

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1644

Chapter 225, Laws of 2001

57th Legislature
2001 Regular Legislative Session

ELECTIONS--RECOUNT PROCEDURES

EFFECTIVE DATE: 7/22/01

Passed by the House March 9, 2001
Yeas 94 Nays 0

FRANK CHOPP
**Speaker of the House of
Representatives**

CLYDE BALLARD
**Speaker of the House of
Representatives**

Passed by the Senate April 10, 2001
Yeas 47 Nays 0

BRAD OWEN
President of the Senate

Approved May 9, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1644** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

CYNTHIA ZEHNDER
Chief Clerk

FILED

May 9, 2001 - 8:47 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1644

Passed Legislature - 2001 Regular Session

State of Washington

57th Legislature

2001 Regular Session

By House Committee on State Government (originally sponsored by Representatives McMorris, Romero, Linville and Kenney; by request of Secretary of State)

Read first time . Referred to Committee on .

1 AN ACT Relating to recount procedures; amending RCW 29.62.090,
2 29.64.010, 29.64.015, 29.64.020, 29.64.030, 29.64.040, 29.64.051,
3 29.64.060, and 29.64.080; adding a new section to chapter 29.01 RCW;
4 and adding a new section to chapter 29.64 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 29.01 RCW
7 to read as follows:

8 "Recount" means the process of retabulating ballots and producing
9 amended election returns based on that retabulation, even if the vote
10 totals have not changed.

11 **Sec. 2.** RCW 29.62.090 and 1999 c 298 s 21 are each amended to read
12 as follows:

13 (1) Immediately after the official results of a state primary or
14 general election in a county are ascertained, the county auditor or
15 other election officer shall make an abstract of the number of
16 registered voters in each precinct and of all the votes cast in the
17 county at such state primary or general election for and against state
18 measures and for each candidate for federal, state, and legislative

1 office or for any other office which the secretary of state is required
2 by law to canvass. The abstract (~~shall~~) must be entered on blanks
3 furnished by the secretary of state or on compatible computer printouts
4 approved by the secretary of state, and the cumulative report of the
5 election and a copy of the certificate of the election transmitted to
6 the secretary of state immediately, through electronic means and mailed
7 with the abstract of votes no later than the next business day
8 following the certification by the county canvassing board.

9 (2) After each general election, the county auditor or other
10 election officer shall provide to the secretary of state a report of
11 the number of absentee ballots cast in each precinct for and against
12 state measures and for each candidate for federal, state, and
13 legislative office or for any other office which the secretary of state
14 is required by law to canvass. The report may be included in the
15 abstract required by this section or may be transmitted to the
16 secretary of state separately, but in no event later than March 31st of
17 the year following the election. Absentee ballot results may be
18 incorporated into votes cast at the polls for each precinct or may be
19 reported separately on a precinct-by-precinct basis.

20 (3) If absentee ballot results are not incorporated into votes cast
21 at the polls, the county auditor or other election official may
22 aggregate results from more than one precinct if the auditor, pursuant
23 to rules adopted by the secretary of state, finds that reporting a
24 single precinct's absentee ballot results would jeopardize the secrecy
25 of a person's ballot. To the extent practicable, precincts for which
26 absentee results are aggregated (~~shall~~) must be contiguous.

27 **Sec. 3.** RCW 29.64.010 and 1987 c 54 s 3 are each amended to read
28 as follows:

29 An officer of a political party or any person for whom votes were
30 cast in a primary who was not declared nominated may file a written
31 application for a recount of the votes or a portion of the votes cast
32 at that primary for all persons for whom votes were cast for nomination
33 to that office.

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

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

6 An application for a recount of the votes cast for ~~((a state or~~
7 ~~local))~~ an office or on a ballot measure ~~((in a jurisdiction that is~~
8 ~~entirely within one county shall be filed with the county auditor of~~
9 ~~that county. An application for a recount of the votes cast for a~~
10 ~~federal office or for any state office or on a ballot measure in a~~
11 ~~jurisdiction that is not entirely within a single county shall))~~ must
12 be filed with the ~~((secretary of state))~~ officer with whom filings are
13 made for the jurisdiction.

14 An application for a recount ~~((in a jurisdiction using a vote tally~~
15 ~~system shall))~~ must specify whether the recount ~~((shall))~~ will be done
16 manually or by the vote tally system. A recount done by the vote tally
17 system ~~((shall use separate and distinct programming from that used in~~
18 ~~the original count, and))~~ must use programming that recounts and
19 reports only the office or ballot measure in question. The county
20 shall also provide for a ~~((separate and distinct))~~ test of the logic
21 and accuracy of that program.

22 An application for a recount shall be filed within three business
23 days~~((, excluding Saturdays, Sundays, and holidays,))~~ after the county
24 canvassing board or secretary of state has declared the official
25 results of the primary or election for the office or issue for which
26 the recount is requested.

27 This chapter applies to the recounting of votes cast by paper
28 ballots~~((, to the recheck of votes recorded on voting machines,))~~ and
29 to the recounting of votes recorded on ballots ~~((cards and))~~ counted by
30 a vote tally system.

31 **Sec. 4.** RCW 29.64.015 and 1993 c 377 s 1 are each amended to read
32 as follows:

33 (1) If the official canvass of all of the returns for any office at
34 any primary or election reveals that the difference in the number of
35 votes cast for a candidate apparently nominated or elected to any
36 office and the number of votes cast for the closest apparently defeated
37 opponent is ~~((not more))~~ less than two thousand votes and also less
38 than one-half of one percent of the total number of votes cast for both

1 candidates, the county canvassing board shall conduct a recount of all
2 votes cast on that position.

3 (a) Whenever such a difference occurs in the number of votes cast
4 for candidates for a position (~~(which appears on the ballot in more~~
5 ~~than one county))~~ the declaration of candidacy for which was filed with
6 the secretary of state, the secretary of state shall, within three
7 business days of the day that the returns of the primary or election
8 are first certified by the canvassing boards of those counties, direct
9 those boards to recount all votes cast on the position.

10 (b) If the difference in the number of votes cast for the apparent
11 winner and the closest apparently defeated opponent is less than one
12 hundred fifty votes and also less than one-fourth of one percent of the
13 total number of votes cast for both candidates, the votes shall be
14 recounted manually or as provided in subsection (3) of this section.

15 (2) A mandatory recount shall be conducted in the manner provided
16 by RCW 29.64.020, 29.64.030, and 29.64.040. No cost of a mandatory
17 recount may be charged to any candidate.

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

31 **Sec. 5.** RCW 29.64.020 and 1991 c 81 s 36 are each amended to read
32 as follows:

33 An application for a recount shall state the office for which a
34 recount is requested and whether the request is for all or only a
35 portion of the votes cast in that jurisdiction of that office. The
36 person filing an application for a manual recount shall, at the same
37 time, deposit with the county canvassing board or secretary of state,
38 in cash or by certified check, a sum equal to twenty-five cents for

1 each ballot cast in the jurisdiction or portion of the jurisdiction for
2 which the recount is requested as security for the payment of any costs
3 of conducting the recount. If the application is for a machine
4 recount, the deposit must be equal to fifteen cents for each ballot.
5 These charges shall be determined by the county canvassing board or
6 boards under RCW 29.64.060.

7 The county canvassing board shall determine a time and a place or
8 places at which the recount will be conducted. This time shall be less
9 than ~~((five))~~ three business days after the day upon which: The
10 application was filed with the board; the request for a recount or
11 directive ordering a recount was received by the board from the
12 secretary of state; or the returns are certified which indicate that a
13 recount is required under RCW 29.64.015 for an issue or office voted
14 upon only within the county. Not less than two days before the date of
15 the recount, the county auditor shall mail a notice of the time and
16 place of the recount to the applicant or affected parties and, if the
17 recount involves an office, to any person for whom votes were cast for
18 that office. (~~The notice shall be mailed by certified mail not less~~
19 than two days before the date of the recount.)) The county auditor
20 shall also notify the affected parties by either telephone, fax,
21 e-mail, or other electronic means at the time of mailing. At least
22 three attempts must be made over a two-day period to notify the
23 affected parties or until the affected parties have received the
24 notification. Each attempt to notify affected parties must request a
25 return response indicating that the notice has been received. Each
26 person entitled to receive notice of the recount may attend, witness
27 the recount, and be accompanied by counsel.

28 Proceedings of the canvassing board are public under chapter 42.30
29 RCW. Subject to reasonable and equitable guidelines adopted by the
30 canvassing board, all interested persons may attend and witness a
31 recount.

32 **Sec. 6.** RCW 29.64.030 and 1991 c 81 s 37 are each amended to read
33 as follows:

34 (1) At the time and place established for a recount, the canvassing
35 board or its duly authorized representatives, in the presence of all
36 witnesses who may be in attendance, shall open the sealed containers
37 containing the ballots to be recounted, and shall recount the votes for
38 the offices or issues for which the recount has been ordered. Ballots

1 shall be handled only by the members of the canvassing board or their
2 duly authorized representatives.

3 Witnesses shall be permitted to observe the ballots and the process
4 of tabulating the votes, but they shall not be permitted to handle the
5 ballots. The canvassing board shall not permit the tabulation of votes
6 for any nomination, election, or issue other than the ones for which a
7 recount was applied for or required.

8 ~~((At the time and place established for a recanvass of the votes
9 cast on voting devices that do not provide an individual record of the
10 choices of each voter, the canvassing board or its duly authorized
11 representatives, in the presence of all witnesses who may be in
12 attendance, shall open the voting devices to be rechecked, and shall
13 verify the votes cast for the offices and issues for which the recount
14 was ordered. Witnesses shall be permitted to watch the recheck of the
15 voting devices. The canvassing board shall not permit the rechecking
16 of votes for any nomination, election, or issue other than the ones for
17 which a recount was applied for or required.))~~

18 (2) At any time before the ballots from all of the precincts listed
19 in the application for the recount have been recounted, the applicant
20 may file with the board a written request to stop the recount.

21 ~~((If the canvassing board finds that the results of the votes in
22 the precincts recounted, if substituted for the results of the votes in
23 those precincts as shown in the certified abstract of the votes would
24 not change the result for that office or issue, it shall not recount
25 the ballots of the precincts listed in the application for recount
26 which have not been recounted before the request to stop the recount.
27 The canvassing board shall attach a copy of the request to stop the
28 recount to the partial returns of the recount.))~~

29 (3) The recount may be observed by persons representing the
30 candidates affected by the recount or the persons representing both
31 sides of an issue that is being recounted. The observers may not make
32 a record of the names, addresses, or other information on the ballots,
33 poll books, or applications for absentee ballots unless authorized by
34 the superior court. The secretary of state or county auditor may limit
35 the number of observers to not less than two on each side if, in his or
36 her opinion, a greater number would cause undue delay or disruption of
37 the recount process.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 29.64 RCW
2 to read as follows:

3 When a partial recount of votes cast for an office or issue changes
4 the result of the election, the canvassing board or the secretary of
5 state, if the office or issue is being recounted at his or her
6 direction, shall order a complete recount of all ballots cast for the
7 office or issue for the jurisdiction in question.

8 This recount will be conducted in a manner consistent with RCW
9 29.64.015.

10 **Sec. 8.** RCW 29.64.040 and 1990 c 59 s 66 are each amended to read
11 as follows:

12 Upon completion of the canvass of a recount, the canvassing board
13 shall prepare and certify an amended abstract showing the votes cast in
14 each precinct for which the recount was conducted. Copies of the
15 amended abstracts (~~shall~~) must be transmitted to the same officers
16 who received the abstract on which the recount was based.

17 If the nomination, election, or issue for which the recount was
18 conducted was submitted only to the voters of a county, the canvassing
19 board shall file the amended abstract with the original results of that
20 election or primary.

21 If the nomination, election, or issue for which a recount was
22 conducted was submitted to the voters of more than one county, the
23 secretary of state shall canvass the amended abstracts and shall file
24 an amended abstract with the original results of that election. An
25 amended abstract certified under this section supersedes any prior
26 abstract of the results for the same offices or issues at the same
27 primary or election.

28 **Sec. 9.** RCW 29.64.051 and 1991 c 90 s 3 are each amended to read
29 as follows:

30 After (~~being counted~~) the original count, canvass, and
31 certification of results, the votes cast in any single precinct may not
32 be recounted and the results recertified more than twice.

33 **Sec. 10.** RCW 29.64.060 and 1990 c 59 s 68 are each amended to read
34 as follows:

35 The canvassing board shall determine the expenses for conducting a
36 recount of votes (~~shall be fixed by the canvassing board~~).

1 The cost of the recount shall be deducted from the amount deposited
2 by the applicant for the recount at the time of filing the request for
3 the recount, and the balance shall be returned to the applicant. If
4 the costs of the recount exceed the deposit, the applicant shall pay
5 the difference. No charges may be deducted by the canvassing board
6 from the deposit for a recount if the recount changes the result of the
7 nomination or election for which the recount was ordered.

8 **Sec. 11.** RCW 29.64.080 and 1973 c 82 s 1 are each amended to read
9 as follows:

10 When the official canvass of returns of any election reveals that
11 the difference in the number of votes cast for the approval of a
12 statewide measure and the number of votes cast for the rejection of
13 such measure is ((not more)) less than two thousand votes and also less
14 than one-half of one percent of the total number of votes cast on such
15 measure, the secretary of state shall direct that a recount of all
16 votes cast on such measure be made on such measure, in the manner
17 provided by RCW 29.64.030 and 29.64.040, and the cost of such recount
18 ((shall)) will be at state expense.

Passed the House March 9, 2001.

Passed the Senate April 10, 2001.

Approved by the Governor May 9, 2001.

Filed in Office of Secretary of State May 9, 2001.