

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 2479

Chapter 207, Laws of 2006

59th Legislature
2006 Regular Session

ELECTIONS--VOTING EQUIPMENT

EFFECTIVE DATE: 6/7/06

Passed by the House February 14, 2006
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 2, 2006
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved March 24, 2006.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2479** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 24, 2006 - 2:21 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2479

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By House Committee on State Government Operations & Accountability
(originally sponsored by Representatives Haigh, Nixon, Green, Hunt,
Haler, Morrell and Upthegrove; by request of Secretary of State)

READ FIRST TIME 01/31/06.

1 AN ACT Relating to voting equipment; amending RCW 29A.04.611,
2 29A.12.080, 29A.12.101, 29A.40.110, 29A.46.020, and 29A.46.110; and
3 adding a new section to chapter 29A.46 RCW.

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

5 **Sec. 1.** RCW 29A.04.611 and 2004 c 271 s 151 are each amended to
6 read as follows:

7 The secretary of state as chief election officer shall make
8 reasonable rules in accordance with chapter 34.05 RCW not inconsistent
9 with the federal and state election laws to effectuate any provision of
10 this title and to facilitate the execution of its provisions in an
11 orderly, timely, and uniform manner relating to any federal, state,
12 county, city, town, and district elections. To that end the secretary
13 shall assist local election officers by devising uniform forms and
14 procedures.

15 In addition to the rule-making authority granted otherwise by this
16 section, the secretary of state shall make rules governing the
17 following provisions:

18 (1) The maintenance of voter registration records;

- 1 (2) The preparation, maintenance, distribution, review, and filing
2 of precinct maps;
- 3 (3) Standards for the design, layout, and production of ballots;
- 4 (4) The examination and testing of voting systems for
5 certification;
- 6 (5) The source and scope of independent evaluations of voting
7 systems that may be relied upon in certifying voting systems for use in
8 this state;
- 9 (6) Standards and procedures for the acceptance testing of voting
10 systems by counties;
- 11 (7) Standards and procedures for testing the programming of vote
12 tallying software for specific primaries and elections;
- 13 (8) Standards and procedures for the preparation and use of each
14 type of certified voting system including procedures for the operation
15 of counting centers where vote tallying systems are used;
- 16 (9) Standards and procedures to ensure the accurate tabulation and
17 canvassing of ballots;
- 18 (10) Consistency among the counties of the state in the preparation
19 of ballots, the operation of vote tallying systems, and the canvassing
20 of primaries and elections;
- 21 (11) Procedures to ensure the secrecy of a voter's ballot when a
22 small number of ballots are counted at the polls or at a counting
23 center;
- 24 (12) The use of substitute devices or means of voting when a voting
25 device at the polling place is found to be defective, the counting of
26 votes cast on the defective device, the counting of votes cast on the
27 substitute device, and the documentation that must be submitted to the
28 county auditor regarding such circumstances;
- 29 (13) Procedures for the transportation of sealed containers of
30 voted ballots or sealed voting devices;
- 31 (14) The acceptance and filing of documents via electronic
32 facsimile;
- 33 (15) Voter registration applications and records;
- 34 (16) The use of voter registration information in the conduct of
35 elections;
- 36 (17) The coordination, delivery, and processing of voter
37 registration records accepted by driver licensing agents or the
38 department of licensing;

- 1 (18) The coordination, delivery, and processing of voter
2 registration records accepted by agencies designated by the governor to
3 provide voter registration services;
- 4 (19) Procedures to receive and distribute voter registration
5 applications by mail;
- 6 (20) Procedures for a voter to change his or her voter registration
7 address within a county by telephone;
- 8 (21) Procedures for a voter to change the name under which he or
9 she is registered to vote;
- 10 (22) Procedures for canceling dual voter registration records and
11 for maintaining records of persons whose voter registrations have been
12 canceled;
- 13 (23) Procedures for the electronic transfer of voter registration
14 records between county auditors and the office of the secretary of
15 state;
- 16 (24) Procedures and forms for declarations of candidacy;
- 17 (25) Procedures and requirements for the acceptance and filing of
18 declarations of candidacy by electronic means;
- 19 (26) Procedures for the circumstance in which two or more
20 candidates have a name similar in sound or spelling so as to cause
21 confusion for the voter;
- 22 (27) Filing for office;
- 23 (28) The order of positions and offices on a ballot;
- 24 (29) Sample ballots;
- 25 (30) Independent evaluations of voting systems;
- 26 (31) The testing, approval, and certification of voting systems;
- 27 (32) The testing of vote tallying software programming;
- 28 (33) Standards and procedures to prevent fraud and to facilitate
29 the accurate processing and canvassing of absentee ballots and mail
30 ballots, including standards for the approval and implementation of
31 hardware and software for automated signature verification systems;
- 32 (34) Standards and procedures to guarantee the secrecy of absentee
33 ballots and mail ballots;
- 34 (35) Uniformity among the counties of the state in the conduct of
35 absentee voting and mail ballot elections;
- 36 (36) Standards and procedures to accommodate out-of-state voters,
37 overseas voters, and service voters;
- 38 (37) The tabulation of paper ballots before the close of the polls;

1 (38) The accessibility of polling places and registration
2 facilities that are accessible to elderly and disabled persons;
3 (39) The aggregation of precinct results if reporting the results
4 of a single precinct could jeopardize the secrecy of a person's ballot;
5 (40) Procedures for conducting a statutory recount;
6 (41) Procedures for filling vacancies in congressional offices if
7 the general statutory time requirements for availability of absentee
8 ballots, certification, canvassing, and related procedures cannot be
9 met;
10 (42) Procedures for the statistical sampling of signatures for
11 purposes of verifying and canvassing signatures on initiative,
12 referendum, and recall election petitions;
13 (43) Standards and deadlines for submitting material to the office
14 of the secretary of state for the voters' pamphlet;
15 (44) Deadlines for the filing of ballot titles for referendum bills
16 and constitutional amendments if none have been provided by the
17 legislature;
18 (45) Procedures for the publication of a state voters' pamphlet;
19 (46) Procedures for conducting special elections regarding nuclear
20 waste sites if the general statutory time requirements for availability
21 of absentee ballots, certification, canvassing, and related procedures
22 cannot be met;
23 (47) Procedures for conducting partisan primary elections;
24 (48) Standards and procedures for the proper conduct of voting
25 during the early voting period to provide accessibility for the blind
26 or visually impaired;
27 (49) Standards for voting technology and systems used by the state
28 or any political subdivision to be accessible for individuals with
29 disabilities, including nonvisual accessibility for the blind and
30 visually impaired, in a manner that provides the same opportunity for
31 access and participation, including privacy and independence, as other
32 voters;
33 (50) All data formats for transferring voter registration data on
34 electronic or machine-readable media for the purpose of administering
35 the statewide voter registration list required by the Help America Vote
36 Act (P.L. 107-252);
37 (51) Defining the interaction of electronic voter registration

1 election management systems employed by each county auditor to maintain
2 a local copy of each county's portion of the official state list of
3 registered voters;

4 (52) Provisions and procedures to implement the state-based
5 administrative complaint procedure as required by the Help America Vote
6 Act (P.L. 107-252); and

7 (53) Facilitating the payment of local government grants to local
8 government election officers or vendors.

9 **Sec. 2.** RCW 29A.12.080 and 2003 c 111 s 308 are each amended to
10 read as follows:

11 No voting device shall be approved by the secretary of state unless
12 it:

13 (1) Secures to the voter secrecy in the act of voting;

14 (2) Permits the voter to vote for any person for any office and
15 upon any measure that he or she has the right to vote for;

16 (3) Permits the voter to vote for all the candidates of one party
17 (~~(or in part for the candidates of one or more other parties)~~);

18 (4) Correctly registers all votes cast for any and all persons and
19 for or against any and all measures;

20 (5) Provides that a vote for more than one candidate cannot be cast
21 by one single operation of the voting device or vote tally system
22 except when voting for president and vice president of the United
23 States; and

24 (6) Except for functions or capabilities unique to this state, has
25 been tested(~~(7)~~) and certified(~~(7~~ and used in at least one other state
26 or election jurisdiction) by an independent testing authority
27 designated by the United States election assistance commission.

28 **Sec. 3.** RCW 29A.12.101 and 2004 c 271 s 109 are each amended to
29 read as follows:

30 The secretary of state shall not approve a vote tallying system
31 unless it:

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

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

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

4 (4) Produces precinct and cumulative totals in printed form; and

5 (5) Except for functions or capabilities unique to this state, has
6 been tested(~~(7)~~) and certified(~~(7)~~ and used in at least one other state
7 or election jurisdiction)) by an independent testing authority
8 designated by the United States election assistance commission.

9 **Sec. 4.** RCW 29A.40.110 and 2005 c 243 s 5 are each amended to read
10 as follows:

11 (1) The opening and subsequent processing of return envelopes for
12 any primary or election may begin upon receipt. The tabulation of
13 absentee ballots must not commence until after 8:00 p.m. on the day of
14 the primary or election.

15 (2) All received absentee return envelopes must be placed in secure
16 locations from the time of delivery to the county auditor until their
17 subsequent opening. After opening the return envelopes, the county
18 canvassing board shall place all of the ballots in secure storage until
19 after 8:00 p.m. of the day of the primary or election. Absentee
20 ballots that are to be tabulated on an electronic vote tallying system
21 may be taken from the inner envelopes and all the normal procedural
22 steps may be performed to prepare these ballots for tabulation.

23 (3) Before opening a returned absentee ballot, the canvassing
24 board, or its designated representatives, shall examine the postmark,
25 statement, and signature on the return envelope that contains the
26 security envelope and absentee ballot. They shall verify that the
27 voter's signature on the return envelope is the same as the signature
28 of that voter in the registration files of the county. Verification
29 may be conducted by an automated verification system approved by the
30 secretary of state. A variation between the signature of the voter on
31 the return envelope and the signature of that voter in the registration
32 files due to the substitution of initials or the use of common
33 nicknames is permitted so long as the surname and handwriting are
34 clearly the same. For registered voters casting absentee ballots, the
35 date on the return envelope to which the voter has attested determines
36 the validity, as to the time of voting for that absentee ballot if the
37 postmark is missing or is illegible. For out-of-state voters, overseas

1 voters, and service voters stationed in the United States, the date on
2 the return envelope to which the voter has attested determines the
3 validity as to the time of voting for that absentee ballot. (~~For any~~
4 ~~absentee ballot, a variation between the signature of the voter on the~~
5 ~~return envelope and the signature of that voter in the registration~~
6 ~~files due to the substitution of initials or the use of common~~
7 ~~nicknames is permitted so long as the surname and handwriting are~~
8 ~~clearly the same.))~~

9 **Sec. 5.** RCW 29A.46.020 and 2004 c 267 s 302 are each amended to
10 read as follows:

11 "Disability access voting period" means the period of time starting
12 twenty days before an election until (~~one day before~~) the day of the
13 election.

14 **Sec. 6.** RCW 29A.46.110 and 2004 c 267 s 304 are each amended to
15 read as follows:

16 (~~At the discretion of the county auditor,~~) In-person disability
17 access voting (~~may take place during the period~~) must be available
18 starting twenty days before the day of a primary or election and ending
19 the day (~~before~~) of the election. During this period, the county
20 auditor must make available a voting system certified by the secretary
21 of state for disability access. The auditor shall maintain a system or
22 systems to prevent multiple voting. (~~The end of the disability access~~
23 ~~voting period in each county will be determined by the auditor's need~~
24 ~~and ability to print and distribute poll books to the polls in order to~~
25 ~~prevent multiple voting.))~~

26 NEW SECTION. **Sec. 7.** A new section is added to chapter 29A.46 RCW
27 to read as follows:

28 (1) The legislature finds that the elimination of polling places
29 resulting from the transition to vote by mail creates barriers that
30 restrict the ability of many voters with disabilities from achieving
31 the independence and privacy in voting provided by the accessible
32 voting devices required under the help America vote act. Counties
33 adopting a vote by mail system must take appropriate steps to mitigate
34 these impacts and to address the obligation to provide voters with

1 disabilities an equal opportunity to vote independently and privately,
2 to the extent that this can be achieved without incurring undue
3 administrative and financial burden.

4 (2) Each county shall establish and maintain an advisory committee
5 that includes persons with diverse disabilities and persons with
6 expertise in providing accommodations for persons with disabilities.
7 The committee shall assist election officials in developing a plan to
8 identify and implement changes to improve the accessibility of
9 elections for voters with disabilities. The plan shall include
10 recommendations for the following:

11 (a) The number of polling places that will be maintained in order
12 to ensure that people with disabilities have reasonable access to
13 accessible voting devices, and a written explanation for how the
14 determination was made;

15 (b) The locations of polling places, drop-off facilities, voting
16 centers, and other election-related functions necessary to maximize
17 accessibility to persons with disabilities;

18 (c) Outreach to voters with disabilities on the availability of
19 disability accommodation, including in-person disability access voting;

20 (d) Transportation of voting devices to locations convenient for
21 voters with disabilities in order to ensure reasonable access for
22 voters with disabilities; and

23 (e) Implementation of the provisions of the help America vote act
24 related to persons with disabilities.

25 Counties must update the plan at least annually. The election
26 review staff of the secretary of state shall review and evaluate the
27 plan in conformance with the review procedure identified in RCW
28 29A.04.570.

29 (3) Counties may form a joint advisory committee to develop the
30 plan identified in subsection (2) of this section if the total
31 population of the joining counties does not exceed thirty thousand, and
32 the counties are geographically adjacent.

Passed by the House February 14, 2006.

Passed by the Senate March 2, 2006.

Approved by the Governor March 24, 2006.

Filed in Office of Secretary of State March 24, 2006.