
SENATE BILL 6498

State of Washington 59th Legislature 2006 Regular Session

By Senators Roach, Stevens, Mulliken, Schoesler, Honeyford, Benton and Delvin

Read first time 01/13/2006. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to elections; and amending RCW 29A.04.008,
2 29A.04.530, 29A.04.611, 29A.40.050, 29A.40.061, 29A.40.080, 29A.40.110,
3 29A.40.150, 29A.44.020, 29A.44.090, 29A.44.270, 29A.48.040, and
4 29A.60.125.

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

6 **Sec. 1.** RCW 29A.04.008 and 2005 c 243 s 1 are each amended to read
7 as follows:

8 As used in this title:

9 (1) "Ballot" means, as the context implies, either:

10 (a) The issues and offices to be voted upon in a jurisdiction or
11 portion of a jurisdiction at a particular primary, general election, or
12 special election;

13 (b) A facsimile of the contents of a particular ballot whether
14 printed on a paper ballot or ballot card or as part of a voting machine
15 or voting device;

16 (c) A physical or electronic record of the choices of an individual
17 voter in a particular primary, general election, or special election;
18 or

1 (d) The physical document on which the voter's choices are to be
2 recorded;

3 (2) "Paper ballot" means a piece of paper on which the ballot for
4 a particular election or primary has been printed, on which a voter may
5 record his or her choices for any candidate or for or against any
6 measure, and that is to be tabulated manually;

7 (3) "Ballot card" means any type of card or piece of paper of any
8 size on which a voter may record his or her choices for any candidate
9 and for or against any measure and that is to be tabulated on a vote
10 tallying system;

11 (4) "Sample ballot" means a printed facsimile of all the issues and
12 offices on the ballot in a jurisdiction and is intended to give voters
13 notice of the issues, offices, and candidates that are to be voted on
14 at a particular primary, general election, or special election;

15 (5) "Provisional ballot" means a ballot issued to a voter
16 requesting a replacement absentee or mail ballot or a ballot issued at
17 the polling place on election day by the precinct election board to a
18 voter who would otherwise be denied an opportunity to vote a regular
19 ballot, for any reason authorized by the Help America Vote Act,
20 including but not limited to the following:

21 (a) The voter's name does not appear in the poll book but the voter
22 claims to be registered in the precinct in which the person wishes to
23 vote;

24 (b) There is an indication in the poll book that the voter has
25 requested an absentee ballot, but the voter wishes to vote at the
26 polling place;

27 (c) There is a question on the part of the voter concerning the
28 issues or candidates on which the voter is qualified to vote;

29 (d) Any other reason allowed by law;

30 (6) "Party ballot" means a primary election ballot specific to a
31 particular major political party that lists all partisan offices to be
32 voted on at that primary, and the candidates for those offices who
33 affiliate with that same major political party;

34 (7) "Nonpartisan ballot" means a primary election ballot that lists
35 all nonpartisan races and ballot measures to be voted on at that
36 primary.

1 **Sec. 2.** RCW 29A.04.530 and 2005 c 243 s 2 are each amended to read
2 as follows:

3 The secretary of state shall:

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

10 (2) Establish uniform guidelines, in consultation with state and
11 local law enforcement or certified document examiners, for signature
12 verification processes. All election personnel assigned to verify
13 signatures must receive training and be certified by the secretary of
14 state on the uniform guidelines;

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

18 (4) Maintain a record of those individuals who have received such
19 training and certificates; and

20 (5) Provide the staffing and support services required by the board
21 created under RCW 29A.04.510.

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

24 The secretary of state as chief election officer shall make
25 reasonable rules in accordance with chapter 34.05 RCW not inconsistent
26 with the federal and state election laws to effectuate any provision of
27 this title and to facilitate the execution of its provisions in an
28 orderly, timely, and uniform manner relating to any federal, state,
29 county, city, town, and district elections. To that end the secretary
30 shall assist local election officers by devising uniform forms and
31 procedures.

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

35 (1) The maintenance of voter registration records;

36 (2) The preparation, maintenance, distribution, review, and filing
37 of precinct maps;

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

- 1 registration records accepted by agencies designated by the governor to
2 provide voter registration services;
- 3 (19) Procedures to receive and distribute voter registration
4 applications by mail;
- 5 (20) Procedures for a voter to change his or her voter registration
6 address within a county by telephone;
- 7 (21) Procedures for a voter to change the name under which he or
8 she is registered to vote;
- 9 (22) Procedures for canceling dual voter registration records and
10 for maintaining records of persons whose voter registrations have been
11 canceled;
- 12 (23) Procedures for the electronic transfer of voter registration
13 records between county auditors and the office of the secretary of
14 state;
- 15 (24) Procedures and forms for declarations of candidacy;
- 16 (25) Procedures and requirements for the acceptance and filing of
17 declarations of candidacy by electronic means;
- 18 (26) Procedures for the circumstance in which two or more
19 candidates have a name similar in sound or spelling so as to cause
20 confusion for the voter;
- 21 (27) Filing for office;
- 22 (28) The order of positions and offices on a ballot;
- 23 (29) Sample ballots;
- 24 (30) Independent evaluations of voting systems;
- 25 (31) The testing, approval, and certification of voting systems;
- 26 (32) The testing of vote tallying software programming;
- 27 (33) Standards and procedures to prevent fraud and to facilitate
28 the accurate processing and canvassing of absentee ballots and mail
29 ballots;
- 30 (34) Standards and procedures to guarantee the secrecy of absentee
31 ballots and mail ballots;
- 32 (35) Uniformity among the counties of the state in the conduct of
33 absentee voting and mail ballot elections;
- 34 (36) Standards and procedures to accommodate out-of-state voters,
35 overseas voters, and service voters. Uniformed service voters must be
36 able to submit a federal write-in absentee ballot and override that
37 ballot at a later time by submitting a state absentee ballot;
- 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. 4.** RCW 29A.40.050 and 2003 c 111 s 1005 are each amended to
10 read as follows:

11 (1) As provided in this section, county auditors shall provide
12 special absentee ballots to be used for state primary or state general
13 elections. An auditor shall provide a special absentee ballot only to
14 a registered voter who completes an application stating that she or he
15 will be unable to vote and return a regular absentee ballot by normal
16 mail delivery within the period provided for regular absentee ballots.

17 The application for a special absentee ballot may not be filed and
18 may not be accepted by the auditor's office earlier than ninety days
19 before the applicable state primary or general election. The special
20 absentee ballot will list the offices and measures, if known, scheduled
21 to appear on the state primary or general election ballot. The voter
22 may use the special absentee ballot to write in the name of any
23 eligible candidate for each office and vote on any measure.

24 (2) With any special absentee ballot issued under this section, the
25 county auditor shall include a listing of any candidates who have
26 (~~filed~~) met the filing requirements of chapter 29A.24 RCW before the
27 time of the application for offices that will appear on the ballot at
28 that primary or election and a list of any issues that have been
29 referred to the ballot before the time of the application.

30 (3) Write-in votes on special absentee ballots must be counted in
31 the same manner provided by law for the counting of other write-in
32 votes. The county auditor shall process and canvass the special
33 absentee ballots provided under this section in the same manner as
34 other absentee ballots under this chapter and chapter 29A.60 RCW.

35 (4) A voter who requests a special absentee ballot under this
36 section may also request an absentee ballot under RCW 29A.40.020(4).

1 If the regular absentee ballot is properly voted and returned, the
2 special absentee ballot is void, and the county auditor shall reject it
3 in whole when special absentee ballots are canvassed.

4 **Sec. 5.** RCW 29A.40.061 and 2004 c 271 s 134 are each amended to
5 read as follows:

6 (1) The county auditor shall issue an absentee ballot for the
7 primary or election for which it was requested, or for the next
8 occurring primary or election when ongoing absentee status has been
9 requested if the information contained in a request for an absentee
10 ballot or ongoing absentee status received by the county auditor is
11 complete and correct and the applicant is qualified to vote under
12 federal or state law. ~~((Otherwise,))~~ If the information is not
13 complete, the request cannot be accepted even if enough time remains
14 for the applicant to supply the needed information in time to vote in
15 the next election. The county auditor shall notify the applicant of
16 the reason or reasons why the request cannot be accepted. Whenever two
17 or more candidates have filed for the position of precinct committee
18 officer for the same party in the same precinct, the contest for that
19 position must be presented to absentee voters from that precinct by
20 either including the contest on the regular absentee ballot or a
21 separate absentee ballot. The ballot must provide space designated for
22 writing in the name of additional candidates.

23 (2) A registered voter may obtain a replacement ballot if the
24 absentee ballot is destroyed, spoiled, lost, or not received by the
25 voter. For the purposes of this subsection, replacement ballot means
26 provisional ballot. The voter may obtain the replacement ballot by
27 telephone request, by mail, electronically, or in person. The county
28 auditor shall keep a record of each replacement ballot provided under
29 this subsection.

30 (3) A copy of the state voters' pamphlet must be sent to registered
31 voters temporarily outside the state, out-of-state voters, overseas
32 voters, and service voters along with the absentee ballot if such a
33 pamphlet has been prepared for the primary or election and is available
34 to the county auditor at the time of mailing. The county auditor shall
35 mail all absentee ballots and related material to voters outside the
36 territorial limits of the United States and the District of Columbia
37 under 39 U.S.C. 3406.

1 **Sec. 6.** RCW 29A.40.080 and 2003 c 111 s 1008 are each amended to
2 read as follows:

3 The delivery of an absentee ballot for any primary or election
4 shall be subject to the following qualifications:

5 (1) Only the registered voter personally, or a member of the
6 registered voter's immediate family may pick up an absentee ballot for
7 the voter at the office of the issuing officer unless the voter is a
8 resident of a health care facility, as defined by RCW 70.37.020(3), on
9 election day and applies by messenger for an absentee ballot. In this
10 latter case, the messenger may pick up the voter's absentee ballot but
11 may not return the voted ballot to the county auditor's office.

12 (2) Except as noted in subsection (1) of this section, the issuing
13 officer shall mail or deliver the absentee ballot directly to each
14 applicant.

15 **Sec. 7.** RCW 29A.40.110 and 2005 c 243 s 5 are each amended to read
16 as follows:

17 (1) The opening and subsequent processing of return envelopes for
18 any primary or election may begin upon receipt. The tabulation of
19 absentee ballots must not commence until after 8:00 p.m. on the day of
20 the primary or election. If a voter returns voting responses by mail
21 on a form other than the ballot sent by the county auditor, his or her
22 voting responses may not be tabulated.

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

31 (3) Before opening a returned absentee ballot, the canvassing
32 board, or its designated representatives, shall examine the postmark,
33 statement, and signature on the return envelope that contains the
34 security envelope and absentee ballot. They shall verify that the
35 voter's signature on the return envelope is the same as the signature
36 of that voter in the registration files of the county. For registered
37 voters casting absentee ballots, the date on the return envelope to

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

11 **Sec. 8.** RCW 29A.40.150 and 2005 c 245 s 1 are each amended to read
12 as follows:

13 The secretary of state shall produce and furnish envelopes and
14 instructions for out-of-state voters, overseas voters, and service
15 voters to the county auditors. The information on the envelopes or
16 instructions must explain that:

17 (1) For overseas and service voters, return postage is free if the
18 ballot is mailed through the United States postal service, United
19 States armed forces postal service, or the postal service of a United
20 States foreign embassy;

21 (2) The date of the signature is considered the date of mailing;

22 (3) The envelope must be signed by election day;

23 (4) The signed declaration on the envelope is the equivalent of
24 voter registration;

25 (5) A voter may fax a voted ballot and the accompanying envelope if
26 the voter agrees to waive secrecy. The ballot will be counted if the
27 original documents are received before certification of the election;
28 and

29 (6) A voter may obtain a ballot via electronic mail, which the
30 voter may print out, vote, and return by mail. In order to facilitate
31 the electronic acquisition of ballots by out-of-state, overseas, and
32 service voters, the ballot instructions shall include the web site of
33 the office of the secretary of state.

34 **Sec. 9.** RCW 29A.44.020 and 2003 c 111 s 1102 are each amended to
35 read as follows:

36 (1) At any election, general or special, or at any primary, any

1 political party or committee may designate a person other than a
2 precinct election officer, for each polling place to check a list of
3 registered voters of the precinct to determine who has and who has not
4 voted. The lists must be furnished by the party or committee
5 concerned.

6 (2) Activities under this section do not constitute get-out-the-
7 vote campaigns.

8 **Sec. 10.** RCW 29A.44.090 and 2003 c 111 s 1109 are each amended to
9 read as follows:

10 A registered voter shall not be allowed to vote in the precinct in
11 which he or she is registered at any election or primary for which that
12 voter has cast an absentee ballot. A registered voter who has
13 requested an absentee ballot for a primary or special or general
14 election but chooses to vote at the voter's precinct polling place in
15 that primary or election shall cast a provisional ballot. The
16 canvassing board shall not count the provisional ballot until all
17 absentee ballots have been counted or if it finds that the voter has
18 also voted by absentee ballot in that primary or election.

19 **Sec. 11.** RCW 29A.44.270 and 2003 c 111 s 1126 are each amended to
20 read as follows:

21 At each precinct immediately after the last qualified voter has
22 cast his or her vote, the precinct election officers shall render
23 unusable and secure in a container all unused ballots, whether wrapped
24 or unwrapped, for that precinct and return them to the county auditor.

25 **Sec. 12.** RCW 29A.48.040 and 2003 c 111 s 1204 are each amended to
26 read as follows:

27 (1) If a county auditor conducts an election by mail, the county
28 auditor shall designate one or more places for the deposit of ballots
29 not returned by mail. The places designated under this section shall
30 be open on the date of the election for a period of thirteen hours,
31 beginning at 7:00 a.m. and ending at 8:00 p.m.

32 (2) A registered voter may obtain a replacement ballot as provided
33 in this subsection. For the purposes of this subsection, replacement
34 ballot means provisional ballot. A voter may request a replacement
35 mail ballot in person, by mail, by telephone, or by other electronic

1 transmission for himself or herself and for any member of his or her
2 immediate family. The request must be received by the auditor before
3 8:00 p.m. on election day. The county auditor shall keep a record of
4 each replacement ballot issued, including the date of the request.
5 Replacement mail ballots may be counted in the final tabulation of
6 ballots only if the original ballot is not received by the county
7 auditor and the replacement ballot meets all requirements for
8 tabulation necessary for the tabulation of regular mail ballots.

9 **Sec. 13.** RCW 29A.60.125 and 2005 c 243 s 10 are each amended to
10 read as follows:

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

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

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

31 (a) The control number of each original ballot and the
32 corresponding duplicate ballot;

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

35 (c) The total number of ballots duplicated.

36 Original and duplicate ballots must be sealed in secure storage at

1 all times, except during duplication, inspection by the canvassing
2 board, or tabulation.

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