
SUBSTITUTE SENATE BILL 5218

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Roach, Kastama, Schmidt, Fairley, Stevens, Reardon, Horn, Benton, Keiser, Johnson, Kohl-Welles, Kline and Esser; by request of Secretary of State)

READ FIRST TIME 02/14/03.

1 AN ACT Relating to the timely mailing of absentee and mail ballots;
2 amending RCW 29.36.270, 29.38.010, and 29.38.020; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** It is the policy of the state of Washington
6 that individuals voting absentee and mail ballots receive their ballots
7 in a timely and consistent manner before each election. Since many
8 voters in Washington state have come to rely upon absentee and mail
9 voting, mailing the ballots in a timely manner is critical in order to
10 maximize participation by every eligible voter.

11 **Sec. 2.** RCW 29.36.270 and 1987 c 54 s 1 are each amended to read
12 as follows:

13 (1) Except where a recount or litigation under RCW 29.04.030 is
14 pending, the county auditor shall have sufficient absentee ballots
15 (~~ready to mail to~~) available for absentee voters of that county at
16 least twenty days before any primary, general election, or special
17 election. The county auditor must mail absentee ballots to each voter
18 for whom the county auditor has received a request nineteen days before

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

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

9 (3) Each county auditor shall certify to the office of the
10 secretary of state the dates the ballots prescribed in subsection (1)
11 of this section were available and mailed. Copies of this
12 certification must be provided to the county canvassing board, the
13 press, jurisdictions with issues on the ballot in the election, and any
14 candidates.

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

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

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

34 **Sec. 3.** RCW 29.38.010 and 2001 c 241 s 15 are each amended to read
35 as follows:

36 The county auditor may designate any precinct having fewer than two
37 hundred active registered voters at the time of closing of voter

1 registration as provided in RCW 29.07.160 as a mail ballot precinct.
2 The county auditor shall notify each registered voter by mail that for
3 all future primaries and elections the voting in his or her precinct
4 will be by mail ballot only. In determining the number of registered
5 voters in a precinct for the purposes of this section, persons who are
6 ongoing absentee voters under RCW 29.36.240 shall not be counted.
7 Nothing in this section may be construed as altering the vote tallying
8 requirements of RCW 29.62.090.

9 ~~((As soon as ballots are available, the county auditor shall mail
10 or deliver a ballot and an envelope, preaddressed to the issuing
11 officer, to each active registered voter.))~~ The auditor shall mail
12 each active voter a ballot at least eighteen days before a primary,
13 general election, or special election. The auditor shall send each
14 inactive voter either a ballot or an application to receive a ballot at
15 least eighteen days before a primary, general election, or special
16 election. The auditor shall determine which of the two is to be sent.
17 If the inactive voter returns a voted ballot, the ballot shall be
18 counted and the voter's status restored to active. If the inactive
19 voter completes and returns an application, a ballot shall be sent and
20 the voter's status restored to active. The requirements regarding
21 certification, reporting, and the mailing of overseas and military
22 ballots in RCW 29.36.270 apply to mail ballot precincts.

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

27 **Sec. 4.** RCW 29.38.020 and 2001 c 241 s 16 are each amended to read
28 as follows:

29 At any nonpartisan special election not being held in conjunction
30 with a state primary or general election, the county, city, town, or
31 district requesting the election pursuant to RCW 29.13.010 or 29.13.020
32 may also request that the special election be conducted by mail ballot.
33 The county auditor may honor the request or may determine that the
34 election is not to be conducted by mail ballot. The decision of the
35 county auditor in this regard is final.

36 For all special elections not being held in conjunction with a
37 state primary or state general election where voting is conducted by

1 mail ballot, the county auditor shall, not less than ((~~twenty~~))
2 eighteen days before the date of such election, ((~~make available~~)) mail
3 to each registered voter a mail ballot. The auditor shall handle
4 inactive voters in the same manner as inactive voters in mail ballot
5 precincts. The requirements regarding certification, reporting, and
6 the mailing of overseas and military ballots in RCW 29.36.270 apply to
7 mail ballot elections.

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