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SENATE BILL 5498

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Benton and Padden

Read first time 01/31/13. Referred to Committee on Governmental Operations.

1 AN ACT Relating to authorizing counties to establish and conduct  
2 polling place voting; amending RCW 29A.32.241 and 29A.40.010; adding a  
3 new section to chapter 29A.04 RCW; and adding a new chapter to Title  
4 29A RCW.

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

6 NEW SECTION. **Sec. 1.** The legislature intends to grant counties  
7 the option of establishing polling place voting and provide standards  
8 for conducting polling place voting.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 29A.04 RCW  
10 to read as follows:

11 "Polling place voting" means voting conducted at polling places for  
12 precincts.

13 NEW SECTION. **Sec. 3.** (1) A county may establish polling place  
14 voting in all or part of the county.

15 (2) Registered voters in the county may submit a petition to the  
16 county legislative authority proposing to establish polling place

1 voting in the county. The petition must include signatures of  
2 registered voters in the county equal to at least eight percent of the  
3 voters in the county who voted in the last gubernatorial election.

4 (3) The county legislative authority may adopt a resolution  
5 proposing to establish polling place voting in the county.

6 (4) The county legislative authority must conduct a public hearing  
7 on a petition or resolution proposing to establish polling place  
8 voting. Notice of the public hearing must be provided on the county's  
9 web site and published in a newspaper of general circulation in the  
10 county.

11 (5) After receiving public testimony, the county legislative  
12 authority may adopt an ordinance establishing polling place voting in  
13 the county.

14 NEW SECTION. **Sec. 4.** If a county legislative authority  
15 establishes polling place voting pursuant to section 3 of this act, the  
16 county elections officer must provide pertinent information regarding  
17 polling place voting procedure to county voters.

18 NEW SECTION. **Sec. 5.** (1) Polling places must be accessible to  
19 elderly and disabled persons.

20 (2) At any special election or primary, the county elections  
21 officer may combine, unite, or divide precincts when conducting the  
22 election. At any general election, the county elections officer must  
23 report all election returns by individual precinct.

24 (3) A polling place for a voting precinct may be located outside  
25 the boundaries of the precinct when the county elections officer deems  
26 it feasible. However, the polling place must be located within a  
27 reasonable distance of the voting precinct.

28 (4) At the request of the county elections officer, the county and  
29 cities, towns, and special purpose districts must make their facilities  
30 available for use as polling places. Payment for polling places and  
31 any other conditions or obligations may be provided by contract.

32 NEW SECTION. **Sec. 6.** A person may not interfere with a voter  
33 attempting to vote at a polling place. Interfering with a voter  
34 attempting to vote is a violation of RCW 29A.84.510.

1        NEW SECTION.    **Sec. 7.** Any voter may take into the voting booth or  
2 voting device any printed or written material to assist in casting his  
3 or her vote. A voter must not use this material to electioneer and  
4 must remove the material when he or she leaves the polling place.

5        NEW SECTION.    **Sec. 8.** At any election or primary, a political  
6 party may designate a person, other than a precinct election officer,  
7 for each polling place to check a list of registered voters of the  
8 precinct to determine who has and who has not voted. The county  
9 central committee chair of a political party may appoint election  
10 observers to observe elections at polling places.

11       NEW SECTION.    **Sec. 9.** Ballots may not be used in any polling place  
12 other than those prepared by the county elections officer. A voter is  
13 not entitled to vote more than once at a primary or election, except  
14 that if a voter incorrectly marks a ballot, he or she may return it and  
15 be issued a new ballot. Precinct election officers shall void  
16 incorrectly marked ballots and return them to the county elections  
17 officer.

18       NEW SECTION.    **Sec. 10.** Paper records produced by electronic voting  
19 devices are subject to all the requirements of this chapter and chapter  
20 29A.60 RCW for ballot handling, preservation, reconciliation, transit  
21 to the counting center, and storage. Paper records must be preserved  
22 in the same manner and for the same period as ballots.

23       NEW SECTION.    **Sec. 11.** (1) At the direction of the county  
24 elections officer, designated election officers must stop at designated  
25 polling places and pick up sealed containers of voted, untallied  
26 ballots for delivery to the counting center. Two precinct election  
27 officials must seal the voted ballots in containers furnished by the  
28 county elections officer and properly identified with uniquely  
29 prenumbered seals.

30       (2) At the counting center where sealed ballot containers are  
31 delivered, the county elections officer or a designated representative  
32 must receive the sealed ballot containers, record the time, date  
33 precinct name or number, and seal number of each ballot container.

1        NEW SECTION.    **Sec. 12.**    The county elections officer must provide  
2 in each polling place a sufficient number of voting booths or voting  
3 devices along with any supplies necessary to enable voters to mark or  
4 register their choices on ballots and cast their votes in secrecy.

5        NEW SECTION.    **Sec. 13.**    (1) At all primaries and elections in  
6 counties that have adopted polling place voting, polling places must be  
7 kept open continuously from seven o'clock a.m. to eight o'clock p.m.

8        (2) All qualified electors who are at polling places at eight  
9 o'clock p.m. shall be allowed to cast their votes.

10       (3) The precinct election officers, immediately before they start  
11 to issue ballots or permit a voter to vote, shall announce that the  
12 polling place for that precinct is open. At eight o'clock p.m., or at  
13 the time when all qualified electors at the polling place pursuant to  
14 subsection (2) of this section have voted, the precinct election  
15 officers shall announce that the polling place for that precinct is  
16 closed.

17       NEW SECTION.    **Sec. 14.**    A registered voter may not be allowed to  
18 vote in the precinct in which he or she is registered at any election  
19 or primary for which that voter has cast a mail ballot. A registered  
20 voter who has requested a mail ballot for a primary or election, but  
21 chooses to vote at the voter's precinct polling place in that primary  
22 or election, must cast a provisional ballot. The canvassing board must  
23 not count a provisional ballot if it finds that the voter has also  
24 voted by mail in that primary or election.

25       NEW SECTION.    **Sec. 15.**    No later than the day before a primary or  
26 election, the county elections officer must provide to precinct  
27 election officials at each polling place the following materials:

- 28        (1) Ballots;
- 29        (2) Precinct list of registered voters;
- 30        (3) Voting and registration instructions, printed in large type, to  
31 be conspicuously displayed at each polling place; and
- 32        (4) Accessible voting equipment.

33       NEW SECTION.    **Sec. 16.**    Precinct election officers for each

1 precinct must meet at designated polling places at the time set by the  
2 county elections officer.

3 NEW SECTION. **Sec. 17.** (1) Before opening the polling place for a  
4 precinct, the voting equipment must be inspected to determine if it has  
5 been properly prepared for voting. If the voting equipment is capable  
6 of direct tabulation of each voter's choices, the precinct election  
7 officers shall verify that no votes have been registered for any issue  
8 or office to be voted on at that primary or election. The precinct  
9 election officers must periodically examine the voting devices to  
10 determine that no one has tampered with the devices.

11 (2) Any ballot box must be carefully examined by election officers  
12 to determine that it is empty. The ballot box must then be sealed or  
13 locked. The ballot box must not be opened before the polling place is  
14 closed on the day of the primary or election.

15 NEW SECTION. **Sec. 18.** (1) A voter desiring to vote at a polling  
16 place shall give his or her name to a precinct election officer and  
17 provide identification. The identification may be a valid photo  
18 identification, such as a driver's license or state identification  
19 card, student identification card, or tribal identification card, a  
20 voter's voter identification issued by a county elections officer, or  
21 a copy of a current utility bill, bank statement, paycheck, or  
22 government check or other government document. A voter desiring to  
23 vote who cannot provide identification as required by this subsection  
24 shall be issued a provisional ballot.

25 (2) If the right of a voter to vote is not challenged, the voter  
26 must sign the precinct list of registered voters, and then be issued a  
27 ballot. The voter must then proceed, without leaving the polling  
28 place, to one of the voting booths or voting devices to cast his or her  
29 vote.

30 (3) As each voter casts his or her vote, the precinct election  
31 officer must insert in the precinct list of registered voters opposite  
32 that voter's name, a notation to credit the voter with having  
33 participated in that primary or election.

34 NEW SECTION. **Sec. 19.** At all primaries and elections the flag of

1 the United States must be conspicuously displayed in front of each  
2 polling place.

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

24 NEW SECTION. **Sec. 21.** (1) A person who votes in an election for  
25 federal office as a result of a federal or state court order or any  
26 other order extending the time for closing polling places may vote in  
27 that election only by casting a provisional ballot. As to court orders  
28 extending the time for closing polling places, this section does not  
29 apply to any voters who were present in the polling place at the  
30 statutory closing time and as a result are permitted to vote under  
31 section 13 of this act. This section does not, by itself, authorize  
32 any court to order that any individual be permitted to vote or to  
33 extend the time for closing polling places, but this section is  
34 intended to comply with 42 U.S.C. Sec. 15482(c) with regard to federal  
35 elections.

1 (2) Any ballot cast under subsection (1) of this section must be  
2 separated and held apart from other provisional ballots cast by those  
3 not affected by the order.

4 NEW SECTION. **Sec. 22.** (1) At each precinct immediately after the  
5 last qualified voter has cast his or her vote, the precinct election  
6 officers shall render unusable and secure in a container all unused  
7 ballots for that precinct and return them to the county elections  
8 officer.

9 (2) Immediately after the unused ballots are secure, the precinct  
10 election officers shall count the number of voted ballots and make a  
11 record, including any discrepancy, between this number and the number  
12 of voters who signed the precinct list of registered voters for that  
13 precinct or polling place, complete the certifications in the precinct  
14 list of registered voters, prepare the ballots for transfer to the  
15 counting center, and seal the voting devices.

16 NEW SECTION. **Sec. 23.** The precinct list of registered voters for  
17 each precinct or group of precincts delivered to the precinct election  
18 officers for use on the day of a primary or election held in that  
19 precinct shall be returned to the county elections officer upon the  
20 completion of the count of votes cast in the precinct at that primary  
21 or election. While in possession of the county elections officer, the  
22 precinct lists are open to public inspection as prescribed in  
23 regulations.

24 NEW SECTION. **Sec. 24.** In precincts where polling place counting  
25 devices are used, the election officers, before initializing the device  
26 for voting, must proceed as follows:

27 (1) They shall see that the device is placed where it can be  
28 conveniently attended by the election officers and operated by voters;

29 (2) They shall see whether the number or other designating mark on  
30 the device's seal agrees with the control number provided by the  
31 elections department. If they do not agree they shall at once notify  
32 the elections department and delay initializing the device. A polling  
33 place may be opened pending reexamination of the device;

34 (3) If the numbers do agree, they shall proceed to initialize the  
35 device and see whether the public counter register "000." If the

1 counter is found to register a number other than "000," one of the  
2 election officers must at once set the counter at "000" and confirm  
3 that the ballot box is empty;

4 (4) Before processing any ballots through a polling place ballot  
5 counting device, a zero report must be produced. Election officials  
6 must verify that no ballots have been run through the counting device  
7 and that all vote totals for each office are zero. If the totals are  
8 not zero, election officials must either reset the device to zero or  
9 contact the elections department to reset the device and allow voting  
10 to continue using the auxiliary or emergency device.

11 NEW SECTION. **Sec. 25.** Whenever polling place ballot counting  
12 devices are used, the devices may either be delivered with the supplies  
13 required in section 13 of this act, or be delivered separately to the  
14 polling place. All polling place ballot counting devices must be  
15 sealed with a unique numbered seal at the time of final preparation and  
16 logic and accuracy testing. A log must be made of all seal numbers and  
17 device numbers used.

18 NEW SECTION. **Sec. 26.** The programmed memory pack for each polling  
19 place ballot counting device must be sealed into the device during  
20 final preparation and logic and accuracy testing. Except in the case  
21 of a device breakdown, the memory pack must remain sealed in the device  
22 until after polling places have closed and all reports and telephonic  
23 or electronic transfer of results are completed. After all reporting  
24 is complete, the precinct election officers responsible for  
25 transferring the sealed voted ballots under RCW 29A.60.110 shall ensure  
26 that the memory pack is returned to the elections department. If the  
27 entire polling place ballot counting device is returned, the memory  
28 pack must remain sealed in the device. If the polling place ballot  
29 counting device is to remain at the polling place, the precinct  
30 election officer shall break the seal on the device and remove the  
31 memory pack and seal and return it along with the irregularly voted  
32 ballots and special ballots to the elections department on election  
33 day.

34 NEW SECTION. **Sec. 27.** Each polling place ballot counting device  
35 must be programmed to return all blank ballots and overvoted ballots to



1 the voter for private reexamination. The election officer shall take  
2 whatever steps are necessary to ensure that the secrecy of the ballot  
3 is maintained. The precinct election officer must provide information  
4 and instruction on how to properly mark the ballot. The voter may  
5 remark the original ballot, may request a new ballot, or may choose to  
6 complete a special ballot envelope and return the ballot as a special  
7 ballot.

8 NEW SECTION. **Sec. 28.** If a polling place ballot counting device  
9 fails to operate at any time during polling hours voting must continue  
10 and the ballots must be deposited for later tabulation in a secure  
11 ballot compartment separate from the tabulated ballots.

12 NEW SECTION. **Sec. 29.** A county may adopt regulations to implement  
13 this chapter.

14 **Sec. 30.** RCW 29A.32.241 and 2011 c 10 s 29 are each amended to  
15 read as follows:

16 The local voters' pamphlet shall include but not be limited to the  
17 following:

18 (1) Appearing on the cover, the words "official local voters'  
19 pamphlet," the name of the jurisdiction producing the pamphlet, and the  
20 date of the election or primary;

21 (2) A list of jurisdictions that have measures or candidates in the  
22 pamphlet;

23 (3) Information on how a person may register to vote and obtain a  
24 ballot or, if applicable, vote at polling places, pursuant to this act;

25 (4) The text of each measure accompanied by an explanatory  
26 statement prepared by the prosecuting attorney for any county measure  
27 or by the attorney for the jurisdiction submitting the measure if other  
28 than a county measure. All explanatory statements for city, town, or  
29 district measures not approved by the attorney for the jurisdiction  
30 submitting the measure shall be reviewed and approved by the county  
31 prosecuting attorney or city attorney, when applicable, before  
32 inclusion in the pamphlet;

33 (5) The arguments for and against each measure submitted by  
34 committees selected pursuant to RCW 29A.32.280; and

1 (6) For partisan primary elections, information on how to vote the  
2 applicable ballot format and an explanation that minor political party  
3 candidates and independent candidates will appear only on the general  
4 election ballot.

5 **Sec. 31.** RCW 29A.40.010 and 2011 c 10 s 35 are each amended to  
6 read as follows:

7 Each registered voter of the state, overseas voter, and service  
8 voter (~~shall~~) must automatically be issued a mail ballot for each  
9 general election, special election, or primary, unless the county in  
10 which the voter resides has established polling place voting and the  
11 voter has indicated that he or she will vote at a polling place.  
12 Overseas voters and service voters are authorized to cast the same  
13 ballots, including those for special elections, as a registered voter  
14 of the state would receive under this chapter. Each registered voter  
15 shall continue to receive a ballot by mail until the death or  
16 disqualification of the voter, cancellation of the voter's  
17 registration, or placing the voter on inactive status.

18 NEW SECTION. **Sec. 32.** Sections 1 and 3 through 29 of this act  
19 constitute a new chapter in Title 29A RCW.

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