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**SUBSTITUTE HOUSE BILL 1861**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** House State Government & Tribal Relations (originally sponsored by Representatives Mead, Appleton, and Pollet)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to improving ballot rejection rates while  
2 maintaining the integrity of elections; amending RCW 29A.60.110 and  
3 29A.60.125; adding a new section to chapter 29A.60 RCW; and creating  
4 a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that national data  
7 show that the state has had one of the worst ballot rejection rates  
8 in the nation for at least ten years. In addition, the legislature  
9 finds that there is an unacceptable variance in the rate among the  
10 counties in the state. Reducing both the variability and the state  
11 rejection rate will help protect an individual's right to vote while  
12 preserving the integrity of our elections. Therefore, the legislature  
13 intends to direct the state auditor to conduct a performance audit of  
14 election ballot rejection rates in Washington to determine best  
15 election administration practices that will reduce the variability  
16 between counties and improve the state's ballot rejection rate.

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

19 (1) By December 1st of every year, the secretary of state shall  
20 determine and announce the statewide rejected ballot rate mean based

1 on all elections in the state for that year in which more than ten  
2 votes were cast. The secretary of state shall rank each county from  
3 highest to lowest by ballot rejection rate and announce the counties  
4 that are above the statewide mean.

5 (2) Using data from the 2020 state general election, the state  
6 auditor must conduct an audit to:

7 (a) Review each county's procedures for identifying, correcting  
8 if appropriate, and reviewing and rejecting questionable ballots;

9 (b) Examine the accuracy of the ballot rejections;

10 (c) Compare each county's practices with requirements of the law  
11 and with best practices;

12 (d) Identify any trends in rejected ballots, including the  
13 demographics of the voters whose ballots were rejected; and

14 (e) Make recommendations about process or procedure to reduce the  
15 rate of rejected ballots while protecting broad access to the ballot.

16 (3) By December 31, 2021, the state auditor shall analyze the  
17 ballot rejection rates in the 2020 general election and shall make  
18 recommendations to lower rejection rates. By December 31, 2021, the  
19 state auditor shall submit the report to the appropriate committees  
20 of the legislature and make the report available on its web site.

21 **Sec. 3.** RCW 29A.60.110 and 2018 c 218 s 4 are each amended to  
22 read as follows:

23 (1) Immediately after their tabulation, all ballots counted at a  
24 ballot counting center must be sealed in containers that identify the  
25 primary or election and be retained for at least sixty days or  
26 according to federal law, whichever is longer.

27 (2) In the presence of major party observers who are available,  
28 ballots may be removed from the sealed containers at the elections  
29 department and consolidated into one sealed container for storage  
30 purposes. The containers may only be opened by the canvassing board  
31 as part of the canvass, to conduct recounts, to conduct a random  
32 check under RCW 29A.60.170, to conduct an audit under RCW 29A.60.185,  
33 to allow the state auditor to conduct an audit under section 2 of  
34 this act, or by order of the superior court in a contest or election  
35 dispute. If the canvassing board opens a ballot container, it shall  
36 make a full record of the additional tabulation or examination made  
37 of the ballots. This record must be added to any other record of the  
38 canvassing process in that county.

1       **Sec. 4.** RCW 29A.60.125 and 2018 c 218 s 8 are each amended to  
2 read as follows:

3       If inspection of the ballot reveals a physically damaged ballot  
4 or ballot that may be otherwise unreadable or uncountable by the  
5 tabulating system, the county auditor may refer the ballot to the  
6 county canvassing board or duplicate the ballot if so authorized by  
7 the county canvassing board. The voter's original ballot may not be  
8 altered. A ballot may be duplicated only if the intent of the voter's  
9 marks on the ballot is clear and the electronic voting equipment  
10 might not otherwise properly tally the ballot to reflect the intent  
11 of the voter. Ballots must be duplicated by teams of two or more  
12 people working together. When duplicating ballots, the county auditor  
13 shall take the following steps to create and maintain an audit trail  
14 of the action taken:

15       (1) Each original ballot and duplicate ballot must be assigned  
16 the same unique control number, with the number being marked upon the  
17 face of each ballot, to ensure that each duplicate ballot may be tied  
18 back to the original ballot;

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

21       (a) The control number of each original ballot and the  
22 corresponding duplicate ballot;

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

25       (c) The total number of ballots duplicated.

26       Original and duplicate ballots must be sealed in secure storage  
27 at all times, except during duplication, inspection by the canvassing  
28 board, tabulation, or to conduct an audit under RCW 29A.60.185 or to  
29 allow the state auditor to conduct an audit under section 2 of this  
30 act.

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