
SENATE BILL 5499

State of Washington

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2005 Regular Session

By Senators Kastama, Berkey, Fairley, Pridemore, Franklin, Haugen, Shin, Kohl-Welles, Doumit, Rasmussen and Keiser

Read first time 01/26/2005. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to election reform; amending RCW 29A.04.530,
2 29A.04.570, 29A.40.110, 29A.60.210, 29A.64.030, 29A.64.061, 29A.64.081,
3 and 29A.84.650; adding a new section to chapter 29A.08 RCW; adding a
4 new section to chapter 29A.12 RCW; adding a new section to chapter
5 29A.36 RCW; adding a new section to chapter 29A.40 RCW; adding new
6 sections to chapter 29A.44 RCW; adding new sections to chapter 29A.60
7 RCW; adding a new section to chapter 29A.64 RCW; adding a new section
8 to chapter 29A.84 RCW; and prescribing penalties.

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

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

12 The secretary of state shall:

13 (1) Establish and operate, or provide by contract, training and
14 certification programs for state and county elections administration
15 officials and personnel, including training on the various types of
16 election law violations and discrimination, and training programs for
17 political party observers which conform to the rules for such programs
18 established under RCW 29A.04.630;

1 (2) Establish and operate, or provide by contract, training and
2 certification programs for all election personnel assigned to verify
3 signatures under RCW 29A.40.110 or section 11 of this act. The
4 personnel may receive instruction from local or state law enforcement
5 officials in techniques used to verify signatures and identify
6 forgeries, including three-point verification processes;

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

10 ~~((3))~~ (4) Maintain a record of those individuals who have
11 received such training and certificates; and

12 ~~((4))~~ (5) Provide the staffing and support services required by
13 the board created under RCW 29A.04.510.

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

16 (1)(a) The election review staff of the office of the secretary of
17 state shall conduct a formal review of election-related policies,
18 procedures, and practices in all counties before the 2006 general
19 election. Thereafter, the secretary shall conduct a formal review of
20 thirteen counties every year, so that all counties will be reviewed
21 once every three years, in conjunction with a county primary, special,
22 or general election.

23 **(b)** In addition to conducting reviews under (a) of this subsection,
24 the election review staff may also conduct such a review in an affected
25 county or counties:

26 (i) If the unofficial returns of a primary or general election for
27 a position in the state legislature indicate that a mandatory recount
28 is likely for that position; or

29 (ii) If unofficial returns indicate a mandatory recount is likely
30 in a statewide election or an election for federal office; or

31 (iii) If the secretary determines that a review is warranted based
32 on a complaint filed with the secretary by a resident of this state
33 alleging that an aspect of a primary or election has been conducted
34 inappropriately in a county.

35 Reviews conducted under (b)(ii) of this subsection ~~((shall))~~ may be
36 performed in as many selected counties as time and staffing permit. If
37 the secretary determines that reviews must be conducted as a result of

1 mandatory recounts (~~shall~~), the reviews must be performed between the
2 time the unofficial returns are complete and the time the recount is to
3 take place, if possible.

4 ~~((b) In addition to conducting reviews under (a) of this
5 subsection, the election review staff shall also conduct such a review
6 in a county periodically, in conjunction with a county primary or
7 special or general election, at the direction of the secretary of state
8 or at the request of the county auditor. If any resident of this state
9 believes that an aspect of a primary or election has been conducted
10 inappropriately in a county, the resident may file a complaint with the
11 secretary of state. The secretary shall consider such complaints in
12 scheduling periodic reviews under this section.))~~

13 (c) Before an election review is conducted in a county, the
14 secretary of state shall provide the county auditor of the affected
15 county and the chair of the state central committee of each major
16 political party with notice that the review is to be conducted. When
17 a (~~periodic~~) review is to be conducted in a county at the direction
18 of the secretary of state under (b)(iii) of this subsection, the
19 secretary shall provide the affected county auditor not less than
20 thirty days' notice.

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

34 (3) The county auditor of the county in which a review is conducted
35 under this section is responsible for follow-up and corrective action
36 on all formal review findings and recommendations. The auditor's plan
37 for addressing each review finding and recommendation must be included
38 in the final election review staff report. The plan must provide the

1 name of the contact person responsible for each action, the action
2 planned, and the anticipated completion date. If the auditor does not
3 agree with the review findings and recommendations or believes action
4 is not required, then the action plan must include an explanation and
5 specific reasons. The secretary and the election administration and
6 certification board may require periodic progress reports from the
7 reviewed county until all resolution has occurred.

8 (4) The reviewed county auditor or a member of the canvassing board
9 of the county may appeal the findings or recommendations of the
10 election review staff regarding the review by filing an appeal with the
11 board created under RCW 29A.04.510.

12 (5) The secretary of state may withhold any state or federal funds
13 designated for election purposes from the county auditor if the board
14 or the secretary find the county auditor has not submitted an adequate
15 corrective action plan under subsection (3) of this section; or if the
16 board finds the county auditor has not made adequate progress towards
17 implementing the corrective action plan.

18 NEW SECTION. Sec. 3. A new section is added to chapter 29A.08 RCW
19 to read as follows:

20 The county auditor shall make and preserve a copy of the county
21 list of registered voters ten days before the primary or election.
22 After certification of the election, the county auditor shall compare
23 the number of votes cast at the election with the copy of the list of
24 registered voters created under this section.

25 NEW SECTION. Sec. 4. A new section is added to chapter 29A.12 RCW
26 to read as follows:

27 The secretary of state shall adopt, by rule, a schedule requiring
28 voting and tallying systems to be compliant with the uniform card
29 ballot. In developing the schedule, the secretary shall consider
30 factors including but not limited to federal requirements to eliminate
31 voting systems, age and working condition of voting systems currently
32 in use, and voting system replacement schedules of the counties.

33 NEW SECTION. Sec. 5. A new section is added to chapter 29A.36 RCW
34 to read as follows:

35 The secretary of state shall adopt, by rule, a standard uniform

1 ballot card to be used in primary and general elections throughout the
2 state. The secretary shall also, by rule, develop a schedule for
3 counties to comply with the uniform ballot card requirement. In
4 developing the schedule, the secretary shall consider factors including
5 but not limited to federal requirements to eliminate voting systems,
6 age and working condition of voting systems currently in use, and
7 voting system replacement schedules of the counties.

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

10 (1) The opening and subsequent processing of return envelopes for
11 any primary or election may begin (~~(on or after the tenth day before~~
12 ~~the primary or election)) upon receipt. The tabulation of absentee
13 ballots must not commence until after 8:00 p.m. on the day of the
14 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. For registered
29 voters casting absentee ballots, the date on the return envelope to
30 which the voter has attested determines the validity, as to the time of
31 voting for that absentee ballot if the postmark is missing or is
32 illegible. For out-of-state voters, overseas voters, and service
33 voters, the date on the return envelope to which the voter has attested
34 determines the validity as to the time of voting for that absentee
35 ballot. For any absentee ballot, a variation between the signature of
36 the voter on the return envelope and the signature of that voter in the

1 registration files due to the substitution of initials or the use of
2 common nicknames is permitted so long as the surname and handwriting
3 are clearly the same.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 29A.40 RCW
5 to read as follows:

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

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

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

1 Provisional ballots must be issued, along with a provisional ballot
2 outer envelope and a security envelope, to voters as appropriate under
3 RCW 29A.04.008. The provisional ballot outer envelope must include a
4 place for the voter's name; registered address, both present and former
5 if applicable; date of birth; reason for the provisional ballot; the
6 precinct number and the precinct polling location at which the voter
7 has voted; and a space for the county auditor to list the disposition
8 of the provisional ballot. The provisional ballot outer envelope must
9 also contain a declaration as required for absentee ballot outer
10 envelopes under RCW 29A.40.091; a place for the voter to sign the oath;
11 and a summary of the applicable penalty provisions of this chapter.
12 The voter shall vote the provisional ballot in secrecy and, when done,
13 place the provisional ballot in the security envelope, then place the
14 security envelope into the outer envelope, and return it to the
15 precinct election official. The election official shall ensure that
16 the required information is completed on the outer envelope, have the
17 voter sign it in the appropriate space, and place the envelope in a
18 secure container. The official shall then give the voter written
19 information advising the voter how to ascertain whether the vote was
20 counted and, if applicable, the reason why the vote was not counted.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 29A.44 RCW
22 to read as follows:

23 Provisional ballots shall be formatted in a manner to prevent them
24 from being tabulated by poll-site ballot counting devices, and may be
25 formatted in a manner to distinguish them from regular ballots when
26 deposited in ballot boxes.

27 NEW SECTION. **Sec. 10.** A new section is added to chapter 29A.44
28 RCW to read as follows:

29 Any person desiring to vote at any primary or election is required
30 to provide identification to the election officer before signing the
31 poll book. The identification required in this section can be
32 satisfied by providing a current and valid driver's license or state
33 identification card, a copy of a current utility bill, bank statement,
34 government check, paycheck, or other government document that shows the
35 name and a photo, signature, or address of the voter. The name must
36 match the name in the poll book and the identification must also

1 provide a photo, signature, or matching address. Any individual who
2 desires to vote in person but cannot provide identification shall be
3 issued a provisional ballot. The secretary shall conduct an
4 educational campaign to inform voters of the identification requirement
5 under this section.

6 NEW SECTION. **Sec. 11.** A new section is added to chapter 29A.60
7 RCW to read as follows:

8 Before certification of the primary or election, the county auditor
9 must examine and investigate all received provisional ballots to
10 determine whether the ballot can be counted. The auditor shall provide
11 the disposition of the provisional ballot and, if the ballot was not
12 counted, the reason why it was not counted on a free access system such
13 as a toll-free telephone number, web site, mail, or other means. A
14 provisional ballot cannot be further investigated if the voter did not
15 sign the provisional ballot envelope or if the signature on the
16 envelope does not match the signature as it appears on the voter's
17 registration card until the voter signs or updates his or her signature
18 affidavit. The auditor must notify the voter in accordance with
19 section 7 of this act when the envelope is unsigned or when the
20 signatures do not match.

21 NEW SECTION. **Sec. 12.** A new section is added to chapter 29A.60
22 RCW to read as follows:

23 If inspection of the ballot reveals a physically damaged ballot or
24 ballot that may be otherwise unreadable or uncountable by the
25 tabulating system, the county auditor may refer the ballot to the
26 county canvassing board or duplicate the ballot if so authorized by the
27 county canvassing board. A ballot may be duplicated only if the intent
28 of the voter's marks on the ballot is clear and the electronic voting
29 equipment might not otherwise properly tally the ballot to reflect the
30 intent of the voter. Ballots must be duplicated by teams of two or
31 more people working together. When duplicating ballots, the county
32 auditor shall take the following steps to create and maintain an audit
33 trail of the action taken:

34 (1) Each original ballot and duplicate ballot must be assigned the
35 same unique control number, with the number being marked upon the face

1 of each ballot, to ensure that each duplicate ballot may be tied back
2 to the original ballot;

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

5 (a) The control number of each original ballot and the
6 corresponding duplicate ballot;

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

9 (c) The total number of ballots duplicated.

10 Original and duplicate ballots must be sealed in secure storage at
11 all times, except during duplication, inspection by the canvassing
12 board, or tabulation.

13 **Sec. 13.** RCW 29A.60.210 and 2003 c 111 s 1521 are each amended to
14 read as follows:

15 Whenever the canvassing board finds during the initial counting
16 process, or during any subsequent recount thereof, that there is an
17 apparent discrepancy or an inconsistency in the returns of a primary or
18 election, or that election staff has made an error regarding the
19 treatment or disposition of a ballot, the board may recanvass the
20 ballots or voting devices in any precincts of the county. The
21 canvassing board shall conduct any necessary recanvass activity on or
22 before the last day to certify or recertify the results of the primary
23 ~~((or))~~, election, or subsequent recount and correct any error and
24 document the correction of any error that it finds.

25 **Sec. 14.** RCW 29A.64.030 and 2003 c 111 s 1603 are each amended to
26 read as follows:

27 An application for a recount shall state the office for which a
28 recount is requested and whether the request is for all or only a
29 portion of the votes cast in that jurisdiction of that office. The
30 person filing an application for a manual recount shall, at the same
31 time, deposit with the county canvassing board or secretary of state,
32 in cash or by certified check, a sum equal to twenty-five cents for
33 each ballot cast in the jurisdiction or portion of the jurisdiction for
34 which the recount is requested as security for the payment of any costs
35 of conducting the recount. If the application is for a machine

1 recount, the deposit must be equal to fifteen cents for each ballot.
2 These charges shall be determined by the county canvassing board or
3 boards under RCW (~~29A.64.080~~) 29A.64.081.

4 The county canvassing board shall determine ((a)) the date, time,
5 and ((a)) place or places at which the recount will be conducted.
6 (~~This time shall be less than three business days after the day upon~~
7 ~~which: The application was filed with the board; the request for a~~
8 ~~recount or directive ordering a recount was received by the board from~~
9 ~~the secretary of state; or the returns are certified which indicate~~
10 ~~that a recount is required under RCW 29A.64.020 for an issue or office~~
11 ~~voted upon only within the county.)) Not less than two days before the
12 date of the recount, the county auditor shall mail a notice of the time
13 and place of the recount to the applicant or affected parties and, if
14 the recount involves an office, to any person for whom votes were cast
15 for that office. The county auditor shall also notify the affected
16 parties by either telephone, fax, e-mail, or other electronic means at
17 the time of mailing. At least three attempts must be made over a two-
18 day period to notify the affected parties or until the affected parties
19 have received the notification. Each attempt to notify affected
20 parties must request a return response indicating that the notice has
21 been received. Each person entitled to receive notice of the recount
22 may attend, witness the recount, and be accompanied by counsel.~~

23 Proceedings of the canvassing board are public under chapter 42.30
24 RCW. Subject to reasonable and equitable guidelines adopted by the
25 canvassing board, all interested persons may attend and witness a
26 recount.

27 **Sec. 15.** RCW 29A.64.061 and 2004 c 271 s 180 are each amended to
28 read as follows:

29 Upon completion of the canvass of a recount, the canvassing board
30 shall prepare and certify an amended abstract showing the votes cast in
31 each precinct for which the recount was conducted. Copies of the
32 amended abstracts must be transmitted to the same officers who received
33 the abstract on which the recount was based.

34 If the nomination, election, or issue for which the recount was
35 conducted was submitted only to the voters of a county, the canvassing
36 board shall file the amended abstract with the original results of that
37 election or primary.

1 If the nomination, election, or issue for which a recount was
2 conducted was submitted to the voters of more than one county, the
3 secretary of state shall canvass the amended abstracts and shall file
4 an amended abstract with the original results of that election. The
5 secretary of state may require that the amended abstracts be certified
6 by each canvassing board on a uniform date. An amended abstract
7 certified under this section supersedes any prior abstract of the
8 results for the same offices or issues at the same primary or election.

9 NEW SECTION. **Sec. 16.** A new section is added to chapter 29A.64
10 RCW to read as follows:

11 If a mandatory recount is required under RCW 29A.64.021 for an
12 office where a candidate for the office must file the declaration of
13 candidacy with the secretary of state, the county auditor shall
14 determine the expense of conducting the recount and file an expense
15 claim for such costs with the secretary of state. The secretary of
16 state shall reimburse the county an amount equal to seventy-five
17 percent of the cost of the recount.

18 **Sec. 17.** RCW 29A.64.081 and 2004 c 271 s 181 are each amended to
19 read as follows:

20 The canvassing board shall determine the expenses for conducting a
21 recount of votes.

22 The cost of the recount shall be deducted from the amount deposited
23 by the applicant for the recount at the time of filing the request for
24 the recount, and the balance shall be returned to the applicant. If
25 the costs of the recount exceed the deposit, the applicant shall pay
26 the difference. No charges may be deducted by the canvassing board
27 from the deposit for a recount if the recount changes the result of the
28 nomination or election for which the recount was ordered.

29 If the recount was requested for an office where a candidate for
30 the office must file the declaration of candidacy with the secretary of
31 state, and the recount changed the results of the primary or election,
32 the canvassing board shall file an expense claim for the costs of that
33 recount with the secretary of state. The secretary of state shall
34 reimburse the county an amount equal to seventy-five percent of the
35 cost of the recount.

1 NEW SECTION. **Sec. 18.** A new section is added to chapter 29A.84
2 RCW to read as follows:

3 A person who knowingly destroys, alters, defaces, conceals, or
4 discards a completed voter registration form is guilty of a class C
5 felony punishable under RCW 9A.20.021. This section does not apply to
6 (1) the voter who completed the voter registration form, or (2) a
7 county auditor or registration assistant who acts as authorized by
8 voter registration law.

9 **Sec. 19.** RCW 29A.84.650 and 2003 c 111 s 2131 are each amended to
10 read as follows:

11 Any person who votes or attempts to vote more than once (~~(at any)~~)
12 in this state in the same primary or general or special election, or
13 who is registered to vote in another state and who votes or attempts to
14 vote in this state, is guilty of a (~~(gross misdemeanor)~~) class C
15 felony, punishable (~~(to the same extent as a gross misdemeanor that is~~
16 ~~punishable)~~) under RCW 9A.20.021.

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