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**SUBSTITUTE HOUSE BILL 1094**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** House Committee on State Government (originally sponsored by Representatives Hatfield and Morris)

READ FIRST TIME 03/03/03.

1 AN ACT Relating to elections by mail; amending RCW 29.38.010,  
2 29.38.020, 29.38.030, and 29.04.040; and adding a new section to  
3 chapter 29.38 RCW.

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

5 **Sec. 1.** RCW 29.38.010 and 2001 c 241 s 15 are each amended to read  
6 as follows:

7 (1) The county auditor may designate any precinct having fewer than  
8 two hundred active registered voters at the time of closing of voter  
9 registration as provided in RCW 29.07.160 as a mail ballot precinct.  
10 The county auditor shall notify each registered voter by mail that for  
11 all future primaries and elections the voting in his or her precinct  
12 will be by mail ballot only. In determining the number of registered  
13 voters in a precinct for the purposes of this section, persons who are  
14 ongoing absentee voters under RCW 29.36.240 shall not be counted.  
15 Nothing in this section may be construed as altering the vote tallying  
16 requirements of RCW 29.62.090.

17 ~~((As soon as ballots are available, the county auditor shall mail~~  
18 ~~or deliver a ballot and an envelope, preaddressed to the issuing~~  
19 ~~officer, to each active registered voter. The auditor shall send each~~

1 ~~inactive voter either a ballot or an application to receive a ballot.~~  
2 ~~The auditor shall determine which of the two is to be sent. If the~~  
3 ~~inactive voter returns a voted ballot, the ballot shall be counted and~~  
4 ~~the voter's status restored to active. If the inactive voter completes~~  
5 ~~and returns an application, a ballot shall be sent and the voter's~~  
6 ~~status restored to active.))~~

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

11 (2) The county auditor may designate the entire county as a mail  
12 ballot county. The county auditor shall notify each registered voter  
13 by mail that for all future primaries and elections the voting will be  
14 by mail ballot only. If the auditor determines to return to a polling  
15 place election environment, the auditor shall notify each registered  
16 voter, by mail, of this and shall provide the address of the polling  
17 place to be used.

18 **Sec. 2.** RCW 29.38.020 and 2001 c 241 s 16 are each amended to read  
19 as follows:

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

27 ~~((For all special elections not being held in conjunction with a~~  
28 ~~state primary or state general election where voting is conducted by~~  
29 ~~mail ballot, the county auditor shall, not less than twenty days before~~  
30 ~~the date of such election, make available to each registered voter a~~  
31 ~~mail ballot.))~~ The auditor shall handle inactive voters in the  
32 ~~((same)) manner ((as inactive voters in mail ballot precincts))~~  
33 provided in section 4 of this act.

34 **Sec. 3.** RCW 29.38.030 and 2001 c 241 s 17 are each amended to read  
35 as follows:

1       (~~In an odd numbered year,~~) The county auditor may conduct a  
2 primary or a special election by mail ballot (~~concurrently with the~~  
3 ~~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~~) each election jurisdiction  
14 for which a primary or a special election is to be held that the  
15 primary or special election will be conducted by mail 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       NEW SECTION. Sec. 4. A new section is added to chapter 29.38 RCW  
24 to read as follows:

25       Except as otherwise provided by law, mail ballots must be processed  
26 in the same manner as absentee ballots. Except where a recount or  
27 litigation under RCW 29.04.030 is pending, the county auditor shall  
28 have sufficient mail ballots ready to mail to voters of that county at  
29 least twenty days before a primary, general election, or special  
30 election.

31       As soon as ballots are available, the county auditor shall mail or  
32 deliver a ballot and an envelope, preaddressed to the issuing officer,  
33 to each active registered voter. The auditor shall send each inactive  
34 voter either a ballot or an application to receive a ballot. The  
35 auditor shall determine which of the two is to be sent. If the  
36 inactive voter returns a voted ballot, the ballot must be counted and

1 the voter's status restored to active. If the inactive voter completes  
2 and returns an application, a ballot must be sent and the voter's  
3 status restored to active.

4 **Sec. 5.** RCW 29.04.040 and 1999 c 158 s 3 are each amended to read  
5 as follows:

6 (1) No paper ballot precinct may contain more than three hundred  
7 active registered voters. The county legislative authority may divide,  
8 alter, or combine precincts so that, whenever practicable, over-  
9 populated precincts shall contain no more than two hundred fifty active  
10 registered voters in anticipation of future growth.

11 (2) Precinct boundaries may be altered at any time as long as  
12 sufficient time exists prior to a given election for the necessary  
13 procedural steps to be honored. Except as permitted under subsection  
14 (5) of this section, no precinct boundaries may be changed during the  
15 period starting on the thirtieth day prior to the first day for  
16 candidates to file for the primary election and ending with the day of  
17 the general election.

18 (3) Precincts in which voting machines or electronic voting devices  
19 are used may contain as many as nine hundred active registered voters.  
20 The number of poll-site ballot counting devices at each polling place  
21 is at the discretion of the auditor. The number of devices must be  
22 adequate to meet the expected voter turnout.

23 (4) On petition of twenty-five or more voters resident more than  
24 ten miles from any polling site, the county legislative authority shall  
25 establish a separate voting precinct therefor.

26 (5) The county auditor shall temporarily adjust precinct boundaries  
27 when a city or town annexes unincorporated territory to the city or  
28 town. The adjustment shall be made as soon as possible after the  
29 approval of the annexation. The temporary adjustment shall be limited  
30 to the minimum changes necessary to accommodate the addition of the  
31 territory to the city or town and shall remain in effect only until  
32 precinct boundary modifications reflecting the annexation are adopted  
33 by the county legislative authority.

34 The county legislative authority may establish by ordinance a  
35 limitation on the maximum number of active registered voters in each  
36 precinct within its jurisdiction. The limitation may be different for

1 precincts based upon the method of voting used for such precincts and  
2 the number may be less than the number established by law, but in no  
3 case may the number exceed that authorized by law.

4 The county legislative authority of each county in the state  
5 hereafter formed shall, at their first session, divide their respective  
6 counties into election precincts with two hundred fifty active  
7 registered voters or less and establish the boundaries of the  
8 precincts. The county auditor shall thereupon designate the voting  
9 place for each such precinct.

10 (6) (~~In determining the number of active registered voters for the~~  
11 ~~purposes of this section, persons who are ongoing absentee voters under~~  
12 ~~RCW 29.36.013 shall not be counted.)) Nothing in this subsection may  
13 be construed as altering the vote tallying requirements of RCW  
14 29.62.090.~~

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