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SENATE BILL 5218

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State of Washington

58th Legislature

2003 Regular Session

By Senators Roach, Kastama, Schmidt, Fairley, Stevens, Reardon, Horn, Benton, Keiser, Johnson, Kohl-Welles, Kline and Esser; by request of Secretary of State

Read first time 01/20/2003. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to the timely mailing of absentee and mail ballots;  
2 amending RCW 29.36.270, 29.38.010, and 29.38.020; and creating a new  
3 section.

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

5 NEW SECTION. **Sec. 1.** It is the policy of the state of Washington  
6 that individuals voting absentee and mail ballots receive their ballots  
7 in a timely and consistent manner before each election. Since many  
8 voters in Washington state have come to rely upon absentee and mail  
9 voting, mailing the ballots in a timely manner is critical in order to  
10 maximize participation by every eligible voter.

11 **Sec. 2.** RCW 29.36.270 and 1987 c 54 s 1 are each amended to read  
12 as follows:

13 (1) Except where a recount or litigation under RCW 29.04.030 is  
14 pending, the county auditor shall have sufficient absentee ballots  
15 (~~ready to mail to~~) available for absentee voters of that county at  
16 least twenty days before any primary, general election, or special  
17 election. The county auditor must mail absentee ballots to each voter  
18 who has submitted a request nineteen days before the primary or

1 election at least eighteen days before the primary or election. For a  
2 request for an absentee ballot received after the nineteenth day before  
3 the election, the ballot must be mailed or delivered not later than the  
4 next business day.

5 (2) The county auditor shall make every effort to mail ballots to  
6 overseas and service voters earlier than eighteen days before a primary  
7 or election.

8 (3) Each county auditor shall certify to the office of the  
9 secretary of state the dates the ballots prescribed in subsection (1)  
10 of this section were available and mailed.

11 (4) If absentee ballots will not be available or mailed as  
12 prescribed in subsection (1) of this section, the county auditor shall  
13 immediately certify to the office of the secretary of state when  
14 absentee ballots will be available and mailed. Copies of this  
15 certification must be provided to the county canvassing board, the  
16 press, jurisdictions with issues on the ballot in the election, and any  
17 candidates.

18 (5) If absentee ballots were not available or mailed as prescribed  
19 in subsection (1) of this section, for a reason other than a recount or  
20 litigation, the county auditor, in consultation with the certification  
21 and training program of the office of the secretary of state, shall  
22 submit a report to the office of the secretary of state outlining why  
23 the deadline was missed and what corrective actions will be taken in  
24 future elections to ensure that absentee ballots are available and  
25 mailed as prescribed in subsection (1) of this section.

26 (6) Failure to have absentee ballots available and mailed as  
27 prescribed in subsection (1) of this section does not by itself provide  
28 a basis for an election contest or other legal challenge to the results  
29 of a primary, general election, or special election.

30 **Sec. 3.** RCW 29.38.010 and 2001 c 241 s 15 are each amended to read  
31 as follows:

32 The county auditor may designate any precinct having fewer than two  
33 hundred active registered voters at the time of closing of voter  
34 registration as provided in RCW 29.07.160 as a mail ballot precinct.  
35 The county auditor shall notify each registered voter by mail that for  
36 all future primaries and elections the voting in his or her precinct  
37 will be by mail ballot only. In determining the number of registered

1 voters in a precinct for the purposes of this section, persons who are  
2 ongoing absentee voters under RCW 29.36.240 shall not be counted.  
3 Nothing in this section may be construed as altering the vote tallying  
4 requirements of RCW 29.62.090.

5 ~~((As soon as ballots are available, the county auditor shall mail  
6 or deliver a ballot and an envelope, preaddressed to the issuing  
7 officer, to each active registered voter.))~~ The auditor shall mail  
8 each active voter a ballot at least eighteen days before a primary,  
9 general election, or special election. The auditor shall send each  
10 inactive voter either a ballot or an application to receive a ballot at  
11 least eighteen days before a primary, general election, or special  
12 election. The auditor shall determine which of the two is to be sent.  
13 If the inactive voter returns a voted ballot, the ballot shall be  
14 counted and the voter's status restored to active. If the inactive  
15 voter completes and returns an application, a ballot shall be sent and  
16 the voter's status restored to active. The requirements regarding  
17 certification, reporting, and the mailing of overseas and military  
18 ballots in RCW 29.36.270 apply to mail ballot precincts.

19 If the precinct exceeds two hundred registered voters, or the  
20 auditor determines to return to a polling place election environment,  
21 the auditor shall notify each registered voter, by mail, of this and  
22 shall provide the address of the polling place to be used.

23 **Sec. 4.** RCW 29.38.020 and 2001 c 241 s 16 are each amended to read  
24 as follows:

25 At any nonpartisan special election not being held in conjunction  
26 with a state primary or general election, the county, city, town, or  
27 district requesting the election pursuant to RCW 29.13.010 or 29.13.020  
28 may also request that the special election be conducted by mail ballot.  
29 The county auditor may honor the request or may determine that the  
30 election is not to be conducted by mail ballot. The decision of the  
31 county auditor in this regard is final.

32 For all special elections not being held in conjunction with a  
33 state primary or state general election where voting is conducted by  
34 mail ballot, the county auditor shall, not less than ~~((twenty))~~  
35 eighteen days before the date of such election, ~~((make available))~~ mail  
36 to each registered voter a mail ballot. The auditor shall handle  
37 inactive voters in the same manner as inactive voters in mail ballot

1 precincts. The requirements regarding certification, reporting, and  
2 the mailing of overseas and military ballots in RCW 29.36.270 apply to  
3 mail ballot elections.

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