

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2319

Chapter 163, Laws of 1992
(partial veto)

52nd Legislature
1992 Regular Session

ADMINISTRATION OF ELECTIONS

EFFECTIVE DATE: 6/11/92 - Except Sections 5 through 13 which take effect on 7/1/93.

Passed by the House March 9, 1992
Yeas 96 Nays 0

JOE KING
**Speaker of the
House of Representatives**

Passed by the Senate March 6, 1992
Yeas 44 Nays 0

JOEL PRITCHARD
President of the Senate

Approved April 1, 1992, with the exception of section 16, which is vetoed.

BOOTH GARDNER
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is SUBSTITUTE HOUSE BILL 2319 as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED
April 1, 1992 - 10:45 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2319

AS AMENDED BY THE SENATE

Passed Legislature - 1992 Regular Session

State of Washington 52nd Legislature 1992 Regular Session

By House Committee on State Government (originally sponsored by Representatives McLean, Anderson, R. Fisher, Chandler, Winsley, J. Kohl, Bowman and Pruitt)

Read first time 01/31/92.

1 AN ACT Relating to election administration; adding new sections to
2 chapter 43.07 RCW; adding new sections to chapter 36.22 RCW; adding a
3 new chapter to Title 29 RCW; creating a new section; and providing an
4 effective date.

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

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

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

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

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

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

7 (2) The production and distribution of a state voters' and
8 candidates' pamphlet;

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

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

13 (5) The administration of motor voter and other voter registration
14 and voter outreach programs;

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

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

19 (8) The conduct of postelection reviews as established in section
20 9 of this act; and

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

22 NEW SECTION. **Sec. 3.** (1) The Washington state election
23 administration and certification board is established and has the
24 responsibilities and authorities prescribed by this chapter. The board
25 is composed of the following members:

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

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

28 (c) Four county auditors appointed by the Washington state
29 association of county auditors or their alternates who are county

1 auditors designated by the association to serve as such alternates,
2 each appointee and alternate to serve at the pleasure of the
3 association;

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

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

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

13 (2) The board shall elect a chair from among its number; however,
14 neither the secretary of state nor the state director of elections nor
15 their designees may serve as the chair of the board. A majority of the
16 members appointed to the board constitutes a quorum for conducting the
17 business of the board. Chapter 42.30 RCW, the open public meetings
18 act, and RCW 42.32.030 regarding minutes of meetings, apply to the
19 meetings of the board.

20 (3) Members of the board shall serve without compensation. The
21 secretary of state shall reimburse members of the board, other than
22 those who are members of the legislature, for travel expenses in
23 accordance with RCW 43.03.050 and 43.03.060. Members of the board who
24 are members of the legislature shall be reimbursed as provided in
25 chapter 44.04 RCW.

26 NEW SECTION. **Sec. 4.** (1) The secretary of state and the board
27 created in section 3 of this act shall jointly adopt rules, in the
28 manner specified for the adoption of rules under the administrative
29 procedure act, chapter 34.05 RCW, governing:

1 (a) The training of persons officially designated by major
2 political parties as elections observers under this title, and the
3 training and certification of election administration officials and
4 personnel;

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

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

10 The initial policies and standards adopted under (c) of this
11 subsection shall be adopted concurrently with adoption of the initial
12 policies and procedures adopted under (b) of this subsection.

13 (2) The board created in section 3 of this act shall review appeals
14 filed under section 7 or 9 of this act. A decision of the board
15 regarding such an appeal shall be supported by not less than a majority
16 of the members appointed to the board. A decision of the board
17 regarding an appeal filed under section 9 of this act concerning an
18 election review conducted under that section is final. If a decision
19 of the board regarding an appeal filed under section 7 of this act
20 includes a recommendation that a certificate be issued, the certificate
21 shall be issued by the secretary of state as recommended by the board.

22 (3) The board created in section 3 of this act may adopt rules
23 governing its procedures.

24 NEW SECTION. **Sec. 5.** The secretary of state shall:

25 (1) Establish and operate, or provide by contract, training and
26 certification programs for state and county elections administration
27 officials and personnel and training programs for political party
28 observers which conform to the rules for such programs established
29 under section 4 of this act;

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

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

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

8 NEW SECTION. **Sec. 6.** A person having responsibility for the
9 administration or conduct of elections, other than precinct election
10 officers, shall, within eighteen months of undertaking those
11 responsibilities or within eighteen months of the effective date of
12 this section, whichever is later, receive general training regarding
13 the conduct of elections and specific training regarding their
14 responsibilities and duties as prescribed by this title or by rules
15 adopted by the secretary of state under this title. Included among
16 those persons for whom such training is mandatory are the following:

17 (1) Secretary of state elections division personnel;

18 (2) County elections administrators under section 12 of this act;

19 (3) County canvassing board members;

20 (4) Persons officially designated by each major political party as
21 elections observers; and

22 (5) Any other person or group charged with election administration
23 responsibilities if the person or group is designated by rule adopted
24 by the secretary of state as requiring the training.

25 The secretary of state shall reimburse election observers in
26 accordance with RCW 43.03.050 and 43.03.060 for travel expenses
27 incurred to receive training required under subsection (4) of this
28 section.

1 Neither this section nor section 5 of this act may be construed as
2 requiring an elected official to receive training or a certificate of
3 training as a condition for seeking or holding elective office or as a
4 condition for carrying out constitutional duties.

5 NEW SECTION. **Sec. 7.** (1) A decision of the secretary of state
6 to deny certification under section 5 of this act shall be entered in
7 the manner specified for orders under the administrative procedure act,
8 chapter 34.05 RCW. Such a decision shall not be effective for a period
9 of twenty days following the date of the decision, during which time
10 the person denied certification may file a petition with the secretary
11 of state requesting the secretary to reconsider the decision and to
12 grant certification. The petitioner shall include, in the petition, an
13 explanation of the reasons why the initial decision is incorrect and
14 certification should be granted, and may include a request for a
15 hearing on the matter. The secretary of state shall reconsider the
16 matter if the petition is filed in a proper and timely manner. If a
17 hearing is requested, the secretary of state shall conduct the hearing
18 within sixty days after the date on which the petition is filed. The
19 secretary of state shall render a final decision on the matter within
20 ninety days after the date on which the petition is filed.

21 (2) Within twenty days after the date on which the secretary of
22 state makes a final decision denying a petition under this section, the
23 petitioner may appeal the denial to the board created in section 3 of
24 this act. In deciding appeals, the board shall restrict its review to
25 the record established when the matter was before the secretary of
26 state. The board shall affirm the decision if it finds that the record
27 supports the decision and that the decision is not inconsistent with
28 other decisions of the secretary of state in which the same standards
29 were applied and certification was granted. Similarly, the board shall

1 reverse the decision and recommend to the secretary of state that
2 certification be granted if the board finds that such support is
3 lacking or that such inconsistency exists.

4 (3) Judicial review of certification decisions shall be as
5 prescribed under RCW 34.05.510 through 34.05.598, but shall be limited
6 to the review of board decisions denying certification.

7 NEW SECTION. **Sec. 8.** An election review section is
8 established in the elections division of the office of the secretary of
9 state. Permanent staff of the elections division, trained and
10 certified as required by section 6 of this act, shall perform the
11 election review functions prescribed by section 9 of this act. The
12 staff may also be required to assist in training, certification, and
13 other duties as may be assigned by the secretary of state to ensure the
14 uniform and orderly conduct of elections in this state.

15 NEW SECTION. **Sec. 9.** (1)(a) The election review staff of the
16 office of the secretary of state shall conduct a review of election-
17 related policies, procedures, and practices in an affected county or
18 counties:

19 (i) If the unofficial returns of a primary or general election for
20 a position in the state legislature indicate that a mandatory recount
21 is likely for that position; or

22 (ii) If unofficial returns indicate a mandatory recount is likely
23 in a state-wide election or an election for federal office.

24 Reviews conducted under (ii) of this subsection shall be performed
25 in as many selected counties as time and staffing permit. Reviews
26 conducted as a result of mandatory recounts shall be performed between
27 the time the unofficial returns are complete and the time the recount
28 is to take place, if possible.

1 (b) In addition to conducting reviews under (a) of this subsection,
2 the election review staff shall also conduct such a review in a county
3 periodically after a county primary or special or general election at
4 the direction of the secretary of state or at the request of the county
5 auditor. If any resident of this state believes that an aspect of a
6 primary or election has been conducted inappropriately in a county, the
7 resident may file a complaint with the secretary of state. The
8 secretary shall consider such complaints in scheduling periodic reviews
9 under this section.

10 (c) Each county shall be reviewed under this section not less than
11 once every four years. Before an election review is conducted in a
12 county, the secretary of state shall provide the county auditor of the
13 affected county and the chair of the state central committee of each
14 major political party with notice that the review is to be conducted.
15 When a periodic review is to be conducted in a county at the direction
16 of the secretary of state under (b) of this subsection, the secretary
17 shall provide the affected county auditor not less than thirty days'
18 notice.

19 (2) Reviews shall be conducted in conformance with rules adopted
20 under section 4 of this act. In performing a review in a county under
21 this chapter, the election review staff shall evaluate the policies and
22 procedures established for conducting the primary or election in the
23 county and the practices of those conducting it. As part of the
24 review, the election review staff shall issue to the county auditor and
25 the members of the county canvassing board a report of its findings and
26 recommendations regarding such policies, procedures, and practices. A
27 review conducted under this chapter shall not include any evaluation,
28 finding, or recommendation regarding the validity of the outcome of a
29 primary or election or the validity of any canvass of returns nor does

1 the election review staff have any jurisdiction to make such an
2 evaluation, finding, or recommendation under this title.

3 (3) The county auditor of the county in which a review is conducted
4 under this section or a member of the canvassing board of the county
5 may appeal the findings or recommendations of the election review staff
6 regarding the review by filing an appeal with the board created under
7 section 3 of this act.

8 NEW SECTION. **Sec. 10.** The county auditor may designate any
9 person who has been certified under this chapter, other than the
10 auditor, to participate in a review conducted in the county under this
11 chapter. Each county auditor and canvassing board shall cooperate
12 fully during an election review by making available to the reviewing
13 staff any material requested by the staff. The reviewing staff shall
14 have full access to ballot pages, absentee voting materials, any other
15 election material normally kept in a secure environment after the
16 election, and other requested material. If ballots are reviewed by the
17 staff, they shall be reviewed in the presence of the canvassing board
18 or its designees. Ballots shall not leave the custody of the
19 canvassing board. During the review and after its completion, the
20 review staff may make appropriate recommendations to the county auditor
21 or canvassing board, or both, to bring the county into compliance with
22 the training required under this chapter, and the laws or rules of the
23 state of Washington, to safeguard election material or to preserve the
24 integrity of the elections process.

25 NEW SECTION. **Sec. 11.** The secretary of state shall establish
26 within the elections division an election assistance and clearinghouse
27 program, which shall provide regular communication between the
28 secretary of state, local election officials, and major and minor

1 political parties regarding newly enacted elections legislation,
2 relevant judicial decisions affecting the administration of elections,
3 and applicable attorney general opinions, and which shall respond to
4 inquiries from elections administrators, political parties, and others
5 regarding election information. This section does not empower the
6 secretary of state to offer legal advice or opinions, but the secretary
7 may discuss the construction or interpretation of election law, case
8 law, or legal opinions from the attorney general or other competent
9 legal authority.

10 NEW SECTION. **Sec. 12.** A new section is added to chapter 36.22 RCW
11 to read as follows:

12 The county auditor of each county, as ex officio supervisor of all
13 primaries and elections, general or special, within the county under
14 Title 29 RCW, may appoint one or more well-qualified persons to act as
15 assistants or deputies; however, not less than two persons of the
16 auditor's office who conduct primaries and elections in the county
17 shall be certified under chapter 29.-- RCW (sections 3 through 11 of
18 this act) as elections administrators.

19 NEW SECTION. **Sec. 13.** A new section is added to chapter 36.22 RCW
20 to read as follows:

21 Each deputy or assistant appointed under section 12 of this act
22 shall have been graduated from an accredited high school or shall have
23 passed a high school equivalency examination. Each shall be
24 knowledgeable in the rules and laws of conducting elections.

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

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

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

9 *Sec. 16 was vetoed, see message at end of chapter.

 Passed the House March 9, 1992.

 Passed the Senate March 6, 1992.

 Approved by the Governor April 1, 1992, with the exception of
 certain items which were vetoed.

 Filed in Office of Secretary of State April 1, 1992.

 Note: Governor's explanation of partial veto is as follows:

 "I am returning herewith, without my approval as to section 16,
Substitute House Bill No. 2319 entitled:

 "AN ACT Relating to election administration."

 Substitute House Bill No. 2319 creates the Election Administration
and Certification Board to assure that elections are fair and efficient
and that persons who work on elections are trained and well qualified.

 Section 16 puts this program in jeopardy by providing that if
specific funding is not included in the 1993 appropriations act, this
act will become null and void. In recognition of the importance of
this new program, I am eliminating this "null and void" provision.

 For this reason, I have vetoed section 16 of Substitute House Bill
No. 2319.

 With the exception of section 16, Substitute House Bill No. 2319 is
approved."