
HOUSE BILL 2111

State of Washington

66th Legislature

2019 Regular Session

By Representatives Boehnke, Tarleton, Hoff, Wylie, Smith, Shea, and Van Werven; by request of Secretary of State

Read first time 02/22/19. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to enhancing cybersecurity by eliminating the
2 return of ballots by fax and email; amending RCW 29A.40.091 and
3 29A.60.235; reenacting and amending RCW 29A.40.110; and creating a
4 new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) The threat to election security posed by cyber criminals
8 wishing to impair the election process is continually growing. The
9 secretary of state and election officials are committed to secure
10 elections. In order to maintain secure elections, election
11 administrators work with multiple national and state security
12 partners. The secretary of state and local election officials have
13 been alerted to evidence of ongoing illegal attempts to gain access
14 to, and interfere with, electronic systems used during an election.
15 While none of these attempts were successful, security experts have
16 recently advised Washington elections officials to take steps to
17 reduce opportunities for bad actors to attempt to interfere with
18 Washington elections through electronic means.

19 (2) This act addresses cybersecurity attacks and reduces
20 vulnerability and the risk of election tampering. This is
21 accomplished by eliminating email and fax submission of ballots. The

1 existing electronic ballot return process for overseas and service
2 voters required submission of many types of computer files, from many
3 unsecured locations, introducing the potential for spear-phishing
4 attacks, malware, viruses, denial of service, and other cyber attacks
5 on the election system. The secretary of state maintains a commitment
6 to the ongoing process of ensuring maximum access to the vote for
7 overseas and service voters working with national, state, and local
8 election officials.

9 **Sec. 2.** RCW 29A.40.091 and 2016 c 83 s 3 are each amended to
10 read as follows:

11 (1) The county auditor shall send each voter a ballot, a security
12 envelope in which to conceal the ballot after voting, a larger
13 envelope in which to return the security envelope, a declaration that
14 the voter must sign, and instructions on how to obtain information
15 about the election, how to mark the ballot, and how to return the
16 ballot to the county auditor.

17 (2) The voter must swear under penalty of perjury that he or she
18 meets the qualifications to vote, and has not voted in any other
19 jurisdiction at this election. The declaration must clearly inform
20 the voter that it is illegal to vote if he or she is not a United
21 States citizen; it is illegal to vote if he or she has been convicted
22 of a felony and has not had his or her voting rights restored; and it
23 is illegal to cast a ballot or sign a ballot declaration on behalf of
24 another voter. The ballot materials must provide space for the voter
25 to sign the declaration, indicate the date on which the ballot was
26 voted, and include a telephone number.

27 (3) For overseas and service voters, the signed declaration
28 constitutes the equivalent of a voter registration. Return envelopes
29 for overseas and service voters must enable the ballot to be returned
30 postage free if mailed through the United States postal service,
31 United States armed forces postal service, or the postal service of a
32 United States foreign embassy under 39 U.S.C. 3406.

33 (4) The voter must be instructed to either return the ballot to
34 the county auditor no later than 8:00 p.m. the day of the election or
35 primary, or mail the ballot to the county auditor with a postmark no
36 later than the day of the election or primary. (~~Service and overseas~~
37 ~~voters must be provided with instructions and a privacy sheet for~~
38 ~~returning the ballot and signed declaration by fax or email. A voted~~

1 ~~ballot and signed declaration returned by fax or email must be~~
2 ~~received by 8:00 p.m. on the day of the election or primary.))~~

3 (5) The county auditor's name may not appear on the security
4 envelope, the return envelope, or on any voting instructions or
5 materials included with the ballot if he or she is a candidate for
6 office during the same year.

7 **Sec. 3.** RCW 29A.40.110 and 2011 c 349 s 18, 2011 c 348 s 4, and
8 2011 c 10 s 41 are each amended to read as follows:

9 (1) The opening and subsequent processing of return envelopes for
10 any primary or election may begin upon receipt. The tabulation of
11 absentee ballots must not commence until after 8:00 p.m. on the day
12 of the primary or election.

13 (2) All received return envelopes must be placed in secure
14 locations from the time of delivery to the county auditor until their
15 subsequent opening. After opening the return envelopes, the county
16 canvassing board shall place all of the ballots in secure storage
17 until processing. Ballots may be taken from the inner envelopes and
18 all the normal procedural steps may be performed to prepare these
19 ballots for tabulation.

20 (3) The canvassing board, or its designated representatives,
21 shall examine the postmark on the return envelope and signature on
22 the declaration before processing the ballot. The ballot must either
23 be received no later than 8:00 p.m. on the day of the primary or
24 election, or must be postmarked no later than the day of the primary
25 or election. All personnel assigned to verify signatures must receive
26 training on statewide standards for signature verification. Personnel
27 shall verify that the voter's signature on the ballot declaration is
28 the same as the signature of that voter in the registration files of
29 the county. Verification may be conducted by an automated
30 verification system approved by the secretary of state. A variation
31 between the signature of the voter on the ballot declaration and the
32 signature of that voter in the registration files due to the
33 substitution of initials or the use of common nicknames is permitted
34 so long as the surname and handwriting are clearly the same.

35 (4) If the postmark is missing or illegible, the date on the
36 ballot declaration to which the voter has attested determines the
37 validity, as to the time of voting, for that ballot. For overseas
38 voters and service voters, the date on the declaration to which the
39 voter has attested determines the validity, as to the time of voting,

1 for that ballot. (~~Any overseas voter or service voter may return the~~
2 ~~signed declaration and voted ballot by fax or email by 8:00 p.m. on~~
3 ~~the day of the primary or election, and the county auditor must use~~
4 ~~established procedures to maintain the secrecy of the ballot.~~)

5 **Sec. 4.** RCW 29A.60.235 and 2018 c 218 s 9 are each amended to
6 read as follows:

7 (1) The county auditor shall prepare at the time of certification
8 an election reconciliation report that discloses the following
9 information:

- 10 (a) The number of registered voters;
- 11 (b) The number of ballots issued;
- 12 (c) The number of ballots received;
- 13 (d) The number of ballots counted;
- 14 (e) The number of ballots rejected;
- 15 (f) The number of provisional ballots issued;
- 16 (g) The number of provisional ballots received;
- 17 (h) The number of provisional ballots counted;
- 18 (i) The number of provisional ballots rejected;
- 19 (j) The number of federal write-in ballots received;
- 20 (k) The number of federal write-in ballots counted;
- 21 (l) The number of federal write-in ballots rejected;
- 22 (m) The number of overseas and service ballots issued by mail,
23 email, web site link, or facsimile;
- 24 (n) The number of overseas and service ballots received (~~by~~
25 ~~mail, email, or facsimile~~);
- 26 (o) The number of overseas and service ballots counted (~~by mail,~~
27 ~~email, or facsimile~~);
- 28 (p) The number of overseas and service ballots rejected (~~by~~
29 ~~mail, email, or facsimile~~);
- 30 (q) The number of nonoverseas and nonservice ballots sent by
31 email, web site link, or facsimile;
- 32 (r) (~~The number of nonoverseas and nonservice ballots received~~
33 ~~by email or facsimile;~~
34 ~~(s)~~) The number of nonoverseas and nonservice ballots that were
35 rejected for(~~(~~
36 ~~(i) Failing to send an original or hard copy of the ballot by the~~
37 ~~certification deadline; or~~
38 ~~(ii)) any ((~~other~~)) reason, including the reason for rejection;~~
39 ~~((~~t~~)) (s) The number of voters credited with voting;~~

1 (~~(u)~~) (t) The number of replacement ballots requested;
2 (~~(v)~~) (u) The number of replacement ballots issued;
3 (~~(w)~~) (v) The number of replacement ballots received;
4 (~~(x)~~) (w) The number of replacement ballots counted;
5 (~~(y)~~) (x) The number of replacement ballots rejected; and
6 (~~(z)~~) (y) Any other information the auditor or secretary of
7 state deems necessary to reconcile the number of ballots counted with
8 the number of voters credited with voting, and to maintain an audit
9 trail.

10 (2) The county auditor must make the report available to the
11 public at the auditor's office and must publish the report on the
12 auditor's web site at the time of certification. The county auditor
13 must submit the report to the secretary of state at the time of
14 certification in any form determined by the secretary of state.

15 (3) (a) The secretary of state must collect the reconciliation
16 reports from each county auditor and prepare a statewide
17 reconciliation report for each state primary and general election.
18 The report may be produced in a form determined by the secretary that
19 includes the information as described in this subsection (3). The
20 report must be prepared and published on the secretary of state's web
21 site within two months after the last county's election results have
22 been certified.

23 (b) The state report must include a comparison among counties on
24 rates of votes received, counted, and rejected, including
25 provisional, write-in, and overseas ballots(~~(, and ballots~~
26 ~~transmitted electronically)~~). The comparison information may be in
27 the form of rankings, percentages, or other relevant quantifiable
28 data that can be used to measure performance and trends.

29 (c) The state report must also include an analysis of the data
30 that can be used to develop a better understanding of election
31 administration and policy. The analysis must combine data, as
32 available, over multiple years to provide broader comparisons and
33 trends regarding voter registration and turnout and ballot counting.
34 The analysis must incorporate national election statistics to the
35 extent such information is available.

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