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SENATE BILL 5399

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State of Washington

58th Legislature

2003 Regular Session

By Senator Schmidt

Read first time 01/23/2003. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to election procedures; amending RCW 29.36.290,  
2 29.36.310, 29.38.050, and 29.62.020; and adding a new section to  
3 chapter 29.36 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 29.36 RCW  
6 to read as follows:

7 An absentee ballot may be tabulated only if the voter complied with  
8 all instructions, including the voter signing the outer return  
9 identification envelope, and the absentee ballot was returned to the  
10 county auditor who issued the absentee ballot as follows:

11 (1) If mailed from anywhere in the United States, the absentee  
12 ballot must either: (a) Be received by the county auditor no later  
13 than 8:00 p.m. on the day of the primary or election for which it was  
14 issued; or (b) have a date of mailing on or before the Friday  
15 immediately before the day of the primary or election for which it was  
16 issued and be received by the county auditor no later than 12:00 noon  
17 on the day the primary or election results are certified; or

18 (2) If mailed by an overseas voter or service voter, the absentee  
19 ballot must have a date of mailing on or before the day of the election

1 or primary for which it was issued and be received by the county  
2 auditor no later than 12:00 noon on the day the primary or election  
3 results are certified; or

4 (3) The absentee ballot was deposited at a polling site in the  
5 county of the auditor who issued the absentee ballot, during normal  
6 voting hours of the primary or election for which it was issued; or

7 (4) The absentee ballot was deposited with the county auditor who  
8 issued the absentee ballot no later than 8:00 p.m. on the date of the  
9 primary or election for which it was issued.

10 The date of mailing is the date of the postmark appearing on the  
11 outer return envelope. However, if the postmark is missing or  
12 illegible, the date of mailing is the date a voter attests to voting,  
13 as shown on the outer return envelope.

14 **Sec. 2.** RCW 29.36.290 and 2001 c 241 s 8 are each amended to read  
15 as follows:

16 The county auditor shall send each absentee voter a ballot, ((a))  
17 an inner security envelope in which to seal the ballot after voting, a  
18 larger outer return identification envelope in which to return the  
19 security envelope, and instructions on how to mark the ballot and how  
20 to return it to the county auditor so that the ballot may be tabulated  
21 as provided under section 1 of this act. The ((larger)) outer return  
22 envelope must contain a declaration by the absentee voter reciting his  
23 or her qualifications and stating that he or she has not voted in any  
24 other jurisdiction at this primary or election, together with a summary  
25 of the penalties for any violation of any of the provisions of this  
26 chapter. The outer return envelope must provide space for the voter to  
27 indicate the date on which the ballot was voted and for the voter to  
28 sign the oath. A summary of the applicable penalty provisions of this  
29 chapter must be printed on the outer return envelope immediately  
30 adjacent to the space for the voter's signature. The signature of the  
31 voter on the return envelope must affirm and attest to the statements  
32 regarding the qualifications of that voter and to the validity of the  
33 ballot. For out-of-state voters, overseas voters, and service voters,  
34 the signed declaration on the outer return envelope constitutes the  
35 equivalent of a voter registration for the election or primary for  
36 which the ballot has been issued. ((The voter must be instructed to  
37 either return the ballot to the county auditor by whom it was issued or

1 ~~attach sufficient first class postage, if applicable, and mail the~~  
2 ~~ballot to the appropriate county auditor no later than the day of the~~  
3 ~~election or primary for which the ballot was issued.)~~)

4 If the county auditor chooses to forward absentee ballots, he or  
5 she must include with the ballot a clear explanation of the  
6 qualifications necessary to vote in that election and must also advise  
7 a voter with questions about his or her eligibility to contact the  
8 county auditor. This explanation may be provided on the ((~~ballot~~))  
9 inner security envelope, on an enclosed insert, or printed directly on  
10 the ballot itself. If the information is not included, the outer  
11 return envelope must clearly indicate that the ballot is not to be  
12 forwarded and that return postage is guaranteed.

13 **Sec. 3.** RCW 29.36.310 and 2001 c 241 s 10 are each amended to read  
14 as follows:

15 (1) The opening and subsequent processing of outer return  
16 identification envelopes for any primary or election may begin on or  
17 after the tenth day before the primary or election. The tabulation of  
18 absentee ballots must not commence until after 8:00 p.m. on the day of  
19 the primary or election.

20 (2) After opening the outer return envelopes, the county canvassing  
21 board or its representative shall place all of the ((~~ballots~~)) inner  
22 security envelopes in secure storage until after 8:00 p.m. of the day  
23 of the primary or election. However, absentee ballots that are to be  
24 tabulated ((~~on~~)) by an electronic vote tallying system may be taken  
25 from the inner security envelopes and all the normal procedural steps  
26 may be performed to prepare these absentee ballots for tabulation.

27 (3) Before opening a returned absentee ballot, the canvassing  
28 board, or its designated representatives, shall examine the postmark,  
29 statement, and signature on the outer return envelope that contains the  
30 inner security envelope and absentee ballot((~~.—They~~)) and shall verify  
31 that the voter's signature on the return envelope is the same as the  
32 signature of that voter in the registration files of the county. ((~~For~~  
33 ~~registered voters casting absentee ballots, the date on the return~~  
34 ~~envelope to which the voter has attested determines the validity, as to~~  
35 ~~the time of voting for that absentee ballot if the postmark is missing~~  
36 ~~or is illegible. For out of state voters, overseas voters, and service~~  
37 ~~voters, the date on the return envelope to which the voter has attested~~

1 ~~determines the validity as to the time of voting for that absentee~~  
2 ~~ballot. For any))~~ An absentee ballot((~~τ~~)) may be counted only if the  
3 proper voter signature on the outer return envelope was made by no  
4 later than 8:00 p.m. on the primary or election for which it was  
5 issued. A variation between the signature of the voter on the outer  
6 return envelope and the signature of that voter in the registration  
7 files due to the substitution of initials or the use of common  
8 nicknames is permitted so long as the surname and handwriting are  
9 clearly the same.

10 **Sec. 4.** RCW 29.38.050 and 2001 c 241 s 19 are each amended to read  
11 as follows:

12 The voter shall return the ballot to the county auditor in the  
13 outer return identification envelope. If ~~((mailed))~~ returned by mail,  
14 a mail ballot ~~((must be postmarked not later than the date of the~~  
15 ~~primary or election))~~ may be tabulated only under the same conditions  
16 that an absentee ballot may be tabulated if it is returned by mail.  
17 Otherwise, ~~((the))~~ a mail ballot ~~((must be))~~ may be tabulated only if  
18 it was deposited at the office of the county auditor no later than 8:00  
19 p.m. on the date of the primary or election for which it was issued or  
20 if it was deposited at the designated place of deposit not later than  
21 8:00 p.m. on the date of the primary or election for which it was  
22 issued.

23 **Sec. 5.** RCW 29.62.020 and 1999 c 259 s 4 are each amended to read  
24 as follows:

25 (1) At least every third day after a ~~((special election~~τ~~))~~  
26 ~~primary((~~τ~~))~~ or ~~((general))~~ election and before certification of the  
27 ~~((election))~~ results, except Sundays and legal holidays, the county  
28 auditor shall convene the county canvassing board or ~~((their))~~ its  
29 designees to process absentee ballots and canvass the votes cast at  
30 that ~~((special election~~τ~~))~~ ~~primary((~~τ~~))~~ or ~~((general))~~ election, if the  
31 county auditor is in possession of more than twenty-five ballots that  
32 have yet to be canvassed. The county auditor may use his or her  
33 discretion in determining when to convene the canvassing board or  
34 ~~((their))~~ its designees during the final four days before the  
35 certification of ~~((election))~~ results in order to protect the secrecy  
36 of any ballot.

1        Each absentee ballot previously not canvassed that was received by  
2 the county auditor two days or more before the convening of the  
3 canvassing board or (~~their~~) its designees and that either was  
4 received by the county auditor before the closing of the polls on the  
5 day of the(~~special election~~) primary(~~)~~ or (~~general~~) election  
6 for which it was issued, or that bears a date of mailing on or before  
7 the (~~special election~~) primary(~~)~~ or (~~general~~) election for  
8 which it was issued, must be processed at that time. The tabulation of  
9 votes (~~that results~~) resulting from that day's canvass must be made  
10 available to the general public immediately upon completion of the  
11 canvass.

12        (2) On the tenth day after a special election or a primary and on  
13 the fifteenth day after a general election, the canvassing board shall  
14 complete the canvass and certify the results. The canvass report must  
15 include each absentee ballot that was (~~returned before the closing of~~  
16 ~~the polls on the date of the primary or election for which it was~~  
17 ~~issued, and each absentee ballot with a date of mailing on or before~~  
18 ~~the date of the primary or election for which it was issued and~~  
19 ~~received on or before the date on which the primary or election is~~  
20 ~~certified, shall be included in the canvass report~~) tabulated as  
21 provided under section 1 of this act.

22        (3) At the request of any major political party caucus of the state  
23 legislature, the county auditor shall transmit copies of all unofficial  
24 returns of state and legislative primaries or elections prepared by or  
25 for the county canvassing board to either the secretary of the senate  
26 or the chief clerk of the house.

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