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**SENATE BILL 5704**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senators Fairley, Hale and Winsley; by request of Secretary of State

Read first time 01/31/2001. Referred to Committee on State & Local Government.

1 AN ACT Relating to recount procedures; amending RCW 29.62.090,  
2 29.64.010, 29.64.015, 29.64.020, 29.64.030, 29.64.040, 29.64.051,  
3 29.64.060, and 29.64.080; adding a new section to chapter 29.01 RCW;  
4 and adding a new section to chapter 29.64 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 29.01 RCW  
7 to read as follows:

8 "Recount" means the process of retabulating ballots and producing  
9 amended election returns based on that retabulation, even if the vote  
10 totals have not changed.

11 **Sec. 2.** RCW 29.62.090 and 1999 c 298 s 21 are each amended to read  
12 as follows:

13 (1) Immediately after the official results of a state primary or  
14 general election in a county are ascertained, the county auditor or  
15 other election officer shall make an abstract of the number of  
16 registered voters in each precinct and of all the votes cast in the  
17 county at such state primary or general election for and against state  
18 measures and for each candidate for federal, state, and legislative

1 office or for any other office which the secretary of state is required  
2 by law to canvass. The abstract (~~shall~~) must be entered on blanks  
3 furnished by the secretary of state or on compatible computer printouts  
4 approved by the secretary of state, and the cumulative report of the  
5 election and a copy of the certificate of the election transmitted to  
6 the secretary of state immediately, through electronic means and mailed  
7 with the abstract of votes no later than the next business day  
8 following the certification by the county canvassing board.

9 (2) After each general election, the county auditor or other  
10 election officer shall provide to the secretary of state a report of  
11 the number of absentee ballots cast in each precinct for and against  
12 state measures and for each candidate for federal, state, and  
13 legislative office or for any other office which the secretary of state  
14 is required by law to canvass. The report may be included in the  
15 abstract required by this section or may be transmitted to the  
16 secretary of state separately, but in no event later than March 31<sup>st</sup> of  
17 the year following the election. Absentee ballot results may be  
18 incorporated into votes cast at the polls for each precinct or may be  
19 reported separately on a precinct-by-precinct basis.

20 (3) If absentee ballot results are not incorporated into votes cast  
21 at the polls, the county auditor or other election official may  
22 aggregate results from more than one precinct if the auditor, pursuant  
23 to rules adopted by the secretary of state, finds that reporting a  
24 single precinct's absentee ballot results would jeopardize the secrecy  
25 of a person's ballot. To the extent practicable, precincts for which  
26 absentee results are aggregated (~~shall~~) must be contiguous.

27 **Sec. 3.** RCW 29.64.010 and 1987 c 54 s 3 are each amended to read  
28 as follows:

29 An officer of a political party or any person for whom votes were  
30 cast in a primary who was not declared nominated may file a written  
31 application for a recount of the votes or a portion of the votes cast  
32 at that primary for all persons for whom votes were cast for nomination  
33 to that office.

34 An officer of a political party or any person for whom votes were  
35 cast at any election may file a written application for a recount of  
36 the votes or a portion of the votes cast at that election for all  
37 candidates for election to that office.

1 Any group of five or more registered voters may file a written  
2 application for a recount of the votes or a portion of the votes cast  
3 upon any question or issue. They shall designate one of the members of  
4 the group as chairman and shall indicate the voting residence of each  
5 member of the group.

6 An application for a recount of the votes cast for ~~((a state or  
7 local))~~ an office or on a ballot measure ~~((in a jurisdiction that is  
8 entirely within one county shall be filed with the county auditor of  
9 that county. An application for a recount of the votes cast for a  
10 federal office or for any state office or on a ballot measure in a  
11 jurisdiction that is not entirely within a single county shall))~~ must  
12 be filed with the ((secretary of state)) officer with whom filings are  
13 made for the jurisdiction.

14 An application for a recount ~~((in a jurisdiction using a vote tally  
15 system shall))~~ must specify whether the recount ~~((shall))~~ will be done  
16 manually or by the vote tally system. A recount done by the vote tally  
17 system ~~((shall use separate and distinct programming from that used in  
18 the original count, and))~~ must use programming that recounts and  
19 reports only the office or ballot measure in question. The county  
20 shall also provide for a ~~((separate and distinct))~~ test of the logic  
21 and accuracy of that program.

22 An application for a recount shall be filed within three business  
23 days~~((, excluding Saturdays, Sundays, and holidays,))~~ after the county  
24 canvassing board or secretary of state has declared the official  
25 results of the primary or election for the office or issue for which  
26 the recount is requested.

27 This chapter applies to the recounting of votes cast by paper  
28 ballots~~((, to the recheck of votes recorded on voting machines,))~~ and  
29 to the recounting of votes recorded on ballots ~~((cards and))~~ counted by  
30 a vote tally system.

31 **Sec. 4.** RCW 29.64.015 and 1993 c 377 s 1 are each amended to read  
32 as follows:

33 (1) If the official canvass of all of the returns for any office at  
34 any primary or election reveals that the difference in the number of  
35 votes cast for a candidate apparently nominated or elected to any  
36 office and the number of votes cast for the closest apparently defeated  
37 opponent is ~~((not more))~~ less than two thousand votes and also less  
38 than one-half of one percent of the total number of votes cast for both

1 candidates, the county canvassing board shall conduct a recount of all  
2 votes cast on that position.

3 (a) Whenever such a difference occurs in the number of votes cast  
4 for candidates for a position (~~which appears on the ballot in more~~  
5 ~~than one county~~) the declaration of candidacy for which was filed with  
6 the secretary of state, the secretary of state shall, within three  
7 business days of the day that the returns of the primary or election  
8 are first certified by the canvassing boards of those counties, direct  
9 those boards to recount all votes cast on the position.

10 (b) If the difference in the number of votes cast for the apparent  
11 winner and the closest apparently defeated opponent is less than one  
12 hundred fifty votes and also less than one-fourth of one percent of the  
13 total number of votes cast for both candidates, the votes shall be  
14 recounted manually or as provided in subsection (3) of this section.

15 (2) A mandatory recount shall be conducted in the manner provided  
16 by RCW 29.64.020, 29.64.030, and 29.64.040. No cost of a mandatory  
17 recount may be charged to any candidate.

18 (3) The apparent winner and closest apparently defeated opponent  
19 for an office for which a manual recount is required under subsection  
20 (1)(b) of this section may select an alternative method of conducting  
21 the recount. To select such an alternative, the two candidates shall  
22 agree to the alternative in a signed, written statement filed with the  
23 election official for the office. The recount shall be conducted using  
24 the alternative method if: It is suited to the balloting system that  
25 was used for casting the votes for the office; it involves the use of  
26 a vote tallying system that is approved for use in this state by the  
27 secretary of state; and the vote tallying system is readily available  
28 in each county required to conduct the recount. If more than one  
29 balloting system was used in casting votes for the office, an  
30 alternative to a manual recount may be selected for each system.

31 **Sec. 5.** RCW 29.64.020 and 1991 c 81 s 36 are each amended to read  
32 as follows:

33 An application for a recount shall state the office for which a  
34 recount is requested and whether the request is for all or only a  
35 portion of the votes cast in that jurisdiction of that office. The  
36 person filing an application for a manual recount shall, at the same  
37 time, deposit with the county canvassing board or secretary of state,  
38 in cash or by certified check, a sum equal to twenty-five cents for

1 each ballot cast in the jurisdiction or portion of the jurisdiction for  
2 which the recount is requested as security for the payment of any costs  
3 of conducting the recount. If the application is for a machine  
4 recount, the deposit must be equal to fifteen cents for each ballot.  
5 These charges shall be determined by the county canvassing board or  
6 boards under RCW 29.64.060.

7 The county canvassing board shall determine a time and a place or  
8 places at which the recount will be conducted. This time shall be less  
9 than ~~((five))~~ three business days after the day upon which: The  
10 application was filed with the board; the request for a recount or  
11 directive ordering a recount was received by the board from the  
12 secretary of state; or the returns are certified which indicate that a  
13 recount is required under RCW 29.64.015 for an issue or office voted  
14 upon only within the county. Not less than two days before the date of  
15 the recount, the county auditor shall mail a notice of the time and  
16 place of the recount to the applicant or affected parties and, if the  
17 recount involves an office, to any person for whom votes were cast for  
18 that office. ~~((The notice shall be mailed by certified mail not less~~  
19 than two days before the date of the recount.)) The county auditor  
20 shall also notify the affected parties by either telephone, fax, or e-  
21 mail at the time of mailing. Each person entitled to receive notice of  
22 the recount may attend, witness the recount, and be accompanied by  
23 counsel.

24 Proceedings of the canvassing board are public under chapter 42.30  
25 RCW. Subject to reasonable and equitable guidelines adopted by the  
26 canvassing board, all interested persons may attend and witness a  
27 recount.

28 **Sec. 6.** RCW 29.64.030 and 1991 c 81 s 37 are each amended to read  
29 as follows:

30 (1) At the time and place established for a recount, the canvassing  
31 board or its duly authorized representatives, in the presence of all  
32 witnesses who may be in attendance, shall open the sealed containers  
33 containing the ballots to be recounted, and shall recount the votes for  
34 the offices or issues for which the recount has been ordered. Ballots  
35 shall be handled only by the members of the canvassing board or their  
36 duly authorized representatives.

37 Witnesses shall be permitted to observe the ballots and the process  
38 of tabulating the votes, but they shall not be permitted to handle the

1 ballots. The canvassing board shall not permit the tabulation of votes  
2 for any nomination, election, or issue other than the ones for which a  
3 recount was applied for or required.

4 ~~((At the time and place established for a recanvass of the votes  
5 cast on voting devices that do not provide an individual record of the  
6 choices of each voter, the canvassing board or its duly authorized  
7 representatives, in the presence of all witnesses who may be in  
8 attendance, shall open the voting devices to be rechecked, and shall  
9 verify the votes cast for the offices and issues for which the recount  
10 was ordered. Witnesses shall be permitted to watch the recheck of the  
11 voting devices. The canvassing board shall not permit the rechecking  
12 of votes for any nomination, election, or issue other than the ones for  
13 which a recount was applied for or required.))~~

14 (2) At any time before the ballots from all of the precincts listed  
15 in the application for the recount have been recounted, the applicant  
16 may file with the board a written request to stop the recount.

17 ~~((If the canvassing board finds that the results of the votes in  
18 the precincts recounted, if substituted for the results of the votes in  
19 those precincts as shown in the certified abstract of the votes would  
20 not change the result for that office or issue, it shall not recount  
21 the ballots of the precincts listed in the application for recount  
22 which have not been recounted before the request to stop the recount.  
23 The canvassing board shall attach a copy of the request to stop the  
24 recount to the partial returns of the recount.))~~

25 (3) The recount may be observed by persons representing the  
26 candidates affected by the recount or the persons representing both  
27 sides of an issue that is being recounted. The observers may not make  
28 a record of the names, addresses, or other information on the ballots,  
29 poll books, or applications for absentee ballots unless authorized by  
30 the superior court. The secretary of state or county auditor may limit  
31 the number of observers to not less than two on each side if, in his or  
32 her opinion, a greater number would cause undue delay or disruption of  
33 the recount process.

34 NEW SECTION. **Sec. 7.** A new section is added to chapter 29.64 RCW  
35 to read as follows:

36 When a partial recount of votes cast for an office or issue changes  
37 the result of the election, the canvassing board or the secretary of  
38 state, if the office or issue is being recounted at his or her

1 direction, shall order a complete recount of all ballots cast for the  
2 office or issue for the jurisdiction in question.

3 This recount will be conducted in a manner consistent with RCW  
4 29.64.015.

5 **Sec. 8.** RCW 29.64.040 and 1990 c 59 s 66 are each amended to read  
6 as follows:

7 Upon completion of the canvass of a recount, the canvassing board  
8 shall prepare and certify an amended abstract showing the votes cast in  
9 each precinct for which the recount was conducted. Copies of the  
10 amended abstracts (~~shall~~) must be transmitted to the same officers  
11 who received the abstract on which the recount was based.

12 If the nomination, election, or issue for which the recount was  
13 conducted was submitted only to the voters of a county, the canvassing  
14 board shall file the amended abstract with the original results of that  
15 election or primary.

16 If the nomination, election, or issue for which a recount was  
17 conducted was submitted to the voters of more than one county, the  
18 secretary of state shall canvass the amended abstracts and shall file  
19 an amended abstract with the original results of that election. An  
20 amended abstract certified under this section supersedes any prior  
21 abstract of the results for the same offices or issues at the same  
22 primary or election.

23 **Sec. 9.** RCW 29.64.051 and 1991 c 90 s 3 are each amended to read  
24 as follows:

25 After (~~being counted~~) the original count, canvass, and  
26 certification of results, the votes cast in any single precinct may not  
27 be recounted and the results recertified more than twice.

28 **Sec. 10.** RCW 29.64.060 and 1990 c 59 s 68 are each amended to read  
29 as follows:

30 The canvassing board shall determine the expenses for conducting a  
31 recount of votes (~~shall be fixed by the canvassing board~~).

32 The cost of the recount shall be deducted from the amount deposited  
33 by the applicant for the recount at the time of filing the request for  
34 the recount, and the balance shall be returned to the applicant. If  
35 the costs of the recount exceed the deposit, the applicant shall pay  
36 the difference. No charges may be deducted by the canvassing board

1 from the deposit for a recount if the recount changes the result of the  
2 nomination or election for which the recount was ordered.

3       **Sec. 11.** RCW 29.64.080 and 1973 c 82 s 1 are each amended to read  
4 as follows:

5       When the official canvass of returns of any election reveals that  
6 the difference in the number of votes cast for the approval of a  
7 statewide measure and the number of votes cast for the rejection of  
8 such measure is ~~((not more))~~ less than two thousand votes and also less  
9 than one-half of one percent of the total number of votes cast on such  
10 measure, the secretary of state shall direct that a recount of all  
11 votes cast on such measure be made on such measure, in the manner  
12 provided by RCW 29.64.030 and 29.64.040, and the cost of such recount  
13 ~~((shall))~~ will be at state expense.

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