

SUBSTITUTE HOUSE BILL 1593

State of Washington 56th Legislature 1999 Regular Session

By House Committee on State Government (originally sponsored by Representatives Edmonds, Bush, Miloscia and Dunshee; by request of Secretary of State)

Read first time 03/02/1999.

1 AN ACT Relating to poll-site ballot counting devices; amending RCW
2 29.01.042, 29.04.040, 29.48.010, 29.48.080, 29.54.025, 29.54.037,
3 29.54.050, 29.54.075, and 29.54.085; adding a new section to chapter
4 29.01 RCW; adding a new section to chapter 29.48 RCW; adding new
5 sections to chapter 29.51 RCW; adding new sections to chapter 29.54
6 RCW; and repealing RCW 29.48.040, 29.48.050, 29.48.060, 29.51.140,
7 29.62.060, and 29.62.070.

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

9 **Sec. 1.** RCW 29.01.042 and 1990 c 59 s 4 are each amended to read
10 as follows:

11 "Counting center" means the facility or facilities designated by
12 the county auditor (~~((in which the canvassing of ballots on a vote~~
13 ~~tallying system is conducted))~~ to count and canvass mail ballots,
14 absentee ballots, and polling place ballots that are transferred to a
15 central site to be counted, rather than being counted by a poll-site
16 ballot counting device, on the day of a primary or election.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 29.01 RCW
18 to read as follows:

1 "Poll-site ballot counting device" means a device programmed to
2 accept voted ballots at a polling place for the purpose of tallying and
3 storing the ballots on election day.

4 **Sec. 3.** RCW 29.04.040 and 1994 c 57 s 3 are each amended to read
5 as follows:

6 (1) No paper ballot precinct may contain more than three hundred
7 active registered voters. The county legislative authority may divide,
8 alter, or combine precincts so that, whenever practicable, over-
9 populated precincts shall contain no more than two hundred fifty active
10 registered voters in anticipation of future growth.

11 (2) Precinct boundaries may be altered at any time as long as
12 sufficient time exists prior to a given election for the necessary
13 procedural steps to be honored. Except as permitted under subsection
14 (5) of this section, no precinct boundaries may be changed during the
15 period starting on the thirtieth day prior to the first day for
16 candidates to file for the primary election and ending with the day of
17 the general election.

18 (3) Precincts in which voting machines or electronic voting devices
19 are used may contain as many as nine hundred active registered
20 voters(~~(, but there shall be at least one voting machine or device for~~
21 ~~each three hundred active registered voters or major fraction thereof~~
22 ~~when a state primary or general election is held in an even-numbered~~
23 ~~year)). The number of poll-site ballot counting devices at each
24 polling place is at the discretion of the auditor. The number of
25 devices must be adequate to meet the expected voter turnout.~~

26 (4) On petition of twenty-five or more voters resident more than
27 ten miles from any (~~place of election~~) polling site, the county
28 legislative authority shall establish a separate voting precinct
29 therefor.

30 (5) The county auditor shall temporarily adjust precinct boundaries
31 when a city or town annexes (~~county~~) unincorporated territory to the
32 city or town. The adjustment shall be made as soon as possible after
33 the approval of the annexation. The temporary adjustment shall be
34 limited to the minimum changes necessary to accommodate the addition of
35 the territory to the city or town and shall remain in effect only until
36 precinct boundary modifications reflecting the annexation are adopted
37 by the county legislative authority.

1 The county legislative authority may establish by ordinance a
2 limitation on the maximum number of active registered voters in each
3 precinct within its jurisdiction. The limitation may be different for
4 precincts based upon the method of voting used for such precincts and
5 the number may be less than the number established by law, but in no
6 case may the number exceed that authorized by law.

7 The county legislative authority of each county in the state
8 hereafter formed shall, at their first session, divide their respective
9 counties into election precincts with two hundred fifty active
10 registered voters or less and establish the boundaries of the
11 precincts. The county auditor shall thereupon designate the voting
12 place for each such precinct.

13 (6) In determining the number of active registered voters for the
14 purposes of this section, persons who are ongoing absentee voters under
15 RCW 29.36.013 shall not be counted. Nothing in this subsection may be
16 construed as altering the vote tallying requirements of RCW 29.62.090.

17 **Sec. 4.** RCW 29.48.010 and 1994 c 57 s 51 are each amended to read
18 as follows:

19 The county auditor shall provide in each polling place a sufficient
20 number of voting booths or voting devices along with any supplies
21 necessary to enable the voter to mark or register his or her choices on
22 the ballot and within which the voters may cast their votes in secrecy.
23 ~~((Where paper ballots are used for voting, the number of voting booths
24 shall be at least one for every fifty active registered voters in the
25 precinct.))~~

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 29.48 RCW
27 to read as follows:

28 Whenever poll-site ballot counting devices are used, the devices
29 may either be included with the supplies required in RCW 29.48.030 or
30 they may be delivered to the polling place separately. All poll-site
31 ballot counting devices must be sealed with a unique numbered seal at
32 the time of final preparation and logic and accuracy testing. A log
33 must be made of all seal numbers and device numbers used.

34 **Sec. 6.** RCW 29.48.080 and 1965 c 9 s 29.48.080 are each amended to
35 read as follows:

1 In precincts where ~~((machines))~~ poll-site ballot counting devices
2 are used the election officers, before ~~((unlocking))~~ initializing the
3 ~~((machine))~~ device for voting, shall proceed as follows:

4 (1) They shall see that the ~~((voting machine))~~ device is placed
5 where it can be conveniently attended by the election officers and
6 conveniently operated by the voters ~~((, and where, unless its~~
7 ~~construction requires otherwise, the ballot labels thereon can be~~
8 ~~plainly seen by the election officers and the public when not being~~
9 ~~voted on;~~

10 ~~(2) They shall see that the model is placed where each voter can~~
11 ~~conveniently operate it and receive instructions thereon as to the~~
12 ~~manner of voting, before entering the machine booth;~~

13 ~~(3) They shall post one diagram inside the polling room and one~~
14 ~~outside, in places where the voters can conveniently examine them;~~

15 ~~(4) They shall see that the lantern or other means provided for~~
16 ~~giving light is in such condition that the voting machine is~~
17 ~~sufficiently lighted to enable voters to readily read the names on the~~
18 ~~ballot labels;~~

19 ~~(5) They shall see that the ballot labels are in the proper places~~
20 ~~on the machine);~~

21 ~~((+6))~~ (2) They shall see whether the number or other designating
22 mark on the device's seal ~~((sealing the machine, also the number~~
23 ~~registered on the protective counter))~~ agrees with the control number
24 ~~((written on the envelope containing the keys))~~ provided by the
25 elections department. If they do not agree they shall at once notify
26 the ~~((custodian))~~ elections department and delay ~~((unlocking the~~
27 ~~machine, and opening))~~ initializing the device. The polls ~~((until he~~
28 ~~has reexamined the machine))~~ may be opened pending reexamination of the
29 device;

30 ~~((+7))~~ (3) If the numbers ~~((or marks on the envelope containing~~
31 ~~the keys and upon the machine))~~ do agree, they shall proceed to
32 initialize the device and see whether the public counter ~~((and all the~~
33 ~~candidate and question counters))~~ registers "000." If ~~((any of))~~ the
34 counter ~~((s are))~~ is found to register a number other than "000(±),"
35 one of the judges shall at once ~~((notify the custodian who shall set~~
36 ~~such))~~ set the counter at "000(±)" and confirm that the ballot box is
37 empty;

38 ~~((+8) Where voting machines equipped with printed election returns~~
39 ~~mechanism are used, they shall proceed to operate the mechanism~~

1 provided to produce one imprinted "before election inspection sheet"
2 showing whether the candidate and question counters register "000". If
3 said sheet has imprinted thereon any numbers below any candidate's name
4 or below any question's designation other than "000" one of the judges
5 shall, after the polls close, under the scrutiny of the other members
6 of the board of election officials, deduct that number from that
7 candidate's or question's total in the space provided for on the return
8 sheet.

9 After performing their duties as provided in this section, the
10 election officers shall certify thereto in the appropriate places on
11 the statement of canvass as provided thereon. When the polls are
12 declared open, one of the election officers shall break the seal and
13 unlock the machine for voting.)

14 (4) Before processing any ballots through a poll-site ballot
15 counting device a zero report must be produced. The inspector and at
16 least one of the judges shall carefully verify that zero ballots have
17 been run through the poll-site ballot counting device and that all vote
18 totals for each office are zero. If the totals are not zero, the
19 inspector shall either reset the device to zero or contact the
20 elections department to reset the device and allow voting to continue
21 using the auxiliary or emergency device.

22 NEW SECTION. Sec. 7. A new section is added to chapter 29.51 RCW
23 to read as follows:

24 Each poll-site ballot counting device must be programmed to return
25 all blank ballots and overvoted ballots to the voter for private
26 reexamination. The election officer shall take whatever steps are
27 necessary to ensure that the secrecy of the ballot is maintained. The
28 precinct election officer shall provide information and instruction on
29 how to properly mark the ballot. The voter may remark the original
30 ballot, may request a new ballot under RCW 29.51.190, or may choose to
31 complete a special ballot envelope and return the ballot as a special
32 ballot.

33 NEW SECTION. Sec. 8. A new section is added to chapter 29.51 RCW
34 to read as follows:

35 If a poll-site ballot counting device fails to operate at any time
36 during polling hours, voting must continue, and the ballots must be

1 deposited for later tabulation in a secure ballot compartment separate
2 from the tabulated ballots.

3 **Sec. 9.** RCW 29.54.025 and 1990 c 59 s 30 are each amended to read
4 as follows:

5 (1) The counting center in a county using voting systems shall be
6 under the direction of the county auditor and shall be observed by one
7 representative from each major political party, if representatives have
8 been appointed by the respective major political parties and these
9 representatives are present while the counting center is operating.
10 The proceedings shall be open to the public, but no persons except
11 those employed and authorized by the county auditor may touch any
12 ballot or ballot container or operate a vote tallying system.

13 (2) In counties in which ballots are not counted at the polling
14 place, the political party observers, upon mutual agreement, may
15 request that a precinct be selected at random on receipt of the ballots
16 from the polling place and that a manual count be made of the number of
17 ballots and of the votes cast on any office or issue. The ballots for
18 that precinct shall then be counted by the vote tallying system, and
19 this result shall be compared to the results of the manual count. This
20 may be done as many as three times during the tabulation of ballots on
21 the day of the primary or election.

22 (3) In counties using poll-site ballot counting devices, the
23 political party observers, upon mutual agreement, may choose as many as
24 three precincts and request that a manual count be made of the number
25 of ballots and the votes cast on any office or issue. The results of
26 this count will be compared to the count of the precinct made by the
27 poll-site ballot counting device. These selections must be made no
28 later than thirty minutes after the close of the polls. The manual
29 count must be completed within forty-eight hours after the close of the
30 polls. The process must take place at a location designated by the
31 county auditor for that purpose. The political party observers must
32 receive timely notice of the time and location, and have the right to
33 be present. However, the process must proceed as scheduled if the
34 observers are unable to attend.

35 **Sec. 10.** RCW 29.54.037 and 1990 c 59 s 31 are each amended to read
36 as follows:

1 (1) At the direction of the county auditor, a team or teams
2 composed of a representative of ((each)) at least two major political
3 ((party)) parties shall stop at designated polling places and pick up
4 the sealed containers of voted, untallied ballots for delivery to the
5 counting center. There may be more than one delivery from each polling
6 place. Two precinct election officials, ((one)) representing ((each))
7 two major political ((party)) parties, shall seal the voted ballots in
8 containers furnished by the county auditor and properly identified with
9 his or her address with uniquely prenumbered seals.

10 (2) At the counting center or the collection stations where the
11 sealed ballot containers are delivered by the designated
12 representatives of the major political parties, the county auditor or
13 a designated representative of the county auditor shall receive the
14 sealed ballot containers, record the time, date, precinct name or
15 number, and seal number of each ballot container.

16 NEW SECTION. Sec. 11. A new section is added to chapter 29.54 RCW
17 to read as follows:

18 The programmed memory pack for each poll-site ballot counting
19 device must be sealed into the device during final preparation and
20 logic and accuracy testing. Except in the case of a device breakdown,
21 the memory pack must remain sealed in the device until after the polls
22 have closed and all reports and telephonic or electronic transfer of
23 results are completed. After all reporting is complete the precinct
24 election officers responsible for transferring the sealed voted ballots
25 under RCW 29.54.075 shall ensure that the memory pack is returned to
26 the elections department. If the entire poll-site ballot counting
27 device is returned, the memory pack must remain sealed in the device.
28 If the poll-site ballot counting device is to remain at the polling
29 place, the precinct election officer shall break the seal on the device
30 and remove the memory pack and seal and return it along with the
31 irregularly voted ballots and special ballots to the elections
32 department on election day.

33 NEW SECTION. Sec. 12. A new section is added to chapter 29.54 RCW
34 to read as follows:

35 After the close of the polls, counties employing poll-site ballot
36 counting devices may telephonically or electronically transmit the
37 accumulated tally for each device to a central reporting location.

1 Before making a telephonic or electronic transmission the precinct
2 election officer must create a printed record of the results of the
3 election for that poll site. During the canvassing period the results
4 transmitted telephonically or electronically must be considered
5 unofficial until a complete reconciliation of the results has been
6 performed. This reconciliation may be accomplished by a direct loading
7 of the results from the memory pack into the central accumulator, or a
8 comparison of the report produced at the poll site on election night
9 with the results received by the central accumulating device.

10 **Sec. 13.** RCW 29.54.050 and 1990 c 59 s 56 are each amended to read
11 as follows:

12 A ballot is invalid and no votes on that ballot may be counted if
13 it is found folded together with another ballot(~~(?)~~) or(~~(, except for~~
14 ~~an absentee ballot,)~~) it is marked so as to identify the voter.

15 Those parts of a ballot are invalid and no votes may be counted for
16 those issues or offices where more votes are cast for the office or
17 issue than are permitted by law; write-in votes do not contain all of
18 the information required under RCW (~~(29.51.170)~~) 29.62.180; or that
19 issue or office is not marked with sufficient definiteness to determine
20 the voter's choice or intention. No write-in vote may be rejected due
21 to a variation in the form of the name if the election board or the
22 canvassing board can determine the issue for or against which or the
23 person and the office for which the voter intended to vote.

24 **Sec. 14.** RCW 29.54.075 and 1990 c 59 s 59 are each amended to read
25 as follows:

26 Immediately after their tabulation, all ballots (~~(shall)~~) counted
27 at a ballot counting center must be sealed in containers that identify
28 the primary or election and be retained for at least sixty days. All
29 ballots tallied by poll-site ballot counting devices must be returned
30 to the elections department in sealed ballot containers on election
31 day. Counties composed entirely of islands or portions of counties
32 composed of islands shall collect the ballots within twenty-four hours
33 of the close of the polls.

34 Ballots tabulated in poll-site ballot counting devices must be
35 sealed by two of the election precinct officers at the polling place,
36 and a log of the seal and the names of the people sealing the container
37 must be completed. One copy of this log must be retained by the

1 inspector, one copy must be placed in the ballot transfer case, and one
2 copy must be transported with the ballots to the elections department,
3 where the seal number must be verified by the county auditor or a
4 designated representative. Ballots may be transported by one election
5 employee if the container is sealed at the poll and then verified when
6 returned to the elections department. Auditors using poll-site ballot
7 counting devices may conduct early pickup of counted ballots on
8 election day.

9 In the presence of major party observers who are available, ballots
10 may be removed from the sealed containers at the elections department
11 and consolidated into one sealed container for storage purposes. The
12 containers may only be opened by the canvassing board as part of the
13 canvass, or to conduct recounts, or under RCW 29.54.025(3), or by order
14 of the superior court in a contest or election dispute. If the
15 canvassing board opens a ballot container, it shall make a full record
16 of the additional tabulation or examination made of the ballots. This
17 record shall be added to any other record of the canvassing process in
18 that county.

19 **Sec. 15.** RCW 29.54.085 and 1990 c 59 s 33 are each amended to read
20 as follows:

21 (1) The ballots picked up from the precincts during the polling
22 hours may be counted only at the counting center before the polls have
23 closed. Election returns from the count of these ballots must be held
24 in secrecy until the polls have been closed as provided by RCW
25 29.54.018.

26 (2) Upon breaking the seals and opening the ballot containers from
27 the precincts, all voted ballots shall be manually inspected for
28 damage, write-in votes, and incorrect or incomplete marks. If it is
29 found that any ballot is damaged so that it cannot properly be counted
30 by the vote tallying system, a true duplicate copy shall be made of the
31 damaged ballot in the presence of witnesses and substituted for the
32 damaged ballot. All damaged ballots shall be kept by the county
33 auditor until sixty days after the primary or election.

34 (3) The returns produced by the vote tallying system, to which have
35 been added the counts of questioned ballots, write-in votes, and
36 absentee votes, constitute the official returns of the primary or
37 election in that county.

1 NEW SECTION. **Sec. 16.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 29.48.040 (Additional supplies for voting machines) and
4 1965 c 9 s 29.48.040;

5 (2) RCW 29.48.050 (Receipt for key to voting machine) and 1965 c 9
6 s 29.48.050;

7 (3) RCW 29.48.060 (Posting of instructions) and 1965 c 9 s
8 29.48.060;

9 (4) RCW 29.51.140 (Mechanical voting devices--When all voters do
10 not vote on all offices) and 1990 c 59 s 44 & 1965 c 9 s 29.51.140;

11 (5) RCW 29.62.060 (Recanvass of machine votes--Notice--
12 Representation--Relocking) and 1965 c 9 s 29.62.060; and

13 (6) RCW 29.62.070 (Recanvass of machine votes--Procedure to test
14 counting mechanism--Statement) and 1965 c 9 s 29.62.070.

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