

SENATE BILL REPORT

2ESSB 5171

As Amended by House, April 9, 2011

Title: An act relating to facilitating voting for service and overseas voters.

Brief Description: Facilitating voting for service and overseas voters.

Sponsors: Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Hobbs, Roach, Swecker, Pridemore, Shin, King, Kilmer, Hill, Keiser and McAuliffe; by request of Secretary of State).

Brief History:

Committee Activity: Government Operations, Tribal Relations & Elections: 1/31/11, 2/07/11, 2/14/11 [DPS].

Passed Senate: 3/04/11, 47-1.

Passed House: 4/09/11, 94-1.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5171 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker, Ranking Minority Member; Chase, Nelson and Roach.

Staff: Diane Smith (786-7410)

Background: A service voter is defined as any voter of the state who is a member of the U.S. Armed Forces (USAF) in active service, a student or faculty member of a U.S. military academy, a member of the Merchant Marines, a member of a religious group or welfare agency officially serving with the USAF, or a participant in the address confidentiality program. Overseas voter is defined as any voter of the state outside the territorial limits of the United States.

For regular mail-in elections and for absentee ballots, state law requires that ballots must be mailed at least 18 days before a primary, special, or general election. This time period is 30 days for overseas and military voters.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In order for a ballot to be counted, it must be postmarked no later than election day and must reach the county auditor by the last day provided for certification of the election results. For primary and special elections, the county canvassing board must certify the results by the 15th day after election day. For general elections, the time period is 21 days.

An overseas or service voter may fax a voted ballot and the accompanying envelope if the voter agrees to waive secrecy. These voters may also obtain a ballot via electronic mail (e-mail) which may be printed, voted, and returned by postal mail. A faxed or electronically sent ballot may only be counted if it is mailed and received before certification of the election.

The federal Military and Overseas Empowerment Act (Act) requires that ballots for overseas and service voters be sent 45 days before an election for federal office. The Act also requires that those voters be provided additional options for receiving ballots and that ballot instructions include contact information for the auditor's office to confirm that the voter's ballot was received. Service and overseas voters may register to vote, request a ballot, or transmit a ballot using forms and methods provided by the U.S. Department of Defense or the U.S. Election Assistance Commission.

Summary of Second Engrossed Substitute Bill: No distinction is made between mail ballots, absentee ballots and ballots with all being referred to as, ballots.

Counting back from the date of the general election, the primary date is two weeks earlier; candidate filing for the primary begins three weeks earlier; overseas and military ballots are mailed two weeks earlier for the general election and four weeks earlier for the primary.

The county canvassing board has one less day to certify the primary election and, to be counted, ballots must be received the day before canvassing ends, or two days early. To be counted, ballots for the general election must be received the day before canvassing ends, or one day early. Other changes in deadlines and dates in the election cycle are changed.

The act provides for:

- the appeal periods for local redistricting plans based on the decennial census;
- the timing of filing periods and elections to fill unexpired terms in state and federal partisan offices;
- the rules for allowing service and overseas voters to return ballots by email or facsimile; and
- the timing of changes to precincts.

If an office becomes vacant and is not scheduled to appear on the general election ballot – thus leaving an unexpired term for which a successor must be elected at the next general election – then the filing will be either (1) reopened for three days if the vacancy occurs after the primary, or (2) accepted during the regular filing period if the vacancy occurs before the first day of the regular filing period.

Service and overseas voters must waive secrecy to return a voted ballot by fax or email.

Several conflicting and outdated sections are repealed.

The April 2012 special election is moved up one week, from the fourth Tuesday in April, to the third. The time period to certify this April 2012 special election is shortened to 10 days.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The members of the military defend our freedoms. Their votes should count. Electronic mail is their only means to communicate. This bill changes the date of the primary so that ballots can be mailed out two weeks earlier for both the primary and the general elections. This is necessary due to federal elections law that requires transit time for ballots to be at least 45 days before election day. There are 6,600 precincts in this state and each ballot may require a unique collection of precincts. Improving the absentee process is one of the Department of Defense's top ten priorities. This bill will increase the number of ballots that will be counted. Overseas voters' ballots will also be counted in greater numbers.

Persons Testifying: PRO: Senator Hobbs, prime sponsor; Katie Blinn, Secretary of State; Mark San Souci, Department of Defense; Mike Partridge, Veterans' Legislative Coalition; Jerry Pettit, Kittitas County Auditor; Vern Spatz, Grays Harbor County Auditor.

House Amendment(s):

- The service and overseas voter must be provided with instructions and a secrecy coversheet for returning their voted ballot and signed declaration by fax or e-mail. Waiver of secrecy is not required. The county auditor must use established procedures to maintain the secrecy of the voted ballot.
- Establishes that if a vacancy occurs in an elective office on or after the first day of the filing period, and that office is not scheduled to appear on the next general election ballot and leaves an unexpired term, then the election of the successor must occur at the next succeeding general election legally authorized for that office.
- Establishes that if a void in candidacy for a nonpartisan office occurs after the regular filing period and deadline to withdraw, but prior to the day of the primary, then filings for that office must be reopened for a period of three business days.
- Establishes that if a vacancy occurs in any partisan elective office before the first day of the regular filing period, the position must be open for filing during the regular filing period and the successor must be elected at the general election.
- Establishes that, except during the last year of the term of office, if the vacancy for a partisan elective office occurs on or after the first day of the regular filing period, then the election of the successor must occur at the next succeeding general election.