

1 2336 AMS Z1472.4

2 **HB 2336** - S AMD 743
3 By Senator Gardner

4 ADOPTED 03/08/02

5 On page 6, after line 2, insert the following:

6 "Sec. 7. RCW 29.33.041 and 1990 c 59 s 18 are each amended to read
7 as follows:

8 The secretary of state shall inspect, evaluate, ~~((and publicly))~~
9 test, and hold a public demonstration of all voting systems or
10 components of voting systems that are submitted for review under RCW
11 29.33.051. The secretary of state shall determine whether the voting
12 systems conform with all of the requirements of this title, the
13 applicable rules adopted in accordance with this title, and with
14 generally accepted safety requirements. The secretary of state shall
15 post the report of certification to a publicly available electronic
16 medium and transmit ((a copy of the report of any)) notification of the
17 examination ((under this section)), within thirty days after completing
18 the examination, to the county auditor of each county.

19 **Sec. 8.** RCW 29.33.081 and 1990 c 59 s 21 are each amended to read
20 as follows:

21 ~~((If))~~ Only voting systems or devices or vote tallying systems
22 ~~((are to))~~ that have been approved and certified by the secretary of
23 state may be used for conducting a primary or election~~((, only those~~
24 ~~that have the approval of the secretary of state or had been approved~~
25 ~~under this chapter or chapter 29.34 RCW before March 22, 1982, may be~~
26 ~~used)).~~ Any modification, change, or improvement to any voting system
27 or component of a system ~~((that))~~ must be submitted to the secretary of
28 state for review. After review, the modification may be accepted if it
29 does not impair ((its)) system accuracy, efficiency, or capacity or
30 extend ((its)) system function~~((, may be made without)).~~ If, after
31 review, the secretary of state determines that the modification does
32 extend system function, the modification must be submitted for
33 reexamination or reapproval by the secretary of state under RCW
34 29.33.041.

1 **Sec. 9.** RCW 29.33.130 and 1990 c 59 s 22 are each amended to read
2 as follows:

3 The county auditor of a county in which voting systems are used is
4 responsible for the preparation, maintenance, and operation of those
5 systems, and must provide proof that the system and its component
6 software, in the version used, are state certified. The auditor may
7 employ and direct persons to perform some or all of these functions.

8 **Sec. 10.** RCW 29.33.145 and 1998 c 58 s 1 are each amended to read
9 as follows:

10 An agreement to purchase or lease a voting system or a component of
11 a voting system is subject to that system or component passing an
12 acceptance test, conducted by the purchaser or lessee, sufficient to
13 demonstrate that the equipment is the same as that certified by the
14 secretary of state and that the equipment is operating correctly as
15 delivered to the county.

16 **Sec. 11.** RCW 29.33.300 and 1990 c 59 s 26 are each amended to read
17 as follows:

18 No voting device shall be approved by the secretary of state unless
19 it:

- 20 (1) Secures to the voter secrecy in the act of voting;
- 21 (2) Permits the voter to vote for any person for any office and
22 upon any measure that he or she has the right to vote for;
- 23 (3) Permits the voter to vote for all the candidates of one party
24 or in part for the candidates of one or more other parties;
- 25 (4) Correctly registers all votes cast for any and all persons and
26 for or against any and all measures;
- 27 (5) Provides that a vote for more than one candidate cannot be cast
28 by one single operation of the voting device or vote tally system
29 except when voting for president and vice-president of the United
30 States; and
- 31 (6) Except for functions or capabilities unique to this state, has
32 been tested(~~(7)~~) and certified(~~(7—and used)~~) in at least one other
33 state or election jurisdiction and approved by the appropriate
34 independent testing authority approved by the federal elections
35 commission or its statutory successor.

1 **Sec. 12.** RCW 29.33.310 and 1990 c 59 s 27 are each amended to read
2 as follows:

3 The ballot (~~((on a single voting device))~~) displayed to a voter shall
4 not contain the names of candidates for the offices of United States
5 representative, state senator, state representative, county council, or
6 county commissioner in more than one district. (~~((In all general
7 elections, primaries, and special elections, in each polling place the
8 voting devices containing ballots for candidates from each
9 congressional, legislative, or county council or commissioner district
10 shall be grouped together and physically separated from those devices
11 containing ballots for other districts. Each voter shall be directed
12 by the precinct election officers to the correct group of voting
13 devices.))~~)

14 **Sec. 13.** RCW 29.33.320 and 1990 c 59 s 28 are each amended to read
15 as follows:

16 The secretary of state shall not approve a vote tallying system
17 unless it:

18 (1) Correctly counts votes on ballots on which the proper number of
19 votes have been marked for any office or issue;

20 (2) Ignores votes marked for any office or issue where more than
21 the allowable number of votes have been marked, but correctly counts
22 the properly voted portions of the ballot;

23 (3) Accumulates a count of the specific number of ballots tallied
24 for each precinct, total votes by candidate for each office, and total
25 votes for and against each issue of the ballot in that precinct;

26 (4) Accommodates rotation of candidates' names on the ballot under
27 RCW 29.30.040;

28 (5) Produces precinct and cumulative totals in printed form; and

29 (6) Except for functions or capabilities unique to this state, has
30 been tested(~~((,))~~) and certified(~~((, and used))~~) in at least one other
31 state or election jurisdiction and approved by the appropriate
32 independent testing authority approved by the federal elections
33 commission or its statutory successor.

34 **Sec. 14.** RCW 29.33.330 and 1990 c 59 s 25 are each amended to read
35 as follows:

36 In preparing a voting device for a primary or election, a record
37 shall be made of the ballot format installed in each device and the

1 precincts or portion of a precinct for which that device has been
2 prepared. Except where provided by a rule adopted under RCW 29.04.210,
3 after being prepared for a primary or election, each device shall be
4 sealed with a uniquely numbered seal and provided to the inspector of
5 the appropriate polling place.

6 **Sec. 15.** RCW 29.33.350 and 1998 c 58 s 2 are each amended to read
7 as follows:

8 At least three days before each state primary or general election,
9 the office of the secretary of state shall provide for the conduct of
10 tests of the programming for each vote tallying system to be used at
11 that primary or general election. The test must verify that the system
12 will correctly count the vote cast for all candidates and on all
13 measures appearing on the ballot at that primary or general election.
14 The office of the secretary of state shall adopt rules specifying the
15 manner of conducting these programming tests. The test shall verify
16 the capability of the vote tallying system to perform all of the
17 functions that can reasonably be expected to occur during conduct of
18 that particular primary or election. If any error is detected, the
19 cause shall be determined and corrected, and an errorless total shall
20 be produced before the primary or election.

21 Such tests shall be observed by at least one representative from
22 each major political party, if representatives have been appointed by
23 the respective major political parties and are present at the test, and
24 shall be open to candidates, the press, and the public. The county
25 auditor and any political party observers shall certify that the test
26 has been conducted in accordance with this section. The county auditor
27 shall provide proof that the version of the voting system and software
28 used are state certified. Copies of ((this)) these certifications
29 shall be retained by the secretary of state and the county auditor.
30 All programming materials, test results, and test ballots shall be
31 securely ((sealed)) stored until the day of the primary or general
32 election.

33 **Sec. 16.** RCW 29.04.200 and 1998 c 245 s 26 are each amended to
34 read as follows:

35 (1) ((Beginning January 1, 1993,)) No voting device or machine may
36 be used ((in a county with a population of seventy thousand or more))
37 to conduct a primary or general or special election in this state

1 unless it correctly records ((~~en~~)) a separate ballot image of the votes
2 cast by each elector for any person and for or against any measure and
3 such separate ballot(~~s~~) images are available for audit purposes after
4 such a primary or election.

5 (2) ((~~Beginning January 1, 1993,~~)) The secretary of state shall not
6 certify under this title any voting device or machine ((~~for use in~~
7 ~~conducting~~)) to conduct a primary or general or special election in
8 this state unless the device or machine correctly records ((~~en~~)) a
9 separate ballot image of the votes cast by each elector for any person
10 and for or against any measure and such separate ballot(~~s~~) images are
11 available for audit purposes after such a primary or election.

12 ((~~(3) Beginning January 1, 1993, a county with a population of less~~
13 ~~than seventy thousand may use a voting machine or device for conducting~~
14 ~~a primary or general or special election which does not record on a~~
15 ~~separate ballot, available for audit purposes after the primary or~~
16 ~~election, the votes cast by each elector for any person and for or~~
17 ~~against any measure if:~~

18 (a) ~~The device was certified under this title before January 1,~~
19 ~~1993, for use in this state;~~

20 (b) ~~The device otherwise satisfies the requirements of this title;~~
21 ~~and~~

22 (c) ~~Not more than twenty percent of the votes cast during any~~
23 ~~primary or general or special election conducted after January 1, 1998,~~
24 ~~in the county are cast using such a machine or device.~~

25 (4) ~~The purpose of subsection (3) of this section is to permit less~~
26 ~~populous counties to replace voting equipment in stages over several~~
27 ~~years. These less populous counties are, nonetheless, encouraged to~~
28 ~~secure as expeditiously as possible voting equipment which would~~
29 ~~satisfy the requirements of subsection (1) of this section established~~
30 ~~for more populous counties.))~~

31 **Sec. 17.** RCW 29.85.051 and 1991 c 81 s 4 are each amended to read
32 as follows:

33 A person is guilty of a gross misdemeanor who knowingly:

34 (1) Deceives any voter in recording his or her vote by providing
35 incorrect or misleading recording information or by providing faulty
36 election equipment or records; ((~~or~~))

37 (2) Records the vote of any voter in a manner other than as
38 designated by the voter; or

1 (3) Commits either of the acts under subsection (1) or (2) of this
2 section by electronic means.

3 Such a gross misdemeanor is punishable to the same extent as a
4 gross misdemeanor that is punishable under RCW 9A.20.021.

5 NEW SECTION. Sec. 18. A new section is added to chapter 29.85 RCW
6 to read as follows:

7 A person is guilty of a gross misdemeanor punishable under chapter
8 9A.20 RCW who knowingly:

9 (1) Tamper with or impedes the use of any form of electronic
10 voting or vote recording system; or

11 (2) Tamper with or impedes access to any vote reporting or
12 election results reporting system.

13 NEW SECTION. Sec. 19. RCW 29.33.340 (Election officials--
14 Instruction, compensation, requirements) and 1990 c 59 s 29 & 1977
15 ex.s. c 361 s 69 are each repealed."

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17 By Senator Gardner

18 ADOPTED 03/08/02

19 In line 1 of the title, after "elections;" strike the remainder of
20 the title and insert "amending RCW 29.33.041, 29.33.081, 29.33.130,
21 29.33.145, 29.33.300, 29.33.310, 29.33.320, 29.33.330, 29.33.350,
22 29.04.200, and 29.85.051; adding a new section to chapter 29.85 RCW;
23 repealing RCW 29.33.340; and prescribing penalties."

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