
SUBSTITUTE HOUSE BILL 1752

State of Washington 61st Legislature 2009 Regular Session

By House State Government & Tribal Affairs (originally sponsored by Representatives Hurst and Hunt)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to the observation of election procedures; amending
2 RCW 29A.60.120, 29A.60.125, and 29A.64.041; and adding a new section to
3 chapter 29A.60 RCW.

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

5 **Sec. 1.** RCW 29A.60.120 and 2003 c 111 s 1512 are each amended to
6 read as follows:

7 (1) The ballots picked up from the precincts during the polling
8 hours may be counted only at the counting center before the polls have
9 closed. Election returns from the count of these ballots must be held
10 in secrecy until the polls have been closed.

11 (2) Upon breaking the seals and opening the ballot containers from
12 the precincts, all voted ballots must be manually inspected for damage,
13 write-in votes, and incorrect or incomplete marks. If it is found that
14 any ballot is damaged so that it cannot properly be counted by the vote
15 tallying system, a true duplicate copy must be made of the damaged
16 ballot in the presence of witnesses and the major party observers, if
17 they choose to witness the duplication, and substituted for the damaged
18 ballot. All damaged ballots must be kept by the county auditor until

1 sixty days after the primary or election or according to federal law,
2 whichever is longer.

3 (3) The returns produced by the vote tallying system, to which have
4 been added the counts of questioned ballots, write-in votes, and
5 absentee votes, constitute the official returns of the primary or
6 election in that county.

7 **Sec. 2.** RCW 29A.60.125 and 2005 c 243 s 10 are each amended to
8 read as follows:

9 If inspection of the ballot reveals a physically damaged ballot or
10 ballot that may be otherwise unreadable or uncountable by the
11 tabulating system, the county auditor may refer the ballot to the
12 county canvassing board or duplicate the ballot if so authorized by the
13 county canvassing board. The voter's original ballot may not be
14 altered. A ballot may be duplicated only if the intent of the voter's
15 marks on the ballot is clear and the electronic voting equipment might
16 not otherwise properly tally the ballot to reflect the intent of the
17 voter. Ballots must be duplicated by teams of two or more people
18 working together in view of the major party observers, if they choose
19 to witness the duplication. When duplicating ballots, the county
20 auditor shall take the following steps to create and maintain an audit
21 trail of the action taken:

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

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

28 (a) The control number of each original ballot and the
29 corresponding duplicate ballot;

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

32 (c) The total number of ballots duplicated.

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

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 29A.60 RCW
2 to read as follows:

3 For the purposes of this chapter, major political party observers
4 shall be allowed close enough to election workers to provide meaningful
5 oversight of the processing of ballots, as determined by the canvassing
6 board. This includes, but is not limited to viewing individual
7 ballots, hearing conversations between election workers, observing any
8 modifications or duplications of ballots, and the selection of ballots
9 for a random check. Observers may only engage in direct conversations
10 with those election workers identified by the county auditor.

11 **Sec. 4.** RCW 29A.64.041 and 2004 c 271 s 179 are each amended to
12 read as follows:

13 (1) At the time and place established for a recount, the canvassing
14 board or its duly authorized representatives, in the presence of all
15 witnesses who may be in attendance, shall open the sealed containers
16 containing the ballots to be recounted, and shall recount the votes for
17 the offices or issues for which the recount has been ordered. Ballots
18 shall be handled only by the members of the canvassing board or their
19 duly authorized representatives.

20 Witnesses shall be permitted to observe the ballots and the process
21 of tabulating the votes, but they shall not be permitted to handle the
22 ballots. The canvassing board shall not permit the tabulation of votes
23 for any nomination, election, or issue other than the ones for which a
24 recount was applied for or required.

25 (2) At any time before the ballots from all of the precincts listed
26 in the application for the recount have been recounted, the applicant
27 may file with the board a written request to stop the recount.

28 (3) The recount may be observed by persons representing the
29 candidates affected by the recount or the persons representing both
30 sides of an issue that is being recounted. The designated observers
31 shall be allowed close enough to the election workers performing the
32 recount to provide meaningful oversight of the process, as determined
33 by the canvassing board. This shall include, but not be limited to,
34 being able to view individual ballots and hearing conversations among
35 the election workers. Observers may only engage in direct conversation
36 with those election workers identified by the county auditor. The
37 observers may not make a record of the names, addresses, or other

1 information on the ballots, poll books, or applications for absentee
2 ballots unless authorized by the superior court. The secretary of
3 state or county auditor may limit the number of observers to not less
4 than two on each side if, in his or her opinion, a greater number would
5 cause undue delay or disruption of the recount process.

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