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SENATE BILL 5473

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State of Washington                      65th Legislature                      2017 Regular Session

By Senators Pearson and Hasegawa

Read first time 01/25/17. Referred to Committee on State Government.

1            AN ACT Relating to authorizing counties to establish and conduct  
2 polling place voting; amending RCW 29A.32.241 and 29A.40.010; adding  
3 a new section to chapter 29A.04 RCW; and adding a new chapter to  
4 Title 29A RCW.

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

6            NEW SECTION.    **Sec. 1.** The legislature intends to grant counties  
7 the option of establishing polling place voting and provide standards  
8 for conducting polling place voting.

9            NEW SECTION.    **Sec. 2.** A new section is added to chapter 29A.04  
10 RCW to read as follows:

11            "Polling place voting" means voting conducted at polling places  
12 for precincts.

13            NEW SECTION.    **Sec. 3.** (1) A county may establish polling place  
14 voting in all or part of the county.

15            (2) Registered voters in the county may submit a petition to the  
16 county legislative authority proposing to establish polling place  
17 voting in the county. The petition must include signatures of  
18 registered voters in the county equal to at least eight percent of

1 the voters in the county who voted in the last gubernatorial  
2 election.

3 (3) The county legislative authority may adopt a resolution  
4 proposing to establish polling place voting in the county.

5 (4) The county legislative authority must conduct a public  
6 hearing on a petition or resolution proposing to establish polling  
7 place voting. Notice of the public hearing must be provided on the  
8 county's web site and published in a newspaper of general circulation  
9 in the county.

10 (5) After receiving public testimony, the county legislative  
11 authority may adopt an ordinance establishing polling place voting in  
12 the county.

13 NEW SECTION. **Sec. 4.** If a county legislative authority  
14 establishes polling place voting pursuant to section 3 of this act,  
15 the county elections officer must provide pertinent information  
16 regarding polling place voting procedure to county voters.

17 NEW SECTION. **Sec. 5.** (1) Polling places must be accessible to  
18 elderly and disabled persons.

19 (2) At any special election or primary, the county elections  
20 officer may combine, unite, or divide precincts when conducting the  
21 election. At any general election, the county elections officer must  
22 report all election returns by individual precinct.

23 (3) A polling place for a voting precinct may be located outside  
24 the boundaries of the precinct when the county elections officer  
25 deems it feasible. However, the polling place must be located within  
26 a reasonable distance of the voting precinct.

27 (4) At the request of the county elections officer, the county  
28 and cities, towns, and special purpose districts must make their  
29 facilities available for use as polling places. Payment for polling  
30 places and any other conditions or obligations may be provided by  
31 contract.

32 NEW SECTION. **Sec. 6.** A person may not interfere with a voter  
33 attempting to vote at a polling place. Interfering with a voter  
34 attempting to vote is a violation of RCW 29A.84.510.

35 NEW SECTION. **Sec. 7.** Any voter may take into the voting booth  
36 or voting device any printed or written material to assist in casting

1 his or her vote. A voter must not use this material to electioneer  
2 and must remove the material when he or she leaves the polling place.

3 NEW SECTION. **Sec. 8.** At any election or primary, a political  
4 party may designate a person, other than a precinct election officer,  
5 for each polling place to check a list of registered voters of the  
6 precinct to determine who has and who has not voted. The county  
7 central committee chair of a political party may appoint election  
8 observers to observe elections at polling places.

9 NEW SECTION. **Sec. 9.** Ballots may not be used in any polling  
10 place other than those prepared by the county elections officer. A  
11 voter is not entitled to vote more than once at a primary or  
12 election, except that if a voter incorrectly marks a ballot, he or  
13 she may return it and be issued a new ballot. Precinct election  
14 officers must void incorrectly marked ballots and return them to the  
15 county elections officer.

16 NEW SECTION. **Sec. 10.** Paper records produced by electronic  
17 voting devices are subject to all the requirements of this chapter  
18 and chapter 29A.60 RCW for ballot handling, preservation,  
19 reconciliation, transit to the counting center, and storage. Paper  
20 records must be preserved in the same manner and for the same period  
21 as ballots.

22 NEW SECTION. **Sec. 11.** (1) At the direction of the county  
23 elections officer, designated election officers must stop at  
24 designated polling places and pick up sealed containers of voted,  
25 untallied ballots for delivery to the counting center. Two precinct  
26 election officials must seal the voted ballots in containers  
27 furnished by the county elections officer and properly identified  
28 with uniquely prenumbered seals.

29 (2) At the counting center where sealed ballot containers are  
30 delivered, the county elections officer or a designated  
31 representative must receive the sealed ballot containers, record the  
32 time, date precinct name or number, and seal number of each ballot  
33 container.

34 NEW SECTION. **Sec. 12.** The county elections officer must provide  
35 in each polling place a sufficient number of voting booths or voting

1 devices along with any supplies necessary to enable voters to mark or  
2 register their choices on ballots and cast their votes in secrecy.

3 NEW SECTION. **Sec. 13.** (1) At all primaries and elections in  
4 counties that have adopted polling place voting, polling places must  
5 be kept open continuously from seven o'clock a.m. to eight o'clock  
6 p.m.

7 (2) All qualified electors who are at polling places at eight  
8 o'clock p.m. must be allowed to cast their votes.

9 (3) The precinct election officers, immediately before they start  
10 to issue ballots or permit a voter to vote, must announce that the  
11 polling place for that precinct is open. At eight o'clock p.m., or at  
12 the time when all qualified electors at the polling place pursuant to  
13 subsection (2) of this section have voted, the precinct election  
14 officers must announce that the polling place for that precinct is  
15 closed.

16 NEW SECTION. **Sec. 14.** A registered voter may not be allowed to  
17 vote in the precinct in which he or she is registered at any election  
18 or primary for which that voter has cast a mail ballot. A registered  
19 voter who has requested a mail ballot for a primary or election, but  
20 chooses to vote at the voter's precinct polling place in that primary  
21 or election, must cast a provisional ballot. The canvassing board  
22 must not count a provisional ballot if it finds that the voter has  
23 also voted by mail in that primary or election.

24 NEW SECTION. **Sec. 15.** No later than the day before a primary or  
25 election, the county elections officer must provide to precinct  
26 election officials at each polling place the following materials:

- 27 (1) Ballots;  
28 (2) Precinct list of registered voters;  
29 (3) Voting and registration instructions, printed in large type,  
30 to be conspicuously displayed at each polling place; and  
31 (4) Accessible voting equipment.

32 NEW SECTION. **Sec. 16.** Precinct election officers for each  
33 precinct must meet at designated polling places at the time set by  
34 the county elections officer.

1        NEW SECTION.    **Sec. 17.**    (1) Before opening the polling place for  
2 a precinct, the voting equipment must be inspected to determine if it  
3 has been properly prepared for voting. If the voting equipment is  
4 capable of direct tabulation of each voter's choices, the precinct  
5 election officers must verify that no votes have been registered for  
6 any issue or office to be voted on at that primary or election. The  
7 precinct election officers must periodically examine the voting  
8 devices to determine that no one has tampered with the devices.

9        (2) Any ballot box must be carefully examined by election  
10 officers to determine that it is empty. The ballot box must then be  
11 sealed or locked. The ballot box must not be opened before the  
12 polling place is closed on the day of the primary or election.

13        NEW SECTION.    **Sec. 18.**    (1) A voter desiring to vote at a polling  
14 place must give his or her name to a precinct election officer and  
15 provide identification. The identification may be a valid photo  
16 identification, such as a driver's license or state identification  
17 card, student identification card, or tribal identification card, a  
18 voter's voter identification issued by a county elections officer, or  
19 a copy of a current utility bill, bank statement, paycheck, or  
20 government check or other government document. A voter desiring to  
21 vote who cannot provide identification as required by this subsection  
22 must be issued a provisional ballot.

23        (2) If the right of a voter to vote is not challenged, the voter  
24 must sign the precinct list of registered voters, and then be issued  
25 a ballot. The voter must then proceed, without leaving the polling  
26 place, to one of the voting booths or voting devices to cast his or  
27 her vote.

28        (3) As each voter casts his or her vote, the precinct election  
29 officer must insert in the precinct list of registered voters  
30 opposite that voter's name, a notation to credit the voter with  
31 having participated in that primary or election.

32        NEW SECTION.    **Sec. 19.**    At all primaries and elections the flag  
33 of the United States must be conspicuously displayed in front of each  
34 polling place.

35        NEW SECTION.    **Sec. 20.**    Provisional ballots must be issued, along  
36 with a provisional ballot outer envelope and a security envelope, to  
37 voters as appropriate under RCW 29A.04.008. The provisional ballot

1 outer envelope must include a place for the voter's name; registered  
2 address, both present and former if applicable; date of birth; reason  
3 for the provisional ballot; the precinct number and the precinct  
4 polling place at which the voter has voted; and a space for the  
5 county elections officer to list the disposition of the provisional  
6 ballot. The provisional ballot outer envelope must also contain a  
7 declaration as required for mail ballots under RCW 29A.40.091; a  
8 place for the voter to sign the oath; and a summary of the applicable  
9 penalty provisions of this chapter. The voter must vote the  
10 provisional ballot in secrecy and, when done, place the provisional  
11 ballot in the security envelope, place the security envelope into the  
12 outer envelope, and return it to the precinct election official. The  
13 election official must ensure that the required information is  
14 completed on the outer envelope, have the voter sign it in the  
15 appropriate space, and place the envelope in a secure container. The  
16 official must give the voter written information advising him or her  
17 how to ascertain whether the vote was counted and, if applicable, the  
18 reason why the vote was not counted.

19 NEW SECTION. **Sec. 21.** (1) A person who votes in an election for  
20 federal office as a result of a federal or state court order or any  
21 other order extending the time for closing polling places may vote in  
22 that election only by casting a provisional ballot. As to court  
23 orders extending the time for closing polling places, this section  
24 does not apply to any voters who were present in the polling place at  
25 the statutory closing time and as a result are permitted to vote  
26 under section 13 of this act. This section does not, by itself,  
27 authorize any court to order that any individual be permitted to vote  
28 or to extend the time for closing polling places, but this section is  
29 intended to comply with 42 U.S.C. Sec. 15482(c) with regard to  
30 federal elections.

31 (2) Any ballot cast under subsection (1) of this section must be  
32 separated and held apart from other provisional ballots cast by those  
33 not affected by the order.

34 NEW SECTION. **Sec. 22.** (1) At each precinct immediately after  
35 the last qualified voter has cast his or her vote, the precinct  
36 election officers must render unusable and secure in a container all  
37 unused ballots for that precinct and return them to the county  
38 elections officer.

1 (2) Immediately after the unused ballots are secure, the precinct  
2 election officers must count the number of voted ballots and make a  
3 record, including any discrepancy, between this number and the number  
4 of voters who signed the precinct list of registered voters for that  
5 precinct or polling place, complete the certifications in the  
6 precinct list of registered voters, prepare the ballots for transfer  
7 to the counting center, and seal the voting devices.

8 NEW SECTION. **Sec. 23.** The precinct list of registered voters  
9 for each precinct or group of precincts delivered to the precinct  
10 election officers for use on the day of a primary or election held in  
11 that precinct must be returned to the county elections officer upon  
12 the completion of the count of votes cast in the precinct at that  
13 primary or election. While in possession of the county elections  
14 officer, the precinct lists are open to public inspection as  
15 prescribed in regulations.

16 NEW SECTION. **Sec. 24.** In precincts where polling place counting  
17 devices are used, the election officers, before initializing the  
18 device for voting, must proceed as follows:

19 (1) They must see that the device is placed where it can be  
20 conveniently attended by the election officers and operated by  
21 voters;

22 (2) They must see whether the number or other designating mark on  
23 the device's seal agrees with the control number provided by the  
24 elections department. If they do not agree they must at once notify  
25 the elections department and delay initializing the device. A polling  
26 place may be opened pending reexamination of the device;

27 (3) If the numbers do agree, they must proceed to initialize the  
28 device and see whether the public counter register "000." If the  
29 counter is found to register a number other than "000," one of the  
30 election officers must at once set the counter at "000" and confirm  
31 that the ballot box is empty;

32 (4) Before processing any ballots through a polling place ballot  
33 counting device, a zero report must be produced. Election officials  
34 must verify that no ballots have been run through the counting device  
35 and that all vote totals for each office are zero. If the totals are  
36 not zero, election officials must either reset the device to zero or  
37 contact the elections department to reset the device and allow voting  
38 to continue using the auxiliary or emergency device.

1        NEW SECTION.    **Sec. 25.**    Whenever polling place ballot counting  
2 devices are used, the devices may either be delivered with the  
3 supplies required in section 13 of this act, or be delivered  
4 separately to the polling place. All polling place ballot counting  
5 devices must be sealed with a unique numbered seal at the time of  
6 final preparation and logic and accuracy testing. A log must be made  
7 of all seal numbers and device numbers used.

8        NEW SECTION.    **Sec. 26.**    The programmed memory pack for each  
9 polling place ballot counting device must be sealed into the device  
10 during final preparation and logic and accuracy testing. Except in  
11 the case of a device breakdown, the memory pack must remain sealed in  
12 the device until after polling places have closed and all reports and  
13 telephonic or electronic transfer of results are completed. After all  
14 reporting is complete, the precinct election officers responsible for  
15 transferring the sealed voted ballots under RCW 29A.60.110 must  
16 ensure that the memory pack is returned to the elections department.  
17 If the entire polling place ballot counting device is returned, the  
18 memory pack must remain sealed in the device. If the polling place  
19 ballot counting device is to remain at the polling place, the  
20 precinct election officer must break the seal on the device and  
21 remove the memory pack and seal and return it along with the  
22 irregularly voted ballots and special ballots to the elections  
23 department on election day.

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

33        NEW SECTION.    **Sec. 28.**    If a polling place ballot counting device  
34 fails to operate at any time during polling hours voting must  
35 continue and the ballots must be deposited for later tabulation in a  
36 secure ballot compartment separate from the tabulated ballots.

1        NEW SECTION.        **Sec. 29.**        A county may adopt regulations to  
2 implement this chapter.

3        **Sec. 30.**        RCW 29A.32.241 and 2016 c 83 s 2 are each amended to  
4 read as follows:

5        (1) The local voters' pamphlet (~~((shall))~~) must include but not be  
6 limited to the following:

7        (a) Appearing on the cover, the words "official local voters'  
8 pamphlet," the name of the jurisdiction producing the pamphlet, and  
9 the date of the election or primary;

10        (b) A list of jurisdictions that have measures or candidates in  
11 the pamphlet;

12        (c) Information on how a person may register to vote and obtain a  
13 ballot or, if applicable, vote at polling places, pursuant to this  
14 act;

15        (d) The text of each measure accompanied by an explanatory  
16 statement prepared by the prosecuting attorney for any county measure  
17 or by the attorney for the jurisdiction submitting the measure if  
18 other than a county measure. All explanatory statements for city,  
19 town, or district measures not approved by the attorney for the  
20 jurisdiction submitting the measure (~~((shall))~~) must be reviewed and  
21 approved by the county prosecuting attorney or city attorney, when  
22 applicable, before inclusion in the pamphlet;

23        (e) The arguments for and against each measure submitted by  
24 committees selected pursuant to RCW 29A.32.280; and

25        (f) For partisan primary elections, information on how to vote  
26 the applicable ballot format and an explanation that minor political  
27 party candidates and independent candidates will appear only on the  
28 general election ballot.

29        (2) The county auditor's name may not appear in the local voters'  
30 pamphlet in his or her official capacity if the county auditor is a  
31 candidate for office during the same year. His or her name may only  
32 be included as part of the information normally included for  
33 candidates.

34        **Sec. 31.**        RCW 29A.40.010 and 2013 c 11 s 47 are each amended to  
35 read as follows:

36        Each active registered voter of the state, overseas voter, and  
37 service voter (~~((shall))~~) must automatically be issued a mail ballot  
38 for each general election, special election, or primary, unless the

1 county in which the voter resides has established polling place  
2 voting and the voter has indicated that he or she will vote at a  
3 polling place. Overseas voters and service voters are authorized to  
4 cast the same ballots, including those for special elections, as a  
5 registered voter of the state would receive under this chapter. Each  
6 active registered voter (~~shall~~) must continue to receive a ballot  
7 by mail until the death or disqualification of the voter,  
8 cancellation of the voter's registration, or placing the voter on  
9 inactive status.

10 NEW SECTION. **Sec. 32.** Sections 1 and 3 through 29 of this act  
11 constitute a new chapter in Title 29A RCW.

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