HOUSE BILL 1828

State of Washington   **67th Legislature**   **2022 Regular Session**

By Representatives Sutherland, McEntire, Chase, McCaslin, and Young

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1   AN ACT Relating to requiring quick response codes on ballots;
2 amending RCW 29A.36.111, 29A.40.091, and 29A.12.005; and reenacting
3 and amending RCW 29A.40.110.

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

5   **Sec. 1.** RCW 29A.36.111 and 2009 c 414 s 1 are each amended to
6 read as follows:
7   (1) Every ballot for a single combination of issues, offices, and
8 candidates shall be uniform within a precinct and shall identify the
9 type of primary or election, the county, and the date of the primary
10 or election, and the ballot or voting device shall contain
11 instructions on the proper method of recording a vote, including
12 write-in votes, and how to access the status and image of their voted
13 ballot using the quick response code and access code provided in
14 accordance with subsection (2) of this section. Each position,
15 together with the names of the candidates for that office, shall be
16 clearly separated from other offices or positions in the same
17 jurisdiction. The offices in each jurisdiction shall be clearly
18 separated from each other. No paper ballot or ballot card may be
19 marked by or at the direction of an election official in any way that
20 would permit the identification of the person who voted that ballot.

1   (2) Each ballot must contain two identical quick response codes,
2   one located near the instructions required under subsection (1) of
3   this section and one located on a portion of the ballot that can be
4   physically separated without damaging or compromising the readability
5   of the ballot and retained by the voter. The quick response code must
6   be unique to the ballot and accompanied by an access code which the
7   voter will use to access information about the voter's ballot. The
8   quick response code must link to a website where the voter can, with
9   the access code provided, view the image of their voted ballot and
10 whether the ballot has been received and counted. The quick response
11 code may not be linked to any personally identifiable information of
12 a voter. A person who votes on a voting device must be provided with
13 a quick response code and access code that allows the voter to access
14 the image of their selections and whether their votes have been
15 counted.

16   (3) An ((elections [election])) election official may not enter
17 into or extend any contract with a vendor if such contract may allow
18 the vendor to acquire an ownership interest in any data pertaining to
19 any voter, any voter's address, registration number, or history, or
20 any ballot.

21   Sec. 2.   RCW 29A.40.091 and 2021 c 10 s 3 are each amended to
22 read as follows:
23   (1) The county auditor shall send each voter a ballot, a security
24 envelope in which to conceal the ballot after voting, a larger
25 envelope in which to return the security envelope, a declaration that
26 the voter must sign, and instructions on how to obtain information
27 about the election, how to mark the ballot, ((and)) how to return the
28 ballot to the county auditor, and how to access the status and image
29 of their voted ballot using the quick response code and access code
30 provided in accordance with section 1 of this act. The calendar date
31 of the election must be prominently displayed in bold type, twenty-
32 point font or larger, on the envelope sent to the voter containing
33 the ballot and other materials listed in this subsection:
34   (a) For all general elections in 2020 and after;
35   (b) For all primary elections in 2021 and after; and
36   (c) For all elections in 2022 and after.
37   (2) The voter must swear under penalty of perjury that he or she
38 meets the qualifications to vote, and has not voted in any other
39 jurisdiction at this election. The declaration must clearly inform

the voter that it is illegal to vote if he or she is not a United
States citizen; it is illegal to vote if he or she is serving a
sentence of total confinement under the jurisdiction of the
department of corrections for a felony conviction or is currently
incarcerated for a federal or out-of-state felony conviction; and it
is illegal to cast a ballot or sign a ballot declaration on behalf of
another voter. The ballot materials must provide space for the voter
to sign the declaration, indicate the date on which the ballot was
voted, and include a telephone number.

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

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

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

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

Sec. 3. RCW 29A.40.110 and 2011 c 349 s 18, 2011 c 348 s 4, and
2011 c 10 s 41 are each reenacted and amended to read as follows:
(1) The opening and subsequent processing of return envelopes for
any primary or election may begin upon receipt. The tabulation of
absentee ballots must not commence until after 8:00 p.m. on the day
of the primary or election.

(2) All received return envelopes must be placed in secure
locations from the time of delivery to the county auditor until their
subsequent opening. After opening the return envelopes, the county

canvassing board shall place all of the ballots in secure storage
until processing. Ballots may be taken from the inner envelopes and
all the normal procedural steps may be performed to prepare these
ballots for tabulation. Upon receipt of the ballot and throughout the
canvassing process, the quick response code on each ballot must be
scanned to provide the voter with information about whether the
voter's ballot has been received and counted and an image of the
voter's voted ballot.

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

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

Sec. 4. RCW 29A.12.005 and 2018 c 218 s 5 are each amended to
read as follows:
As used in this chapter, "voting system" means:
(1) The total combination of mechanical, electromechanical, or
electronic equipment including, but not limited to, the software,
firmware, and documentation required to program, control, and support
the equipment, that is used:

1   (a) To define ballots;

2   (b) To cast and count votes;

3   (c) To report or display election results from the voting system;

4   (d) To maintain and produce any audit trail information; ((and))

5   (e) To perform an audit under RCW 29A.60.185; and

6   (f) By election officials to produce, program, or otherwise

7 provide for quick response codes required under section 1 of this

8 act, or to process quick response codes in accordance with RCW

9 29A.40.110(2); and

10   (2) The practices and associated documentation used:

11   (a) To identify system components and versions of such

12 components;

13   (b) To test the system during its development and maintenance;

14   (c) To maintain records of system errors and defects;

15   (d) To determine specific system changes to be made to a system

16 after the initial qualification of the system; and

17   (e) To make available any materials to the voter such as notices,

18 instructions, forms, or paper ballots.

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