
HOUSE BILL 2528

State of Washington 59th Legislature 2006 Regular Session

By Representatives Nixon, Dunn, McCune and Talcott

Read first time 01/10/2006. Referred to Committee on State Government Operations & Accountability.

1 AN ACT Relating to clarifying the circumstances under which
2 provisional ballots may be counted; amending RCW 29A.60.195,
3 29A.08.625, and 29A.08.113; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the purpose of
6 provisional ballots is to allow properly registered and eligible voters
7 to cast a ballot when certain circumstances occur that might otherwise
8 prevent such voters from casting their vote, such as an election
9 official error, a lost or misplaced absentee ballot, or a voter's
10 failure to bring proper identification to his or her home polling
11 place. The legislature further finds that provisional ballots are not
12 intended to be used as a means of voting at a polling place other than
13 at one's home polling place or to allow any of the voter registration
14 requirements to be circumvented. The legislature intends for each
15 provisional ballot to be investigated by the canvassing board, as
16 provided for in this act, and that all qualifying provisional ballots,
17 or portions thereof, be counted.

1 **Sec. 2.** RCW 29A.60.195 and 2005 c 243 s 9 are each amended to read
2 as follows:

3 (1) Before certification of the primary or election, the ((county
4 auditor)) canvassing board must examine and investigate all received
5 provisional ballots to determine whether the ballot can be counted. A
6 provisional ballot may not be counted unless the canvassing board first
7 finds all of the following to be true:

8 (a) At least fifteen days before the election, the voter who cast
9 the ballot was properly registered to vote at their place of residence;

10 (b) The ballot was cast in the voter's home polling place;

11 (c) The ballot style voted was correct for the voter's residence;

12 (d) The signature requirements of RCW 29A.60.165 have been met;

13 (e) The voter has not cast another ballot in the same election; and

14 (f) At least one of the following is true:

15 (i) The voter was omitted from the poll book due to an error or
16 omission by an election official;

17 (ii) A properly requested absentee ballot was not received by the
18 voter or was lost or misplaced by the voter, and the voter signed a
19 sworn statement that he or she did not cast the absentee ballot and
20 that, to the best of his or her personal knowledge, no other person
21 cast the absentee ballot;

22 (iii) The voter was unable to produce valid identification as
23 required by RCW 29A.44.205 at his or her home polling place; or

24 (iv) The ballot was cast under a court order after the polls
25 closed, as permitted by RCW 29A.44.265.

26 (2) A provisional ballot failing to meet the conditions specified
27 in subsection (1)(a) through (f) of this section shall not be
28 transferred to any other polling place, precinct, county, or state.

29 (3) The county auditor shall ((provide)) promptly notify each
30 voter, by telephone and mail, that the voter's ballot was rejected and
31 will not be counted, including a brief statement explaining why the
32 ballot was not counted. The auditor shall make the disposition of
33 ((the)) each provisional ballot and, if ((the)) a ballot was not
34 counted, the reason why it was not counted, on a free access system
35 such as a toll-free telephone number, web site, mail, or other means.
36 The auditor must notify the voter in accordance with RCW 29A.60.165
37 when the envelope is unsigned or when the signatures do not match.

1 (4) Every voter whose ballot has been rejected under subsection (1)
2 of this section must be given an opportunity to present evidence to the
3 canvassing board explaining why the ballot should be counted. If the
4 voter does not present persuasive evidence sufficient to reverse the
5 canvassing board's decision before certification, the canvassing
6 board's decision rejecting the ballot stands and the ballot will not be
7 counted. If the ballot style is the only remaining defect in the
8 provisional ballot, the canvassing board must determine whether any
9 votes cast on the ballot are entitled to be counted and must process
10 the ballot by duplicating the permitted votes onto a ballot of the
11 correct ballot style for the voter's place of residence. Rejected
12 ballots may not be cured during a recount.

13 (5) For the purposes of this section, "home polling place" means
14 the polling place serving the precinct in which a voter resides on
15 election day.

16 **Sec. 3.** RCW 29A.08.625 and 2003 c 111 s 240 are each amended to
17 read as follows:

18 (1) A voter whose registration has been made inactive under this
19 chapter and who offers to vote at an ensuing election before two
20 federal elections have been held must be allowed to vote a regular
21 ballot and the voter's registration restored to active status.

22 (2) A voter whose registration has been properly canceled under
23 this chapter shall vote a provisional ballot. The voter shall mark the
24 provisional ballot in secrecy, the ballot placed in a security
25 envelope, the security envelope placed in a provisional ballot
26 envelope, and the reasons for the use of the provisional ballot noted.

27 (3) Upon receipt of such a voted provisional ballot the auditor
28 shall investigate the circumstances surrounding the original
29 cancellation. If he or she determines that the cancellation was in
30 error, the voter's registration must be immediately reinstated, and the
31 voter's provisional ballot must be ~~((counted))~~ forwarded to the
32 canvassing board for review under RCW 29A.60.195. If the original
33 cancellation was not in error, the voter must be afforded the
34 opportunity to reregister at his or her correct address, and the
35 voter's provisional ballot must not be counted.

1 **Sec. 4.** RCW 29A.08.113 and 2005 c 246 s 7 are each amended to read
2 as follows:

3 (1) If a voter who registered by mail indicates on the voter
4 registration form that he or she does not have a Washington state
5 driver's license, Washington state identification card, or Social
6 Security number, he or she must provide one of the following forms of
7 identification the first time he or she votes after registering:

8 (a) Valid photo identification;

9 (b) A valid enrollment card of a federally recognized Indian tribe
10 in Washington state;

11 (c) A copy of a current utility bill;

12 (d) A current bank statement;

13 (e) A copy of a current government check;

14 (f) A copy of a current paycheck; or

15 (g) A government document that shows both the name and address of
16 the voter.

17 (2) If the voter fails to provide one of the above forms of
18 identification prior to or at the time of voting, the ballot must be
19 treated as a provisional ballot regardless of whether the voter is
20 voting at a poll site or by mail. The ballot may only be counted if
21 the voter's signature on the outside envelope matches the signature in
22 the voter registration records and the ballot has not been otherwise
23 rejected under RCW 29A.60.195.

24 (3) The requirements of this section do not apply to an out-of-
25 state, overseas, or service voter who registers to vote by signing the
26 return envelope of the absentee ballot.

--- END ---