

SSB 5499 - S AMD 86
By Senator Kastama

1 Strike everything after the enacting clause and insert the
2 following:

3 Strike everything after the enacting clause and insert the following:

4 **Sec. 1.** RCW 29A.04.530 and 2003 c 111 s 151 are each
5 amended to read as follows:

6 The secretary of state shall:

7 (1) Establish and operate, or provide by contract, training and
8 certification programs for state and county elections administration
9 officials and personnel, including training on the various types of
10 election law violations and discrimination, and training programs for
11 political party observers which conform to the rules for such programs
12 established under RCW 29A.04.630;

13 (2) Establish guidelines, in consultation with state and local law
14 enforcement, for signature verification processes. All election
15 personnel assigned to verify signatures must receive training on the
16 guidelines;

17 (3) Administer tests for state and county officials and personnel
18 who have received such training and issue certificates to those who
19 have successfully completed the training and passed such tests;

20 ~~((+3))~~ (4) Maintain a record of those individuals who have
21 received such training and certificates; and

22 ~~((+4))~~ (5) Provide the staffing and support services required by
23 the board created under RCW 29A.04.510.

24 **Sec. 2.** RCW 29A.04.570 and 2003 c 111 s 155 are each amended to read
25 as follows:

26 (1)(a) The election review staff of the office of the secretary of
27 state shall conduct a review of election-related policies, procedures,
28 and practices in an affected county or counties:

29 (I) If the unofficial returns of a primary or general election for
30 a position in the state legislature indicate that a mandatory recount
31 is likely for that position; or

1 (ii) If unofficial returns indicate a mandatory recount is likely
2 in a statewide election or an election for federal office.

3 Reviews conducted under (ii) of this subsection shall be performed
4 in as many selected counties as time and staffing permit. Reviews
5 conducted as a result of mandatory recounts shall be performed between
6 the time the unofficial returns are complete and the time the recount
7 is to take place, if possible.

8 (b) In addition to conducting reviews under (a) of this subsection,
9 the election review staff shall also conduct such a review in a county
10 (~~periodically~~) at least once in each three-year period, in
11 conjunction with a county primary or special or general election, at
12 the direction of the secretary of state or at the request of the county
13 auditor. If staffing or budget levels do not permit a three-year
14 election cycle for reviews, then reviews must be done as often as
15 possible. If any resident of this state believes that an aspect of a
16 primary or election has been conducted inappropriately in a county, the
17 resident may file a complaint with the secretary of state. The
18 secretary shall consider such complaints in scheduling periodic reviews
19 under this section.

20 (c) Before an election review is conducted in a county, the
21 secretary of state shall provide the county auditor of the affected
22 county and the chair of the state central committee of each major
23 political party with notice that the review is to be conducted. When
24 a periodic review is to be conducted in a county at the direction of
25 the secretary of state under (b) of this subsection, the secretary
26 shall provide the affected county auditor not less than thirty days'
27 notice.

28 (2) Reviews shall be conducted in conformance with rules adopted
29 under RCW 29A.04.630. In performing a review in a county under this
30 chapter, the election review staff shall evaluate the policies and
31 procedures established for conducting the primary or election in the
32 county and the practices of those conducting it. As part of the
33 review, the election review staff shall issue to the county auditor and
34 the members of the county canvassing board a report of its findings and
35 recommendations regarding such policies, procedures, and practices. A
36 review conducted under this chapter shall not include any evaluation,
37 finding, or recommendation regarding the validity of the outcome of a
38 primary or election or the validity of any canvass of returns nor does

1 the election review staff have any jurisdiction to make such an
2 evaluation, finding, or recommendation under this title.

3 (3) The county auditor or the county canvassing board shall respond
4 to the review report in writing, listing the steps that will be taken
5 to correct any problems listed in the report. The secretary of state
6 shall visit the county before the next state primary or general
7 election to verify that the county has taken the steps they listed to
8 correct the problems noted in the report.

9 (4) The county auditor of the county in which a review is conducted
10 under this section or a member of the canvassing board of the county
11 may appeal the findings or recommendations of the election review staff
12 regarding the review by filing an appeal with the board created under
13 RCW 29A.04.510.

14 **Sec. 3.** RCW 29A.04.611 and 2004 c 271 s 151 are each amended to
15 read as follows:

16 The secretary of state as chief election officer shall make
17 reasonable rules in accordance with chapter 34.05 RCW not inconsistent
18 with the federal and state election laws to effectuate any provision of
19 this title and to facilitate the execution of its provisions in an
20 orderly, timely, and uniform manner relating to any federal, state,
21 county, city, town, and district elections. To that end the secretary
22 shall assist local election officers by devising uniform forms and
23 procedures.

24 In addition to the rule-making authority granted otherwise by this
25 section, the secretary of state shall make rules governing the
26 following provisions:

27 (1) The maintenance of voter registration records;

28 (2) The preparation, maintenance, distribution, review, and filing
29 of precinct maps;

30 (3) Standards for the design, layout, and production of ballots,
31 including standards that require provisional ballots to be
32 distinguishable from the other ballots and incapable of being tabulated
33 by the poll-site ballot counting device;

34 (4) The examination and testing of voting systems for
35 certification;

1 (5) The source and scope of independent evaluations of voting
2 systems that may be relied upon in certifying voting systems for use in
3 this state;

4 (6) Standards and procedures for the acceptance testing of voting
5 systems by counties;

6 (7) Standards and procedures for testing the programming of vote
7 tallying software for specific primaries and elections;

8 (8) Standards and procedures for the preparation and use of each
9 type of certified voting system including procedures for the operation
10 of counting centers where vote tallying systems are used;

11 (9) Standards and procedures to ensure the accurate tabulation and
12 canvassing of ballots;

13 (10) Consistency among the counties of the state in the preparation
14 of ballots, the operation of vote tallying systems, and the canvassing
15 of primaries and elections;

16 (11) Procedures to ensure the secrecy of a voter's ballot when a
17 small number of ballots are counted at the polls or at a counting
18 center;

19 (12) The use of substitute devices or means of voting when a voting
20 device at the polling place is found to be defective, the counting of
21 votes cast on the defective device, the counting of votes cast on the
22 substitute device, and the documentation that must be submitted to the
23 county auditor regarding such circumstances;

24 (13) Procedures for the transportation of sealed containers of
25 voted ballots or sealed voting devices;

26 (14) The acceptance and filing of documents via electronic
27 facsimile;

28 (15) Voter registration applications and records;

29 (16) The use of voter registration information in the conduct of
30 elections;

31 (17) The coordination, delivery, and processing of voter
32 registration records accepted by driver licensing agents or the
33 department of licensing;

34 (18) The coordination, delivery, and processing of voter
35 registration records accepted by agencies designated by the governor to
36 provide voter registration services;

37 (19) Procedures to receive and distribute voter registration
38 applications by mail;

- 1 (20) Procedures for a voter to change his or her voter registration
2 address within a county by telephone;
- 3 (21) Procedures for a voter to change the name under which he or
4 she is registered to vote;
- 5 (22) Procedures for canceling dual voter registration records and
6 for maintaining records of persons whose voter registrations have been
7 canceled;
- 8 (23) Procedures for the electronic transfer of voter registration
9 records between county auditors and the office of the secretary of
10 state;
- 11 (24) Procedures and forms for declarations of candidacy;
- 12 (25) Procedures and requirements for the acceptance and filing of
13 declarations of candidacy by electronic means;
- 14 (26) Procedures for the circumstance in which two or more
15 candidates have a name similar in sound or spelling so as to cause
16 confusion for the voter;
- 17 (27) Filing for office;
- 18 (28) The order of positions and offices on a ballot;
- 19 (29) Sample ballots;
- 20 (30) Independent evaluations of voting systems;
- 21 (31) The testing, approval, and certification of voting systems;
- 22 (32) The testing of vote tallying software programming;
- 23 (33) Standards and procedures to prevent fraud and to facilitate
24 the accurate processing and canvassing of absentee ballots and mail
25 ballots;
- 26 (34) Standards and procedures to guarantee the secrecy of absentee
27 ballots and mail ballots;
- 28 (35) Uniformity among the counties of the state in the conduct of
29 absentee voting and mail ballot elections;
- 30 (36) Standards and procedures to accommodate out-of-state voters,
31 overseas voters, and service voters;
- 32 (37) The tabulation of paper ballots before the close of the polls;
- 33 (38) The accessibility of polling places and registration
34 facilities that are accessible to elderly and disabled persons;
- 35 (39) The aggregation of precinct results if reporting the results
36 of a single precinct could jeopardize the secrecy of a person's ballot;
- 37 (40) Procedures for conducting a statutory recount;
- 38 (41) Procedures for filling vacancies in congressional offices if
39 the general statutory time requirements for availability of absentee

1 ballots, certification, canvassing, and related procedures cannot be
2 met;

3 (42) Procedures for the statistical sampling of signatures for
4 purposes of verifying and canvassing signatures on initiative,
5 referendum, and recall election petitions;

6 (43) Standards and deadlines for submitting material to the office
7 of the secretary of state for the voters' pamphlet;

8 (44) Deadlines for the filing of ballot titles for referendum bills
9 and constitutional amendments if none have been provided by the
10 legislature;

11 (45) Procedures for the publication of a state voters' pamphlet;

12 (46) Procedures for conducting special elections regarding nuclear
13 waste sites if the general statutory time requirements for availability
14 of absentee ballots, certification, canvassing, and related procedures
15 cannot be met;

16 (47) Procedures for conducting partisan primary elections;

17 (48) Standards and procedures for the proper conduct of voting
18 during the early voting period to provide accessibility for the blind
19 or visually impaired;

20 (49) Standards for voting technology and systems used by the state
21 or any 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 (50) All data formats for transferring voter registration data on
27 electronic or machine-readable media for the purpose of administering
28 the statewide voter registration list required by the Help America Vote
29 Act (P.L. 107-252);

30 (51) Defining the interaction of electronic voter registration
31 election management systems employed by each county auditor to maintain
32 a local copy of each county's portion of the official state list of
33 registered voters;

34 (52) Provisions and procedures to implement the state-based
35 administrative complaint procedure as required by the Help America Vote
36 Act (P.L. 107-252); and

37 (53) Facilitating the payment of local government grants to local
38 government election officers or vendors.

1 **Sec. 4.** RCW 29A.40.091 and 2004 c 271 s 135 are each amended to
2 read as follows:

3 The county auditor shall send each absentee voter a ballot, a
4 security envelope in which to seal the ballot after voting, a larger
5 envelope in which to return the security envelope, and instructions on
6 how to mark the ballot and how to return it to the county auditor. The
7 instructions that accompany an absentee ballot for a partisan primary
8 must include instructions for voting the applicable ballot style, as
9 provided in chapter 29A.36 RCW. The larger return envelope must
10 contain a declaration by the absentee voter reciting his or her
11 qualifications and stating that he or she has not voted in any other
12 jurisdiction at this election, together with a summary of the penalties
13 for any violation of any of the provisions of this chapter. The
14 declaration must clearly inform the voter that it is illegal to vote if
15 he or she is not a United States citizen; it is illegal to vote if he
16 or she has been convicted of a felony and has not had his or her voting
17 rights restored; and, except as otherwise provided by law, it is
18 illegal to cast a ballot or sign an absentee envelope on behalf of
19 another voter. The return envelope must provide space for the voter to
20 indicate the date on which the ballot was voted and for the voter to
21 sign the oath. A summary of the applicable penalty provisions of this
22 chapter must be printed on the return envelope immediately adjacent to
23 the space for the voter's signature. The signature of the voter on the
24 return envelope must affirm and attest to the statements regarding the
25 qualifications of that voter and to the validity of the ballot. For
26 out-of-state voters, overseas voters, and service voters, the signed
27 declaration on the return envelope constitutes the equivalent of a
28 voter registration for the election or primary for which the ballot has
29 been issued. The voter must be instructed to either return the ballot
30 to the county auditor by whom it was issued or attach sufficient first
31 class postage, if applicable, and mail the ballot to the appropriate
32 county auditor no later than the day of the election or primary for
33 which the ballot was issued.

34 If the county auditor chooses to forward absentee ballots, he or
35 she must include with the ballot a clear explanation of the
36 qualifications necessary to vote in that election and must also advise
37 a voter with questions about his or her eligibility to contact the
38 county auditor. This explanation may be provided on the ballot

1 envelope, on an enclosed insert, or printed directly on the ballot
2 itself. If the information is not included, the envelope must clearly
3 indicate that the ballot is not to be forwarded and that return postage
4 is guaranteed.

5
6 **Sec. 5.** RCW 29A.40.110 and 2003 c 111 s 1011 are each amended to
7 read as follows:

8 (1) The opening and subsequent processing of return envelopes for
9 any primary or election may begin (~~(on or after the tenth day before~~
10 ~~the primary or election)~~) upon receipt. The tabulation of absentee
11 ballots must not commence until after 8:00 p.m. on the day of the
12 primary or election.

13 (2) All received absentee return envelopes must be placed in secure
14 locations from the time of delivery to the county auditor until their
15 subsequent opening. After opening the return envelopes, the county
16 canvassing board shall place all of the ballots in secure storage until
17 after 8:00 p.m. of the day of the primary or election. Absentee
18 ballots that are to be tabulated on an electronic vote tallying system
19 may be taken from the inner envelopes and all the normal procedural
20 steps may be performed to prepare these ballots for tabulation.

21 (3) Before opening a returned absentee ballot, the canvassing
22 board, or its designated representatives, shall examine the postmark,
23 statement, and signature on the return envelope that contains the
24 security envelope and absentee ballot. They shall verify that the
25 voter's signature on the return envelope is the same as the signature
26 of that voter in the registration files of the county. For registered
27 voters casting absentee ballots, the date on the return envelope to
28 which the voter has attested determines the validity, as to the time of
29 voting for that absentee ballot if the postmark is missing or is
30 illegible. For out-of-state voters, overseas voters, and service
31 voters, the date on the return envelope to which the voter has attested
32 determines the validity as to the time of voting for that absentee
33 ballot. For any absentee ballot, a variation between the signature of
34 the voter on the return envelope and the signature of that voter in the
35 registration files due to the substitution of initials or the use of
36 common nicknames is permitted so long as the surname and handwriting
37 are clearly the same.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 29A.40 RCW
2 to read as follows:

3 If the canvassing board, or its designated representatives,
4 determines that the signature on the absentee or provisional ballot
5 return envelope does not match the signature as it appears on the
6 voter's original registration record, the county auditor shall notify
7 the voter no later than three days after discovery of the mismatched
8 signature by telephone or in writing, that the ballot cannot be
9 processed because the signature on the return envelope does not match
10 the signature as it appears on the voter's registration card. The
11 county auditor shall also send the voter a new voter registration form
12 and advise the voter that, in order for the ballot to be processed, the
13 voter must update his or her signature by either filling out a new
14 registration form and mailing it back to the auditor's office so that
15 it arrives not later than the day before the certification of the
16 primary or election; or appearing in person at the auditor's office not
17 later than the day before certification of the primary or election and
18 filling out a new registration form. A record must be kept of all
19 ballots with mismatched signatures and must include the date on which
20 the voter was contacted or on which the notice was mailed to the voter.

21 If the voter neglects to sign the affidavit on the absentee or
22 provisional return envelope, the auditor shall notify the voter, no
23 later than three days after discovery of the unsigned envelope either
24 by telephone or in writing, that the ballot will not be processed
25 unless the voter appears in person and signs the affidavit on the
26 return envelope not later than the day before certification of the
27 primary or election. As an alternative to personal appearance, the
28 auditor may provide the voter with a copy of the return envelope
29 affidavit and require the voter to sign the copy of the affidavit and
30 mail it back to the auditor so that it arrives no later than the day
31 before certification of the primary or election.

32 A voter may not cure a missing or mismatched signature for purposes
33 of counting the ballot in a recount.

34 NEW SECTION. **Sec. 7.** A new section is added to chapter 29A.44 RCW
35 to read as follows:

36 Provisional ballots must be issued, along with a provisional ballot
37 outer envelope and a security envelope, to voters as appropriate under
38 RCW 29A.04.008. The provisional ballot outer envelope must include a

1 place for the voter's name; registered address, both present and former
2 if applicable; date of birth; reason for the provisional ballot; the
3 precinct number and the precinct polling location at which the voter
4 has voted; and a space for the county auditor to list the disposition
5 of the provisional ballot. The provisional ballot outer envelope must
6 also contain a declaration as required for absentee ballot outer
7 envelopes under RCW 29A.40.091; a place for the voter to sign the oath;
8 and a summary of the applicable penalty provisions of this chapter.
9 The voter shall vote the provisional ballot in secrecy and, when done,
10 place the provisional ballot in the security envelope, then place the
11 security envelope into the outer envelope, and return it to the
12 precinct election official. The election official shall ensure that
13 the required information is completed on the outer envelope, have the
14 voter sign it in the appropriate space, and place the envelope in a
15 secure container. The official shall then give the voter written
16 information advising the voter how to ascertain whether the vote was
17 counted and, if applicable, the reason why the vote was not counted.

18 NEW SECTION. **Sec. 8.** A new section is added to chapter 29A.44 RCW
19 to read as follows:

20 Any person desiring to vote at any primary or election is required
21 to provide identification to the election officer before signing the
22 poll book. The identification required in this section can be
23 satisfied by providing a current and valid driver's license or state
24 identification card, a copy of a current utility bill, bank statement,
25 paycheck, or government check or other government document. The name
26 on the identification must match the name in the poll book and the
27 identification must also provide either a photo, signature, or matching
28 address. Any individual who desires to vote in person but cannot
29 provide identification as required in this section shall be issued a
30 provisional ballot.

31 NEW SECTION. **Sec. 9.** A new section is added to chapter 29A.60 RCW
32 to read as follows:

33 Before certification of the primary or election, the county auditor
34 must examine and investigate all received provisional ballots to
35 determine whether the ballot can be counted. The auditor shall provide
36 the disposition of the provisional ballot and, if the ballot was not
37 counted, the reason why it was not counted, on a free access system

1 such as a toll-free telephone number, web site, mail, or other means.
2 A provisional ballot cannot be further investigated if the voter did
3 not sign the provisional ballot envelope or if the signature on the
4 envelope does not match the signature as it appears on the voter's
5 registration card until the voter signs or updates his or her signature
6 affidavit. The auditor must notify the voter in accordance with
7 section 4 of this act when the envelope is unsigned or when the
8 signatures do not match.

9 NEW SECTION. **Sec. 10.** A new section is added to chapter 29A.60
10 RCW to read as follows:

11 If inspection of the ballot reveals a physically damaged ballot or
12 ballot that may be otherwise unreadable or uncountable by the
13 tabulating system, the county auditor may refer the ballot to the
14 county canvassing board or duplicate the ballot if so authorized by the
15 county canvassing board. A ballot may be duplicated only if the intent
16 of the voter's marks on the ballot is clear and the electronic voting
17 equipment might not otherwise properly tally the ballot to reflect the
18 intent of the voter. Ballots must be duplicated by teams of two or
19 more people working together. When duplicating ballots, the county
20 auditor shall take the following steps to create and maintain an audit
21 trail of the action taken:

22 (1) Each original ballot and duplicate ballot must be assigned the
23 same unique control number, with the number being marked upon the face
24 of each ballot, to ensure that each duplicate ballot may be tied back
25 to the original ballot;

26 (2) A log must be kept of the ballots duplicated, which must at
27 least include:

28 (a) The control number of each original ballot and the
29 corresponding duplicate ballot;

30 (b) The initials of at least two people who participated in the
31 duplication of each ballot; and