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## State Government Committee

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### HB 2420

**Brief Description:** Revising provisions for counting votes on ballots for write-in candidates.

**Sponsors:** Representatives Hunter, Armstrong, Nixon, Tom, Hunt, Jarrett, Haigh, Ruderman, Clibborn, Upthegrove and Moeller.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Write-in votes on optical scan ballots are counted.</li></ul>
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**Hearing Date:** 1/23/04

**Staff:** Marsha Reilly (786-7135).

**Background:**

Washington state laws allow for write-in voting. An eligible person must file a declaration of candidacy as a declared write-in candidate no later than the day before the primary or general election. Voters may cast a write-in vote for a declared write-in candidate by specifying the name of the candidate in the appropriate location on the ballot. Voters may also cast a write-in vote for a candidate who has not filed a declaration of candidacy. In that instance, the voter must identify the office sought and position number or political party if the manner in which the write-in is done is not clear. In jurisdictions that use optical-scan voting systems, the voter must identify the write-in candidate and complete the proper mark next to the write-in line for that office in order for the vote to be counted.

The number of write-in votes cast for each office must be recorded and reported with the canvas of the election. In the case of offices where the district encompasses more than a single county, write-in votes for an individual candidate must be tallied if the Secretary of State, or another auditor in multi-county districts, notifies the county auditor that it appears the write-in votes could alter the outcome of the primary or general election.

In the case of offices where the district encompasses more than a single county, the auditor must tally the write-in votes cast for an office if the total number of write-in votes cast for that office is greater than the number of votes cast for a candidate apparently nominated or elected, and the auditor must notify the Secretary of State and other county auditors that the write-in votes should be tallied.

**The November 2003 election of a Medina City Council** position resulted in a lawsuit brought about by the American Civil Liberties Union of Washington. The lawsuit challenged a ruling by

King County officials that disqualified 29 disputed ballots for a write-in candidate because the adjacent oval was not filled in. The disqualified votes, if counted, would have resulted in the write-in candidate winning the election.

The Superior Court of King County ruled in favor of the plaintiff and ordered the canvassing board and county auditor to count the disputed ballots. unconstitutional???

**Summary of Bill:**

The provision is removed that requires the corresponding oval to be filled in next to the write-in candidate's line on optical scan systems in order for the vote to be counted.

Write-in votes for an individual candidate do not need to be tallied if the total number of write-in votes and under votes recorded by the vote tabulation system is not greater than the number of votes cast for the apparent winner.

Write-in votes for a candidate for statewide office or a jurisdiction that encompasses more than one county must be counted if the total number of write-in votes and under-votes recorded by the vote tabulation system is greater than the number of votes cast for the apparent winner.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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