
State Government Committee

HB 1159

Brief Description: Reorganizing election laws.

Sponsors: Representatives Miloscia, Armstrong, Hunt, Tom, Shabro, Haigh and McDermott; by request of Secretary of State.

Brief Summary of Bill

- Reorganizes the election laws into a new title, Title 29A RCW, effective 2004.

Hearing Date: 1/28/03

Staff: Katie Blinn (786-7114).

Background:

The laws establishing procedures for the conduct of elections are contained in Title 29 RCW. The title applies to the Secretary of State and the county auditors.

Summary of Bill:

The term "special ballot" is changed to "provisional ballot." A "precinct" is established by a county but not a city or town. A "registered voter" is a person who has completed the registration process established in statute, rather than a person who possesses all of the qualifications required by statute. The definition of "special election" clarifies that a special election may be held in conjunction with a general election or primary. The language enabling cities, towns, and special districts 45 days before an election to request the auditor to call a special election is removed. The language apportioning registration expenses for precincts that cross city limits is removed. The language limiting paper ballot precincts to no more than 300 active registered voters is removed. The language limiting precincts to 250 active registered voters is removed. The procedure of simply identifying and sealing unused ballots once the polls are closed is changed to rendering them unusable, and securing them in a container to be returned to the county auditor.

For purposes of recall elections, the definition of "violation of the oath of office" is changed from "the willful (sic) neglect or failure by an elective public officer" to faithfully perform a duty imposed by law to "the neglect or knowing failure by an elective public office". For

purposes of electing delegates to a United States Constitutional Convention, the certificate of election must be transmitted by the county auditors to the Secretary of State 15 days, rather than 12 days, after the election.

The requirement that used ballots be retained for at least 60 days is changed to 60 days "or according to federal law, whichever is longer." For purposes of convening the canvassing board at least every third day after an election, Saturdays are added to Sundays and legal holidays as days excluded from counting "every third day". The requirement that ballot measure petitions be printed on paper 11 inches wide by 14 inches long is changed to 8½ inches wide by 11 inches long. It is no longer a misdemeanor for a person to show his or her ballot to another person after it is marked, nor for a person to mark a ballot in a manner that will reveal his or her identity.

RCW 9.81.100, requiring each candidates to sign an affidavit swearing that he or she is not a subversive person, is repealed because it was declared unconstitutional by the U.S. Supreme Court in Baggett v. Bullitt, 377 U.S. 360 (1964). RCW 29.15.240, 29.15.240, 29.51.173, 29.68.015, 29.68.016, and 43.01.015, imposing term limits on state and federal office holders, are repealed because they were declared unconstitutional by the Washington State Supreme Court in Gerberding v. Munro, 134 Wn.2d 188 (1998). Numerous statutes are repealed because they are no longer used in election law, establish effective dates that have already passed, or are redundant to other existing statutes.

The language authorizing the Secretary of State to adopt rules to facilitate the execution of election laws in an orderly manner is changed to include adopting rules to effectuate the election laws in Title 29 and to facilitate the execution of the election laws in an orderly, timely, and uniform manner. However, removed from Title 29 RCW is the following language authorizing the Secretary of State to adopt rules:

- on maintenance of voter registration databases by the county auditors;
- on receiving and distributing voter registration applications by mail;
- on transferring voter registrations by telephone;
- on voter name changes;
- on the form to be used to notify the county auditor when a registered voter is deceased;
- on making deceased voter forms available at the polling place;
- on the list purge process for detecting dual registrations;
- on testing vote tallying equipment right before an election;
- on the circumstance of candidates who have last names so similar in sound or spelling as to cause confusion for the voter;
- on procedures to prevent fraud and to facilitate the accurate processing and canvassing of absentee and mail ballots;
- on procedures to guarantee the secrecy of absentee and mail ballots;
- on providing uniformity among the counties in the conduct of absentee voting and mail ballot elections;
- on facilitating out-of-state, overseas, and service voters;
- on the tabulation of paper ballots at the polling place before the close of polls;
- on the preparation, maintenance, distribution, review, and filing of precinct maps;
- on the design, layout, and production of ballots;
- on the examination and testing of voting systems for certification;

- on the source and scope of independent evaluations of voting systems;
- on the standards and procedures for testing voting systems by counties;
- on the standards and procedures for testing the programming of vote tallying software;
- on the standards and procedures for preparing and using each type of voting system;
- on the standards and procedures to ensure ballots are counted and canvassed accurately;
- to provide consistency among the counties in the preparation of ballots, the operation of vote tallying systems, and the canvassing of primaries and elections;
- to ensure the secrecy of a voter's ballot;
- on the use of substitute devices or means of voting when a voting device at the polling place is defective;
- on the transportation of voted ballots or voting devices;
- on the acceptance of faxed documents;
- on the establishment and maintenance of voter registration records by county auditors;
- on the electronic filing of declarations of candidacy;
- on filing declarations of candidacy;
- on the accessibility of polling places to persons with disabilities;
- on statutory recounts; and
- on the production of a state voters' pamphlet.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect on July 1, 2004.