
SENATE BILL 5315

State of Washington

59th Legislature

2005 Regular Session

By Senators Schoesler, Hewitt, Morton, Johnson, Swecker, Oke, Delvin, Carrell, Stevens, Honeyford, Roach, Sheldon, Mulliken, Parlette and Benton

Read first time 01/20/2005. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to election procedures; amending RCW 29A.08.625,
2 29A.24.050, 29A.40.070, 29A.40.091, 29A.40.110, 29A.40.130, 29A.48.010,
3 29A.48.050, and 29A.60.160; adding a new section to chapter 29A.60 RCW;
4 and repealing RCW 29A.24.210, 29A.24.211, and 29A.28.011.

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

6 **Sec. 1.** RCW 29A.08.625 and 2003 c 111 s 240 are each amended to
7 read as follows:

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

12 (2) A voter whose registration has been properly canceled under
13 this chapter shall vote a provisional ballot. The voter shall mark the
14 provisional ballot in secrecy, the ballot placed in a security
15 envelope, the security envelope placed in a provisional ballot
16 envelope, and the reasons for the use of the provisional ballot noted.

17 (3) Upon receipt of such a voted provisional ballot the auditor
18 shall investigate the circumstances surrounding the original
19 cancellation. If he or she determines that the cancellation was in

1 error, the voter's registration must be immediately reinstated, and the
2 voter's provisional ballot must be counted. If the original
3 cancellation was not in error, the voter must be afforded the
4 opportunity to reregister at his or her correct address, and the
5 voter's provisional ballot must not be counted.

6 (4) The names and addresses of provisional voters is not a matter
7 of public record, and no one other than an election officer may contact
8 an individual provisional voter.

9 **Sec. 2.** RCW 29A.24.050 and 2003 c 111 s 605 are each amended to
10 read as follows:

11 Except where otherwise provided by this title, declarations of
12 candidacy for the following offices shall be filed during regular
13 business hours with the filing officer no earlier than the fourth
14 Monday in (~~July~~) June and no later than the following Friday in the
15 year in which the office is scheduled to be voted upon:

16 (1) Offices that are scheduled to be voted upon for full terms or
17 both full terms and short terms at, or in conjunction with, a state
18 general election; and

19 (2) Offices where a vacancy, other than a short term, exists that
20 has not been filled by election and for which an election to fill the
21 vacancy is required in conjunction with the next state general
22 election.

23 This section supersedes all other statutes that provide for a
24 different filing period for these offices.

25 **Sec. 3.** RCW 29A.40.070 and 2004 c 266 s 13 are each amended to
26 read as follows:

27 (1) Except where a recount or litigation under RCW (~~29A.68.010~~)
28 29A.68.011 is pending, the county auditor shall have sufficient
29 absentee ballots available for absentee voters of that county at least
30 (~~twenty~~) thirty-four days before any primary, general election, or
31 special election. The county auditor must mail absentee ballots to
32 each voter for whom the county auditor has received a request
33 (~~nineteen~~) thirty-three days before the primary or election at least
34 (~~eighteen~~) thirty-two days before the primary or election. For a
35 request for an absentee ballot received after the (~~nineteenth~~)

1 thirty-third day before the primary or election, the county auditor
2 shall make every effort to mail ballots within one business day, and
3 shall mail the ballots within two business days.

4 (2) The county auditor shall make every effort to mail ballots to
5 overseas and service voters earlier than (~~eighteen~~) thirty-two days
6 before a primary or election.

7 (3) Each county auditor shall certify to the office of the
8 secretary of state the dates the ballots prescribed in subsection (1)
9 of this section were available and mailed.

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

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

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

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

31 The county auditor shall send each absentee voter a ballot, a
32 security envelope in which to seal the ballot after voting, a larger
33 envelope in which to return the security envelope, and instructions on
34 how to mark the ballot and how to return it to the county auditor. The
35 instructions that accompany an absentee ballot for a partisan primary
36 must include instructions for voting the applicable ballot style, as
37 provided in chapter 29A.36 RCW. The larger return envelope must

1 contain a declaration by the absentee voter reciting his or her
2 qualifications and stating that he or she has not voted in any other
3 jurisdiction at this election, together with a summary of the penalties
4 for any violation of any of the provisions of this chapter. The return
5 envelope must provide space for the voter to indicate the date on which
6 the ballot was voted and for the voter to sign the oath. A summary of
7 the applicable penalty provisions of this chapter must be printed on
8 the return envelope immediately adjacent to the space for the voter's
9 signature. The signature of the voter on the return envelope must
10 affirm and attest to the statements regarding the qualifications of
11 that voter and to the validity of the ballot. For out-of-state voters,
12 overseas voters, and service voters, the signed declaration on the
13 return envelope constitutes the equivalent of a voter registration for
14 the election or primary for which the ballot has been issued. The
15 voter must be instructed to either return the ballot to the county
16 auditor by whom it was issued or attach sufficient first class postage,
17 if applicable, and mail the ballot to the appropriate county auditor
18 (~~(no later than the day of the election or primary for which the ballot~~
19 ~~was issued)) in accordance with the time requirements of RCW
20 29A.40.110.~~

21 If the county auditor chooses to forward absentee ballots, he or
22 she must include with the ballot a clear explanation of the
23 qualifications necessary to vote in that election and must also advise
24 a voter with questions about his or her eligibility to contact the
25 county auditor. This explanation may be provided on the ballot
26 envelope, on an enclosed insert, or printed directly on the ballot
27 itself. If the information is not included, the envelope must clearly
28 indicate that the ballot is not to be forwarded and that return postage
29 is guaranteed.

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

32 (1) The opening and subsequent processing of return identification
33 envelopes for any primary or election may begin on or after the tenth
34 day before the primary or election. The tabulation of absentee ballots
35 must not commence until after 8:00 p.m. on the day of the primary or
36 election.

1 (2) After opening the return identification envelopes, the county
2 canvassing board or its representative shall place all of the ballots
3 in secure storage until after 8:00 p.m. of the day of the primary or
4 election. Absentee ballots that are to be tabulated on an electronic
5 vote tallying system may be taken from the inner security envelopes and
6 all the normal procedural steps may be performed to prepare these
7 ballots for tabulation.

8 (3) Before opening a returned absentee ballot, the canvassing
9 board, or its designated representatives, shall examine the postmark,
10 statement, and signature on the return identification envelope that
11 contains the security envelope and absentee ballot. ~~((They))~~ An
12 absentee ballot may be counted only if the return identification
13 envelope was signed by the date of the primary or election for which it
14 was issued and is in the office of the county auditor before the close
15 of the polls on the day of the primary or election for which it was
16 issued. However, an absentee ballot from an out-of-state, overseas, or
17 service voter may be counted if it was mailed no later than the day of
18 the primary or election for which it was issued. The canvassing board
19 or its representative shall verify that the voter's signature on the
20 return envelope is the same as the signature of that voter in the
21 registration files of the county. For registered voters casting
22 absentee ballots, the date on the return identification envelope to
23 which the voter has attested determines the validity, as to the ~~((time~~
24 ~~of voting))~~ date of mailing for that absentee ballot if the postmark is
25 missing or is illegible. For out-of-state voters, overseas voters, and
26 service voters, the date on the return identification envelope to which
27 the voter has attested determines the validity as to the ~~((time of~~
28 ~~voting))~~ date of mailing for that absentee ballot. For any absentee
29 ballot, a variation between the signature of the voter on the return
30 envelope and the signature of that voter in the registration files due
31 to the substitution of initials or the use of common nicknames is
32 permitted so long as the surname and handwriting are clearly the same.

33 **Sec. 6.** RCW 29A.40.130 and 2003 c 111 s 1013 are each amended to
34 read as follows:

35 Each county auditor shall maintain in his or her office, open for
36 public inspection, a record of the requests he or she has received for
37 absentee ballots under this chapter.

1 The information from the requests shall be recorded and lists of
2 this information shall be available no later than twenty-four hours
3 after their receipt.

4 This information about absentee voters shall be available according
5 to the date of the requests and by legislative district. It shall
6 include the name of each applicant, the address and precinct in which
7 the voter maintains a voting residence, the date on which an absentee
8 ballot was issued to this voter, if applicable, the type of absentee
9 ballot, and the address to which the ballot was or is to be mailed, if
10 applicable.

11 The auditor shall make copies of these records available to the
12 public for the actual cost of production or copying. However, these
13 records may not be used by anyone other than an election officer to
14 contact an individual absentee voter.

15 **Sec. 7.** RCW 29A.48.010 and 2004 c 266 s 14 are each amended to
16 read as follows:

17 The county auditor may designate any precinct having fewer than two
18 hundred active registered voters at the time of closing of voter
19 registration as provided in RCW 29A.08.140 as a mail ballot precinct.
20 The county auditor shall notify each registered voter by mail that for
21 all future primaries and elections the voting in his or her precinct
22 will be by mail ballot only. In determining the number of registered
23 voters in a precinct for the purposes of this section, persons who are
24 ongoing absentee voters under RCW 29A.40.040 shall not be counted.
25 Nothing in this section may be construed as altering the vote tallying
26 requirements of RCW 29A.60.230.

27 The auditor shall mail each active voter a ballot at least
28 ((~~eighteen~~)) thirty-two days before a primary, general election, or
29 special election. The auditor shall send each inactive voter either a
30 ballot or an application to receive a ballot at least ((~~eighteen~~))
31 thirty-two days before a primary, general election, or special
32 election. The auditor shall determine which of the two is to be sent.
33 If the inactive voter returns a voted ballot, the ballot shall be
34 counted and the voter's status restored to active. If the inactive
35 voter completes and returns an application, a ballot shall be sent and
36 the voter's status restored to active. The requirements regarding

1 certification, reporting, and the mailing of overseas and military
2 ballots in RCW ((29.36.270)) 29A.40.070 apply to mail ballot precincts.

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

7 **Sec. 8.** RCW 29A.48.050 and 2003 c 111 s 1205 are each amended to
8 read as follows:

9 The voter shall return the ballot to the county auditor in the
10 return identification envelope. ((If)) Whether mailed or returned
11 otherwise, a ballot must be ((postmarked not later than the date of the
12 primary or election. Otherwise, the ballot must be deposited at the
13 office of the county auditor or the designated place of deposit not
14 later than 8:00 p.m. on the date of the primary or election)) returned
15 in accordance with the time requirements as provided for an absentee
16 ballot under RCW 29A.40.110.

17 **Sec. 9.** RCW 29A.60.160 and 2003 c 111 s 1516 are each amended to
18 read as follows:

19 At least every third day after a primary or election and before
20 certification of the election results, except Sundays and legal
21 holidays, the county auditor, as delegated by the county canvassing
22 board, shall process absentee ballots and canvass the votes cast at
23 that primary or election, if the county auditor is in possession of
24 more than twenty-five ballots that have yet to be canvassed. The
25 county auditor, as delegated by the county canvassing board, may use
26 his or her discretion in determining when to process the remaining
27 absentee ballots and canvass the votes during the final four days
28 before the certification of election results in order to protect the
29 secrecy of any ballot. In counties where this process has not been
30 delegated to the county auditor, the county auditor shall convene the
31 county canvassing board to process absentee ballots and canvass the
32 votes cast at the primary or election as set forth in this section.

33 Each absentee ballot previously not canvassed that was received by
34 the county auditor two days or more before processing absentee ballots
35 and canvassing the votes as delegated by or processed by the county
36 canvassing board, that ((either was received by the county auditor

1 ~~before the closing of the polls on the day of the primary or election~~
2 ~~for which it was issued, or that bears a postmark on or before the~~
3 ~~primary or election for which it was issued))~~ was returned in
4 accordance with the time requirements as provided for an absentee
5 ballot under RCW 29A.40.110, must be processed at that time. The
6 tabulation of votes that results from that day's canvass must be made
7 available to the general public immediately upon completion of the
8 canvass.

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

11 If the county auditor receives an absentee or mail ballot in a
12 return identification envelope on which the voter's signature is
13 missing, illegible, or does not match the registration file, only the
14 county auditor or other election officer may contact the voter
15 regarding the signature. The names of voters in these cases is not a
16 matter of public record.

17 NEW SECTION. Sec. 11. The following acts or parts of acts are
18 each repealed:

19 (1) RCW 29A.24.210 (Vacancy in partisan elective office--Special
20 filing period) and 2005 c 2 s 10 (Initiative Measure No. 872) & 2003 c
21 111 s 621;

22 (2) RCW 29A.24.211 (Vacancy in partisan elective office--Special
23 filing period) and 2004 c 271 s 116; and

24 (3) RCW 29A.28.011 (Major party ticket) and 2004 c 271 s 191.

--- END ---