

ESSB 5499 - H COMM AMD

By Committee on State Government Operations & Accountability

NOT ADOPTED 04/14/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 29A.04.008 and 2004 c 271 s 102 are each amended to
4 read as follows:

5 As used in this title:

6 (1) "Ballot" means, as the context implies, either:

7 (a) The issues and offices to be voted upon in a jurisdiction or
8 portion of a jurisdiction at a particular primary, general election, or
9 special election;

10 (b) A facsimile of the contents of a particular ballot whether
11 printed on a paper ballot or ballot card or as part of a voting machine
12 or voting device;

13 (c) A physical or electronic record of the choices of an individual
14 voter in a particular primary, general election, or special election;
15 or

16 (d) The physical document on which the voter's choices are to be
17 recorded;

18 (2) "Paper ballot" means a piece of paper on which the ballot for
19 a particular election or primary has been printed, on which a voter may
20 record his or her choices for any candidate or for or against any
21 measure, and that is to be tabulated manually;

22 (3) "Ballot card" means any type of card or piece of paper of any
23 size on which a voter may record his or her choices for any candidate
24 and for or against any measure and that is to be tabulated on a vote
25 tallying system;

26 (4) "Sample ballot" means a printed facsimile of all the issues and
27 offices on the ballot in a jurisdiction and is intended to give voters
28 notice of the issues, offices, and candidates that are to be voted on
29 at a particular primary, general election, or special election;

1 (5) "Provisional ballot" means a ballot issued (~~to a voter~~) at
2 the polling place on election day by the precinct election board(~~(, for~~
3 ~~one of the following reasons))~~ to a voter who would otherwise be denied
4 an opportunity to vote a regular ballot, for any reason authorized by
5 the help America vote act, including but not limited to the following:

6 (a) The voter's name does not appear in the poll book;

7 (b) There is an indication in the poll book that the voter has
8 requested an absentee ballot, but the voter wishes to vote at the
9 polling place;

10 (c) There is a question on the part of the voter concerning the
11 issues or candidates on which the voter is qualified to vote;

12 (d) Any other reason allowed by law;

13 (6) "Party ballot" means a primary election ballot specific to a
14 particular major political party that lists all partisan offices to be
15 voted on at that primary, and the candidates for those offices who
16 affiliate with that same major political party;

17 (7) "Nonpartisan ballot" means a primary election ballot that lists
18 all nonpartisan races and ballot measures to be voted on at that
19 primary.

20 **Sec. 2.** RCW 29A.04.530 and 2003 c 111 s 151 are each amended to
21 read as follows:

22 The secretary of state shall:

23 (1) Establish and operate, or provide by contract, training and
24 certification programs for state and county elections administration
25 officials and personnel, including training on the various types of
26 election law violations and discrimination, and training programs for
27 political party observers which conform to the rules for such programs
28 established under RCW 29A.04.630;

29 (2) Establish guidelines, in consultation with state and local law
30 enforcement or certified document examiners, for signature verification
31 processes. All election personnel assigned to verify signatures must
32 receive training on the guidelines;

33 (3) Administer tests for state and county officials and personnel
34 who have received such training and issue certificates to those who
35 have successfully completed the training and passed such tests;

36 (~~(+3)~~) (4) Maintain a record of those individuals who have
37 received such training and certificates; and

1 (~~(4)~~) (5) Provide the staffing and support services required by
2 the board created under RCW 29A.04.510.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 29A.36 RCW
4 to read as follows:

5 All provisional ballots must be visually distinguishable from the
6 other ballots and must be either:

- 7 (1) Printed on colored paper; or
- 8 (2) Imprinted with a bar code for the purpose of identifying the
9 ballot as a provisional ballot. The bar code must not identify the
10 voter.

11 Provisional ballots must be incapable of being tabulated by
12 poll-site counting devices.

13 **Sec. 4.** RCW 29A.40.091 and 2004 c 271 s 135 are each amended to
14 read as follows:

15 The county auditor shall send each absentee voter a ballot, a
16 security envelope in which to seal the ballot after voting, a larger
17 envelope in which to return the security envelope, and instructions on
18 how to mark the ballot and how to return it to the county auditor. The
19 instructions that accompany an absentee ballot for a partisan primary
20 must include instructions for voting the applicable ballot style, as
21 provided in chapter 29A.36 RCW. The absentee voter's name and address
22 must be printed on the larger return envelope, which must also contain
23 a declaration by the absentee voter reciting his or her qualifications
24 and stating that he or she has not voted in any other jurisdiction at
25 this election, together with a summary of the penalties for any
26 violation of any of the provisions of this chapter. The declaration
27 must clearly inform the voter that it is illegal to vote if he or she
28 is not a United States citizen; it is illegal to vote if he or she has
29 been convicted of a felony and has not had his or her voting rights
30 restored; and, except as otherwise provided by law, it is illegal to
31 cast a ballot or sign an absentee envelope on behalf of another voter.
32 The return envelope must provide space for the voter to indicate the
33 date on which the ballot was voted and for the voter to sign the oath.
34 A summary of the applicable penalty provisions of this chapter must be
35 printed on the return envelope immediately adjacent to the space for
36 the voter's signature. The signature of the voter on the return

1 envelope must affirm and attest to the statements regarding the
2 qualifications of that voter and to the validity of the ballot. The
3 return envelope must also have a secrecy flap that the voter may seal
4 that will cover the voter's signature and return address. For out-of-
5 state voters, overseas voters, and service voters, the signed
6 declaration on the return envelope constitutes the equivalent of a
7 voter registration for the election or primary for which the ballot has
8 been issued. The voter must be instructed to either return the ballot
9 to the county auditor by whom it was issued or attach sufficient first
10 class postage, if applicable, and mail the ballot to the appropriate
11 county auditor no later than the day of the election or primary for
12 which the ballot was issued.

13 If the county auditor chooses to forward absentee ballots, he or
14 she must include with the ballot a clear explanation of the
15 qualifications necessary to vote in that election and must also advise
16 a voter with questions about his or her eligibility to contact the
17 county auditor. This explanation may be provided on the ballot
18 envelope, on an enclosed insert, or printed directly on the ballot
19 itself. If the information is not included, the envelope must clearly
20 indicate that the ballot is not to be forwarded and that return postage
21 is guaranteed.

22 **Sec. 5.** RCW 29A.40.110 and 2003 c 111 s 1011 are each amended to
23 read as follows:

24 (1) The opening and subsequent processing of return envelopes for
25 any primary or election may begin (~~(on or after the tenth day before~~
26 ~~the primary or election)) upon receipt. The tabulation of absentee
27 ballots must not commence until after 8:00 p.m. on the day of the
28 primary or election.~~

29 (2) All received absentee return envelopes must be placed in secure
30 locations from the time of delivery to the county auditor until their
31 subsequent opening. After opening the return envelopes, the county
32 canvassing board shall place all of the ballots in secure storage until
33 after 8:00 p.m. of the day of the primary or election. Absentee
34 ballots that are to be tabulated on an electronic vote tallying system
35 may be taken from the inner envelopes and all the normal procedural
36 steps may be performed to prepare these ballots for tabulation.

1 (3) Before opening a returned absentee ballot, the canvassing
2 board, or its designated representatives, shall examine the postmark,
3 statement, and signature on the return envelope that contains the
4 security envelope and absentee ballot. They shall verify that the
5 voter's signature on the return envelope is the same as the signature
6 of that voter in the registration files of the county. For registered
7 voters casting absentee ballots, the date on the return envelope to
8 which the voter has attested determines the validity, as to the time of
9 voting for that absentee ballot if the postmark is missing or is
10 illegible. For out-of-state voters, overseas voters, and service
11 voters stationed in the United States, the date on the return envelope
12 to which the voter has attested determines the validity as to the time
13 of voting for that absentee ballot. For any absentee ballot, a
14 variation between the signature of the voter on the return envelope and
15 the signature of that voter in the registration files due to the
16 substitution of initials or the use of common nicknames is permitted so
17 long as the surname and handwriting are clearly the same.

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 29A.44 RCW
19 to read as follows:

20 Provisional ballots must be issued, along with a provisional ballot
21 outer envelope and a security envelope, to voters as appropriate under
22 RCW 29A.04.008. The provisional ballot outer envelope must include a
23 place for the voter's name; registered address, both present and former
24 if applicable; date of birth; reason for the provisional ballot; the
25 precinct number and the precinct polling location at which the voter
26 has voted; and a space for the county auditor to list the disposition
27 of the provisional ballot. The provisional ballot outer envelope must
28 also contain a declaration as required for absentee ballot outer
29 envelopes under RCW 29A.40.091; a place for the voter to sign the oath;
30 and a summary of the applicable penalty provisions of this chapter.
31 The voter shall vote the provisional ballot in secrecy and, when done,
32 place the provisional ballot in the security envelope, then place the
33 security envelope into the outer envelope, and return it to the
34 precinct election official. The election official shall ensure that
35 the required information is completed on the outer envelope, have the
36 voter sign it in the appropriate space, and place the envelope in a

1 secure container. The official shall then give the voter written
2 information advising the voter how to ascertain whether the vote was
3 counted and, if applicable, the reason why the vote was not counted.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 29A.60 RCW
5 to read as follows:

6 (1) If the voter neglects to sign the outside envelope of an
7 absentee or provisional ballot, the auditor shall notify the voter by
8 telephone and advise the voter of the correct procedures for completing
9 the unsigned affidavit. If the auditor is not able to provide the
10 information personally to the voter by telephone, then the voter must
11 be contacted by first class mail and advised of the correct procedures
12 for completing the unsigned affidavit. Leaving a voice mail message
13 for the voter is not to be considered as personally contacting the
14 voter. In order for the ballot to be counted, the voter must either:

15 (a) Appear in person and sign the envelope no later than the day
16 before the certification of the primary or election; or

17 (b) Sign a copy of the envelope provided by the auditor, and return
18 it to the auditor no later than the day before the certification of the
19 primary or election.

20 (2)(a) If the handwriting of the signature on an absentee or
21 provisional ballot envelope is not the same as the handwriting of the
22 signature on the registration file, the auditor shall notify the voter
23 by telephone and advise the voter of the correct procedures for
24 updating his or her signature on the voter registration file. If the
25 auditor is not able to provide the information personally to the voter
26 by telephone, then the voter must be contacted by first class mail and
27 advised of the correct procedures for completing the unsigned
28 affidavit. Leaving a voice mail message for the voter is not to be
29 considered as personally contacting the voter. In order for the ballot
30 to be counted, the voter must either:

31 (i) Appear in person and sign a new registration form no later than
32 the day before the certification of the primary or election; or

33 (ii) Sign a copy of the affidavit provided by the auditor and
34 return it to the auditor no later than the day before the certification
35 of the primary or election. If the signature on the copy of the
36 affidavit does not match the signature on file, the voter must appear

1 in person and sign a new registration form no later than the day before
2 the certification of the primary or election in order for the ballot to
3 be counted.

4 (b) If the signature on an absentee or provisional ballot envelope
5 is not the same as the signature on the registration file because the
6 name is different, the ballot may be counted as long as the handwriting
7 is clearly the same. The auditor shall send the voter a change-of-name
8 form under RCW 29A.08.440 and direct the voter to complete the form.

9 (c) If the signature on an absentee or provisional ballot envelope
10 is not the same as the signature on the registration file because the
11 voter used initials or a common nickname, the ballot may be counted as
12 long as the surname and handwriting are clearly the same.

13 (3) A voter may not cure a missing or mismatched signature for
14 purposes of counting the ballot in a recount.

15 (4) A record must be kept of the date on which the voter was
16 contacted or the notice was mailed, as well as the date on which the
17 voter signed the envelope, a copy of the envelope, a new registration
18 form, or a change-of-name form. That record is a public record under
19 chapter 42.17 RCW and may be disclosed to interested parties on written
20 request.

21 NEW SECTION. **Sec. 8.** A new section is added to chapter 29A.60 RCW
22 to read as follows:

23 Before certification of the primary or election, the county auditor
24 must examine and investigate all received provisional ballots to
25 determine whether the ballot can be counted. The auditor shall provide
26 the disposition of the provisional ballot and, if the ballot was not
27 counted, the reason why it was not counted, on a free access system
28 such as a toll-free telephone number, web site, mail, or other means.
29 The auditor must notify the voter in accordance with section 7 of this
30 act when the envelope is unsigned or when the signatures do not match.

31 NEW SECTION. **Sec. 9.** A new section is added to chapter 29A.60 RCW
32 to read as follows:

33 No later than thirty days after final certification, the county
34 auditor shall prepare and make publicly available at the auditor's
35 office or on the auditor's web site, an election reconciliation report
36 that discloses, at a minimum, the following information: The number of

1 ballots counted; the number of voters credited with voting; the number
2 of provisional ballots issued; the number of provisional ballots
3 counted; the number of provisional ballots rejected; the number of
4 absentee ballots issued; the number of absentee ballots counted; the
5 number of absentee ballots rejected; the number of federal write-in
6 ballots counted; the number of ballots sent to overseas voters and the
7 number of such ballots that were counted; and any other information the
8 auditor determines to be necessary to the process of reconciling the
9 number of votes counted with the number of voters credited with voting.

10 **Sec. 10.** RCW 29A.60.021 and 2004 c 271 s 147 are each amended to
11 read as follows:

12 (1) For any office at any election or primary, any voter may write
13 in on the ballot the name of any person for an office who has filed as
14 a write-in candidate for the office in the manner provided by RCW
15 29A.24.311 and such vote shall be counted the same as if the name had
16 been printed on the ballot and marked by the voter. (~~((For a partisan
17 primary in a jurisdiction using the physically separate ballot format,
18 a voter may write in on a party ballot only the names of write-in
19 candidates who affiliate with that major political party.))~~) No write-
20 in vote made for any person who has not filed a declaration of
21 candidacy pursuant to RCW 29A.24.311 is valid if that person filed for
22 the same office, either as a regular candidate or a write-in candidate,
23 at the preceding primary. Any abbreviation used to designate
24 office(~~((7))~~) or position(~~((7, or political party shall))~~) will be accepted
25 if the canvassing board can determine, to (~~((their))~~) its satisfaction,
26 the voter's intent.

27 (2) The number of write-in votes cast for each office must be
28 recorded and reported with the canvass for the election.

29 (3) A write-in vote for an individual candidate for an office whose
30 name appears on the ballot for that same office is a valid vote for
31 that candidate as long as the candidate's name is clearly discernible,
32 even if other requirements of RCW 29A.24.311 are not satisfied and even
33 if the voter also marked a vote for that candidate such as to register
34 an over vote. These votes need not be tabulated unless: (a) The
35 difference between the number of votes cast for the candidate
36 apparently qualified to appear on the general election ballot or
37 elected and the candidate receiving the next highest number of votes is

1 less than the sum of the total number of write-in votes cast for the
2 office plus the over votes and under votes recorded by the vote
3 tabulating system; or (b) a manual recount is conducted for that
4 office.

5 (4) Write-in votes cast for an individual candidate for an office
6 whose name does not appear on the ballot need not be tallied ((if))
7 unless the total number of write-in votes and under votes recorded by
8 the vote tabulation system for the office is ((not)) greater than the
9 number of votes cast for the candidate apparently ((nominated))
10 qualified to appear on the general election ballot or elected((, and
11 the write-in votes could not have altered the outcome of the primary or
12 election. In the case of write-in votes for statewide office or for
13 any office whose jurisdiction encompasses more than one county, write-
14 in votes for an individual candidate must be tallied whenever the
15 county auditor is notified by either the office of the secretary of
16 state or another auditor in a multicounty jurisdiction that it appears
17 that the write-in votes could alter the outcome of the primary or
18 election)).

19 ((+4)) (5) In the case of write-in votes for a statewide
20 office((s)) or any office whose jurisdiction((s that)) encompasses more
21 than one county, ((if the total number of write-in votes and under
22 votes recorded by the vote tabulation system for an office within a
23 county is greater than the number of votes cast for a candidate
24 apparently nominated or elected in a primary or election, the auditor
25 shall tally all write-in votes for individual candidates for that
26 office and notify the office of the secretary of state and the auditors
27 of the other counties within the jurisdiction, that the write-in votes
28 for individual candidates should be tallied)) write-in votes for an
29 individual candidate must be tallied when the county auditor is
30 notified by either the secretary of state or another county auditor in
31 the multicounty jurisdiction that it appears that the write-in votes
32 must be tabulated under the terms of this section. In all other cases,
33 the county auditor determines when write-in votes must be tabulated.
34 Any abstract of votes must be modified to reflect the tabulation and
35 certified by the canvassing board. Tabulation of write-in votes may be
36 performed simultaneously with a recount.

1 **Sec. 11.** RCW 29A.60.050 and 2003 c 111 s 1505 are each amended to
2 read as follows:

3 Whenever the precinct election officers or the counting center
4 personnel have a question about the validity of a ballot or the votes
5 for an office or issue that they are unable to resolve, they shall
6 prepare and sign a concise record of the facts in question or dispute.
7 These ballots shall be delivered to the canvassing board for
8 processing. A ballot is not considered rejected until the canvassing
9 board has rejected the ballot individually, or the ballot was included
10 in a batch or on a report of ballots that was rejected in its entirety
11 by the canvassing board. All ballots shall be preserved in the same
12 manner as valid ballots for that primary or election.

13 **Sec. 12.** RCW 29A.60.070 and 2003 c 111 s 1507 are each amended to
14 read as follows:

15 The county auditor shall produce cumulative and precinct returns
16 for each primary and election and deliver them to the canvassing board
17 for verification and certification. The precinct and cumulative
18 returns of any primary or election are public records under chapter
19 42.17 RCW.

20 Cumulative returns for state offices, judicial offices, the United
21 States senate, and congress must be electronically transmitted to the
22 secretary of state immediately.

23 **Sec. 13.** RCW 29A.60.160 and 2003 c 111 s 1516 are each amended to
24 read as follows:

25 ~~((At least every third day after a primary or election and before~~
26 ~~certification of the election results,))~~ Except Sundays and legal
27 holidays, the county auditor, as delegated by the county canvassing
28 board, shall process absentee ballots and canvass the votes cast at
29 that primary or election on a daily basis in counties with a population
30 of seventy-five thousand or more, or at least every third day for
31 counties with a population of less than seventy-five thousand, if the
32 county auditor is in possession of more than twenty-five ballots that
33 have yet to be canvassed. The county auditor, as delegated by the
34 county canvassing board, may use his or her discretion in determining
35 when to process the remaining absentee ballots and canvass the votes
36 during the final four days before the certification of election results

1 in order to protect the secrecy of any ballot. In counties where this
2 process has not been delegated to the county auditor, the county
3 auditor shall convene the county canvassing board to process absentee
4 ballots and canvass the votes cast at the primary or election as set
5 forth in this section.

6 Each absentee ballot previously not canvassed that was received by
7 the county auditor two days or more before processing absentee ballots
8 and canvassing the votes as delegated by or processed by the county
9 canvassing board, that either was received by the county auditor before
10 the closing of the polls on the day of the primary or election for
11 which it was issued, or that bears a postmark on or before the primary
12 or election for which it was issued, must be processed at that time.
13 The tabulation of votes that results from that day's canvass must be
14 made available to the general public immediately upon completion of the
15 canvass.

16 **Sec. 14.** RCW 29A.60.190 and 2004 c 266 s 18 are each amended to
17 read as follows:

18 (1) (~~On the tenth day after a special election or primary and on~~
19 ~~the fifteenth day~~) Ten days after a primary or special election and
20 twenty-one days after a general election, the county canvassing board
21 shall complete the canvass and certify the results. Each absentee
22 ballot that was returned before the closing of the polls on the date of
23 the primary or election for which it was issued, and each absentee
24 ballot with a postmark on or before the date of the primary or election
25 for which it was issued and received on or before the date on which the
26 primary or election is certified, must be included in the canvass
27 report.

28 (2) At the request of a caucus of the state legislature, the county
29 auditor shall transmit copies of all unofficial returns of state and
30 legislative primaries or elections prepared by or for the county
31 canvassing board to either the secretary of the senate or the chief
32 clerk of the house of representatives.

33 **Sec. 15.** RCW 29A.60.210 and 2003 c 111 s 1521 are each amended to
34 read as follows:

35 Whenever the canvassing board finds during the initial counting
36 process, or during any subsequent recount thereof, that there is an

1 apparent discrepancy or an inconsistency in the returns of a primary or
2 election, or that election staff has made an error regarding the
3 treatment or disposition of a ballot, the board may recanvass the
4 ballots or voting devices in any precincts of the county. The
5 canvassing board shall conduct any necessary recanvass activity on or
6 before the last day to certify or recertify the results of the primary
7 ((or)), election, or subsequent recount and correct any error and
8 document the correction of any error that it finds.

9 **Sec. 16.** RCW 29A.60.250 and 2003 c 111 s 1525 are each amended to
10 read as follows:

11 As soon as the returns have been received from all the counties of
12 the state, but not later than the thirtieth day after the election, the
13 secretary of state shall ~~((make a))~~ canvass ~~((of such of the returns as~~
14 ~~are not required to be canvassed by the legislature and make out a~~
15 ~~statement thereof, file it in his or her office, and transmit a~~
16 ~~certified copy to the governor))~~ and certify the returns of the general
17 election as to candidates for state offices, the United States senate,
18 congress, and all other candidates whose districts extend beyond the
19 limits of a single county. The secretary of state shall transmit a
20 copy of the certification to the governor, president of the senate, and
21 speaker of the house of representatives.

22 **Sec. 17.** RCW 29A.64.021 and 2004 c 271 s 178 are each amended to
23 read as follows:

24 (1) If the official canvass of all of the returns for any office at
25 any primary or election reveals that the difference in the number of
26 votes cast for a candidate apparently nominated or elected to any
27 office and the number of votes cast for the closest apparently defeated
28 opponent is less than two thousand votes and also less than one-half of
29 one percent of the total number of votes cast for both candidates, the
30 county canvassing board shall conduct a recount of all votes cast on
31 that position.

32 (a) Whenever such a difference occurs in the number of votes cast
33 for candidates for a position the declaration of candidacy for which
34 was filed with the secretary of state, the secretary of state shall,
35 within three business days of the day that the returns of the primary

1 or election are first certified by the canvassing boards of those
2 counties, direct those boards to recount all votes cast on the
3 position.

4 (b)(i) For statewide elections, if the difference in the number of
5 votes cast for the apparent winner and the closest apparently defeated
6 opponent is less than one ((hundred-fifty)) thousand votes and also
7 less than one-fourth of one percent of the total number of votes cast
8 for both candidates, the votes shall be recounted manually or as
9 provided in subsection (3) of this section.

10 (ii) For elections not included in (b)(i) of this subsection, if
11 the difference in the number of votes cast for the apparent winner and
12 the closest apparently defeated opponent is less than one hundred fifty
13 votes and also less than one-fourth of one percent of the total number
14 of votes cast for both candidates, the votes shall be recounted
15 manually or as provided in subsection (3) of this section.

16 (2) A mandatory recount shall be conducted in the manner provided
17 by RCW 29A.64.030, 29A.64.041, and 29A.64.061. No cost of a mandatory
18 recount may be charged to any candidate.

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

32 **Sec. 18.** RCW 29A.64.030 and 2003 c 111 s 1603 are each amended to
33 read as follows:

34 An application for a recount shall state the office for which a
35 recount is requested and whether the request is for all or only a
36 portion of the votes cast in that jurisdiction of that office. The
37 person filing an application for a manual recount shall, at the same

1 time, deposit with the county canvassing board or secretary of state,
2 in cash or by certified check, a sum equal to twenty-five cents for
3 each ballot cast in the jurisdiction or portion of the jurisdiction for
4 which the recount is requested as security for the payment of any costs
5 of conducting the recount. If the application is for a machine
6 recount, the deposit must be equal to fifteen cents for each ballot.
7 These charges shall be determined by the county canvassing board or
8 boards under RCW (~~29A.64.080~~) 29A.64.081.

9 The county canvassing board shall determine ((a)) the date, time,
10 and ((a)) place or places at which the recount will be conducted.
11 (~~This time shall be less than three business days after the day upon~~
12 ~~which: The application was filed with the board; the request for a~~
13 ~~recount or directive ordering a recount was received by the board from~~
14 ~~the secretary of state; or the returns are certified which indicate~~
15 ~~that a recount is required under RCW 29A.64.020 for an issue or office~~
16 ~~voted upon only within the county.)) Not less than two days before the
17 date of the recount, the county auditor shall mail a notice of the time
18 and place of the recount to the applicant or affected parties and, if
19 the recount involves an office, to any person for whom votes were cast
20 for that office. The county auditor shall also notify the affected
21 parties by either telephone, fax, e-mail, or other electronic means at
22 the time of mailing. At least three attempts must be made over a two-
23 day period to notify the affected parties or until the affected parties
24 have received the notification. Each attempt to notify affected
25 parties must request a return response indicating that the notice has
26 been received. Each person entitled to receive notice of the recount
27 may attend, witness 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. 19.** RCW 29A.64.061 and 2004 c 271 s 180 are each amended to
33 read as follows:

34 Upon completion of the canvass of a recount, the canvassing board
35 shall prepare and certify an amended abstract showing the votes cast in
36 each precinct for which the recount was conducted. Copies of the

1 amended abstracts must be transmitted to the same officers who received
2 the abstract on which the recount was based.

3 If the nomination, election, or issue for which the recount was
4 conducted was submitted only to the voters of a county, the canvassing
5 board shall file the amended abstract with the original results of that
6 election or primary.

7 If the nomination, election, or issue for which a recount was
8 conducted was submitted to the voters of more than one county, the
9 secretary of state shall canvass the amended abstracts and shall file
10 an amended abstract with the original results of that election. The
11 secretary of state may require that the amended abstracts be certified
12 by each canvassing board on a uniform date. An amended abstract
13 certified under this section supersedes any prior abstract of the
14 results for the same offices or issues at the same primary or election.

15 **Sec. 20.** RCW 29A.68.011 and 2004 c 271 s 182 are each amended to
16 read as follows:

17 Any justice of the supreme court, judge of the court of appeals, or
18 judge of the superior court in the proper county shall, by order,
19 require any person charged with error, wrongful act, or neglect to
20 forthwith correct the error, desist from the wrongful act, or perform
21 the duty and to do as the court orders or to show cause forthwith why
22 the error should not be corrected, the wrongful act desisted from, or
23 the duty or order not performed, whenever it is made to appear to such
24 justice or judge by affidavit of an elector that:

25 (1) An error or omission has occurred or is about to occur in
26 printing the name of any candidate on official ballots; or

27 (2) An error other than as provided in subsections (1) and (3) of
28 this section has been committed or is about to be committed in printing
29 the ballots; or

30 (3) The name of any person has been or is about to be wrongfully
31 placed upon the ballots; or

32 (4) A wrongful act other than as provided for in subsections (1)
33 and (3) of this section has been performed or is about to be performed
34 by any election officer; or

35 (5) Any neglect of duty on the part of an election officer other
36 than as provided for in subsections (1) and (3) of this section has
37 occurred or is about to occur; or

1 (6) An error or omission has occurred or is about to occur in the
2 issuance of a certificate of election.

3 An affidavit of an elector under subsections (1) and (3) (~~above~~)
4 of this section when relating to a primary election must be filed with
5 the appropriate court no later than the second Friday following the
6 closing of the filing period for nominations for such office and shall
7 be heard and finally disposed of by the court not later than five days
8 after the filing thereof. An affidavit of an elector under subsections
9 (1) and (3) of this section when relating to a general election must be
10 filed with the appropriate court no later than three days following the
11 official certification of the primary election returns and shall be
12 heard and finally disposed of by the court not later than five days
13 after the filing thereof. An affidavit of an elector under subsection
14 (6) of this section shall be filed with the appropriate court no later
15 than ten days following the (~~issuance of a certificate of election~~)
16 official certification of the election as provided in RCW 29A.60.190,
17 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after
18 the official certification of the amended abstract as provided in RCW
19 29A.64.061.

20 NEW SECTION. **Sec. 21.** A new section is added to chapter 29A.84
21 RCW to read as follows:

22 A person who knowingly destroys, alters, defaces, conceals, or
23 discards a completed voter registration form or signed absentee or
24 provisional ballot signature affidavit is guilty of a gross
25 misdemeanor. This section does not apply to (1) the voter who
26 completed the voter registration form, or (2) a county auditor or
27 registration assistant who acts as authorized by voter registration
28 law.

29 **Sec. 22.** RCW 29A.84.650 and 2003 c 111 s 2131 are each amended to
30 read as follows:

31 (1) Any person who intentionally or knowingly votes or attempts to
32 vote more than once (~~at any~~) in this state in the same primary or
33 general or special election, or who is registered to vote in another
34 state and who votes or attempts to vote in this state, is guilty of a
35 gross misdemeanor, punishable to the same extent as a gross misdemeanor
36 that is punishable under RCW 9A.20.021.

1 (2) Any person who recklessly or negligently violates this section
2 has committed a class 1 civil infraction as provided in RCW 7.80.120.
3 The county prosecuting attorney is authorized to enforce this
4 subsection.

5 NEW SECTION. Sec. 23. This act takes effect January 1, 2006."

6 Correct the title.

EFFECT: The amendment removed the following provisions:

- (1) Election reviews;
- (2) Random investigations of county registration lists with the statewide list;
- (3) The date for filing declarations of candidacy;
- (4) Allowing absentee ballots of service members to be counted if the ballots were received by service voters after the date of the election;
- (5) Showing identification at the polls;
- (6) Duplication of ballots (thereby prohibiting ballot enhancement);
- (7) Motor voter registration changes; and
- (8) Absentee ballots must be counted in order for the voter to be credited with voting.

One of the two provisions regarding provisional ballot designs is also removed.

The amendment allows the Secretary of State to consult with certified document examiners, as well as with state and local law enforcement, for establishing guidelines for signature verification processes.

The county auditor is required to telephone the voter to advise of the procedures to correct an unsigned absentee or provisional ballot envelope or mismatched signatures. If the voter cannot be reached by phone, he or she must be contacted by first class mail. A voice mail message is not considered as "personally contacting the voter."

Records kept for tracking missing and mismatched signatures are public records and disc loadable upon written request.

Except for Sundays and legal holidays, counties with a population of 75,000 or more are required to canvass the vote on a daily basis and counties with less than 75,000 population must canvass at least every third day.

The provision changing certification of the general election to 20 days after the election is changed to 21 days.

The crime of knowingly destroying, altering, defacing, concealing, or discarding a completed voter registration form or signed absentee or provisional ballot signature affidavit is changed from a class C felony to a gross misdemeanor. The crime of intentionally or knowingly double-voting is changed from a class C felony to a gross misdemeanor.

The effective date of the entire act is January 1, 2006.

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