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**SENATE BILL 5184**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Benton and Hasegawa

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

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

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

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

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

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

(2) Registered voters in the county may submit a petition to the county legislative authority proposing to establish polling place voting in the county. The petition must include signatures of registered voters in the county equal to at least eight percent of the voters in the county who voted in the last gubernatorial election.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Ballots;

(2) Precinct list of registered voters;

(3) Voting and registration instructions, printed in large type, to be conspicuously displayed at each polling place; and

(4) Accessible voting equipment.

NEW SECTION. **Sec.**  Precinct election officers for each precinct must meet at designated polling places at the time set by the county elections officer.

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

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

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

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

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

NEW SECTION. **Sec.**  At all primaries and elections the flag of the United States must be conspicuously displayed in front of each polling place.

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

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

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

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

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

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

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

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

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

(3) If the numbers do agree, they must proceed to initialize the device and see whether the public counter register "000." If the counter is found to register a number other than "000," one of the election officers must at once set the counter at "000" and confirm that the ballot box is empty;

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

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

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

NEW SECTION. **Sec.**  Each polling place ballot counting device must be programmed to return all blank ballots and overvoted ballots to the voter for private reexamination. The election officer must take whatever steps are necessary to ensure that the secrecy of the ballot is maintained. The precinct election officer must provide information and instruction on how to properly mark the ballot. The voter may remark the original ballot, may request a new ballot, or may choose to complete a special ballot envelope and return the ballot as a special ballot.

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

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

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

The local voters' pamphlet ((~~shall~~))must include but not be limited to the following:

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

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

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

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

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

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

**Sec.**  RCW 29A.40.010 and 2013 c 11 s 47 are each amended to read as follows:

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

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

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