
HOUSE BILL 2822

State of Washington

66th Legislature

2020 Regular Session

By Representatives Walsh, Shea, Goehner, and Chambers

Read first time 01/23/20. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to requiring that witnesses to voter signature
2 marks on ballot declarations be verified registered voters; amending
3 RCW 29A.40.091, 29A.40.160, and 29A.60.165; and reenacting and
4 amending RCW 29A.40.110.

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

6 **Sec. 1.** RCW 29A.40.091 and 2019 c 161 s 3 are each amended to
7 read as follows:

8 (1) The county auditor shall send each voter a ballot, a security
9 envelope in which to conceal the ballot after voting, a larger
10 envelope in which to return the security envelope, a declaration that
11 the voter must sign, a witness declaration, and instructions on how
12 to obtain information about the election, how to mark the ballot,
13 ((and)) how to return the ballot to the county auditor, and how the
14 voter may sign the declaration by making a mark, witnessed by two
15 registered voters, if the voter is unable to write their signature.
16 The two witnesses shall sign the witness declaration and provide the
17 information described under subsection (2) of this section, attest to
18 the validity of the voter's signature mark, and declare under penalty
19 of perjury that they have personally observed the voter making their
20 signature mark on the ballot declaration.

1 (2) (a) The voter must swear under penalty of perjury that he or
2 she meets the qualifications to vote, and has not voted in any other
3 jurisdiction at this election. The declaration must clearly inform
4 the voter that it is illegal to vote if he or she is not a United
5 States citizen; it is illegal to vote if he or she has been convicted
6 of a felony and has not had his or her voting rights restored; and it
7 is illegal to cast a ballot or sign a ballot declaration on behalf of
8 another voter. The ballot materials must provide space for the voter
9 to sign the declaration, indicate the date on which the ballot was
10 voted, and include a telephone number.

11 (b) The ballot materials must also include space for a witness
12 declaration where each witness described in subsection (1) of this
13 section shall:

14 (i) Sign the witness declaration that states that the witness is
15 a registered voter, attests to the validity of the voter's signature
16 mark, and declares under penalty of perjury that he or she has
17 personally observed the voter making his or her signature mark on the
18 ballot declaration;

19 (ii) Print his or her full name;

20 (iii) Include his or her telephone number; and

21 (iv) Print the date on which he or she signed the witness
22 declaration.

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

29 (4) The voter must be instructed to either return the ballot to
30 the county auditor no later than 8:00 p.m. the day of the election or
31 primary, or mail the ballot to the county auditor with a postmark no
32 later than the day of the election or primary. Return envelopes for
33 all election ballots must include prepaid postage. Service and
34 overseas voters must be provided with instructions and a privacy
35 sheet for returning the ballot and signed declaration by fax or
36 email. A voted ballot and signed declaration returned by fax or email
37 must be received by 8:00 p.m. on the day of the election or primary.

38 (5) The county auditor's name may not appear on the security
39 envelope, the return envelope, or on any voting instructions or

1 materials included with the ballot if he or she is a candidate for
2 office during the same year.

3 (6) For purposes of this section, "prepaid postage" means any
4 method of return postage paid by the county or state.

5 **Sec. 2.** RCW 29A.40.110 and 2011 c 349 s 18, 2011 c 348 s 4, and
6 2011 c 10 s 41 are each reenacted and amended to read as follows:

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

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

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

33 (b) If the voter signs the ballot declaration with a mark, the
34 mark must be accompanied by the witness declaration described under
35 RCW 29A.40.091. The canvassing board, or its designated
36 representatives, shall verify that the names of the two witnesses
37 appear in the voter registration database as registered voters before
38 processing the ballot. If the mark is not accompanied by a witness
39 declaration or the names do not appear in the voter registration

1 database as registered voters, the county auditor shall process the
2 ballot in the same manner as an unsigned ballot in accordance with
3 RCW 29A.60.165.

4 (4) If the postmark is missing or illegible, the date on the
5 ballot declaration to which the voter has attested determines the
6 validity, as to the time of voting, for that ballot. For overseas
7 voters and service voters, the date on the declaration to which the
8 voter has attested determines the validity, as to the time of voting,
9 for that ballot. Any overseas voter or service voter may return the
10 signed declaration and voted ballot by fax or email by 8:00 p.m. on
11 the day of the primary or election, and the county auditor must use
12 established procedures to maintain the secrecy of the ballot.

13 **Sec. 3.** RCW 29A.40.160 and 2019 c 6 s 6 are each amended to read
14 as follows:

15 (1) Each county auditor shall open a voting center each primary,
16 special election, and general election. The voting center shall be
17 open during business hours during the voting period, which begins
18 eighteen days before, and ends at 8:00 p.m. on the day of, the
19 primary, special election, or general election.

20 (2) Each county auditor shall register voters in person at each
21 of the following locations in the county:

22 (a) At the county auditor's office;

23 (b) At the division of elections, if located in a separate city
24 from the county auditor's office; and

25 (c) For each presidential general election, at a voting center in
26 each city in the county with a population of one hundred thousand or
27 greater, which does not have a voting center as required in (a) or
28 (b) of this subsection. A voting center opened pursuant to this
29 subsection (2) is not required to be open on the Sunday before the
30 presidential election.

31 (3) Voting centers shall be located in public buildings or
32 buildings that are leased by a public entity including, but not
33 limited to, libraries.

34 (4) Each voting center, and at least one of the other locations
35 designated by the county auditor to allow voters to register in
36 person pursuant to RCW 29A.08.140(1)(b), must provide voter
37 registration materials, ballots, provisional ballots, disability
38 access voting units, sample ballots, instructions on how to properly

1 vote the ballot, a ballot drop box, and voters' pamphlets, if a
2 voters' pamphlet has been published.

3 (5) Each voting center must be accessible to persons with
4 disabilities. Each state agency and entity of local government shall
5 permit the use of any of its accessible facilities as voting centers
6 when requested by a county auditor.

7 (6) Each voting center must provide at least one voting unit
8 certified by the secretary of state that provides access to
9 individuals who are blind or visually impaired, enabling them to vote
10 with privacy and independence.

11 (7) No person may interfere with a voter attempting to vote in a
12 voting center. Interfering with a voter attempting to vote is a
13 violation of RCW 29A.84.510.

14 (8) Before opening the voting center, the voting equipment shall
15 be inspected to determine if it has been properly prepared for
16 voting. If the voting equipment is capable of direct tabulation of
17 each voter's choices, the county auditor shall verify that no votes
18 have been registered for any issue or office, and that the device has
19 been sealed with a unique numbered seal at the time of final
20 preparation and logic and accuracy testing. A log must be made of all
21 device numbers and seal numbers.

22 (9) The county auditor shall require any person desiring to vote
23 at a voting center to either sign a ballot declaration or provide
24 identification.

25 (a) The signature on the declaration must be compared to the
26 signature on the voter registration record before the ballot may be
27 counted. If the voter registered using a mark, or can no longer sign
28 his or her name, the election officers shall require the voter to be
29 identified by (~~another~~) two verified registered (~~voter~~) voters.

30 (b) The identification must be valid photo identification, such
31 as a driver's license, state identification card, student
32 identification card, tribal identification card, or employer
33 identification card. A tribal identification card is not required to
34 include a residential address or an expiration date to be considered
35 valid under this section. Any individual who desires to vote in
36 person but cannot provide identification shall be issued a
37 provisional ballot, which shall be accepted if the signature on the
38 declaration matches the signature on the voter's registration record.

39 (10) Provisional ballots must be accompanied by a declaration and
40 security envelope, as required by RCW 29A.40.091, and space for the

1 voter's name, date of birth, current and former registered address,
2 reason for the provisional ballot, and disposition of the provisional
3 ballot. The voter shall vote and return the provisional ballot at the
4 voting center. The voter must be provided information on how to
5 ascertain whether the provisional ballot was counted and, if
6 applicable, the reason why the vote was not counted.

7 (11) Any voter may take printed or written material into the
8 voting device to assist in casting his or her vote. The voter shall
9 not use this material to electioneer and shall remove it when he or
10 she leaves the voting center.

11 (12) If any voter states that he or she is unable to cast his or
12 her votes due to a disability, the voter may designate a person of
13 his or her choice, or two election officers, to enter the voting
14 booth and record the votes as he or she directs.

15 (13) No voter is entitled to vote more than once at a primary,
16 special election, or general election. If a voter incorrectly marks a
17 ballot, he or she may be issued a replacement ballot.

18 (14) A voter who has already returned a ballot but requests to
19 vote at a voting center shall be issued a provisional ballot. The
20 canvassing board shall not count the provisional ballot if it finds
21 that the voter has also voted a regular ballot in that primary,
22 special election, or general election.

23 (15) Any voter who is inside or in line at the voting center at
24 8:00 p.m. on the day of the primary, special election, or general
25 election must be allowed to vote.

26 (16) For each primary, special election, and general election,
27 the county auditor may provide election services at locations in
28 addition to the voting center. The county auditor has discretion to
29 establish which services will be provided at the additional
30 locations, and which days and hours the locations will be open.

31 **Sec. 4.** RCW 29A.60.165 and 2019 c 167 s 1 are each amended to
32 read as follows:

33 (1) If the voter neglects to sign the ballot declaration, the
34 auditor shall notify the voter by first-class mail and advise the
35 voter of the correct procedures for completing the unsigned
36 declaration. If the ballot is received within three business days of
37 the final meeting of the canvassing board, or the voter has been
38 notified by first-class mail and has not responded at least three
39 business days before the final meeting of the canvassing board, then

1 the auditor shall attempt to notify the voter by telephone, using the
2 voter registration record information.

3 (2) (a) If the handwriting of the signature on a ballot
4 declaration is not the same as the handwriting of the signature on
5 the registration file, the auditor shall notify the voter by first-
6 class mail, enclosing a copy of the declaration, and advise the voter
7 of the correct procedures for updating his or her signature on the
8 voter registration file. If the ballot is received within three
9 business days of the final meeting of the canvassing board, or the
10 voter has been notified by first-class mail and has not responded at
11 least three business days before the final meeting of the canvassing
12 board, then the auditor shall attempt to notify the voter by
13 telephone, using the voter registration record information.

14 (b) If the signature on a ballot declaration is not the same as
15 the signature on the registration file because the name is different,
16 the ballot may be counted as long as the handwriting is clearly the
17 same. The auditor shall send the voter a change-of-name form under
18 RCW 29A.08.440 and direct the voter to complete the form.

19 (c) If the signature on a ballot declaration is not the same as
20 the signature on the registration file because the voter used
21 initials or a common nickname, the ballot may be counted as long as
22 the surname and handwriting are clearly the same.

23 (d) If the voter is unable to write their signature and signs
24 using a mark, the ballot may be counted as long as the mark is
25 accompanied by the witness declaration described under RCW 29A.40.091
26 and the witness signatures are verified in accordance with RCW
27 29A.40.110. If the mark is not accompanied by the witness
28 declaration, or the witness signatures cannot be verified, the county
29 auditor shall process the ballot in the same manner as an unsigned
30 ballot pursuant to subsection (1) of this section.

31 (3) A voter may not cure a missing or mismatched signature for
32 purposes of counting the ballot in a recount.

33 (4) A record must be kept of all ballots with missing and
34 mismatched signatures. The record must contain the date on which the
35 voter was contacted or the notice was mailed, as well as the date on
36 which the voter submitted updated information. The record must be
37 updated each day that ballots are processed under RCW 29A.60.160,
38 each time a voter was contacted or the notice was mailed, and when
39 the voter submitted updated information. The auditor shall send the
40 record, and any updated records, to the secretary of state no later

1 than forty-eight hours after the record is created or updated. The
2 secretary of state shall make all records publicly available no later
3 than twenty-four hours after receiving the record.

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