

WSR 24-21-117
PROPOSED RULES
SECRETARY OF STATE

[Filed October 21, 2024, 11:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-02-090.

Title of Rule and Other Identifying Information: Ballots and instructions.

Hearing Location(s): On November 26, 2024, at 2:30 p.m., at the Washington Secretary of State, Washington State Library, 6880 Capitol Boulevard S.E., Tumwater, WA 98501. When attending the hearing in person, walk into the front lobby of the Washington State Library. You will be escorted to the conference room at 2:25 p.m. to be present when the hearing begins at 2:30 p.m. If you arrive after that time, there will be a staff member available in the lobby to escort you to the conference room.

Date of Intended Adoption: November 27, 2024.

Submit Written Comments to: Dave Piersma, P.O. Box 40229, Olympia, WA 98504, email dave.piersma@sos.wa.gov, fax 360-664-4619, beginning October 21, 2024, 8:00 a.m., by November 25, 2024, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Dave Piersma, phone 360-902-4172, fax 360-664-4619, email dave.piersma@sos.wa.gov, by November 25, 2024, 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal updates the declaration printed on ballot return envelopes in compliance with SB [ESSB] 5890 and the requirements for instructions accompanying ballot packets.

Reasons Supporting Proposal: SB [ESSB] 5890 requires the office of the secretary of state to update the ballot declaration for use by June 1, 2025.

Statutory Authority for Adoption: RCW 29A.04.611.

Statute Being Implemented: RCW 29A.40.091.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Stuart Holmes, Olympia, 360-902-4151.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Scope of exemption for rule proposal:

Is fully exempt.

October 21, 2024
Amanda Doyle
Chief of Staff

OTS-4415.5

AMENDATORY SECTION (Amending WSR 21-21-001, filed 10/6/21, effective 11/6/21)

WAC 434-230-015 Ballots and instructions. (1) Each ballot shall specify the county, the date, and whether the election is a primary, special or general.

(2) Each ballot must include instructions directing the voter how to mark the ballot, including write-in votes if candidate races appear on the ballot.

(3) Instructions that accompany a ballot must:

(a) Instruct the voter how to cancel a vote by drawing a line through the text of the candidate's name or ballot measure response;

(b) Notify the voter that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an overvote and no votes for that office or ballot measure will be counted;

(c) Explain how to complete and sign the ballot declaration. The following declaration must accompany the ballot:

"I do solemnly swear or affirm under penalty of perjury that I am:

A United States citizen;

A Washington state resident (~~(that meets the requirements for voting mandated by state law)~~);

At least 18 years old on election day, or 17 years old at the primary and 18 years old by the day of the November general election;

Voting only once in this election and not voting in any other United States jurisdiction;

Not serving a sentence of total confinement under the jurisdiction of the Department of Corrections for a Washington felony conviction or currently incarcerated for a federal or out-of-state felony conviction;

Not disqualified from voting due to a court order; (~~and~~)

Aware it is illegal to forge a signature or cast another person's ballot and that attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both; and

Aware that the signature on this declaration will be compared to the signature(s) in the voter's registration file."

The declaration must include space for the voter to sign and date the declaration, for the voter to write (~~(his or her)~~) their phone number, and for two witnesses to sign if the voter is unable to sign.

(d) Explain how the voter may make a mark, witnessed by two other people, if the voter is unable to write their signature;

(e) Explain that a power of attorney cannot be used to sign a ballot for someone else;

(f) Explain how to place the ballot in the security envelope/sleeve and place the security envelope/sleeve in the return envelope;

(g) Explain how to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

(h) Explain how the voter may update their address;

(i) If applicable, include language with the reissued ballot notifying the voter that the reissued ballot is their current ballot;

(j) (~~If applicable, explain that postage is required, or exactly how much postage is required. See WAC 434-250-200 on return postage;~~

~~(k)~~) Explain that, in order for the ballot to be counted, it must be either postmarked no later than election day or deposited at a ballot drop box no later than 8:00 p.m. election day;

~~((l))~~ (k) Explain how to learn about the locations, hours, and services of voting centers and ballot drop boxes, including the availability of accessible voting equipment;

~~((m))~~ (l) Include, for a primary election that includes a partisan office other than a presidential primary race, a notice on an insert explaining:

"In each race, you may vote for any one candidate listed. The two candidates who receive the most votes in the primary will advance to the general election.

Each candidate for partisan office may state a political party that ~~((he or she))~~ the candidate prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

~~((n))~~ (m)(i) Include, for a general election that includes a partisan office, the following explanation:

"If a primary election was held for an office, the two candidates who received the most votes in the primary advanced to the general election.

Each candidate for partisan office may state a political party that ~~((he or she))~~ the candidate prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(ii) In a year that president and vice president appear on the general election ballot, the following must be added to the statement required by ~~((n))~~ (m)(i) of this subsection:

"The election for president and vice president is different. Candidates for president and vice president are the official nominees of their political party."

(4) Instructions that accompany a special absentee ballot authorized by RCW 29A.40.050 must also explain that the voter may request and subsequently vote a regular ballot, and that if the regular ballot is received by the county auditor, the regular ballot will be tabulated and the special absentee ballot will be voided.

(5) Each ballot must explain, either in the general instructions or in the heading of each race, the number of candidates for whom the voter may vote (e.g., "vote for one").

(6) (a) If the ballot includes a partisan office other than a presidential primary race, the ballot must include the following notice in bold print immediately above the first partisan congressional, state, or county office: "READ: Each candidate for partisan office may state a political party that ~~((he or she))~~ the candidate prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(b) When the race for president and vice president appears on a general election ballot, instead of the notice required by (a) of this subsection, the ballot must include the following notice in bold print after president and vice president but immediately above the first partisan congressional, state, or county office: "READ: Each candidate for president and vice president is the official nominee of a political party. For other partisan offices, each candidate may state a po-

litical party that ((he or she)) the candidate prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(c) The same notice may also be listed in the ballot instructions.

(7) ((Counties)) County auditors may use varying sizes and colors of ballots, provided such size and color is used consistently throughout a region, area or jurisdiction (e.g., legislative district, commissioner district, school district, etc.). Varying color and size may also be used to designate various types of ballots.

(8) Ballots shall be formatted as provided in RCW 29A.36.161 and 29A.36.170.

(9) Removable stubs are not considered part of the ballot.

(10) If ballots are printed with sequential numbers or other sequential identifiers, the county auditor must take steps to prevent ballots from being issued sequentially, in order to protect secrecy of the ballot.

Counties may use ballot envelopes with the previous declaration through ((December 2021)) May 2025.