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HOUSE BILL 2742

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State of Washington

58th Legislature

2004 Regular Session

By Representatives Haigh, Armstrong, McDermott and Miloscia; by request of Secretary of State

Read first time 01/20/2004. Referred to Committee on State Government.

1 AN ACT Relating to reorganization of statutes on elections;  
2 amending RCW 29A.04.255, 29A.04.330, 29A.08.320, 29A.08.620,  
3 29A.08.720, 29A.16.040, 29A.20.020, 29A.60.030, 29A.60.080, and  
4 29A.60.190; reenacting and amending RCW 29A.84.240; reenacting RCW  
5 29.04.075, 29.04.260, 29.33.305, 29.79.075, 29A.32.120, 29A.40.070,  
6 29A.48.010, 29A.48.020, and 29A.84.270; adding new sections to chapter  
7 29A.04 RCW; adding a new section to chapter 29A.12 RCW; adding a new  
8 section to chapter 29A.72 RCW; recodifying RCW 29.04.075 and 29.04.260,  
9 29.33.305, and 29.79.075; repealing RCW 29.51.215; and providing an  
10 effective date.

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

12 **Sec. 1.** RCW 29.04.075 and 2003 c 109 s 1 are each reenacted to  
13 read as follows:

14 The secretary of state, or any staff of the elections division of  
15 the office of secretary of state, may make unannounced on-site visits  
16 to county election offices and facilities to observe the handling,  
17 processing, counting, or tabulation of ballots.

1       **Sec. 2.** RCW 29.04.260 and 2003 c 48 s 1 are each reenacted to read  
2 as follows:

3       (1) The election account is created in the state treasury.

4       (2) The following receipts must be deposited into the account:  
5 Amounts received from the federal government under Public Law 107-252  
6 (October 29, 2002), known as the "Help America Vote Act of 2002,"  
7 including any amounts received under subsequent amendments to the act;  
8 amounts appropriated or otherwise made available by the state  
9 legislature for the purposes of carrying out activities for which  
10 federal funds are provided to the state under Public Law 107-252,  
11 including any amounts received under subsequent amendments to the act;  
12 and such other amounts as may be appropriated by the legislature to the  
13 account.

14       (3) Moneys in the account may be spent only after appropriation.  
15 Expenditures from the account may be made only to facilitate the  
16 implementation of Public Law 107-252.

17       **Sec. 3.** RCW 29.33.305 and 2003 c 110 s 1 are each reenacted to  
18 read as follows:

19       (1) The secretary of state shall adopt rules and establish  
20 standards for voting technology and systems used by the state or any  
21 political subdivision to be accessible for individuals with  
22 disabilities, including nonvisual accessibility for the blind and  
23 visually impaired, in a manner that provides the same opportunity for  
24 access and participation, including privacy and independence, as other  
25 voters.

26       (2) At each polling location, at least one voting unit certified by  
27 the secretary of state shall provide access to individuals who are  
28 blind or visually impaired.

29       (3) Compliance with this provision in regard to voting technology  
30 and systems purchased prior to July 27, 2003, shall be achieved at the  
31 time of procurement of an upgrade of technology compatible with  
32 nonvisual voting methods or replacement of existing voting equipment or  
33 systems.

34       (4) Compliance with subsections (2) and (3) of this section is  
35 contingent on available funds to implement this provision.

36       (5) For purposes of this section, the following definitions apply:

1 (a) "Accessible" includes receiving, using, selecting, and  
2 manipulating voter data and controls.

3 (b) "Nonvisual" includes synthesized speech, Braille, and other  
4 output methods.

5 (c) "Blind and visually impaired" excludes persons who are both  
6 deaf and blind.

7 (6) This section does not apply to voting by absentee ballot.

8 **Sec. 4.** RCW 29.79.075 and 2002 c 139 s 1 are each reenacted to  
9 read as follows:

10 The office of financial management, in consultation with the  
11 secretary of state, the attorney general, and any other appropriate  
12 state or local agency, shall prepare a fiscal impact statement for each  
13 of the following state ballot measures: (1) An initiative to the  
14 people that is certified to the ballot; (2) an initiative to the  
15 legislature that will appear on the ballot; (3) an alternative measure  
16 appearing on the ballot that the legislature proposes to an initiative  
17 to the legislature; (4) a referendum bill referred to voters by the  
18 legislature; and (5) a referendum measure appearing on the ballot.  
19 Fiscal impact statements must be written in clear and concise language  
20 and avoid legal and technical terms when possible, and may include  
21 easily understood graphics.

22 A fiscal impact statement must describe any projected increase or  
23 decrease in revenues, costs, expenditures, or indebtedness that the  
24 state or local governments will experience if the ballot measure were  
25 approved by state voters. Where appropriate, a fiscal impact statement  
26 may include both estimated dollar amounts and a description placing the  
27 estimated dollar amounts into context. A fiscal impact statement must  
28 include both a summary of not to exceed one hundred words and a more  
29 detailed statement that includes the assumptions that were made to  
30 develop the fiscal impacts.

31 Fiscal impact statements must be available online from the  
32 secretary of state's web site and included in the state voters'  
33 pamphlet.

34 **Sec. 5.** RCW 29A.04.255 and 2003 c 111 s 142 are each amended to  
35 read as follows:

1 The secretary of state or a county auditor shall accept and file in  
2 his or her office electronic facsimile transmissions of the following  
3 documents:

4 (1) Declarations of candidacy;

5 (2) County canvass reports;

6 (3) Voters' pamphlet statements;

7 (4) Arguments for and against ballot measures that will appear in  
8 a voters' pamphlet;

9 (5) Requests for recounts;

10 (6) Certification of candidates and measures by the secretary of  
11 state;

12 (7) Direction by the secretary of state for the conduct of a  
13 mandatory recount;

14 (8) Requests for absentee ballots;

15 (9) Any other election related document authorized by rule adopted  
16 by the secretary of state under RCW (~~(29.04.235)~~) 29A.04.610.

17 The acceptance by the secretary of state or the county auditor is  
18 conditional upon the document being filed in a timely manner, being  
19 legible, and otherwise satisfying the requirements of state law or  
20 rules with respect to form and content.

21 If the original copy of a document must be signed and a copy of the  
22 document is filed by facsimile transmission under this section, the  
23 original copy must be subsequently filed with the official with whom  
24 the facsimile was filed. The original copy must be filed by a deadline  
25 established by the secretary by rule. The secretary may by rule  
26 require that the original of any document, a copy of which is filed by  
27 facsimile transmission under this section, also be filed by a deadline  
28 established by the secretary by rule.

29 **Sec. 6.** RCW 29A.04.330 and 2003 c 111 s 145 are each amended to  
30 read as follows:

31 (1) All city, town, and district general elections shall be held  
32 throughout the state of Washington on the first Tuesday following the  
33 first Monday in November in the odd-numbered years.

34 This section shall not apply to:

35 (a) Elections for the recall of any elective public officer;

36 (b) Public utility districts, conservation districts, or district

1 elections at which the ownership of property within those districts is  
2 a prerequisite to voting, all of which elections shall be held at the  
3 times prescribed in the laws specifically applicable thereto;

4 (c) Consolidation proposals as provided for in RCW (~~(28A.315.265)~~)  
5 28A.315.235 and nonhigh capital fund aid proposals as provided for in  
6 chapter 28A.540 RCW.

7 (2) The county auditor, as ex officio supervisor of elections, upon  
8 request in the form of a resolution of the governing body of a city,  
9 town, or district, presented to the auditor at least forty-five days  
10 prior to the proposed election date, may, if the county auditor deems  
11 an emergency to exist, call a special election in such city, town, or  
12 district, and for the purpose of such special election he or she may  
13 combine, unite, or divide precincts. Except as provided in subsection  
14 (3) of this section, such a special election shall be held on one of  
15 the following dates as decided by the governing body:

16 (a) The first Tuesday after the first Monday in February;

17 (b) The second Tuesday in March;

18 (c) The fourth Tuesday in April;

19 (d) The third Tuesday in May;

20 (e) The day of the primary election as specified by RCW 29A.04.310;

21 or

22 (f) The first Tuesday after the first Monday in November.

23 (3) In a presidential election year, if a presidential preference  
24 primary is conducted in February, March, April, or May under chapter  
25 29A.56 RCW, the date on which a special election may be called under  
26 subsection (2) of this section during the month of that primary is the  
27 date of the presidential primary.

28 (4) In addition to subsection (2)(a) through (f) of this section,  
29 a special election to validate an excess levy or bond issue may be  
30 called at any time to meet the needs resulting from fire, flood,  
31 earthquake, or other act of God, except that no special election may be  
32 held between the first day for candidates to file for public office and  
33 the last day to certify the returns of the general election other than  
34 as provided in subsection (2)(e) and (f) of this section. Such special  
35 election shall be conducted and notice thereof given in the manner  
36 provided by law.

37 (5) This section shall supersede the provisions of any and all

1 other statutes, whether general or special in nature, having different  
2 dates for such city, town, and district elections, the purpose of this  
3 section being to establish mandatory dates for holding elections.

4 **Sec. 7.** RCW 29A.08.320 and 2003 c 111 s 223 are each amended to  
5 read as follows:

6 (1) A person may register to vote or transfer a voter registration  
7 when he or she applies for service or assistance and with each renewal,  
8 recertification, or change of address at agencies designated under RCW  
9 (~~(29.07.420)~~) 29A.08.310.

10 (2) A prospective applicant shall initially be offered a form  
11 adopted by the secretary of state that is designed to determine whether  
12 the person wishes to register to vote. The form must comply with all  
13 applicable state and federal statutes regarding content.

14 The form shall also contain a box that may be checked by the  
15 applicant to indicate that he or she declines to register.

16 If the person indicates an interest in registering or has made no  
17 indication as to a desire to register or not register to vote, the  
18 person shall be given a mail-in voter registration application or a  
19 prescribed agency application as provided by RCW 29A.08.330.

20 **Sec. 8.** RCW 29A.08.620 and 2003 c 111 s 239 are each amended to  
21 read as follows:

22 (1) A county auditor shall assign a registered voter to inactive  
23 status and shall send the voter a confirmation notice if any of the  
24 following documents are returned by the postal service as  
25 undeliverable:

- 26 (a) An acknowledgement of registration;
- 27 (b) An acknowledgement of transfer to a new address;
- 28 (c) A vote-by-mail ballot, absentee ballot, or application for a  
29 ballot;
- 30 (d) Notification to a voter after precinct reassignment;
- 31 (e) Notification to serve on jury duty; or
- 32 (f) Any other document other than a confirmation notice, required  
33 by statute, to be mailed by the county auditor to the voter.

34 (2) A county auditor shall also assign a registered voter to  
35 inactive status and shall send the voter a confirmation notice:

1 (a) Whenever change of address information received from the  
2 department of licensing under RCW 29A.08.350, or by any other agency  
3 designated to provide voter registration services under RCW  
4 ((29.07.420)) 29A.08.310, indicates that the voter has moved to an  
5 address outside the county; or

6 (b) If the auditor receives postal change of address information  
7 under RCW 29A.08.605, indicating that the voter has moved out of the  
8 county.

9 **Sec. 9.** RCW 29A.08.720 and 2003 c 111 s 247 are each amended to  
10 read as follows:

11 (1) In the case of voter registration records received through the  
12 department of licensing, the identity of the office at which any  
13 particular individual registered to vote is not available for public  
14 inspection and shall not be disclosed to the public. In the case of  
15 voter registration records received through an agency designated under  
16 RCW ((29.07.420)) 29A.08.310, the identity of the agency at which any  
17 particular individual registered to vote is not available for public  
18 inspection and shall not be disclosed to the public. Any record of a  
19 particular individual's choice not to register to vote at an office of  
20 the department of licensing or a state agency designated under RCW  
21 ((29.07.420)) 29A.08.310 is not available for public inspection and any  
22 information regarding such a choice by a particular individual shall  
23 not be disclosed to the public.

24 (2) All poll books or current lists of registered voters, except  
25 original voter registration forms or their images, shall be public  
26 records and be made available for inspection under such reasonable  
27 rules and regulations as the county auditor may prescribe. The county  
28 auditor shall promptly furnish current lists or mailing labels of  
29 registered voters in his or her possession, at actual reproduction  
30 cost, to any person requesting such information. The lists and labels  
31 shall not be used for the purpose of mailing or delivering any  
32 advertisement or offer for any property, establishment, organization,  
33 product, or service or for the purpose of mailing or delivering any  
34 solicitation for money, services, or anything of value. However, the  
35 lists and labels may be used for any political purpose.

1       **Sec. 10.** RCW 29A.16.040 and 2003 c 111 s 404 are each amended to  
2 read as follows:

3       The county legislative authority of each county in the state  
4 hereafter formed shall, at their first session, divide their respective  
5 counties into election precincts and establish the boundaries of the  
6 precincts. The county auditor shall thereupon designate the voting  
7 place for each such precinct or whether the precinct is a vote by mail  
8 precinct.

9       (1) Precinct boundaries may be altered at any time as long as  
10 sufficient time exists prior to a given election for the necessary  
11 procedural steps to be honored. Except as permitted under subsection  
12 (~~((4))~~) (5) of this section, no precinct boundaries may be changed  
13 during the period starting on the thirtieth day prior to the first day  
14 for candidates to file for the primary election and ending with the day  
15 of the general election.

16       (2) The county legislative authority may establish by ordinance a  
17 limitation on the maximum number of active registered voters in each  
18 precinct within its jurisdiction. The limitation may be different for  
19 precincts based upon the method of voting used for such precincts and  
20 the number may be less than the number established by law, but in no  
21 case may the number exceed that authorized by law.

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

27       (~~((3))~~) (4) On petition of twenty-five or more voters resident more  
28 than ten miles from any polling site, the county legislative authority  
29 shall establish a separate voting precinct therefor.

30       (~~((4))~~) (5) The county auditor shall temporarily adjust precinct  
31 boundaries when a city or town annexes unincorporated territory to the  
32 city or town, or whenever unincorporated territory is incorporated as  
33 a city or town. The adjustment must be made as soon as possible after  
34 the approval of the annexation or incorporation. The temporary  
35 adjustment must be limited to the minimum changes necessary to  
36 accommodate the addition of the territory to the city or town, or to  
37 establish the eligible voters within the boundaries of the new city or



1 town, and remains in effect only until precinct boundary modifications  
2 reflecting the annexation or incorporation are adopted by the county  
3 legislative authority.

4 ~~((The county legislative authority may establish by ordinance a  
5 limitation on the maximum number of active registered voters in each  
6 precinct within its jurisdiction. The limitation may be different for  
7 precincts based upon the method of voting used for such precincts and  
8 the number may be less than the number established by law, but in no  
9 case may the number exceed that authorized by law.~~

10 ~~The county legislative authority of each county in the state  
11 hereafter formed shall, at their first session, divide their respective  
12 counties into election precincts and establish the boundaries of the  
13 precincts. The county auditor shall thereupon designate the voting  
14 place for each such precinct or whether the precinct is a vote by mail  
15 precinct.~~

16 ~~(5))~~ (6) In determining the number of active registered voters for  
17 the purposes of this section, persons who are ongoing absentee voters  
18 under RCW 29A.40.040 shall not be counted. Nothing in this subsection  
19 may be construed as altering the vote tallying requirements of RCW  
20 29A.60.230.

21 **Sec. 11.** RCW 29A.20.020 and 2003 c 111 s 502 are each amended to  
22 read as follows:

23 (1) A person filing a declaration of candidacy for an office shall,  
24 at the time of filing, be a registered voter and possess the  
25 qualifications specified by law for persons who may be elected to the  
26 office.

27 (2) Excluding the office of precinct committee officer or a  
28 temporary elected position such as a charter review board member or  
29 freeholder, no person may file for more than one office.

30 (3) The name of a candidate for an office shall not appear on a  
31 ballot for that office unless, except as provided in RCW 3.46.067 and  
32 3.50.057, the candidate is, at the time the candidate's declaration of  
33 candidacy is filed, properly registered to vote in the geographic area  
34 represented by the office. For the purposes of this section, each  
35 geographic area in which registered voters may cast ballots for an  
36 office is represented by that office. If a person elected to an office  
37 must be nominated from a district or similar division of the geographic

1 area represented by the office, the name of a candidate for the office  
2 shall not appear on a primary ballot for that office unless the  
3 candidate is, at the time the candidate's declaration of candidacy is  
4 filed, properly registered to vote in that district or division. The  
5 officer with whom declarations of candidacy must be filed under this  
6 title shall review each such declaration filed regarding compliance  
7 with this subsection.

8 (4) ~~((This section does))~~ The requirements of voter registration  
9 and residence within the geographic area of a district do not apply to  
10 ~~((the))~~ candidates for congressional office ~~((of a member of))~~.  
11 Qualifications for the United States Congress are specified in the  
12 United States Constitution.

13 **Sec. 12.** RCW 29A.32.120 and 2003 c 254 s 6 and 2003 c 111 s 812  
14 are each reenacted to read as follows:

15 (1) The maximum number of words for statements submitted by  
16 candidates is as follows: State representative, one hundred words;  
17 state senator, judge of the superior court, judge of the court of  
18 appeals, justice of the supreme court, and all state offices voted upon  
19 throughout the state, except that of governor, two hundred words;  
20 president and vice president, United States senator, United States  
21 representative, and governor, three hundred words.

22 (2) Arguments written by committees under RCW 29A.32.060 may not  
23 exceed two hundred fifty words in length.

24 (3) Rebuttal arguments written by committees may not exceed  
25 seventy-five words in length.

26 (4) The secretary of state shall allocate space in the pamphlet  
27 based on the number of candidates or nominees for each office.

28 **Sec. 13.** RCW 29A.40.070 and 2003 c 162 s 2 and 2003 c 111 s 1007  
29 are each reenacted to read as follows:

30 (1) Except where a recount or litigation under RCW 29A.68.010 is  
31 pending, the county auditor shall have sufficient absentee ballots  
32 available for absentee voters of that county at least twenty days  
33 before any primary, general election, or special election. The county  
34 auditor must mail absentee ballots to each voter for whom the county  
35 auditor has received a request nineteen days before the primary or  
36 election at least eighteen days before the primary or election. For a

1 request for an absentee ballot received after the nineteenth day before  
2 the primary or election, the county auditor shall make every effort to  
3 mail ballots within one business day, and shall mail the ballots within  
4 two business days.

5 (2) The county auditor shall make every effort to mail ballots to  
6 overseas and service voters earlier than eighteen days before a primary  
7 or election.

8 (3) Each county auditor shall certify to the office of the  
9 secretary of state the dates the ballots prescribed in subsection (1)  
10 of this section were available and mailed.

11 (4) If absentee ballots will not be available or mailed as  
12 prescribed in subsection (1) of this section, the county auditor shall  
13 immediately certify to the office of the secretary of state when  
14 absentee ballots will be available and mailed. Copies of this  
15 certification must be provided to the county canvassing board, the  
16 press, jurisdictions with issues on the ballot in the election, and any  
17 candidates.

18 (5) If absentee ballots were not available or mailed as prescribed  
19 in subsection (1) of this section, for a reason other than a recount or  
20 litigation, the county auditor, in consultation with the certification  
21 and training program of the office of the secretary of state, shall  
22 submit a report to the office of the secretary of state outlining why  
23 the deadline was missed and what corrective actions will be taken in  
24 future elections to ensure that absentee ballots are available and  
25 mailed as prescribed in subsection (1) of this section.

26 (6) Failure to have absentee ballots available and mailed as  
27 prescribed in subsection (1) of this section does not by itself provide  
28 a basis for an election contest or other legal challenge to the results  
29 of a primary, general election, or special election.

30 **Sec. 14.** RCW 29A.48.010 and 2003 c 162 s 3 and 2003 c 111 s 1201  
31 are each reenacted to read as follows:

32 The county auditor may designate any precinct having fewer than two  
33 hundred active registered voters at the time of closing of voter  
34 registration as provided in RCW 29A.08.140 as a mail ballot precinct.  
35 The county auditor shall notify each registered voter by mail that for  
36 all future primaries and elections the voting in his or her precinct  
37 will be by mail ballot only. In determining the number of registered

1 voters in a precinct for the purposes of this section, persons who are  
2 ongoing absentee voters under RCW 29A.40.040 shall not be counted.  
3 Nothing in this section may be construed as altering the vote tallying  
4 requirements of RCW 29A.60.230.

5 The auditor shall mail each active voter a ballot at least eighteen  
6 days before a primary, general election, or special election. The  
7 auditor shall send each inactive voter either a ballot or an  
8 application to receive a ballot at least eighteen days before a  
9 primary, general election, or special election. The auditor shall  
10 determine which of the two is to be sent. If the inactive voter  
11 returns a voted ballot, the ballot shall be counted and the voter's  
12 status restored to active. If the inactive voter completes and returns  
13 an application, a ballot shall be sent and the voter's status restored  
14 to active. The requirements regarding certification, reporting, and  
15 the mailing of overseas and military ballots in RCW 29.36.270 apply to  
16 mail ballot precincts.

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

21 **Sec. 15.** RCW 29A.48.020 and 2003 c 162 s 4 and 2003 c 111 s 1202  
22 are each reenacted to read as follows:

23 At any nonpartisan special election not being held in conjunction  
24 with a state primary or general election, the county, city, town, or  
25 district requesting the election pursuant to RCW 29A.04.320 or  
26 29A.04.330 may also request that the special election be conducted by  
27 mail ballot. The county auditor may honor the request or may determine  
28 that the election is not to be conducted by mail ballot. The decision  
29 of the county auditor in this regard is final.

30 For all special elections not being held in conjunction with a  
31 state primary or state general election where voting is conducted by  
32 mail ballot, the county auditor shall, not less than eighteen days  
33 before the date of such election, mail to each registered voter a mail  
34 ballot. The auditor shall handle inactive voters in the same manner as  
35 inactive voters in mail ballot precincts. The requirements regarding  
36 certification, reporting, and the mailing of overseas and military  
37 ballots in RCW 29.36.270 apply to mail ballot elections.



1 (1) Every person who signs a recall petition with any other than  
2 his or her true name is guilty of a class B felony punishable according  
3 to chapter 9A.20 RCW.

4 (2) Every person who knowingly (a) signs more than one petition for  
5 the same recall, (b) signs a recall petition when he or she is not a  
6 legal voter, or (c) makes a false statement as to (~~his or her~~)  
7 residence on any recall petition is guilty of a gross misdemeanor.

8 (3) Every registration officer who makes any false report or  
9 certificate on any recall petition is guilty of a gross misdemeanor.

10 **Sec. 20.** RCW 29A.84.270 and 2003 c 111 s 2115 and 2003 c 53 s 178  
11 are each reenacted to read as follows:

12 Any person who with intent to mislead or confuse the electors  
13 conspires with another person who has a surname similar to an incumbent  
14 seeking reelection to the same office, or to an opponent for the same  
15 office whose political reputation has been well established, by  
16 persuading such other person to file for such office with no intention  
17 of being elected, but to defeat the incumbent or the well known  
18 opponent, is guilty of a class B felony punishable according to chapter  
19 9A.20 RCW. In addition, all conspirators are subject to a suit for  
20 civil damages, the amount of which may not exceed the salary that the  
21 injured person would have received had he or she been elected or  
22 reelected.

23 NEW SECTION. **Sec. 21.** RCW 29.51.215 and 2003 c 111 s 2135 are  
24 each repealed.

25 NEW SECTION. **Sec. 22.** RCW 29.04.075 and 29.04.260 are each  
26 recodified as sections in chapter 29A.04 RCW.

27 NEW SECTION. **Sec. 23.** RCW 29.33.305 is recodified as a section in  
28 chapter 29A.12 RCW.

29 NEW SECTION. **Sec. 24.** RCW 29.79.075 is recodified as a section in  
30 chapter 29A.72 RCW.

1        NEW SECTION.    **Sec. 25.**    This act takes effect July 1, 2004.

--- END ---