
HOUSE BILL 1861

State of Washington

66th Legislature

2019 Regular Session

By Representatives Mead, Appleton, and Pollet

Read first time 02/04/19. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to improving ballot rejection rates while
2 maintaining the integrity of elections; amending RCW 29A.60.110 and
3 29A.60.125; adding a new section to chapter 29A.60 RCW; creating a
4 new section; and providing a contingent expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that national data
7 show that the state has had one of the worst ballot rejection rates
8 in the nation for at least ten years. In addition, the legislature
9 finds that there is an unacceptable variance in the rate among the
10 counties in the state. Reducing both the variability and the state
11 rejection rate will help protect an individual's right to vote while
12 preserving the integrity of our elections. Therefore, the legislature
13 intends to direct the state auditor to examine each county that has a
14 ballot rejection rate above the statewide mean to determine best
15 election administration practices that will reduce the variability
16 between counties and improve the state's ballot rejection rate.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 29A.60
18 RCW to read as follows:

19 (1) By December 1st of every year, the state auditor in
20 concurrence with the secretary of state shall determine and announce

1 the statewide rejected ballot rate mean based on all elections in the
2 state for that year in which more than ten votes were cast. The state
3 auditor shall rank each county from highest to lowest by ballot
4 rejection rate and announce the counties that are above the statewide
5 mean.

6 (2) Subject to subsection (3) of this section, for every county
7 with a ballot rejection rate greater than the statewide mean, the
8 state auditor must conduct an audit to:

9 (a) Review the county procedures for identifying, correcting if
10 appropriate, and reviewing and rejecting questionable ballots;

11 (b) Examine the accuracy of the ballot rejections;

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

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

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

18 (3) A county identified in subsection (2) of this section may
19 request the state auditor for a waiver from audit. The state auditor
20 must grant the waiver if the county demonstrates that: (a) An audit
21 would be unduly burdensome; (b) an audit would not change the results
22 of the elections in the year in question; and (c) the county has
23 taken steps to address its rejection rate.

24 (4) The state auditor shall prepare a preliminary report of each
25 audit required under this section and submit it to the appropriate
26 county auditor by March 1st of the year following the general
27 election. The county auditor may submit any comments to the state
28 auditor within thirty days of receiving the audit. By June 1st of the
29 year following the general election, the state auditor shall submit a
30 final audit report containing the audits and comments of the
31 individual counties to the appropriate committees of the legislature
32 and make the report available on its web site. The final audit report
33 must include a list of counties that requested a waiver and indicate
34 whether the state auditor granted or denied the waiver under
35 subsection (3) of this section.

36 (5) By December 1, 2028, the state auditor shall analyze the
37 ballot rejection rates statewide since 2019 and identify any changes
38 in the mean and in the variance among counties and any changes in
39 rejection rates by individual counties. The state auditor shall make
40 recommendations to lower rejection rates and recommend an acceptable

1 rate of rejection. By December 1, 2028, the state auditor shall
2 submit the report to the appropriate committees of the legislature
3 and make the report available on its web site.

4 **Sec. 3.** RCW 29A.60.110 and 2018 c 218 s 4 are each amended to
5 read as follows:

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

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

22 **Sec. 4.** RCW 29A.60.125 and 2018 c 218 s 8 are each amended to
23 read as follows:

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

36 (1) Each original ballot and duplicate ballot must be assigned
37 the same unique control number, with the number being marked upon the

1 face of each ballot, to ensure that each duplicate ballot may be tied
2 back to the original ballot;

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

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

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

9 (c) The total number of ballots duplicated.

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

15 NEW SECTION. **Sec. 5.** Sections 1 and 2 of this act expire when
16 the state auditor determines, on a date after December 31, 2028, that
17 no county has a ballot rejection rate that exceeds, by more than five
18 percent, the rejection rate of the county with the lowest rejection
19 rate. The state auditor must provide notice of the expiration date of
20 sections 1 and 2 of this act to the chief clerk of the house of
21 representatives, the secretary of the senate, the office of the code
22 reviser, and others as deemed appropriate by the state auditor.

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