail ballot only. In determining the number of registered voters in a
36 precinct for the purposes of this section, persons who are ongoing
37 absentee voters under RCW 29.36.013 (as recodified by this act) shall~~~~~~

1 not be counted. Nothing in this section may be construed as altering
2 the vote tallying requirements of RCW 29.62.090.

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

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

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

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

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

36 **Sec. 18.** RCW 29.36.121 and 1994 c 57 s 49 are each amended to read
37 as follows:

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 19.** ODD-YEAR PRIMARIES BY MAIL. In an odd-
2 numbered year, the county auditor may conduct a primary or a special
3 election by mail ballot concurrently with the primary:

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

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

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

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

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

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

23 **Sec. 20.** RCW 29.36.124 and 1983 1st ex.s. c 71 s 3 are each
24 amended to read as follows:

25 DEPOSITING BALLOTS FOR MAIL BALLOT ELECTIONS. ~~((+1))~~ If a county
26 auditor conducts an election by mail, the county auditor shall
27 designate the county auditor's office ~~((or a central location in the
28 district in which the election is conducted))~~ as the single place to
29 obtain a replacement ballot. The county auditor also shall designate
30 one or more places for the deposit of ballots not returned by mail.
31 The places designated under this section shall be open on the date of
32 the election for a period of at least thirteen hours, beginning at 7:00
33 a.m. and ending at 8:00 p.m., and at any other times designated by the
34 county auditor.

35 ~~((2)) A registered voter may obtain a replacement ballot as
36 provided in this subsection if the ballot is destroyed, spoiled, lost,
37 or not received by the voter. A registered voter seeking a replacement
38 ballot shall sign a sworn statement that the ballot was destroyed,~~

1 spoiled, lost, or not received and shall present the statement to the
2 county auditor no later than the day of the election. Each spoiled
3 ballot must be returned to the county auditor before a new one is
4 issued. The county auditor shall keep a record of each replacement
5 ballot provided under this subsection.))

6 **Sec. 21.** RCW 29.36.126 and 1993 c 417 s 4 are each amended to read
7 as follows:

8 RETURN OF VOTED BALLOT BY VOTER. ((Upon receipt of the mail
9 ballot, the voter shall mark it, sign the return identification
10 envelope supplied with the ballot, and comply with the instructions
11 provided with the ballot. The voter may return the marked ballot to
12 the county auditor. The ballot must be returned)) The voter shall
13 return the ballot to the county auditor in the return identification
14 envelope. If mailed, a ballot must be postmarked not later than the
15 date of the primary or election. Otherwise, the ballot must be
16 deposited at the office of the county auditor or the designated place
17 of deposit not later than 8:00 p.m. on the date of the primary or
18 election.

19 **Sec. 22.** RCW 29.36.130 and 1993 c 417 s 5 are each amended to read
20 as follows:

21 BALLOT CONTENTS--COUNTING. All mail ballots authorized by RCW
22 29.36.120 or 29.36.121 (~~shall~~) (as recodified by this act) or section
23 19 of this act must contain the same offices, names of nominees or
24 candidates, and propositions to be voted upon, including precinct
25 offices, as if the ballot had been voted in person at the polling
26 place. Except as otherwise provided (~~in this chapter~~) by law, mail
27 ballots (~~shall~~) must be (~~issued and canvassed~~) treated in the same
28 manner as absentee ballots issued (~~pursuant to~~) at the request of the
29 voter. (~~The county canvassing board, at the request of the county~~
30 ~~auditor, may direct that mail ballots be counted on the day of the~~
31 ~~election. If such count is made, it must be done in secrecy in the~~
32 ~~presence of the canvassing board or their authorized representatives~~
33 ~~and the results not revealed to any unauthorized person until 8:00 p.m.~~
34 ~~or later if the auditor so directs.)) If electronic vote tallying
35 devices are used, political party observers (~~shall be afforded~~) must
36 be given the opportunity to be present, and a test of the equipment
37 must be performed as required by RCW 29.33.350 (~~prior to the count~~~~

1 of)) before tabulating ballots. Political party observers may select
2 at random ballots to be counted manually as provided by RCW 29.54.025.
3 Any violation of the secrecy of ((such)) the count ((shall be)) is
4 subject to the same penalties as provided for in RCW 29.85.225.

5 NEW SECTION. **Sec. 23.** PENALTY. A person who willfully violates
6 any provision of this chapter regarding the conduct of mail ballot
7 primaries or elections is guilty of a class C felony punishable under
8 RCW 9A.20.021.

9 **PART III**
10 **TECHNICAL**

11 NEW SECTION. **Sec. 24.** The following acts or parts of acts are
12 each repealed:

13 (1) RCW 29.36.122 (Special election by mail--Sending ballots to
14 voters) and 1994 c 57 s 50, 1993 c 417 s 3, & 1983 1st ex.s. c 71 s 2;
15 and

16 (2) RCW 29.36.139 (Mail ballots--Counting requirements--Challenge)
17 and 1993 c 417 s 6 & 1983 1st ex.s. c 71 s 6.

18 NEW SECTION. **Sec. 25.** (1) RCW 29.36.010, 29.36.013, 29.36.170,
19 29.36.030, 29.36.035, 29.36.045, 29.36.060, 29.36.070, 29.36.075,
20 29.36.097, 29.36.100, 29.36.150, and 29.36.160 are each recodified
21 within chapter 29.36 RCW, in the order shown in this act, along with
22 sections 2, 3, and 9 of this act.

23 (2) RCW 29.36.120, 29.36.121, 29.36.124, 29.36.126, and 29.36.130
24 are each recodified, and, along with sections 19 and 23 of this act,
25 constitute a new chapter in Title 29 RCW.

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

28 NEW SECTION. **Sec. 26.** Section captions and part headings used in
29 this act are not part of the law.

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