H-4647.1

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**SUBSTITUTE HOUSE BILL 1861**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** House State Government & Tribal Relations (originally sponsored by Representatives Mead, Appleton, and Pollet)

AN ACT Relating to improving ballot rejection rates while maintaining the integrity of elections; amending RCW 29A.60.110 and 29A.60.125; adding a new section to chapter 29A.60 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that national data show that the state has had one of the worst ballot rejection rates in the nation for at least ten years. In addition, the legislature finds that there is an unacceptable variance in the rate among the counties in the state. Reducing both the variability and the state rejection rate will help protect an individual's right to vote while preserving the integrity of our elections. Therefore, the legislature intends to direct the state auditor to conduct a performance audit of election ballot rejection rates in Washington to determine best election administration practices that will reduce the variability between counties and improve the state's ballot rejection rate.

NEW SECTION. **Sec.**  A new section is added to chapter 29A.60 RCW to read as follows:

(1) By December 1st of every year, the secretary of state shall determine and announce the statewide rejected ballot rate mean based on all elections in the state for that year in which more than ten votes were cast. The secretary of state shall rank each county from highest to lowest by ballot rejection rate and announce the counties that are above the statewide mean.

(2) Using data from the 2020 state general election, the state auditor must conduct an audit to:

(a) Review each county's procedures for identifying, correcting if appropriate, and reviewing and rejecting questionable ballots;

(b) Examine the accuracy of the ballot rejections;

(c) Compare each county's practices with requirements of the law and with best practices;

(d) Identify any trends in rejected ballots, including the demographics of the voters whose ballots were rejected; and

(e) Make recommendations about process or procedure to reduce the rate of rejected ballots while protecting broad access to the ballot.

(3) By December 31, 2021, the state auditor shall analyze the ballot rejection rates in the 2020 general election and shall make recommendations to lower rejection rates. By December 31, 2021, the state auditor shall submit the report to the appropriate committees of the legislature and make the report available on its web site.

**Sec.**  RCW 29A.60.110 and 2018 c 218 s 4 are each amended to read as follows:

(1) Immediately after their tabulation, all ballots counted at a ballot counting center must be sealed in containers that identify the primary or election and be retained for at least sixty days or according to federal law, whichever is longer.

(2) In the presence of major party observers who are available, ballots may be removed from the sealed containers at the elections department and consolidated into one sealed container for storage purposes. The containers may only be opened by the canvassing board as part of the canvass, to conduct recounts, to conduct a random check under RCW 29A.60.170, to conduct an audit under RCW 29A.60.185, to allow the state auditor to conduct an audit under section 2 of this act, or by order of the superior court in a contest or election dispute. If the canvassing board opens a ballot container, it shall make a full record of the additional tabulation or examination made of the ballots. This record must be added to any other record of the canvassing process in that county.

**Sec.**  RCW 29A.60.125 and 2018 c 218 s 8 are each amended to read as follows:

If inspection of the ballot reveals a physically damaged ballot or ballot that may be otherwise unreadable or uncountable by the tabulating system, the county auditor may refer the ballot to the county canvassing board or duplicate the ballot if so authorized by the county canvassing board. The voter's original ballot may not be altered. A ballot may be duplicated only if the intent of the voter's marks on the ballot is clear and the electronic voting equipment might not otherwise properly tally the ballot to reflect the intent of the voter. Ballots must be duplicated by teams of two or more people working together. When duplicating ballots, the county auditor shall take the following steps to create and maintain an audit trail of the action taken:

(1) Each original ballot and duplicate ballot must be assigned the same unique control number, with the number being marked upon the face of each ballot, to ensure that each duplicate ballot may be tied back to the original ballot;

(2) A log must be kept of the ballots duplicated, which must at least include:

(a) The control number of each original ballot and the corresponding duplicate ballot;

(b) The initials of at least two people who participated in the duplication of each ballot; and

(c) The total number of ballots duplicated.

Original and duplicate ballots must be sealed in secure storage at all times, except during duplication, inspection by the canvassing board, tabulation, or to conduct an audit under RCW 29A.60.185 or to allow the state auditor to conduct an audit under section 2 of this act.

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