

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1000

Chapter 348, Laws of 2011

(partial veto)

62nd Legislature
2011 Regular Session

OVERSEAS AND SERVICE VOTERS

EFFECTIVE DATE: 07/22/11

Passed by the House April 15, 2011
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 12, 2011
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved May 16, 2011, 2:11 p.m., with
the exception of Section 2 which is
vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of
the House of Representatives of
the State of Washington, do hereby
certify that the attached is **HOUSE
BILL 1000** as passed by the House of
Representatives and the Senate on
the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 17, 2011

**Secretary of State
State of Washington**

HOUSE BILL 1000

AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Hurst, Stanford, Blake, Finn, Ladenburg, Goodman, Appleton, Pearson, and Moeller

Prefiled 12/06/10. Read first time 01/10/11. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to overseas and service voters; and amending RCW
2 29A.04.255, 29A.40.070, 29A.40.091, and 29A.40.110.

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

4 **Sec. 1.** RCW 29A.04.255 and 2004 c 266 s 5 are each amended to read
5 as follows:

6 The secretary of state or a county auditor shall accept and file in
7 his or her office electronic ((~~faesimile~~)) transmissions of the
8 following documents:

- 9 (1) Declarations of candidacy;
- 10 (2) County canvass reports;
- 11 (3) Voters' pamphlet statements;
- 12 (4) Arguments for and against ballot measures that will appear in
13 a voters' pamphlet;
- 14 (5) Requests for recounts;
- 15 (6) Certification of candidates and measures by the secretary of
16 state;
- 17 (7) Direction by the secretary of state for the conduct of a
18 ((~~mandatory~~)) recount;
- 19 (8) Requests for ((~~absentee~~)) ballots;

1 (9) Any other election related document authorized by rule adopted
2 by the secretary of state under RCW (~~(29A.04.610)~~) 29A.04.611.

3 The acceptance by the secretary of state or the county auditor is
4 conditional upon the document being filed in a timely manner, being
5 legible, and otherwise satisfying the requirements of state law or
6 rules with respect to form and content.

7 (~~(If the original copy of a document must be signed and a copy of
8 the document is filed by facsimile transmission under this section, the
9 original copy must be subsequently filed with the official with whom
10 the facsimile was filed. The original copy must be filed by a deadline
11 established by the secretary by rule.)~~) The secretary may by rule
12 require that the original of any document, a copy of which is filed by
13 (~~(facsimile)~~) electronic transmission under this section, also be filed
14 by a deadline established by the secretary by rule.

15 ***Sec. 2. RCW 29A.40.070 and 2006 c 344 s 13 are each amended to**
16 **read as follows:**

17 (1) ***Except where a recount or litigation (~~(under RCW 29A.68.011)~~***
18 ***is pending, the county auditor (~~(shall have sufficient absentee ballots~~***
19 ***available for absentee voters of that county, other than overseas***
20 ***voters and service voters, at least twenty days before any primary,***
21 ***general election, or special election. The county auditor)*** must mail
22 ***(absentee)*** ballots to each voter ***(for whom the county auditor has***
23 ***received a request nineteen days before the primary or election)*** at
24 ***least eighteen days before ((the)) each primary or election, and as***
25 ***soon as possible for all subsequent registration changes. ((For a***
26 ***request for an absentee ballot received after the nineteenth day before***
27 ***the primary or election, the county auditor shall make every effort to***
28 ***mail ballots within one business day, and shall mail the ballots within***
29 ***two business days))***.

30 (2) ***(At least thirty days before any primary, general election, or***
31 ***special election, the county auditor shall mail ballots to all overseas***
32 ***and service voters.)*** **Except where a recount or litigation is pending,**
33 **the county auditor must mail ballots to each service and overseas voter**
34 **at least thirty days before each special election and at least**
35 **forty-five days before each primary or general election.** A request for
36 a ballot made by an overseas or service voter after that day must be
37 processed immediately.

1 (3) A registered voter may obtain a replacement ballot if the
2 ballot is destroyed, spoiled, lost, or not received by the voter. The
3 voter may obtain the ballot by telephone request, by mail,
4 electronically, or in person. The county auditor shall keep a record
5 of each request for a replacement ballot.

6 (4) Each county auditor shall certify to the office of the
7 secretary of state the dates the ballots (~~(prescribed in subsection (1)~~
8 ~~of this section were available and~~) were mailed, or the reason and
9 date the ballots will be mailed if the ballots were not mailed timely.

10 ~~((4) If absentee ballots will not be available or mailed as~~
11 ~~prescribed in subsection (1) of this section, the county auditor shall~~
12 ~~immediately certify to the office of the secretary of state when~~
13 ~~absentee ballots will be available and mailed. Copies of this~~
14 ~~certification must be provided to the county canvassing board, the~~
15 ~~press, jurisdictions with issues on the ballot in the election, and any~~
16 ~~candidates.~~

17 ~~(5) If absentee ballots were not available or mailed as prescribed~~
18 ~~in subsection (1) of this section, for a reason other than a recount or~~
19 ~~litigation, the county auditor, in consultation with the certification~~
20 ~~and training program of the office of the secretary of state, shall~~
21 ~~submit a report to the office of the secretary of state outlining why~~
22 ~~the deadline was missed and what corrective actions will be taken in~~
23 ~~future elections to ensure that absentee ballots are available and~~
24 ~~mailed as prescribed in subsection (1) of this section.~~

25 ~~(6)) Failure to ((have absentee ballots available and mailed))~~
26 mail ballots as prescribed in ((subsection (1) of)) this section does
27 not by itself provide a basis for an election contest or other legal
28 challenge to the results of a primary, general election, or special
29 election.

*Sec. 2 was vetoed. See message at end of chapter.

30 **Sec. 3.** RCW 29A.40.091 and 2010 c 125 s 1 are each amended to read
31 as follows:

32 (1) The county auditor shall send each voter a ballot, a security
33 envelope in which to seal the ballot after voting, a larger envelope in
34 which to return the security envelope, a declaration that the voter
35 must sign, and instructions on how to obtain information about the
36 election, how to mark the ballot, and how to return ~~((it))~~ the ballot
37 to the county auditor.

1 ~~(2) The ((instructions that accompany a ballot for a partisan~~
2 ~~primary must include instructions for voting the applicable ballot~~
3 ~~style, as provided in chapter 29A.36 RCW. The voter's name and address~~
4 ~~must be printed on the larger return envelope, which must also contain~~
5 ~~a declaration by the voter reciting his or her qualifications and~~
6 ~~stating that he or she)) voter must swear under penalty of perjury that~~
7 ~~he or she meets the qualifications to vote, and has not voted in any~~
8 ~~other jurisdiction at this election((, together with a summary of the~~
9 ~~penalties for any violation of any of the provisions of this chapter)).~~
10 The declaration must clearly inform the voter that it is illegal to
11 vote if he or she is not a United States citizen; it is illegal to vote
12 if he or she has been convicted of a felony and has not had his or her
13 voting rights restored; and((, except as otherwise provided by law,))
14 it is illegal to cast a ballot or sign a return envelope on behalf of
15 another voter. The ((return envelope must provide space for the))
16 voter ((to)) must indicate the date on which the ballot was voted and
17 ((for the voter to)) sign the ((oath)) declaration. ((It)) The ballot
18 materials must also contain a space so that the voter may include a
19 telephone number. ((A summary of the applicable penalty provisions of
20 ~~this chapter must be printed on the return envelope immediately~~
21 ~~adjacent to the space for the voter's signature. The signature of the~~
22 ~~voter on the return envelope must affirm and attest to the statements~~
23 ~~regarding the qualifications of that voter and to the validity of the~~
24 ~~ballot. The return envelope may provide secrecy for the voter's~~
25 ~~signature and optional telephone number.))~~

26 (3) For overseas and service voters, the signed declaration on the
27 return envelope constitutes the equivalent of a voter registration for
28 the election or primary for which the ballot has been issued. Return
29 envelopes for overseas and service voters must enable the ballot to be
30 returned postage free if mailed through the United States postal
31 service, United States armed forces postal service, or the postal
32 service of a United States foreign embassy under 39 U.S.C. 3406.

33 (4) The voter must be instructed to either return the ballot to the
34 county auditor ((by whom it was issued)) no later than 8:00 p.m. the
35 day of the election or primary, or ((attach sufficient first class
36 postage, if applicable, and)) mail the ballot to the ((appropriate))
37 county auditor with a postmark no later than the day of the election or
38 primary ((for which the ballot was issued.

1 ~~If the county auditor chooses to forward ballots, he or she must~~
2 ~~include with the ballot a clear explanation of the qualifications~~
3 ~~necessary to vote in that election and must also advise a voter with~~
4 ~~questions about his or her eligibility to contact the county auditor.~~
5 ~~This explanation may be provided on the ballot envelope, on an enclosed~~
6 ~~insert, or printed directly on the ballot itself. If the information~~
7 ~~is not included, the envelope must clearly indicate that the ballot is~~
8 ~~not to be forwarded and that return postage is guaranteed)).~~ Service
9 and overseas voters must be provided with instructions and a secrecy
10 cover sheet for returning the ballot and signed declaration by fax or
11 e-mail. A voted ballot and signed declaration returned by fax or e-
12 mail must be received by 8:00 p.m. on the day of the election or
13 primary.

14 **Sec. 4.** RCW 29A.40.110 and 2009 c 369 s 40 are each amended to
15 read as follows:

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

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

29 (3) (~~Before opening a returned absentee ballot,~~) The canvassing
30 board, or its designated representatives, shall examine the postmark(~~r~~
31 ~~statement,~~) on the return envelope and signature on the (~~return~~
32 ~~envelope that contains the security envelope and absentee ballot~~)
33 declaration before processing the ballot. The ballot must either be
34 received no later than 8:00 p.m. on the day of the primary or election,
35 or must be postmarked no later than the day of the primary or election.
36 All personnel assigned to verify signatures must receive training on
37 statewide standards for signature verification. Personnel shall verify

1 that the voter's signature on the (~~return-envelope~~) ballot
2 declaration is the same as the signature of that voter in the
3 registration files of the county. Verification may be conducted by an
4 automated verification system approved by the secretary of state.
5 (~~For any absentee ballot,~~) A variation between the signature of the
6 voter on the (~~return-envelope~~) ballot declaration and the signature
7 of that voter in the registration files due to the substitution of
8 initials or the use of common nicknames is permitted so long as the
9 surname and handwriting are clearly the same.

10 (4) (~~For registered voters casting absentee ballots~~) If the
11 postmark is missing or illegible, the date on the (~~return-envelope~~)
12 ballot declaration to which the voter has attested determines the
13 validity, as to the time of voting, for that (~~absentee~~) ballot (~~if~~
14 ~~the postmark is missing or is illegible~~). For overseas voters and
15 service voters, the date on the (~~return-envelope~~) declaration to
16 which the voter has attested determines the validity, as to the time of
17 voting, for that (~~absentee~~) ballot. Any overseas voter or service
18 voter may return the signed declaration and voted ballot by fax or e-
19 mail by 8:00 p.m. on the day of the primary or election, and the county
20 auditor must use established procedures to maintain the secrecy of the
21 ballot.

Passed by the House April 15, 2011.

Passed by the Senate April 12, 2011.

Approved by the Governor May 16, 2011, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 17, 2011.

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

"I am returning herewith, without my approval as to Section 2, House
Bill 1000 entitled:

"AN ACT Relating to overseas and service voters."

I am vetoing Section 2 of House Bill 1000 because another bill I am
signing today amends the same statute regarding the date ballots are
mailed to military and overseas voters. Section 16 of Second
Engrossed Substitute Senate Bill 5171 contains the same amendment to
this statute. Each of these amendments to the statute takes effect on
a different date. House Bill 1000 takes effect ninety days after the
end of session, whereas Section 16 of Second Engrossed Substitute
Senate Bill 5171 takes effect January 1, 2012. The Secretary of State
has stated that the statutory amendment should take effect in 2012 to
correspond with other election date changes in Second Engrossed
Substitute Senate Bill 5171.

For this reason I have vetoed Section 2 of House Bill 1000.

With the exception of Section 2, House Bill 1000 is approved."