
SENATE BILL 5600

State of Washington 52nd Legislature 1991 Regular Session

By Senators Matson, Madsen and Johnson.

Read first time February 11, 1991. Referred to Committee on
Governmental Operations.

1 AN ACT Relating to voting by mail; amending RCW 29.36.120,
2 29.36.122, 29.36.126, 29.36.130, 29.36.130, 29.36.139, 29.36.150, and
3 29.10.180; adding a new section to chapter 29.36 RCW; and providing an
4 effective date.

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

6 **Sec. 1.** RCW 29.36.120 and 1983 1st ex.s. c 71 s 1 are each amended
7 to read as follows:

8 At any primary or election, general or special, the county auditor
9 may, in any precinct having fewer than ((~~one~~)) two hundred registered
10 voters at the time of closing of voter registration as provided in RCW
11 29.07.160, conduct the voting in that precinct by mail ballot. For any
12 precinct having fewer than ((~~one~~)) two hundred registered voters where
13 voting at a primary or a general election is conducted by mail ballot,
14 the county auditor shall, not less than fifteen days prior to the date
15 of that primary or general election, mail or deliver to each registered

1 voter within that precinct a notice that the voting in that precinct
2 will be by mail ballot, an application form for a mail ballot, and a
3 postage prepaid envelope, preaddressed to the issuing officer. A mail
4 ballot shall be issued to each voter who returns a properly executed
5 application to the county auditor no later than the day of that primary
6 or general election. Such application is valid for all subsequent mail
7 ballot elections in that precinct so long as the voter remains
8 qualified to vote.

9 At any nonpartisan special election not being held in conjunction
10 with a state primary or general election, the county, city, town, or
11 district requesting the election pursuant to RCW 29.13.010 or 29.13.020
12 may also request that the election be conducted by mail ballot. The
13 county auditor may honor the request or may determine that the election
14 is not to be conducted by mail ballot. The decision of the county
15 auditor in this regard is final.

16 In no instance shall any special election be conducted by mail
17 ballot in any precinct with more than ~~((one))~~ two hundred registered
18 voters if candidates for partisan office are to be voted upon.

19 For all special elections not being held in conjunction with a
20 state primary or state general election where voting is conducted by
21 mail ballot, the county auditor shall, not less than fifteen days prior
22 to the date of such election, mail or deliver to each registered voter
23 a mail ballot and an envelope, preaddressed to the issuing officer.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 29.36 RCW
25 to read as follows:

26 (1) At any nonpartisan special election not being held in
27 conjunction with a state primary or general election, the county, city,
28 town, or district requesting the election pursuant to RCW 29.13.010 or
29 29.13.020 may also request that the election be conducted by mail

1 ballot. The county auditor may honor the request or may determine that
2 the election is not to be conducted by mail ballot. The decision of
3 the county auditor in this regard is final.

4 (2) The county auditor may choose to conduct by mail ballot any odd
5 year primary for any race or ballot measure except those involving a
6 partisan office or those that are state-wide in scope. Whenever a
7 district exists in more than one county this subsection applies only
8 when the county auditors having jurisdiction agree to apply it
9 uniformly throughout the district.

10 (3) In no instance may any special election be conducted by mail
11 ballot in any precinct with more than two hundred registered voters if
12 candidates for partisan office are to be voted upon.

13 (4) For all special elections not being held in conjunction with a
14 state primary or state general election where voting is conducted by
15 mail ballot, the county auditor shall, not less than fifteen days
16 before the date of such election, mail or deliver to each registered
17 voter a mail ballot and an envelope, preaddressed to the issuing
18 officer. The county auditor shall notify an election jurisdiction for
19 which a primary is to be held that the primary will be conducted by
20 mail ballot.

21 (5) Wherever the county auditor deems it feasible, the laws
22 governing the conduct of mail ballot special elections also apply to
23 nonpartisan primaries conducted by mail ballot.

24 **Sec. 3.** RCW 29.36.122 and 1983 1st ex.s. c 71 s 2 are each amended
25 to read as follows:

26 For any special election conducted by mail, the county auditor
27 shall send a mail ballot with a return identification envelope to each
28 registered voter of the district in which the special election is being
29 conducted not sooner than the twenty-fifth day before the date of the

1 election and not later than the fifteenth day before the date of the
2 election. The envelope in which the ballot is mailed (~~shall be~~
3 ~~clearly marked "Do Not Forward — Return to Sender — Return Postage~~
4 ~~Guaranteed."~~) must clearly indicate that the ballot is not to be
5 forwarded and is to be returned to the sender with return postage
6 guaranteed.

7 **Sec. 4.** RCW 29.36.126 and 1983 1st ex.s. c 71 s 4 are each amended
8 to read as follows:

9 Upon receipt of the mail ballot, the voter shall mark it, sign the
10 return identification envelope supplied with the ballot, and comply
11 with the instructions provided with the ballot. The voter may return
12 the marked ballot to the county auditor (~~by United States mail or to~~
13 ~~any other place of deposit designated by the county auditor~~). The
14 ballot must be returned in the return identification envelope. If
15 mailed, a ballot must be postmarked not later than the date of the
16 election. Otherwise, the ballot must be deposited at the office of the
17 county auditor or the designated place of deposit not later than 8:00
18 p.m. on the date of the election.

19 **Sec. 5.** RCW 29.36.130 and 1983 1st ex.s. c 71 s 5 are each amended
20 to read as follows:

21 All mail ballots authorized by RCW 29.36.120 or section 2 of this
22 act shall contain the same offices, names of candidates, and
23 propositions to be voted upon, including precinct offices, as if the
24 ballot had been voted in person at the polling place. Except as
25 otherwise provided in (~~RCW 29.36.120 and 29.36.122 through 29.36.126~~
26 ~~and 29.36.139, such~~) this chapter, mail ballots shall be issued and
27 canvassed in the same manner as absentee ballots issued pursuant to the
28 request of the voter. The county canvassing board, at the request of

1 the county auditor, may direct that mail ballots be counted on the day
2 of the election. If such count is made, it must be done in secrecy in
3 the presence of ~~((at least three election officials))~~ the canvassing
4 board or their authorized representatives and the results not revealed
5 to any unauthorized person until ~~((the polls have closed))~~ 8:00 p.m. or
6 later if the auditor so directs. If electronic vote tallying devices
7 are used, political party observers shall be afforded the opportunity
8 to be present, and a test of the equipment must be performed as
9 required by RCW 29.34.163 prior to the count of ballots. Political
10 party observers ~~((shall be allowed to count by hand ballots from up to~~
11 ~~ten precincts selected by the observers))~~ may select at random ballots
12 to be counted by hand as provided by RCW 29.34.163. Any violation of
13 the secrecy of such count shall be subject to the same penalties as
14 provided for in RCW 29.54.035.

15 **Sec. 6.** RCW 29.36.130 and 1990 c 59 s 76 are each amended to read
16 as follows:

17 All mail ballots authorized by RCW 29.36.120 or section 2 of this
18 act shall contain the same offices, names of candidates, and
19 propositions to be voted upon, including precinct offices, as if the
20 ballot had been voted in person at the polling place. Except as
21 otherwise provided in ~~((RCW 29.36.120 and 29.36.122 through 29.36.126~~
22 ~~and 29.36.139, such))~~ this chapter, mail ballots shall be issued and
23 canvassed in the same manner as absentee ballots issued pursuant to the
24 request of the voter. The county canvassing board, at the request of
25 the county auditor, may direct that mail ballots be counted on the day
26 of the election. If such count is made, it must be done in secrecy in
27 the presence of ~~((at least three election officials))~~ the canvassing
28 board or their authorized representatives and the results not revealed
29 to any unauthorized person until ~~((the polls have closed))~~ 8:00 p.m. or

1 later if the auditor so directs. If electronic vote tallying devices
2 are used, political party observers shall be afforded the opportunity
3 to be present, and a test of the equipment must be performed as
4 required by RCW 29.33.350 prior to the count of ballots. Political
5 party observers (~~((shall be allowed to count by hand ballots from up to
6 ten precincts selected by the observers))~~) may select at random ballots
7 to be counted by hand as provided by RCW 29.34.163. Any violation of
8 the secrecy of such count shall be subject to the same penalties as
9 provided for in RCW 29.85.225.

10 **Sec. 7.** RCW 29.36.139 and 1983 1st ex.s. c 71 s 6 are each amended
11 to read as follows:

12 (1) A mail ballot shall be counted only if it is returned in the
13 return identification envelope, if the envelope is signed by the
14 registered voter to whom the ballot is issued, and if the signature is
15 verified as provided in this subsection. The county auditor shall
16 verify the signature of each voter on the return identification
17 envelope with the signature on the voter's registration record. (~~((If
18 the county auditor determines that a registered voter to whom a
19 replacement ballot has been issued has voted more than once, the county
20 auditor shall not count any ballot cast by that voter. The county
21 auditor must notify both the county prosecuting attorney and the state
22 attorney general of every instance in which a voter has voted more than
23 once.))~~) A person who votes or attempts to vote more than once in a
24 mail ballot election is subject to the penalties provided in chapter
25 29.85 RCW.

26 (2) Any mail ballot may be challenged in the same manner as an
27 absentee ballot.

1 **Sec. 8.** RCW 29.36.150 and 1987 c 346 s 19 are each amended to read
2 as follows:

3 The secretary of state shall adopt rules (~~((not inconsistent with~~
4 ~~the provisions of this chapter))~~) to:

5 (1) Establish standards and procedures to prevent fraud and to
6 facilitate the accurate processing and canvassing of absentee ballots
7 and mail ballots;

8 (2) Establish standards and procedures to guarantee the secrecy of
9 absentee ballots and mail ballots;

10 (3) Provide uniformity among the counties of the state in the
11 conduct of absentee voting and mail ballot elections; and

12 (4) Facilitate the operation of the provisions of this chapter
13 regarding out-of-state voters, overseas voters, and service voters.

14 The secretary of state shall produce and furnish envelopes and
15 instructions for out-of-state voters, overseas voters, and service
16 voters to the county auditors.

17 **Sec. 9.** RCW 29.10.180 and 1989 c 261 s 1 are each amended to read
18 as follows:

19 (1) Whenever any vote-by-mail ballot, notification to voters
20 following reprecincting of the county, notification to voters of
21 selection to serve on jury duty, or initial voter identification card
22 is returned by the postal service as undeliverable, the county auditor
23 shall, in every instance, inquire into the validity of the registration
24 of that voter.

25 (2) The county auditor shall initiate his or her inquiry by
26 sending, by first-class mail, a written notice to the challenged voter
27 at the address indicated on the voter's permanent registration record
28 and to any other address at which the county auditor could reasonably
29 expect mail to be received by the voter. The county auditor shall not

1 request any restriction on the forwarding of such notice by the postal
2 service. The notice shall contain the nature of the inquiry and
3 provide a suitable form for reply. The notice shall also contain a
4 warning that the county auditor must receive a response within ninety
5 days from the date of mailing the notice in case of a returned vote-by-
6 mail ballot or forty-five days from the date of mailing in all other
7 cases or the individual's voter registration will be canceled.

8 (3) The voter, in person or in writing, may state that the
9 information on the permanent voter registration record is correct or
10 may request a change in the address information on the permanent
11 registration record no later than the ninetieth day or forty-fifth day,
12 as appropriate, after the date of mailing the inquiry.

13 (4) Upon the timely receipt of a response signed by the voter, the
14 county auditor shall consider the inquiry satisfied and will make any
15 address corrections requested by the voter on the permanent
16 registration record. The county auditor shall cancel the registration
17 of a voter who fails to respond to the notice of inquiry within ninety
18 days after the date of mailing the notice in case of a returned vote-
19 by-mail ballot or, in all other cases, within forty-five days after the
20 date of mailing.

21 (5) The county auditor shall notify any voter whose registration
22 has been canceled by sending, by first class mail, a written notice to
23 the address indicated on the voter's permanent registration record and
24 to any other address to which the original inquiry was sent. Upon
25 receipt of a satisfactory voter response, the auditor shall reinstate
26 the voter.

27 (6) A voter whose registration has been canceled under this section
28 and who offers to vote at the next ensuing election shall be issued a
29 questioned ballot. Upon receipt of such a questioned ballot the
30 auditor shall investigate the circumstances surrounding the original

1 cancellation. If he or she determines that the cancellation was in
2 error, the voter's registration shall be immediately reinstated, and
3 the voter's questioned ballot shall be counted. If the original
4 cancellation was not in error, the voter shall be afforded the
5 opportunity to reregister at his or her correct address, and the
6 voter's questioned ballot shall not be counted.

7 NEW SECTION. **Sec. 10.** Section 6 of this act shall take effect
8 July 1, 1992.