H-1788.3

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**HOUSE BILL 1778**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Klippert, Sutherland, and Kraft

AN ACT Relating to ensuring the security and integrity of elections; amending RCW 29A.40.091, 29A.60.235, 29A.04.008, 29A.04.470, 29A.04.611, 29A.12.005, 29A.12.080, 29A.12.120, 29A.36.111, 29A.36.115, 29A.40.070, 29A.40.160, 29A.56.040, 29A.60.090, 29A.60.110, 29A.60.120, 29A.60.170, 29A.60.185, 29A.64.011, 29A.64.021, 29A.84.530, 36.32.245, and 43.07.310; reenacting and amending RCW 29A.40.110; adding new sections to chapter 29A.60 RCW; adding a new section to chapter 29A.04 RCW; and repealing RCW 29A.12.010, 29A.12.085, 29A.12.101, 29A.12.110, 29A.12.130, 29A.12.150, 29A.12.160, 29A.60.060, 29A.60.095, 29A.60.125, 29A.84.545, and 29A.84.560.

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

**Sec.**  RCW 29A.40.091 and 2021 c 10 s 3 are each amended to read as follows:

(1) The county auditor shall send each voter a ballot, a security envelope in which to conceal the ballot after voting, a larger envelope in which to return the security envelope, a declaration that the voter must sign, and instructions on how to obtain information about the election, how to mark the ballot, and how to return the ballot to the county auditor. The calendar date of the election must be prominently displayed in bold type, twenty-point font or larger, on the envelope sent to the voter containing the ballot and other materials listed in this subsection:

(a) For all general elections in 2020 and after;

(b) For all primary elections in 2021 and after; and

(c) For all elections in 2022 and after.

(2) The voter must swear under penalty of perjury that he or she meets the qualifications to vote, and has not voted in any other jurisdiction at this election. The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she is serving a sentence of total confinement under the jurisdiction of the department of corrections for a felony conviction or is currently incarcerated for a federal or out-of-state felony conviction; and it is illegal to cast a ballot or sign a ballot declaration on behalf of another voter. The ballot materials must provide space for the voter to sign the declaration, indicate the date on which the ballot was voted, and include a telephone number.

(3) For overseas and service voters, the signed declaration constitutes the equivalent of a voter registration. Return envelopes for overseas and service voters must enable the ballot to be returned postage free if mailed through the United States postal service, United States armed forces postal service, or the postal service of a United States foreign embassy under 39 U.S.C. 3406.

(4) The voter must be instructed to either return the ballot to the county auditor no later than 8:00 p.m. the day of the election or primary, or mail the ballot to the county auditor with a postmark no later than the day of the election or primary. Ballots may not be returned by email or fax. Return envelopes for all election ballots must include prepaid postage. ((~~Service and overseas voters must be provided with instructions and a privacy sheet for returning the ballot and signed declaration by fax or email. A voted ballot and signed declaration returned by fax or email must be received by 8:00 p.m. on the day of the election or primary.~~))

(5) The county auditor's name may not appear on the security envelope, the return envelope, or on any voting instructions or materials included with the ballot if he or she is a candidate for office during the same year.

(6) For purposes of this section, "prepaid postage" means any method of return postage paid by the county or state.

**Sec.**  RCW 29A.40.110 and 2011 c 349 s 18, 2011 c 348 s 4, and 2011 c 10 s 41 are each reenacted and amended to read as follows:

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

(2) All received return envelopes must be placed in secure locations from the time of delivery to the county auditor until their subsequent opening. After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until processing. Ballots may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation.

(3) The canvassing board, or its designated representatives, shall examine the postmark on the return envelope and signature on the declaration before processing the ballot. The ballot must either be received no later than 8:00 p.m. on the day of the primary or election, or must be postmarked no later than the day of the primary or election. All personnel assigned to verify signatures must receive training on statewide standards for signature verification. Personnel shall verify that the voter's signature on the ballot declaration is the same as the signature of that voter in the registration files of the county. Verification may be conducted by an automated verification system approved by the secretary of state. A variation between the signature of the voter on the ballot declaration and the signature of that voter in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

(4) If the postmark is missing or illegible, ((~~the date on the ballot declaration to which the voter has attested determines the validity, as to the time of voting, for that ballot. For overseas voters and service voters, the date on the declaration to which the voter has attested determines the validity, as to the time of voting, for that ballot. Any overseas voter or service voter may return the signed declaration and voted ballot by fax or email by 8:00 p.m. on the day of the primary or election, and the county auditor must use established procedures to maintain the secrecy of the ballot~~)) the ballot is invalid and may not be counted.

(5) In accordance with section 3 of this act, a ballot that is returned by email or fax is invalid and must be rejected.

(6) The canvassing board, or its designated representatives, shall examine each returned ballot and ensure that it contains the official watermark required under RCW 29A.36.111. In accordance with RCW 29A.36.111, a returned ballot that does not contain the official watermark is invalid and may not be counted.

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

A ballot is invalid, and must be rejected, and no votes on that ballot may be counted, if it is returned by fax or email.

**Sec.**  RCW 29A.60.235 and 2018 c 218 s 9 are each amended to read as follows:

(1) The county auditor shall prepare at the time of certification an election reconciliation report that discloses the following information:

(a) The number of registered voters;

(b) The number of ballots issued;

(c) The number of ballots received;

(d) The number of ballots counted;

(e) The number of ballots rejected;

(f) The number of provisional ballots issued;

(g) The number of provisional ballots received;

(h) The number of provisional ballots counted;

(i) The number of provisional ballots rejected;

(j) The number of federal write-in ballots received;

(k) The number of federal write-in ballots counted;

(l) The number of federal write-in ballots rejected;

(m) The number of overseas and service ballots issued by mail((~~, email, website link, or facsimile~~));

(n) The number of overseas and service ballots received by mail((~~, email, or facsimile~~));

(o) The number of overseas and service ballots counted by mail((~~, email, or facsimile~~));

(p) The number of overseas and service ballots rejected ((~~by mail, email, or facsimile~~));

(q) The number of nonoverseas and nonservice ballots ((~~sent by email, website link, or facsimile~~)) issued;

(r) ((~~The number of nonoverseas and nonservice ballots received by email or facsimile;~~

~~(s)~~)) The number of nonoverseas and nonservice ballots and the number of overseas and service ballots that were rejected for((~~:~~

~~(i) Failing to send an original or hard copy of the ballot by the certification deadline; or~~

~~(ii) Any other~~)) any reason, including the reason for rejection;

((~~(t)~~)) (s) The number of voters credited with voting;

((~~(u)~~)) (t) The number of replacement ballots requested;

((~~(v)~~)) (u) The number of replacement ballots issued;

((~~(w)~~)) (v) The number of replacement ballots received;

((~~(x)~~)) (w) The number of replacement ballots counted;

((~~(y)~~)) (x) The number of replacement ballots rejected; and

((~~(z)~~)) (y) Any other information the auditor or secretary of state deems necessary to reconcile the number of ballots counted with the number of voters credited with voting, and to maintain an audit trail.

(2) The county auditor must make the report available to the public at the auditor's office and must publish the report on the auditor's website at the time of certification. The county auditor must submit the report to the secretary of state at the time of certification in any form determined by the secretary of state.

(3)(a) The secretary of state must collect the reconciliation reports from each county auditor and prepare a statewide reconciliation report for each state primary and general election. The report may be produced in a form determined by the secretary that includes the information as described in this subsection (3). The report must be prepared and published on the secretary of state's website within two months after the last county's election results have been certified.

(b) The state report must include a comparison among counties on rates of votes received, counted, and rejected, including provisional, write-in, overseas ballots, and ballots transmitted electronically. The comparison information may be in the form of rankings, percentages, or other relevant quantifiable data that can be used to measure performance and trends.

(c) The state report must also include an analysis of the data that can be used to develop a better understanding of election administration and policy. The analysis must combine data, as available, over multiple years to provide broader comparisons and trends regarding voter registration and turnout and ballot counting. The analysis must incorporate national election statistics to the extent such information is available.

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

Ballot counting equipment, ballot tabulation systems, ballot tallying systems, or other machinery used to electronically tally or count returned ballots may not be used in any election governed under this title. All returned ballots must be tallied and counted manually.

**Sec.**  RCW 29A.04.008 and 2013 c 11 s 1 are each amended to read as follows:

As used in this title:

(1) "Ballot" means, as the context implies, either:

(a) The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a particular primary, general election, or special election;

(b) ((~~A facsimile of the contents of a particular ballot whether printed on a paper ballot or ballot card or as part of a voting machine or voting device;~~

~~(c)~~)) A physical ((~~or electronic~~)) record of the choices of an individual voter in a particular primary, general election, or special election; or

((~~(d)~~)) (c) The physical document on which the voter's choices are to be recorded;

(2) "Paper ballot" means a piece of paper on which the ballot for a particular election or primary has been printed, on which a voter may record his or her choices for any candidate or for or against any measure, and that is to be tabulated manually;

(3) ((~~"Ballot card" means any type of card or piece of paper of any size on which a voter may record his or her choices for any candidate and for or against any measure and that is to be tabulated on a vote tallying system;~~

~~(4)~~)) "Sample ballot" means a printed facsimile of all the issues and offices on the ballot in a jurisdiction and is intended to give voters notice of the issues, offices, and candidates that are to be voted on at a particular primary, general election, or special election;

((~~(5)~~)) (4) "Provisional ballot" means a ballot issued to a voter who would otherwise be denied an opportunity to vote a regular ballot, for any reason authorized by the Help America Vote Act, including but not limited to the following:

(a) The voter's name does not appear in the list of registered voters for the county;

(b) There is an indication in the voter registration system that the voter has already voted in that primary, special election, or general election, but the voter wishes to vote again;

(c) There is a question on the part of the voter concerning the issues or candidates on which the voter is qualified to vote;

(d) Any other reason allowed by law.

**Sec.**  RCW 29A.04.470 and 2011 c 10 s 10 are each amended to read as follows:

(1) The secretary of state shall create an advisory committee and adopt rules governing project eligibility, evaluation, awarding of grants, and other criteria for administering the local government grant program, which may include a preference for grants that include a match of local funds.

(2) The advisory committee shall review grant proposals and establish a prioritized list of projects to be considered for funding by the third Tuesday in May of each year beginning in 2004 and continuing as long as funds in the election account established by RCW 29A.04.440 are available. The grant award may have an effective date other than the date the project is placed on the prioritized list, including money spent previously by the county that would qualify for reimbursement under the Help America Vote Act (P.L. 107-252).

(3) Examples of projects that would be eligible for local government grant funding include, but are not limited to the following:

(a) ((~~Replacement or upgrade of voting equipment, including the replacement of punch card voting systems;~~

~~(b) Purchase of additional voting equipment, including the purchase of equipment to meet the disability requirements of the Help America Vote Act (P.L. 107-252);~~

~~(c)~~)) Purchase of new election management system hardware and software capable of integrating with the statewide voter registration system required by the Help America Vote Act (P.L. 107-252);

((~~(d)~~)) (b) Development and production of election worker training materials;

((~~(e)~~)) (c) Voter education programs;

((~~(f)~~)) (d) Publication of a local voters' pamphlet;

((~~(g)~~)) (e) Toll-free access system to provide notice of the outcome of provisional ballots; and

((~~(h)~~)) (f) Training for local election officials.

**Sec.**  RCW 29A.04.611 and 2011 c 10 s 13 are each amended to read as follows:

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

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

(1) The maintenance of voter registration records;

(2) The preparation, maintenance, distribution, review, and filing of precinct maps;

(3) Standards for the design, layout, and production of ballots;

(4) The examination and testing of voting systems for certification;

(5) The source and scope of independent evaluations of voting systems that may be relied upon in certifying voting systems for use in this state;

(6) Standards and procedures for the acceptance testing of voting systems by counties;

(7) ((~~Standards and procedures for testing the programming of vote tallying software for specific primaries and elections;~~

~~(8)~~)) Standards and procedures for the preparation and use of each type of certified voting system ((~~including procedures for the operation of counting centers where vote tallying systems are used~~));

((~~(9)~~)) (8) Standards and procedures to ensure the accurate tabulation and canvassing of ballots;

((~~(10)~~)) (9) Consistency among the counties of the state in the preparation of ballots((~~,~~)) and the ((~~operation of vote tallying systems, and the~~)) canvassing of primaries and elections including the manual counting of returned ballots;

((~~(11)~~)) (10) Procedures to ensure the secrecy of a voter's ballot when a small number of ballots are counted;

((~~(12) The use of substitute devices or means of voting when a voting device is found to be defective, the counting of votes cast on the defective device, the counting of votes cast on the substitute device, and the documentation that must be submitted to the county auditor regarding such circumstances;~~

~~(13)~~)) (11) Procedures for the transportation of sealed containers of voted ballots or sealed voting devices;

((~~(14)~~)) (12) The acceptance and filing of documents via electronic transmission;

((~~(15)~~)) (13) Voter registration applications and records;

((~~(16)~~)) (14) The use of voter registration information in the conduct of elections;

((~~(17)~~)) (15) The coordination, delivery, and processing of voter registration records accepted by driver licensing agents or the department of licensing;

((~~(18)~~)) (16) The coordination, delivery, and processing of voter registration records accepted by agencies designated by the governor to provide voter registration services;

((~~(19)~~)) (17) Procedures to receive and distribute voter registration applications by mail;

((~~(20)~~)) (18) Procedures for a voter to change his or her voter registration address within a county by telephone;

((~~(21)~~)) (19) Procedures for a voter to change the name under which he or she is registered to vote;

((~~(22)~~)) (20) Procedures for canceling dual voter registration records and for maintaining records of persons whose voter registrations have been canceled;

((~~(23)~~)) (21) Procedures for the electronic transfer of voter registration records between county auditors and the office of the secretary of state;

((~~(24)~~)) (22) Procedures and forms for declarations of candidacy;

((~~(25)~~)) (23) Procedures and requirements for the acceptance and filing of declarations of candidacy by electronic means;

((~~(26)~~)) (24) Procedures for the circumstance in which two or more candidates have a name similar in sound or spelling so as to cause confusion for the voter;

((~~(27)~~)) (25) Filing for office;

((~~(28)~~)) (26) The order of positions and offices on a ballot;

((~~(29)~~)) (27) Sample ballots;

((~~(30)~~)) (28) Independent evaluations of voting systems;

((~~(31)~~)) (29) The testing, approval, and certification of voting systems;

((~~(32) The testing of vote tallying software programming;~~

~~(33)~~)) (30) Standards and procedures to prevent fraud and to facilitate the accurate processing and canvassing of ballots, including standards for the approval and implementation of hardware and software for automated signature verification systems;

((~~(34)~~)) (31) Standards and procedures to guarantee the secrecy of ballots;

((~~(35)~~)) (32) Uniformity among the counties of the state in the conduct of elections;

((~~(36)~~)) (33) Standards and procedures to accommodate overseas voters and service voters;

((~~(37)~~)) (34) The tabulation of paper ballots;

((~~(38)~~)) (35) The accessibility of voting centers;

((~~(39)~~)) (36) The aggregation of precinct results if reporting the results of a single precinct could jeopardize the secrecy of a person's ballot;

((~~(40)~~)) (37) Procedures for conducting a statutory recount;

((~~(41)~~)) (38) Procedures for filling vacancies in congressional offices if the general statutory time requirements for availability of ballots, certification, canvassing, and related procedures cannot be met;

((~~(42)~~)) (39) Procedures for the statistical sampling of signatures for purposes of verifying and canvassing signatures on initiative, referendum, and recall election petitions;

((~~(43)~~)) (40) Standards and deadlines for submitting material to the office of the secretary of state for the voters' pamphlet;

((~~(44)~~)) (41) Deadlines for the filing of ballot titles for referendum bills and constitutional amendments if none have been provided by the legislature;

((~~(45)~~)) (42) Procedures for the publication of a state voters' pamphlet;

((~~(46)~~)) (43) Procedures for conducting special elections regarding nuclear waste sites if the general statutory time requirements for availability of ballots, certification, canvassing, and related procedures cannot be met;

((~~(47)~~)) (44) Procedures for conducting partisan primary elections;

((~~(48) Standards and procedures for the proper conduct of voting on accessible voting devices;~~

~~(49) Standards for voting technology and systems used by the state or any political subdivision to be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as other voters;~~

~~(50)~~)) (45) All data formats for transferring voter registration data on electronic or machine-readable media for the purpose of administering the statewide voter registration list required by the Help America Vote Act (P.L. 107-252);

((~~(51)~~)) (46) Defining the interaction of electronic voter registration election management systems employed by each county auditor to maintain a local copy of each county's portion of the official state list of registered voters;

((~~(52)~~)) (47) Provisions and procedures to implement the state-based administrative complaint procedure as required by the Help America Vote Act (P.L. 107-252);

((~~(53)~~)) (48) Facilitating the payment of local government grants to local government election officers or vendors; and

((~~(54)~~)) (49) Standards for the verification of signatures on ballot declarations.

**Sec.**  RCW 29A.12.005 and 2018 c 218 s 5 are each amended to read as follows:

As used in this chapter, "voting system" means:

(1) The total combination of mechanical, electromechanical, or electronic equipment including, but not limited to, the software, firmware, and documentation required to program, control, and support the equipment, that is used:

(a) To define ballots;

(b) ((~~To cast and count votes;~~

~~(c)~~)) To report or display election results from the voting system;

((~~(d)~~)) (c) To maintain and produce any audit trail information; and

((~~(e)~~)) (d) To perform an audit under RCW 29A.60.185; and

(2) The practices and associated documentation used:

(a) To identify system components and versions of such components;

(b) To test the system during its development and maintenance;

(c) To maintain records of system errors and defects;

(d) To determine specific system changes to be made to a system after the initial qualification of the system; and

(e) To make available any materials to the voter such as notices, instructions, forms, or paper ballots.

**Sec.**  RCW 29A.12.080 and 2013 c 11 s 22 are each amended to read as follows:

No voting device ((~~shall~~)), voting machine, or other ballot marking system that electronically records the votes cast by a voter may be approved by the secretary of state ((~~unless it:~~

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

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

~~(3) Correctly registers all votes cast for any and all persons and for or against any and all measures;~~

~~(4) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for president and vice president of the United States; and~~

~~(5) Except for functions or capabilities unique to this state, has been tested and certified by an independent testing authority designated by the United States election assistance commission~~)).

**Sec.**  RCW 29A.12.120 and 2013 c 11 s 23 are each amended to read as follows:

(1) Before each state primary or general election at which voting systems are to be used, the county auditor shall instruct all counting center personnel who will operate a voting system in the proper conduct of their voting system duties.

(2) The county auditor may waive instructional requirements for counting center personnel who have previously received instruction and who have served for a sufficient length of time to be fully qualified to perform their duties. The county auditor shall keep a record of each person who has received instruction and is qualified to serve at the subsequent primary or election.

(3) No person may operate a voting system in a counting center at a primary or election unless that person has received the required instruction and is qualified to perform his or her duties in connection with the handling ((~~and tallying~~)) of ballots for that primary or election.

**Sec.**  RCW 29A.36.111 and 2009 c 414 s 1 are each amended to read as follows:

(1) Every ballot for a single combination of issues, offices, and candidates shall be uniform within a precinct and shall identify the type of primary or election, the county, and the date of the primary or election, and the ballot ((~~or voting device~~)) shall contain instructions on the proper method of recording a vote, including write-in votes. Each position, together with the names of the candidates for that office, shall be clearly separated from other offices or positions in the same jurisdiction. The offices in each jurisdiction shall be clearly separated from each other. No paper ballot ((~~or ballot card~~)) may be marked by or at the direction of an election official in any way that would permit the identification of the person who voted that ballot.

(2) All ballots must contain an official watermark approved by the secretary of state. Only voted ballots containing the official watermark are valid and may be counted. The secretary of state may contract with a third party to design the watermark. The watermark must be sufficient to prove that the ballot is an official ballot and not a reproduction. The secretary of state shall take measures to ensure that the design is incapable of being replicated, and the software or firmware used to store the electronic file of the watermark is secure.

(3) An ((~~elections [election]~~)) election official may not enter into or extend any contract with a vendor if such contract may allow the vendor to acquire an ownership interest in any data pertaining to any voter, any voter's address, registration number, or history, or any ballot.

**Sec.**  RCW 29A.36.115 and 2011 c 10 s 31 are each amended to read as follows:

All provisional ballots must be visually distinguishable from other ballots ((~~and incapable of being tabulated by a voting system~~)).

**Sec.**  RCW 29A.40.070 and 2013 c 11 s 48 are each amended to read as follows:

(1) Except where a recount or litigation is pending, the county auditor must mail ballots to each voter at least eighteen days before each primary or election, and as soon as possible for all subsequent registration changes.

(2) Except where a recount or litigation is pending, the county auditor must mail ballots to each service and overseas voter at least thirty days before each special election, and at least forty‑five days before each primary or general election, or any special election that involves federal office. A request for a ballot made by an overseas or service voter after that day must be processed immediately.

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

(4) Each county auditor shall certify to the office of the secretary of state the dates the ballots were mailed, or the reason and date the ballots will be mailed if the ballots were not mailed timely.

(5) Failure to mail ballots as prescribed in this section does not by itself provide a basis for an election contest or other legal challenge to the results of a primary, general election, or special election.

**Sec.**  RCW 29A.40.160 and 2019 c 6 s 6 are each amended to read as follows:

(1) Each county auditor shall open a voting center each primary, special election, and general election. The voting center shall be open during business hours during the voting period, which begins eighteen days before, and ends at 8:00 p.m. on the day of, the primary, special election, or general election.

(2) Each county auditor shall register voters in person at each of the following locations in the county:

(a) At the county auditor's office;

(b) At the division of elections, if located in a separate city from the county auditor's office; and

(c) For each presidential general election, at a voting center in each city in the county with a population of one hundred thousand or greater, which does not have a voting center as required in (a) or (b) of this subsection. A voting center opened pursuant to this subsection (2) is not required to be open on the Sunday before the presidential election.

(3) Voting centers shall be located in public buildings or buildings that are leased by a public entity including, but not limited to, libraries.

(4) Each voting center, and at least one of the other locations designated by the county auditor to allow voters to register in person pursuant to RCW 29A.08.140(1)(b), must provide voter registration materials, ballots, provisional ballots, ((~~disability access voting units,~~)) sample ballots, instructions on how to properly vote the ballot, a ballot drop box, and voters' pamphlets, if a voters' pamphlet has been published.

(5) Each voting center must be accessible to persons with disabilities. Each state agency and entity of local government shall permit the use of any of its accessible facilities as voting centers when requested by a county auditor.

(6) ((~~Each voting center must provide at least one voting unit certified by the secretary of state that provides access to individuals who are blind or visually impaired, enabling them to vote with privacy and independence.~~

~~(7)~~)) No person may interfere with a voter attempting to vote in a voting center. Interfering with a voter attempting to vote is a violation of RCW 29A.84.510.

((~~(8) Before opening the voting center, the voting equipment shall be inspected to determine if it has been properly prepared for voting. If the voting equipment is capable of direct tabulation of each voter's choices, the county auditor shall verify that no votes have been registered for any issue or office, and that the device has been sealed with a unique numbered seal at the time of final preparation and logic and accuracy testing. A log must be made of all device numbers and seal numbers.~~

~~(9)~~)) (7) The county auditor shall require any person desiring to vote at a voting center to either sign a ballot declaration or provide identification.

(a) The signature on the declaration must be compared to the signature on the voter registration record before the ballot may be counted. If the voter registered using a mark, or can no longer sign his or her name, the election officers shall require the voter to be identified by another registered voter.

(b) The identification must be valid photo identification, such as a driver's license, state identification card, student identification card, tribal identification card, or employer identification card. A tribal identification card is not required to include a residential address or an expiration date to be considered valid under this section. Any individual who desires to vote in person but cannot provide identification shall be issued a provisional ballot, which shall be accepted if the signature on the declaration matches the signature on the voter's registration record.

((~~(10)~~)) (8) Provisional ballots must be accompanied by a declaration and security envelope, as required by RCW 29A.40.091, and space for the voter's name, date of birth, current and former registered address, reason for the provisional ballot, and disposition of the provisional ballot. The voter shall vote and return the provisional ballot at the voting center. The voter must be provided information on how to ascertain whether the provisional ballot was counted and, if applicable, the reason why the vote was not counted.

((~~(11)~~)) (9) Any voter may take printed or written material into the voting ((~~device~~)) booth to assist in casting his or her vote. The voter shall not use this material to electioneer and shall remove it when he or she leaves the voting center.

((~~(12)~~)) (10) If any voter states that he or she is unable to cast his or her votes due to a disability, the voter may designate a person of his or her choice, or two election officers, to enter the voting booth and record the votes as he or she directs.

((~~(13)~~)) (11) No voter is entitled to vote more than once at a primary, special election, or general election. If a voter incorrectly marks a ballot, he or she may be issued a replacement ballot.

((~~(14)~~)) (12) A voter who has already returned a ballot but requests to vote at a voting center shall be issued a provisional ballot. The canvassing board shall not count the provisional ballot if it finds that the voter has also voted a regular ballot in that primary, special election, or general election.

((~~(15)~~)) (13) Any voter who is inside or in line at the voting center at 8:00 p.m. on the day of the primary, special election, or general election must be allowed to vote.

((~~(16)~~)) (14) For each primary, special election, and general election, the county auditor may provide election services at locations in addition to the voting center. The county auditor has discretion to establish which services will be provided at the additional locations, and which days and hours the locations will be open.

**Sec.**  RCW 29A.56.040 and 2019 c 7 s 3 are each amended to read as follows:

(1) Except where necessary to accommodate the national or state rules of a major political party or where this chapter specifically provides otherwise, the presidential primary must be conducted in substantially the same manner as a state primary under this title.

(2) The arrangement and form of presidential primary ballots must be established by administrative rule adopted under RCW 29A.04.620, and in consultation with the major political parties. Only the candidates who have been submitted under RCW 29A.56.031 may appear on the ballots.

(3) Each party's ballot or portion of the ballot must list alphabetically the names of all candidates for the office of president for that party. The ballot must clearly indicate the political party of each candidate.

(4) If requested by a party chair, the ballot for that party must contain a place for a voter to indicate a preference for having delegates to the party's national convention remain uncommitted. A request under this subsection must be submitted to the secretary of state no later than sixty-three days before the presidential primary.

(5) A presidential primary ballot with votes for more than one candidate is void, and notice to this effect, stated in clear, simple language and printed in large type, must appear on the face of each presidential primary ballot ((~~or on or about each voting device~~)).

(6) Notice must be published in the manner required by RCW 29A.52.355.

**Sec.**  RCW 29A.60.090 and 2003 c 111 s 1509 are each amended to read as follows:

In counties using voting systems, the county auditor shall maintain the following documents for at least sixty days after the primary or election:

(1) Sample ballot formats together with a record of the format or formats assigned to each precinct; and

(2) ((~~All programming material related to the control of the vote tallying system for that primary or election; and~~

~~(3)~~)) All test materials used to verify the accuracy of the ((~~tabulating equipment as required by RCW 29A.12.130~~)) manual count of returned ballots.

**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, 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.60.120 and 2011 c 10 s 51 are each amended to read as follows:

(1) All voted ballots must be manually inspected for damage, write-in votes, and incorrect or incomplete marks. ((~~If it is found that any ballot is damaged so that it cannot properly be counted by the vote tallying system, a true duplicate copy must be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. All damaged ballots must be kept by the county auditor until sixty days after the primary or election or according to federal law, whichever is longer.~~))

(2) The returns produced by the ((~~vote tallying system~~)) manual count of returned ballots, to which have been added the counts of questioned ballots which have been verified by the canvassing board in accordance with RCW 29A.60.050, and write-in votes, constitute the official returns of the primary or election in that county.

**Sec.**  RCW 29A.60.170 and 2018 c 218 s 3 are each amended to read as follows:

(1) At least twenty-eight days prior to any special election, general election, or primary, the county auditor shall request from the chair of the county central committee of each major political party a list of individuals who are willing to serve as observers. The county auditor has discretion to also request observers from any campaign or organization. The county auditor may delete from the lists names of those persons who indicate to the county auditor that they cannot or do not wish to serve as observers, and names of those persons who, in the judgment of the county auditor, lack the ability to properly serve as observers after training has been made available to them by the auditor.

(2) The counting center is under the direction of the county auditor and must be open to observation by one representative from each major political party, if representatives have been appointed by the respective major political parties and these representatives are present while the counting center is operating. The proceedings must be open to the public, but no persons except those employed and authorized by the county auditor may touch any ballot or ballot container ((~~or operate a vote tallying system.~~

~~(3) A random check of the ballot counting equipment must be conducted upon mutual agreement of the political party observers or at the discretion of the county auditor. The random check procedures must be adopted by the county canvassing board, and consistent with rules adopted under RCW 29A.60.185(4), prior to the processing of ballots. The random check process shall involve a comparison of a manual count or electronic count if an audit under RCW 29A.60.185(1)(d) is conducted to the machine count from the original ballot counting equipment and may involve up to either three precincts or six batches depending on the ballot counting procedures in place in the county. The random check will be limited to one office or issue on the ballots in the precincts or batches that are selected for the check. The selection of the precincts or batches to be checked must be selected according to procedures established by the county canvassing board. The random check procedures must include a process, consistent with RCW 29A.60.185(3) and rules adopted under RCW 29A.60.185(4), for expanding the audit to include additional ballots when a random check conducted under this section results in a discrepancy. The procedure must specify under what circumstances a discrepancy will lead to an audit of additional ballots and the method to determine how many additional ballots will be selected. Procedures adopted under RCW 29A.60.185 pertaining to investigations of any discrepancy found during an audit must be followed. The check must be completed no later than forty-eight hours after election day.~~

~~(4)(a) By November 1, 2018, the secretary of state shall:~~

~~(i) For each county, survey all random check procedures adopted by the county canvassing board under subsection (3) of this section; and~~

~~(ii) Evaluate the procedures to identify the best practices and any discrepancies.~~

~~(b) By December 15, 2018, the secretary of state shall submit a report, in compliance with RCW 43.01.036, to the appropriate committees of the legislature that provides recommendations, based on the evaluation performed under (a) of this subsection, for adopting best practices and uniform procedures~~)).

**Sec.**  RCW 29A.60.185 and 2018 c 218 s 2 are each amended to read as follows:

(1) Prior to certification of the election as required by RCW 29A.60.190, the county auditor shall conduct an audit ((~~of duplicated ballots in accordance with subsection (2) of this section, and an audit~~)) using at minimum one of the following methods:

(a) ((~~An audit of results of votes cast on the direct recording electronic voting devices, or other in-person ballot marking systems, used in the county if there are races or issues with more than ten votes cast on all direct recording electronic voting devices or other in-person ballot marking systems in the county. This audit must be conducted by randomly selecting by lot up to four percent of the direct recording electronic voting devices or other in-person ballot marking systems, or one direct recording electronic voting device or other in-person ballot marking system, whichever is greater, and, for each device or system, comparing the results recorded electronically with the results recorded on paper. For purposes of this audit, the results recorded on paper must be tabulated as follows: On one-fourth of the devices or systems selected for audit, the paper records must be tabulated manually; on the remaining devices or systems, the paper records may be tabulated by a mechanical device determined by the secretary of state to be capable of accurately reading the votes cast and printed thereon and qualified for use in the state under applicable state and federal laws. Three races or issues, randomly selected by lot, must be audited on each device or system. This audit procedure must be subject to observation by political party representatives if representatives have been appointed and are present at the time of the audit. As used in this subsection, "in-person ballot marking system" or "system" means an in-person ballot marking system that retains or produces an electronic voting record of each vote cast using the system;~~

~~(b) A random check of the ballot counting equipment consistent with RCW 29A.60.170(3);~~

~~(c)~~)) A risk-limiting audit. A "risk-limiting audit" means an audit protocol that makes use of statistical principles and methods and is designed to limit the risk of certifying an incorrect election outcome. The secretary of state shall:

(i) Set the risk limit. A "risk limit" means the largest statistical probability that an incorrect reported tabulation outcome is not detected in a risk-limiting audit;

(ii) Randomly select for audit at least one statewide contest, and for each county at least one ballot contest other than the selected statewide contest. The county auditor shall randomly select a ballot contest for audit if in any particular election there is no statewide contest; and

(iii) Establish procedures for implementation of risk-limiting audits, including random selection of the audit sample, determination of audit size, and procedures for a ((~~comparison risk-limiting audit and~~)) ballot polling risk-limiting audit ((~~as defined in (c)(iii)(A) and (B) of this subsection~~)).

((~~(A) In a comparison risk-limiting audit, the county auditor compares the voter markings on randomly selected ballots to the ballot-level cast vote record produced by the ballot counting equipment.~~

~~(B) In a~~)) A ballot polling risk-limiting audit((~~, the county auditor of a county using ballot counting equipment that does not produce ballot-level cast vote records reports the voter markings on randomly selected ballots~~)) means an audit in which individual paper ballots are randomly selected and the voter marking are examined and interpreted manually until the prespecified risk limit is met; or

((~~(d) An independent electronic audit of the original ballot counting equipment used in the county. The county auditor may either conduct an audit of all ballots cast, or limit the audit to three precincts or six batches pursuant to procedures adopted under RCW 29A.60.170(3). This audit must be conducted using an independent electronic audit system that is, at minimum:~~

~~(i) Approved by the secretary of state;~~

~~(ii) Completely independent from all voting systems, including ballot counting equipment, that is used in the county;~~

~~(iii) Distributed or manufactured by a vendor different from the vendor that distributed or manufactured the original ballot counting equipment; and~~

~~(iv) Capable of demonstrating that it can verify and confirm the accuracy of the original ballot counting equipment's reported results~~)) (b) A manual audit of the manual count. The procedures must provide for best practices and uniform procedures across all counties. The manual audit process shall involve a comparison of a manual count of the selected number of ballots to the count from the original manual count of the returned ballots.

(2) ((~~Prior to certification of the election, the county auditor must conduct an audit of ballots duplicated under RCW 29A.60.125. The audit of duplicated ballots must involve a comparison of the duplicated ballot to the original ballot. The county canvassing board must establish procedures for the auditing of duplicated ballots.~~

~~(3)~~)) For each audit method, the secretary of state must adopt procedures for expanding the audit to include additional ballots when an audit results in a discrepancy. The procedure must specify under what circumstances a discrepancy will lead to an audit of additional ballots, and the method to determine how many additional ballots will be selected. The secretary of state shall adopt procedures to investigate the cause of any discrepancy found during an audit.

((~~(4)~~)) (3) The secretary of state may contract with an independent third-party vendor to conduct an audit under this section.

(4) The secretary of state must establish rules ((~~by January 1, 2019,~~)) to implement and administer the auditing methods in this section, including facilitating public observation and reporting requirements.

**Sec.**  RCW 29A.64.011 and 2011 c 349 s 23 are each amended to read as follows:

An officer of a political party or any person for whom votes were cast in a primary who did not qualify for the general election may file a written application for a recount of the votes or a portion of the votes cast at that primary for all persons for whom votes were cast for that office.

An officer of a political party or any person for whom votes were cast at any election may file a written application for a recount of the votes or a portion of the votes cast at that election for all candidates for election to that office.

Any group of five or more registered voters may file a written application for a recount of the votes or a portion of the votes cast upon any question or issue. They shall designate one of the members of the group as chair and shall indicate the voting residence of each member of the group.

An application for a recount of the votes cast for an office or on a ballot measure must be filed with the officer with whom filings are made for the jurisdiction.

((~~An application for a~~)) A recount must ((~~specify whether the recount will~~)) be done manually ((~~or by the vote tally system. A recount done by the vote tally system must use programming that recounts and reports only the office or ballot measure in question. The county shall also provide for a test of the logic and accuracy of that program~~)).

An application for a recount must be filed within two business days after the county canvassing board or secretary of state has declared the official results of the primary or election for the office or issue for which the recount is requested.

((~~This chapter applies to the recounting of votes cast by paper ballots and to the recounting of votes recorded on ballots counted by a vote tally system.~~))

**Sec.**  RCW 29A.64.021 and 2013 c 11 s 66 are each amended to read as follows:

(1) If the official canvass of all of the returns for any office at any primary or election reveals that the difference in the number of votes cast for a candidate apparently qualified for the general election ballot or elected to any office, and the number of votes cast for the closest apparently defeated opponent is less than two thousand votes and also less than one-half of one percent of the total number of votes cast for both candidates, the county canvassing board shall conduct a recount of all votes cast on that position.

(a) Whenever such a difference occurs in the number of votes cast for candidates for a position the declaration of candidacy for which was filed with the secretary of state, the secretary of state shall, within three business days of the day that the returns of the primary or election are first certified by the canvassing boards of those counties, direct those boards to recount all votes cast on the position.

(b)(i) For statewide elections, if the difference in the number of votes cast for the apparent winner and the closest apparently defeated opponent is less than one thousand votes and also less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually ((~~or as provided in subsection (3) of this section~~)).

(ii) For elections not included in (b)(i) of this subsection, if the difference in the number of votes cast for the apparent winner and the closest apparently defeated opponent is less than one hundred fifty votes and also less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually ((~~or as provided in subsection (3) of this section~~)).

(2) A mandatory recount shall be conducted in the manner provided by RCW 29A.64.030, 29A.64.041, and 29A.64.061. No cost of a mandatory recount may be charged to any candidate.

((~~(3) The apparent winner and closest apparently defeated opponent for an office for which a manual recount is required under subsection (1)(b) of this section may select an alternative method of conducting the recount. To select such an alternative, the two candidates shall agree to the alternative in a signed, written statement filed with the election official for the office. The recount shall be conducted using the alternative method if: It is suited to the balloting system that was used for casting the votes for the office; it involves the use of a vote tallying system that is approved for use in this state by the secretary of state; and the vote tallying system is readily available in each county required to conduct the recount. If more than one balloting system was used in casting votes for the office, an alternative to a manual recount may be selected for each system.~~))

**Sec.**  RCW 29A.84.530 and 2011 c 10 s 71 are each amended to read as follows:

Deliberately impeding other voters from casting their votes by refusing to leave a voting booth ((~~or voting device~~)) is a misdemeanor and is subject to the penalties provided in chapter 9A.20 RCW. Election officers may provide assistance in the manner provided by RCW 29A.40.160 to any voter who requests it.

**Sec.**  RCW 36.32.245 and 2016 c 95 s 9 are each amended to read as follows:

(1) No contract for the purchase of materials, equipment, or supplies may be entered into by the county legislative authority or by any elected or appointed officer of the county until after bids have been submitted to the county. Bid specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection. An advertisement shall be published in the official newspaper of the county stating the time and place where bids will be opened, the time after which bids will not be received, the materials, equipment, supplies, or services to be purchased, and that the specifications may be seen at the office of the clerk of the county legislative authority. The advertisement shall be published at least once at least thirteen days prior to the last date upon which bids will be received.

(2) The bids shall be in writing, may be in either hard copy or electronic form as specified by the county, and shall be filed with the clerk. The bids shall be opened and read in public at the time and place named in the advertisement. Contracts requiring competitive bidding under this section may be awarded only to the lowest responsible bidder. Immediately after the award is made, the bid quotations shall be recorded and open to public inspection and shall be available by telephone inquiry. Any or all bids may be rejected for good cause.

(3) For advertisement and formal sealed bidding to be dispensed with as to purchases between ten thousand and fifty thousand dollars, the county legislative authority must use the uniform process to award contracts as provided in RCW 39.04.190. Advertisement and formal sealed bidding may be dispensed with as to purchases of less than ten thousand dollars upon the order of the county legislative authority.

(4) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW; or contracts and purchases for the printing of election ballots((~~, voting machine labels,~~)) and all other election material containing the names of candidates and ballot titles.

(5) Nothing in this section shall prohibit the legislative authority of any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(6) This section does not apply to contracting for public defender services by a county.

**Sec.**  RCW 43.07.310 and 2009 c 415 s 11 are each amended to read as follows:

The secretary of state, through the division of elections, is responsible for the following duties, as prescribed by Title 29A RCW:

(1) The filing, verification of signatures, and certification of state initiative, referendum, and recall petitions;

(2) The production and distribution of a state voters' pamphlet;

(3) The examination, testing, and certification of voting ((~~equipment, voting devices, and vote tallying~~)) systems;

(4) The administration, canvassing, and certification of the presidential primary, state primaries, and state general elections;

(5) The administration of motor voter and other voter registration and voter outreach programs;

(6) The training, testing, and certification of state and local elections personnel as established in RCW 29A.04.530;

(7) The conduct of reviews as established in RCW 29A.04.570; and

(8) Other duties that may be prescribed by the legislature.

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

Nothing in this title shall limit or otherwise restrict the secretary of state from fully complying with a court order for an audit or investigation of any part of the election system.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 29A.12.010 (Authority for use) and 2003 c 111 s 301;

(2)RCW 29A.12.085 (Paper record) and 2011 c 10 s 22 & 2005 c 242 s 1;

(3)RCW 29A.12.101 (Requirements of tallying systems for approval) and 2006 c 207 s 3 & 2004 c 271 s 109;

(4)RCW 29A.12.110 (Record of programming—Devices sealed) and 2011 c 10 s 23, 2003 c 111 s 311, & 1990 c 59 s 25;

(5)RCW 29A.12.130 (Tallying systems—Programming tests) and 2003 c 111 s 313, 1998 c 58 s 2, 1990 c 59 s 32, & 1977 ex.s. c 361 s 73;

(6)RCW 29A.12.150 (Recording requirements) and 2013 c 11 s 24, 2003 c 111 s 315, 1998 c 245 s 26, 1991 c 363 s 30, & 1990 c 184 s 1;

(7)RCW 29A.12.160 (Blind or visually impaired voter accessibility) and 2011 c 10 s 25, 2004 c 267 s 701, & 2004 c 266 s 3;

(8)RCW 29A.60.060 (Results after close of voting) and 2013 c 11 s 60, 2011 c 10 s 49, & 2003 c 111 s 1506;

(9)RCW 29A.60.095 (Electronic voting devices—Record maintenance) and 2005 c 242 s 3;

(10)RCW 29A.60.125 (Damaged ballots) and 2018 c 218 s 8 & 2005 c 243 s 10;

(11)RCW 29A.84.545 (Paper record from direct recording electronic voting device—Removing from voting center) and 2011 c 10 s 73 & 2005 c 242 s 6; and

(12)RCW 29A.84.560 (Voting machines, devices—Tampering with—Extra keys) and 2003 c 111 s 2126, 1991 c 81 s 18, & 1965 c 9 s 29.85.260.

**--- END ---**