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**SUBSTITUTE HOUSE BILL 2479**

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**State of Washington                      59th Legislature                      2006 Regular Session**

**By** House Committee on State Government Operations & Accountability  
(originally sponsored by Representatives Haigh, Nixon, Green, Hunt,  
Haler, Morrell and Upthegrove; by request of Secretary of State)

READ FIRST TIME 01/31/06.

1            AN ACT Relating to voting equipment; amending RCW 29A.04.611,  
2 29A.12.080, 29A.12.101, 29A.40.110, 29A.46.020, and 29A.46.110; and  
3 adding a new section to chapter 29A.46 RCW.

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

5            **Sec. 1.** RCW 29A.04.611 and 2004 c 271 s 151 are each amended to  
6 read as follows:

7            The secretary of state as chief election officer shall make  
8 reasonable rules in accordance with chapter 34.05 RCW not inconsistent  
9 with the federal and state election laws to effectuate any provision of  
10 this title and to facilitate the execution of its provisions in an  
11 orderly, timely, and uniform manner relating to any federal, state,  
12 county, city, town, and district elections. To that end the secretary  
13 shall assist local election officers by devising uniform forms and  
14 procedures.

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

18            (1) The maintenance of voter registration records;

- 1           (2) The preparation, maintenance, distribution, review, and filing  
2 of precinct maps;
- 3           (3) Standards for the design, layout, and production of ballots;
- 4           (4) The examination and testing of voting systems for  
5 certification;
- 6           (5) The source and scope of independent evaluations of voting  
7 systems that may be relied upon in certifying voting systems for use in  
8 this state;
- 9           (6) Standards and procedures for the acceptance testing of voting  
10 systems by counties;
- 11           (7) Standards and procedures for testing the programming of vote  
12 tallying software for specific primaries and elections;
- 13           (8) Standards and procedures for the preparation and use of each  
14 type of certified voting system including procedures for the operation  
15 of counting centers where vote tallying systems are used;
- 16           (9) Standards and procedures to ensure the accurate tabulation and  
17 canvassing of ballots;
- 18           (10) Consistency among the counties of the state in the preparation  
19 of ballots, the operation of vote tallying systems, and the canvassing  
20 of primaries and elections;
- 21           (11) Procedures to ensure the secrecy of a voter's ballot when a  
22 small number of ballots are counted at the polls or at a counting  
23 center;
- 24           (12) The use of substitute devices or means of voting when a voting  
25 device at the polling place is found to be defective, the counting of  
26 votes cast on the defective device, the counting of votes cast on the  
27 substitute device, and the documentation that must be submitted to the  
28 county auditor regarding such circumstances;
- 29           (13) Procedures for the transportation of sealed containers of  
30 voted ballots or sealed voting devices;
- 31           (14) The acceptance and filing of documents via electronic  
32 facsimile;
- 33           (15) Voter registration applications and records;
- 34           (16) The use of voter registration information in the conduct of  
35 elections;
- 36           (17) The coordination, delivery, and processing of voter  
37 registration records accepted by driver licensing agents or the  
38 department of licensing;

- 1 (18) The coordination, delivery, and processing of voter  
2 registration records accepted by agencies designated by the governor to  
3 provide voter registration services;
- 4 (19) Procedures to receive and distribute voter registration  
5 applications by mail;
- 6 (20) Procedures for a voter to change his or her voter registration  
7 address within a county by telephone;
- 8 (21) Procedures for a voter to change the name under which he or  
9 she is registered to vote;
- 10 (22) Procedures for canceling dual voter registration records and  
11 for maintaining records of persons whose voter registrations have been  
12 canceled;
- 13 (23) Procedures for the electronic transfer of voter registration  
14 records between county auditors and the office of the secretary of  
15 state;
- 16 (24) Procedures and forms for declarations of candidacy;
- 17 (25) Procedures and requirements for the acceptance and filing of  
18 declarations of candidacy by electronic means;
- 19 (26) Procedures for the circumstance in which two or more  
20 candidates have a name similar in sound or spelling so as to cause  
21 confusion for the voter;
- 22 (27) Filing for office;
- 23 (28) The order of positions and offices on a ballot;
- 24 (29) Sample ballots;
- 25 (30) Independent evaluations of voting systems;
- 26 (31) The testing, approval, and certification of voting systems;
- 27 (32) The testing of vote tallying software programming;
- 28 (33) Standards and procedures to prevent fraud and to facilitate  
29 the accurate processing and canvassing of absentee ballots and mail  
30 ballots, including standards for the approval and implementation of  
31 hardware and software for automated signature verification systems;
- 32 (34) Standards and procedures to guarantee the secrecy of absentee  
33 ballots and mail ballots;
- 34 (35) Uniformity among the counties of the state in the conduct of  
35 absentee voting and mail ballot elections;
- 36 (36) Standards and procedures to accommodate out-of-state voters,  
37 overseas voters, and service voters;
- 38 (37) The tabulation of paper ballots before the close of the polls;

1           (38) The accessibility of polling places and registration  
2 facilities that are accessible to elderly and disabled persons;  
3           (39) The aggregation of precinct results if reporting the results  
4 of a single precinct could jeopardize the secrecy of a person's ballot;  
5           (40) Procedures for conducting a statutory recount;  
6           (41) Procedures for filling vacancies in congressional offices if  
7 the general statutory time requirements for availability of absentee  
8 ballots, certification, canvassing, and related procedures cannot be  
9 met;  
10          (42) Procedures for the statistical sampling of signatures for  
11 purposes of verifying and canvassing signatures on initiative,  
12 referendum, and recall election petitions;  
13          (43) Standards and deadlines for submitting material to the office  
14 of the secretary of state for the voters' pamphlet;  
15          (44) Deadlines for the filing of ballot titles for referendum bills  
16 and constitutional amendments if none have been provided by the  
17 legislature;  
18          (45) Procedures for the publication of a state voters' pamphlet;  
19          (46) Procedures for conducting special elections regarding nuclear  
20 waste sites if the general statutory time requirements for availability  
21 of absentee ballots, certification, canvassing, and related procedures  
22 cannot be met;  
23          (47) Procedures for conducting partisan primary elections;  
24          (48) Standards and procedures for the proper conduct of voting  
25 during the early voting period to provide accessibility for the blind  
26 or visually impaired;  
27          (49) Standards for voting technology and systems used by the state  
28 or any political subdivision to be accessible for individuals with  
29 disabilities, including nonvisual accessibility for the blind and  
30 visually impaired, in a manner that provides the same opportunity for  
31 access and participation, including privacy and independence, as other  
32 voters;  
33          (50) All data formats for transferring voter registration data on  
34 electronic or machine-readable media for the purpose of administering  
35 the statewide voter registration list required by the Help America Vote  
36 Act (P.L. 107-252);  
37          (51) Defining the interaction of electronic voter registration

1 election management systems employed by each county auditor to maintain  
2 a local copy of each county's portion of the official state list of  
3 registered voters;

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

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

9 **Sec. 2.** RCW 29A.12.080 and 2003 c 111 s 308 are each amended to  
10 read as follows:

11 No voting device shall be approved by the secretary of state unless  
12 it:

13 (1) Secures to the voter secrecy in the act of voting;

14 (2) Permits the voter to vote for any person for any office and  
15 upon any measure that he or she has the right to vote for;

16 (3) Permits the voter to vote for all the candidates of one party  
17 (~~(or in part for the candidates of one or more other parties)~~);

18 (4) Correctly registers all votes cast for any and all persons and  
19 for or against any and all measures;

20 (5) Provides that a vote for more than one candidate cannot be cast  
21 by one single operation of the voting device or vote tally system  
22 except when voting for president and vice president of the United  
23 States; and

24 (6) Except for functions or capabilities unique to this state, has  
25 been tested(~~(7)~~) and certified(~~(7~~ and used in at least one other state  
26 or election jurisdiction) by an independent testing authority  
27 designated by the United States election assistance commission.

28 **Sec. 3.** RCW 29A.12.101 and 2004 c 271 s 109 are each amended to  
29 read as follows:

30 The secretary of state shall not approve a vote tallying system  
31 unless it:

32 (1) Correctly counts votes on ballots on which the proper number of  
33 votes have been marked for any office or issue;

34 (2) Ignores votes marked for any office or issue where more than  
35 the allowable number of votes have been marked, but correctly counts  
36 the properly voted portions of the ballot;

1 (3) Accumulates a count of the specific number of ballots tallied  
2 for each precinct, total votes by candidate for each office, and total  
3 votes for and against each issue of the ballot in that precinct;

4 (4) Produces precinct and cumulative totals in printed form; and

5 (5) Except for functions or capabilities unique to this state, has  
6 been tested(~~(7)~~) and certified(~~(7)~~ and used in at least one other state  
7 or election jurisdiction)) by an independent testing authority  
8 designated by the United States election assistance commission.

9 **Sec. 4.** RCW 29A.40.110 and 2005 c 243 s 5 are each amended to read  
10 as follows:

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

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

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

1 voters, and service voters stationed in the United States, the date on  
2 the return envelope to which the voter has attested determines the  
3 validity as to the time of voting for that absentee ballot. (~~For any~~  
4 ~~absentee ballot, a variation between the signature of the voter on the~~  
5 ~~return envelope and the signature of that voter in the registration~~  
6 ~~files due to the substitution of initials or the use of common~~  
7 ~~nicknames is permitted so long as the surname and handwriting are~~  
8 ~~clearly the same.))~~

9 **Sec. 5.** RCW 29A.46.020 and 2004 c 267 s 302 are each amended to  
10 read as follows:

11 "Disability access voting period" means the period of time starting  
12 twenty days before an election until (~~one day before~~) the day of the  
13 election.

14 **Sec. 6.** RCW 29A.46.110 and 2004 c 267 s 304 are each amended to  
15 read as follows:

16 (~~At the discretion of the county auditor,~~) In-person disability  
17 access voting (~~may take place during the period~~) must be available  
18 starting twenty days before the day of a primary or election and ending  
19 the day (~~before~~) of the election. During this period, the county  
20 auditor must make available a voting system certified by the secretary  
21 of state for disability access, consistent with the requirements of RCW  
22 29A.12.160. The auditor shall maintain a system or systems to prevent  
23 multiple voting. (~~The end of the disability access voting period in~~  
24 ~~each county will be determined by the auditor's need and ability to~~  
25 ~~print and distribute poll books to the polls in order to prevent~~  
26 ~~multiple voting.))~~

27 NEW SECTION. **Sec. 7.** A new section is added to chapter 29A.46 RCW  
28 to read as follows:

29 (1) The legislature finds that the elimination of polling places  
30 resulting from the transition to vote by mail creates barriers that  
31 restrict the ability of many voters with disabilities from achieving  
32 the independence and privacy in voting provided by the accessible  
33 voting devices required under the help America vote act. Counties  
34 adopting a vote by mail system must take appropriate steps to mitigate  
35 these impacts and to address the obligation to provide voters with

1 disabilities an equal opportunity to vote independently and privately,  
2 to the extent that this can be achieved without incurring undue  
3 administrative and financial burden.

4 (2) Each county shall establish and maintain an advisory committee  
5 that includes persons with expertise in providing accommodations for  
6 persons with disabilities. The committee shall assist election  
7 officials in developing a plan to identify and implement changes to  
8 improve the accessibility of elections for voters with disabilities.  
9 The plan shall include recommendations for the following:

10 (a) The number of polling places that will be maintained in order  
11 to ensure that people with disabilities have reasonable access to  
12 accessible voting devices, and a written explanation for how the  
13 determination was made;

14 (b) The locations of polling places, drop-off facilities, voting  
15 centers, and other election-related functions necessary to maximize  
16 accessibility to persons with disabilities;

17 (c) Outreach to voters with disabilities on the availability of  
18 disability accommodation, including in-person disability access voting;

19 (d) Transportation of voting devices to locations convenient for  
20 voters with disabilities in order to ensure reasonable access for  
21 voters with disabilities; and

22 (e) Implementation of the provisions of the help America vote act  
23 related to persons with disabilities.

24 Counties must update the plan at least annually. The election  
25 review staff of the secretary of state shall review and evaluate the  
26 plan in conformance with the review procedure identified in RCW  
27 29A.04.570.

28 (3) Counties may form a joint advisory committee to develop the  
29 plan identified in subsection (2) of this section if the total  
30 population of the joining counties does not exceed thirty thousand, and  
31 the counties are geographically adjacent.

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