

2 **SHB 2319** - S COMM AMD
3 By Committee on Ways & Means

4 ADOPTED AS AMENDED 3/6/92

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 43.07 RCW
8 to read as follows:

9 The secretary of state shall establish a division of elections
10 within the office of the secretary of state and under the secretary's
11 supervision. The division shall be under the immediate supervision of
12 a director of elections who shall be appointed by the secretary of
13 state and serve at the secretary's pleasure."

14 "NEW SECTION. **Sec. 2.** A new section is added to chapter 43.07 RCW
15 to read as follows:

16 The secretary of state, through the division of elections, is
17 responsible for the following duties, as prescribed by Title 29 RCW:

18 (1) The filing, verification of signatures, and certification of
19 state initiative, referendum, and recall petitions;

20 (2) The production and distribution of a state voters' and
21 candidates' pamphlet;

22 (3) The examination, testing, and certification of voting
23 equipment, voting devices, and vote-tallying systems;

24 (4) The administration, canvassing, and certification of the
25 presidential primary, state primaries, and state general elections;

26 (5) The administration of motor voter and other voter registration
27 and voter outreach programs;

1 (6) The training, testing, and certification of state and local
2 elections personnel as established in section 5 of this act;

3 (7) The training of state and local party observers required by
4 section 6 of this act;

5 (8) The conduct of postelection reviews as established in section
6 9 of this act; and

7 (9) Other duties that may be prescribed by the legislature."

8 "NEW SECTION. Sec. 3. (1) The Washington state election
9 administration and certification board is established and has the
10 responsibilities and authorities prescribed by this chapter. The board
11 is composed of the following members:

12 (a) The secretary of state or the secretary's designee;

13 (b) The state director of elections or the director's designee;

14 (c) Four county auditors appointed by the Washington state
15 association of county auditors or their alternates who are county
16 auditors designated by the association to serve as such alternates,
17 each appointee and alternate to serve at the pleasure of the
18 association;

19 (d) One member from each of the two largest political party
20 caucuses of the house of representatives designated by and serving at
21 the pleasure of the legislative leader of the respective caucus;

22 (e) One member from each of the two largest political party
23 caucuses of the senate designated by and serving at the pleasure of the
24 legislative leader of the respective caucus; and

25 (f) One representative from each major political party, as defined
26 by RCW 29.01.090, designated by and serving at the pleasure of the
27 chair of the party's state central committee.

28 (2) The board shall elect a chair from among its number; however,
29 neither the secretary of state nor the state director of elections nor

1 their designees may serve as the chair of the board. A majority of the
2 members appointed to the board constitutes a quorum for conducting the
3 business of the board. Chapter 42.30 RCW, the open public meetings
4 act, and RCW 42.32.030 regarding minutes of meetings, apply to the
5 meetings of the board.

6 (3) Members of the board shall serve without compensation. The
7 secretary of state shall reimburse members of the board, other than
8 those who are members of the legislature, for travel expenses in
9 accordance with RCW 43.03.050 and 43.03.060. Members of the board who
10 are members of the legislature shall be reimbursed as provided in
11 chapter 44.04 RCW."

12 "NEW SECTION. Sec. 4. (1) The secretary of state and the board
13 created in section 3 of this act shall jointly adopt rules, in the
14 manner specified for the adoption of rules under the administrative
15 procedure act, chapter 34.05 RCW, governing:

16 (a) The training of persons officially designated by major
17 political parties as elections observers under this title, and the
18 training and certification of election administration officials and
19 personnel;

20 (b) The policies and procedures for conducting election reviews
21 under section 9 of this act; and

22 (c) The policies and standards to be used by the board in reviewing
23 and rendering decisions regarding appeals filed under section 9 of this
24 act.

25 The initial policies and standards adopted under (c) of this
26 subsection shall be adopted concurrently with adoption of the initial
27 policies and procedures adopted under (b) of this subsection.

28 (2) The board created in section 3 of this act shall review appeals
29 filed under section 7 or 9 of this act. A decision of the board

1 regarding such an appeal shall be supported by not less than a majority
2 of the members appointed to the board. A decision of the board
3 regarding an appeal filed under section 9 of this act concerning an
4 election review conducted under that section is final. If a decision
5 of the board regarding an appeal filed under section 7 of this act
6 includes a recommendation that a certificate be issued, the certificate
7 shall be issued by the secretary of state as recommended by the board.

8 (3) The board created in section 3 of this act may adopt rules
9 governing its procedures."

10 "NEW SECTION. Sec. 5. The secretary of state shall:

11 (1) Establish and operate, or provide by contract, training and
12 certification programs for state and county elections administration
13 officials and personnel and training programs for political party
14 observers which conform to the rules for such programs established
15 under section 4 of this act;

16 (2) Administer tests for state and county officials and personnel
17 who have received such training and issue certificates to those who
18 have successfully completed the training and passed such tests;

19 (3) Maintain a record of those individuals who have received such
20 training and certificates; and

21 (4) Provide the staffing and support services required by the board
22 created under section 3 of this act."

23 "NEW SECTION. Sec. 6. A person having responsibility for the
24 administration or conduct of elections, other than precinct election
25 officers, shall, within eighteen months of undertaking those
26 responsibilities or within eighteen months of the effective date of
27 this section, whichever is later, receive general training regarding
28 the conduct of elections and specific training regarding their

1 responsibilities and duties as prescribed by this title or by rules
2 adopted by the secretary of state under this title. Included among
3 those persons for whom such training is mandatory are the following:

- 4 (1) Secretary of state elections division personnel;
- 5 (2) County elections administrators under section 12 of this act;
- 6 (3) County canvassing board members;
- 7 (4) Persons officially designated by each major political party as
8 elections observers; and
- 9 (5) Any other person or group charged with election administration
10 responsibilities if the person or group is designated by rule adopted
11 by the secretary of state as requiring the training.

12 The secretary of state shall reimburse election observers in
13 accordance with RCW 43.03.050 and 43.03.060 for travel expenses
14 incurred to receive training required under subsection (4) of this
15 section.

16 Neither this section nor section 5 of this act may be construed as
17 requiring an elected official to receive training or a certificate of
18 training as a condition for seeking or holding elective office or as a
19 condition for carrying out constitutional duties."

20 "NEW SECTION. Sec. 7. (1) A decision of the secretary of state
21 to deny certification under section 5 of this act shall be entered in
22 the manner specified for orders under the administrative procedure act,
23 chapter 34.05 RCW. Such a decision shall not be effective for a period
24 of twenty days following the date of the decision, during which time
25 the person denied certification may file a petition with the secretary
26 of state requesting the secretary to reconsider the decision and to
27 grant certification. The petitioner shall include, in the petition, an
28 explanation of the reasons why the initial decision is incorrect and
29 certification should be granted, and may include a request for a

1 hearing on the matter. The secretary of state shall reconsider the
2 matter if the petition is filed in a proper and timely manner. If a
3 hearing is requested, the secretary of state shall conduct the hearing
4 within sixty days after the date on which the petition is filed. The
5 secretary of state shall render a final decision on the matter within
6 ninety days after the date on which the petition is filed.

7 (2) Within twenty days after the date on which the secretary of
8 state makes a final decision denying a petition under this section, the
9 petitioner may appeal the denial to the board created in section 3 of
10 this act. In deciding appeals, the board shall restrict its review to
11 the record established when the matter was before the secretary of
12 state. The board shall affirm the decision if it finds that the record
13 supports the decision and that the decision is not inconsistent with
14 other decisions of the secretary of state in which the same standards
15 were applied and certification was granted. Similarly, the board shall
16 reverse the decision and recommend to the secretary of state that
17 certification be granted if the board finds that such support is
18 lacking or that such inconsistency exists.

19 (3) Judicial review of certification decisions shall be as
20 prescribed under RCW 34.05.510 through 34.05.598, but shall be limited
21 to the review of board decisions denying certification."

22 "NEW SECTION. Sec. 8. An election review section is
23 established in the elections division of the office of the secretary of
24 state. Permanent staff of the elections division, trained and
25 certified as required by section 6 of this act, shall perform the
26 election review functions prescribed by section 9 of this act. The
27 staff may also be required to assist in training, certification, and
28 other duties as may be assigned by the secretary of state to ensure the
29 uniform and orderly conduct of elections in this state."

1 shall provide the affected county auditor not less than thirty days'
2 notice.

3 (2) Reviews shall be conducted in conformance with rules adopted
4 under section 4 of this act. In performing a review in a county under
5 this chapter, the election review staff shall evaluate the policies and
6 procedures established for conducting the primary or election in the
7 county and the practices of those conducting it. As part of the
8 review, the election review staff shall issue to the county auditor and
9 the members of the county canvassing board a report of its findings and
10 recommendations regarding such policies, procedures, and practices. A
11 review conducted under this chapter shall not include any evaluation,
12 finding, or recommendation regarding the validity of the outcome of a
13 primary or election or the validity of any canvass of returns nor does
14 the election review staff have any jurisdiction to make such an
15 evaluation, finding, or recommendation under this title.

16 (3) The county auditor of the county in which a review is conducted
17 under this section or a member of the canvassing board of the county
18 may appeal the findings or recommendations of the election review staff
19 regarding the review by filing an appeal with the board created under
20 section 3 of this act."

21 "NEW SECTION. Sec. 10. The county auditor may designate any
22 person who has been certified under this chapter, other than the
23 auditor, to participate in a review conducted in the county under this
24 chapter. Each county auditor and canvassing board shall cooperate
25 fully during an election review by making available to the reviewing
26 staff any material requested by the staff. The reviewing staff shall
27 have full access to ballot pages, absentee voting materials, any other
28 election material normally kept in a secure environment after the
29 election, and other requested material. If ballots are reviewed by the

1 staff, they shall be reviewed in the presence of the canvassing board
2 or its designees. Ballots shall not leave the custody of the
3 canvassing board. During the review and after its completion, the
4 review staff may make appropriate recommendations to the county auditor
5 or canvassing board, or both, to bring the county into compliance with
6 the training required under this chapter, and the laws or rules of the
7 state of Washington, to safeguard election material or to preserve the
8 integrity of the elections process."

9 "NEW SECTION. Sec. 11. The secretary of state shall establish
10 within the elections division an election assistance and clearinghouse
11 program, which shall provide regular communication between the
12 secretary of state, local election officials, and major and minor
13 political parties regarding newly enacted elections legislation,
14 relevant judicial decisions affecting the administration of elections,
15 and applicable attorney general opinions, and which shall respond to
16 inquiries from elections administrators, political parties, and others
17 regarding election information. This section does not empower the
18 secretary of state to offer legal advice or opinions, but the secretary
19 may discuss the construction or interpretation of election law, case
20 law, or legal opinions from the attorney general or other competent
21 legal authority."

22 "NEW SECTION. Sec. 12. A new section is added to chapter 36.22
23 RCW to read as follows:

24 The county auditor of each county, as ex officio supervisor of all
25 primaries and elections, general or special, within the county under
26 Title 29 RCW, may appoint one or more well-qualified persons to act as
27 assistants or deputies; however, not less than two persons of the
28 auditor's office who conduct primaries and elections in the county

1 shall be certified under chapter 29.-- RCW (sections 3 through 11 of
2 this act) as elections administrators."

3 "NEW SECTION. **Sec. 13.** A new section is added to chapter 36.22
4 RCW to read as follows:

5 Each deputy or assistant appointed under section 12 of this act
6 shall have been graduated from an accredited high school or shall have
7 passed a high school equivalency examination. Each shall be
8 knowledgeable in the rules and laws of conducting elections."

9 "NEW SECTION. **Sec. 14.** Sections 3 through 11 of this act shall
10 constitute a new chapter in Title 29 RCW."

11 "NEW SECTION. **Sec. 15.** Sections 5 through 13 of this act shall
12 take effect July 1, 1993."

13 "NEW SECTION. **Sec. 16.** If specific funding for the purposes of
14 sections 5 through 13 of this act, referencing sections 5 through 13 of
15 this act by bill and section number, is not provided by June 30, 1993,
16 in the omnibus appropriations act, sections 5 through 13 of this act
17 shall be null and void."

18 **SHB 2319** - S COMM AMD
19 By Committee on Ways & Means

ADOPTED 3/6/92

21 On page 1, line 1 of the title, after "administration;" strike the
22 remainder of the title and insert "adding new sections to chapter 43.07
23 RCW; adding new sections to chapter 36.22 RCW; adding a new chapter to
24 Title 29 RCW; creating a new section; and providing an effective date."