

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5499

59th Legislature
2005 Regular Session

Passed by the Senate April 23, 2005
YEAS 30 NAYS 19

President of the Senate

Passed by the House April 22, 2005
YEAS 97 NAYS 1

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5499** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5499

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kastama, Berkey, Fairley, Pridemore, Franklin, Haugen, Shin, Kohl-Welles, Doumit, Rasmussen and Keiser)

READ FIRST TIME 02/21/05.

1 AN ACT Relating to election reform; amending RCW 29A.04.008,
2 29A.04.530, 29A.40.091, 29A.40.110, 29A.60.021, 29A.60.050, 29A.60.070,
3 29A.60.160, 29A.60.190, 29A.60.210, 29A.60.250, 29A.64.021, 29A.64.030,
4 29A.64.061, 29A.68.011, and 29A.84.650; adding a new section to chapter
5 29A.36 RCW; adding new sections to chapter 29A.44 RCW; adding new
6 sections to chapter 29A.60 RCW; adding a new section to chapter 29A.84
7 RCW; prescribing penalties; and creating a new section.

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

9 **Sec. 1.** RCW 29A.04.008 and 2004 c 271 s 102 are each amended to
10 read as follows:

11 As used in this title:

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

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

16 (b) A facsimile of the contents of a particular ballot whether
17 printed on a paper ballot or ballot card or as part of a voting machine
18 or voting device;

1 (c) A physical or electronic record of the choices of an individual
2 voter in a particular primary, general election, or special election;
3 or

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

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

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

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

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

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

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

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

29 (d) Any other reason allowed by law;

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

34 (7) "Nonpartisan ballot" means a primary election ballot that lists
35 all nonpartisan races and ballot measures to be voted on at that
36 primary.

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

3 The secretary of state shall:

4 (1) Establish and operate, or provide by contract, training and
5 certification programs for state and county elections administration
6 officials and personnel, including training on the various types of
7 election law violations and discrimination, and training programs for
8 political party observers which conform to the rules for such programs
9 established under RCW 29A.04.630;

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

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

17 (~~(3)~~) (4) Maintain a record of those individuals who have
18 received such training and certificates; and

19 (~~(4)~~) (5) Provide the staffing and support services required by
20 the board created under RCW 29A.04.510.

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

23 All provisional and absentee ballots must be visually
24 distinguishable from each other and must be either:

25 (1) Printed on colored paper; or

26 (2) Imprinted with a bar code for the purpose of identifying the
27 ballot as a provisional or absentee ballot. The bar code must not
28 identify the voter.

29 Provisional and absentee ballots must be incapable of being
30 tabulated by poll-site counting devices.

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

33 The county auditor shall send each absentee voter a ballot, a
34 security envelope in which to seal the ballot after voting, a larger
35 envelope in which to return the security envelope, and instructions on
36 how to mark the ballot and how to return it to the county auditor. The

1 instructions that accompany an absentee ballot for a partisan primary
2 must include instructions for voting the applicable ballot style, as
3 provided in chapter 29A.36 RCW. The absentee voter's name and address
4 must be printed on the larger return envelope, which must also contain
5 a declaration by the absentee voter reciting his or her qualifications
6 and stating that he or she has not voted in any other jurisdiction at
7 this election, together with a summary of the penalties for any
8 violation of any of the provisions of this chapter. The declaration
9 must clearly inform the voter that it is illegal to vote if he or she
10 is not a United States citizen; it is illegal to vote if he or she has
11 been convicted of a felony and has not had his or her voting rights
12 restored; and, except as otherwise provided by law, it is illegal to
13 cast a ballot or sign an absentee envelope on behalf of another voter.
14 The return envelope must provide space for the voter to indicate the
15 date on which the ballot was voted and for the voter to sign the oath.
16 It must also contain a space that the voter may include a telephone
17 number. A summary of the applicable penalty provisions of this chapter
18 must be printed on the return envelope immediately adjacent to the
19 space for the voter's signature. The signature of the voter on the
20 return envelope must affirm and attest to the statements regarding the
21 qualifications of that voter and to the validity of the ballot. The
22 return envelope must also have a secrecy flap that the voter may seal
23 that will cover the voter's signature and optional telephone number.
24 For out-of-state voters, overseas voters, and service voters, the
25 signed declaration on the return envelope constitutes the equivalent of
26 a voter registration for the election or primary for which the ballot
27 has been issued. The voter must be instructed to either return the
28 ballot to the county auditor by whom it was issued or attach sufficient
29 first class postage, if applicable, and mail the ballot to the
30 appropriate county auditor no later than the day of the election or
31 primary for which the ballot was issued.

32 If the county auditor chooses to forward absentee ballots, he or
33 she must include with the ballot a clear explanation of the
34 qualifications necessary to vote in that election and must also advise
35 a voter with questions about his or her eligibility to contact the
36 county auditor. This explanation may be provided on the ballot
37 envelope, on an enclosed insert, or printed directly on the ballot

1 itself. If the information is not included, the envelope must clearly
2 indicate that the ballot is not to be forwarded and that return postage
3 is guaranteed.

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

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

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

19 (3) Before opening a returned absentee ballot, the canvassing
20 board, or its designated representatives, shall examine the postmark,
21 statement, and signature on the return envelope that contains the
22 security envelope and absentee ballot. They shall verify that the
23 voter's signature on the return envelope is the same as the signature
24 of that voter in the registration files of the county. For registered
25 voters casting absentee ballots, the date on the return envelope to
26 which the voter has attested determines the validity, as to the time of
27 voting for that absentee ballot if the postmark is missing or is
28 illegible. For out-of-state voters, overseas voters, and service
29 voters stationed in the United States, the date on the return envelope
30 to which the voter has attested determines the validity as to the time
31 of voting for that absentee ballot. For any absentee ballot, a
32 variation between the signature of the voter on the return envelope and
33 the signature of that voter in the registration files due to the
34 substitution of initials or the use of common nicknames is permitted so
35 long as the surname and handwriting are clearly the same.

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

3 Provisional ballots must be issued, along with a provisional ballot
4 outer envelope and a security envelope, to voters as appropriate under
5 RCW 29A.04.008. The provisional ballot outer envelope must include a
6 place for the voter's name; registered address, both present and former
7 if applicable; date of birth; reason for the provisional ballot; the
8 precinct number and the precinct polling location at which the voter
9 has voted; and a space for the county auditor to list the disposition
10 of the provisional ballot. The provisional ballot outer envelope must
11 also contain a declaration as required for absentee ballot outer
12 envelopes under RCW 29A.40.091; a place for the voter to sign the oath;
13 and a summary of the applicable penalty provisions of this chapter.
14 The voter shall vote the provisional ballot in secrecy and, when done,
15 place the provisional ballot in the security envelope, then place the
16 security envelope into the outer envelope, and return it to the
17 precinct election official. The election official shall ensure that
18 the required information is completed on the outer envelope, have the
19 voter sign it in the appropriate space, and place the envelope in a
20 secure container. The official shall then give the voter written
21 information advising the voter how to ascertain whether the vote was
22 counted and, if applicable, the reason why the vote was not counted.

23 NEW SECTION. **Sec. 7.** A new section is added to chapter 29A.44 RCW
24 to read as follows:

25 Any person desiring to vote at any primary or election is required
26 to provide identification to the election officer before signing the
27 poll book. The identification required in this section can be
28 satisfied by providing a valid photo identification, such as a driver's
29 license or state identification card, student identification card, or
30 tribal identification card, a voter's voter identification issued by a
31 county elections officer, or a copy of a current utility bill, bank
32 statement, paycheck, or government check or other government document.
33 Any individual who desires to vote in person but cannot provide
34 identification as required by this section shall be issued a
35 provisional ballot.

36 The secretary of state may adopt rules to carry out this section.

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

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

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

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

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

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

30 (ii) Sign a copy of the affidavit provided by the auditor and
31 return it to the auditor no later than the day before the certification
32 of the primary or election. If the signature on the copy of the
33 affidavit does not match the signature on file, the voter must appear
34 in person and sign a new registration form no later than the day before
35 the certification of the primary or election in order for the ballot to
36 be counted.

37 (b) If the signature on an absentee or provisional ballot envelope
38 is not the same as the signature on the registration file because the

1 name is different, the ballot may be counted as long as the handwriting
2 is clearly the same. The auditor shall send the voter a change-of-name
3 form under RCW 29A.08.440 and direct the voter to complete the form.

4 (c) 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 voter used initials or a common nickname, the ballot may be counted as
7 long as the surname and handwriting are clearly the same.

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

10 (4) A record must be kept of all ballots with missing and
11 mismatched signatures. The record must contain the date on which the
12 voter was contacted or the notice was mailed, as well as the date on
13 which the voter signed the envelope, a copy of the envelope, a new
14 registration form, or a change-of-name form. That record is a public
15 record under chapter 42.17 RCW and may be disclosed to interested
16 parties on written request.

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

19 Before certification of the primary or election, the county auditor
20 must examine and investigate all received provisional ballots to
21 determine whether the ballot can be counted. The auditor shall provide
22 the disposition of the provisional ballot and, if the ballot was not
23 counted, the reason why it was not counted, on a free access system
24 such as a toll-free telephone number, web site, mail, or other means.
25 The auditor must notify the voter in accordance with section 8 of this
26 act when the envelope is unsigned or when the signatures do not match.

27 NEW SECTION. **Sec. 10.** A new section is added to chapter 29A.60
28 RCW to read as follows:

29 If inspection of the ballot reveals a physically damaged ballot or
30 ballot that may be otherwise unreadable or uncountable by the
31 tabulating system, the county auditor may refer the ballot to the
32 county canvassing board or duplicate the ballot if so authorized by the
33 county canvassing board. The voter's original ballot may not be
34 altered. A ballot may be duplicated only if the intent of the voter's
35 marks on the ballot is clear and the electronic voting equipment might
36 not otherwise properly tally the ballot to reflect the intent of the

1 voter. Ballots must be duplicated by teams of two or more people
2 working together. When duplicating ballots, the county auditor shall
3 take the following steps to create and maintain an audit trail of the
4 action taken:

5 (1) Each original ballot and duplicate ballot must be assigned the
6 same unique control number, with the number being marked upon the face
7 of each ballot, to ensure that each duplicate ballot may be tied back
8 to the original ballot;

9 (2) A log must be kept of the ballots duplicated, which must at
10 least include:

11 (a) The control number of each original ballot and the
12 corresponding duplicate ballot;

13 (b) The initials of at least two people who participated in the
14 duplication of each ballot; and

15 (c) The total number of ballots duplicated.

16 Original and duplicate ballots must be sealed in secure storage at
17 all times, except during duplication, inspection by the canvassing
18 board, or tabulation.

19 NEW SECTION. **Sec. 11.** A new section is added to chapter 29A.60
20 RCW to read as follows:

21 (1) The county auditor shall prepare, make publicly available at
22 the auditor's office or on the auditor's web site, and submit at the
23 time of certification an election reconciliation report that discloses
24 the following information:

25 (a) The number of registered voters;

26 (b) The number of ballots counted;

27 (c) The number of provisional ballots issued;

28 (d) The number of provisional ballots counted;

29 (e) The number of provisional ballots rejected;

30 (f) The number of absentee ballots issued;

31 (g) The number of absentee ballots counted;

32 (h) The number of absentee ballots rejected;

33 (i) The number of federal write-in ballots counted;

34 (j) The number of out-of-state, overseas, and service ballots
35 issued;

36 (k) The number of out-of-state, overseas, and service ballots
37 counted; and

1 (1) The number of out-of-state, overseas, and service ballots
2 rejected.

3 (2) The county auditor shall prepare and make publicly available at
4 the auditor's office or on the auditor's web site within thirty days of
5 certification a final election reconciliation report that discloses the
6 following information:

7 (a) The number of registered voters;

8 (b) The total number of voters credited with voting;

9 (c) The number of poll voters credited with voting;

10 (d) The number of provisional voters credited with voting;

11 (e) The number of absentee voters credited with voting;

12 (f) The number of federal write-in voters credited with voting;

13 (g) The number of out-of-state, overseas, and service voters
14 credited with voting;

15 (h) The total number of voters credited with voting even though
16 their ballots were postmarked after election day and were not counted;
17 and

18 (i) Any other information the auditor deems necessary to reconcile
19 the number of ballots counted with the number of voters credited with
20 voting.

21 (3) The county auditor may also prepare such reports for
22 jurisdictions located, in whole or in part, in the county.

23 **Sec. 12.** RCW 29A.60.021 and 2004 c 271 s 147 are each amended to
24 read as follows:

25 (1) For any office at any election or primary, any voter may write
26 in on the ballot the name of any person for an office who has filed as
27 a write-in candidate for the office in the manner provided by RCW
28 29A.24.311 and such vote shall be counted the same as if the name had
29 been printed on the ballot and marked by the voter. (~~For a partisan
30 primary in a jurisdiction using the physically separate ballot format,
31 a voter may write in on a party ballot only the names of write-in
32 candidates who affiliate with that major political party.~~) No write-
33 in vote made for any person who has not filed a declaration of
34 candidacy pursuant to RCW 29A.24.311 is valid if that person filed for
35 the same office, either as a regular candidate or a write-in candidate,
36 at the preceding primary. Any abbreviation used to designate

1 office(~~(7)~~) or position(~~(, or political party shall)~~) will be accepted
2 if the canvassing board can determine, to (~~(their)~~) its satisfaction,
3 the voter's intent.

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

6 (3) A write-in vote for an individual candidate for an office whose
7 name appears on the ballot for that same office is a valid vote for
8 that candidate as long as the candidate's name is clearly discernible,
9 even if other requirements of RCW 29A.24.311 are not satisfied and even
10 if the voter also marked a vote for that candidate such as to register
11 an overvote. These votes need not be tabulated unless: (a) The
12 difference between the number of votes cast for the candidate
13 apparently qualified to appear on the general election ballot or
14 elected and the candidate receiving the next highest number of votes is
15 less than the sum of the total number of write-in votes cast for the
16 office plus the overvotes and undervotes recorded by the vote
17 tabulating system; or (b) a manual recount is conducted for that
18 office.

19 (4) Write-in votes cast for an individual candidate for an office
20 whose name does not appear on the ballot need not be tallied (~~(if)~~)
21 unless the total number of write-in votes and undervotes recorded by
22 the vote tabulation system for the office is (~~(not)~~) greater than the
23 number of votes cast for the candidate apparently (~~(nominated)~~)
24 qualified to appear on the general election ballot or elected(~~(, and~~
25 the write-in votes could not have altered the outcome of the primary or
26 election. In the case of write-in votes for statewide office or for
27 any office whose jurisdiction encompasses more than one county, write-
28 in votes for an individual candidate must be tallied whenever the
29 county auditor is notified by either the office of the secretary of
30 state or another auditor in a multicounty jurisdiction that it appears
31 that the write-in votes could alter the outcome of the primary or
32 election).

33 (~~(+4)~~) (5) In the case of write-in votes for a statewide
34 office(~~(s)~~) or any office whose jurisdiction(~~(s that)~~) encompasses more
35 than one county, (~~(if the total number of write-in votes and undervotes~~
36 ~~recorded by the vote tabulation system for an office within a county is~~
37 ~~greater than the number of votes cast for a candidate apparently~~
38 ~~nominated or elected in a primary or election, the auditor shall tally~~

1 ~~all write-in votes for individual candidates for that office and notify~~
2 ~~the office of the secretary of state and the auditors of the other~~
3 ~~counties within the jurisdiction, that the write-in votes for~~
4 ~~individual candidates should be tallied))~~ write-in votes for an
5 individual candidate must be tallied when the county auditor is
6 notified by either the secretary of state or another county auditor in
7 the multicounty jurisdiction that it appears that the write-in votes
8 must be tabulated under the terms of this section. In all other cases,
9 the county auditor determines when write-in votes must be tabulated.
10 Any abstract of votes must be modified to reflect the tabulation and
11 certified by the canvassing board. Tabulation of write-in votes may be
12 performed simultaneously with a recount.

13 **Sec. 13.** RCW 29A.60.050 and 2003 c 111 s 1505 are each amended to
14 read as follows:

15 Whenever the precinct election officers or the counting center
16 personnel have a question about the validity of a ballot or the votes
17 for an office or issue that they are unable to resolve, they shall
18 prepare and sign a concise record of the facts in question or dispute.
19 These ballots shall be delivered to the canvassing board for
20 processing. A ballot is not considered rejected until the canvassing
21 board has rejected the ballot individually, or the ballot was included
22 in a batch or on a report of ballots that was rejected in its entirety
23 by the canvassing board. All ballots shall be preserved in the same
24 manner as valid ballots for that primary or election.

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

27 The county auditor shall produce cumulative and precinct returns
28 for each primary and election and deliver them to the canvassing board
29 for verification and certification. The precinct and cumulative
30 returns of any primary or election are public records under chapter
31 42.17 RCW.

32 Cumulative returns for state offices, judicial offices, the United
33 States senate, and congress must be electronically transmitted to the
34 secretary of state immediately.

1 **Sec. 15.** RCW 29A.60.160 and 2003 c 111 s 1516 are each amended to
2 read as follows:

3 (~~At least every third day after a primary or election and before~~
4 ~~certification of the election results,~~) Except Sundays and legal
5 holidays, the county auditor, as delegated by the county canvassing
6 board, shall process absentee ballots and canvass the votes cast at
7 that primary or election on a daily basis in counties with a population
8 of seventy-five thousand or more, or at least every third day for
9 counties with a population of less than seventy-five thousand, if the
10 county auditor is in possession of more than twenty-five ballots that
11 have yet to be canvassed. The county auditor, as delegated by the
12 county canvassing board, may use his or her discretion in determining
13 when to process the remaining absentee ballots and canvass the votes
14 during the final four days before the certification of election results
15 in order to protect the secrecy of any ballot. In counties where this
16 process has not been delegated to the county auditor, the county
17 auditor shall convene the county canvassing board to process absentee
18 ballots and canvass the votes cast at the primary or election as set
19 forth in this section.

20 Each absentee ballot previously not canvassed that was received by
21 the county auditor two days or more before processing absentee ballots
22 and canvassing the votes as delegated by or processed by the county
23 canvassing board, that either was received by the county auditor before
24 the closing of the polls on the day of the primary or election for
25 which it was issued, or that bears a postmark on or before the primary
26 or election for which it was issued, must be processed at that time.
27 The tabulation of votes that results from that day's canvass must be
28 made available to the general public immediately upon completion of the
29 canvass.

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

32 (1) (~~On the tenth day after a special election or primary and on~~
33 ~~the fifteenth day~~) Ten days after a primary or special election and
34 twenty-one days after a general election, the county canvassing board
35 shall complete the canvass and certify the results. Each absentee
36 ballot that was returned before the closing of the polls on the date of
37 the primary or election for which it was issued, and each absentee

1 ballot with a postmark on or before the date of the primary or election
2 for which it was issued and received on or before the date on which the
3 primary or election is certified, must be included in the canvass
4 report.

5 (2) At the request of a caucus of the state legislature, the county
6 auditor shall transmit copies of all unofficial returns of state and
7 legislative primaries or elections prepared by or for the county
8 canvassing board to either the secretary of the senate or the chief
9 clerk of the house of representatives.

10 **Sec. 17.** RCW 29A.60.210 and 2003 c 111 s 1521 are each amended to
11 read as follows:

12 Whenever the canvassing board finds during the initial counting
13 process, or during any subsequent recount thereof, that there is an
14 apparent discrepancy or an inconsistency in the returns of a primary or
15 election, or that election staff has made an error regarding the
16 treatment or disposition of a ballot, the board may recanvass the
17 ballots or voting devices in any precincts of the county. The
18 canvassing board shall conduct any necessary recanvass activity on or
19 before the last day to certify or recertify the results of the primary
20 ((or)), election, or subsequent recount and correct any error and
21 document the correction of any error that it finds.

22 **Sec. 18.** RCW 29A.60.250 and 2003 c 111 s 1525 are each amended to
23 read as follows:

24 As soon as the returns have been received from all the counties of
25 the state, but not later than the thirtieth day after the election, the
26 secretary of state shall ~~((make a))~~ canvass ~~((of such of the returns as~~
27 ~~are not required to be canvassed by the legislature and make out a~~
28 ~~statement thereof, file it in his or her office, and transmit a~~
29 ~~certified copy to the governor))~~ and certify the returns of the general
30 election as to candidates for state offices, the United States senate,
31 congress, and all other candidates whose districts extend beyond the
32 limits of a single county. The secretary of state shall transmit a
33 copy of the certification to the governor, president of the senate, and
34 speaker of the house of representatives.

1 **Sec. 19.** RCW 29A.64.021 and 2004 c 271 s 178 are each amended to
2 read as follows:

3 (1) If the official canvass of all of the returns for any office at
4 any primary or election reveals that the difference in the number of
5 votes cast for a candidate apparently nominated or elected to any
6 office and the number of votes cast for the closest apparently defeated
7 opponent is less than two thousand votes and also less than one-half of
8 one percent of the total number of votes cast for both candidates, the
9 county canvassing board shall conduct a recount of all votes cast on
10 that position.

11 (a) Whenever such a difference occurs in the number of votes cast
12 for candidates for a position the declaration of candidacy for which
13 was filed with the secretary of state, the secretary of state shall,
14 within three business days of the day that the returns of the primary
15 or election are first certified by the canvassing boards of those
16 counties, direct those boards to recount all votes cast on the
17 position.

18 (b)(i) For statewide elections, if the difference in the number of
19 votes cast for the apparent winner and the closest apparently defeated
20 opponent is less than one (~~hundred-fifty~~) thousand votes and also
21 less than one-fourth of one percent of the total number of votes cast
22 for both candidates, the votes shall be recounted manually or as
23 provided in subsection (3) of this section.

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

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

33 (3) The apparent winner and closest apparently defeated opponent
34 for an office for which a manual recount is required under subsection
35 (1)(b) of this section may select an alternative method of conducting
36 the recount. To select such an alternative, the two candidates shall
37 agree to the alternative in a signed, written statement filed with the
38 election official for the office. The recount shall be conducted using

1 the alternative method if: It is suited to the balloting system that
2 was used for casting the votes for the office; it involves the use of
3 a vote tallying system that is approved for use in this state by the
4 secretary of state; and the vote tallying system is readily available
5 in each county required to conduct the recount. If more than one
6 balloting system was used in casting votes for the office, an
7 alternative to a manual recount may be selected for each system.

8 **Sec. 20.** RCW 29A.64.030 and 2003 c 111 s 1603 are each amended to
9 read as follows:

10 An application for a recount shall state the office for which a
11 recount is requested and whether the request is for all or only a
12 portion of the votes cast in that jurisdiction of that office. The
13 person filing an application for a manual recount shall, at the same
14 time, deposit with the county canvassing board or secretary of state,
15 in cash or by certified check, a sum equal to twenty-five cents for
16 each ballot cast in the jurisdiction or portion of the jurisdiction for
17 which the recount is requested as security for the payment of any costs
18 of conducting the recount. If the application is for a machine
19 recount, the deposit must be equal to fifteen cents for each ballot.
20 These charges shall be determined by the county canvassing board or
21 boards under RCW (~~29A.64.080~~) 29A.64.081.

22 The county canvassing board shall determine ((a)) the date, time,
23 and ((a)) place or places at which the recount will be conducted.
24 (~~This time shall be less than three business days after the day upon~~
25 ~~which: The application was filed with the board; the request for a~~
26 ~~recount or directive ordering a recount was received by the board from~~
27 ~~the secretary of state; or the returns are certified which indicate~~
28 ~~that a recount is required under RCW 29A.64.020 for an issue or office~~
29 ~~voted upon only within the county.)) Not less than two days before the
30 date of the recount, the county auditor shall mail a notice of the time
31 and place of the recount to the applicant or affected parties and, if
32 the recount involves an office, to any person for whom votes were cast
33 for that office. The county auditor shall also notify the affected
34 parties by either telephone, fax, e-mail, or other electronic means at
35 the time of mailing. At least three attempts must be made over a two-
36 day period to notify the affected parties or until the affected parties
37 have received the notification. Each attempt to notify affected~~

1 parties must request a return response indicating that the notice has
2 been received. Each person entitled to receive notice of the recount
3 may attend, witness the recount, and be accompanied by counsel.

4 Proceedings of the canvassing board are public under chapter 42.30
5 RCW. Subject to reasonable and equitable guidelines adopted by the
6 canvassing board, all interested persons may attend and witness a
7 recount.

8 **Sec. 21.** RCW 29A.64.061 and 2004 c 271 s 180 are each amended to
9 read as follows:

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

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

19 If the nomination, election, or issue for which a recount was
20 conducted was submitted to the voters of more than one county, the
21 secretary of state shall canvass the amended abstracts and shall file
22 an amended abstract with the original results of that election. The
23 secretary of state may require that the amended abstracts be certified
24 by each canvassing board on a uniform date. An amended abstract
25 certified under this section supersedes any prior abstract of the
26 results for the same offices or issues at the same primary or election.

27 **Sec. 22.** RCW 29A.68.011 and 2004 c 271 s 182 are each amended to
28 read as follows:

29 Any justice of the supreme court, judge of the court of appeals, or
30 judge of the superior court in the proper county shall, by order,
31 require any person charged with error, wrongful act, or neglect to
32 forthwith correct the error, desist from the wrongful act, or perform
33 the duty and to do as the court orders or to show cause forthwith why
34 the error should not be corrected, the wrongful act desisted from, or
35 the duty or order not performed, whenever it is made to appear to such
36 justice or judge by affidavit of an elector that:

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

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

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

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

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

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

16 An affidavit of an elector under subsections (1) and (3) (~~above~~)
17 of this section when relating to a primary election must be filed with
18 the appropriate court no later than the second Friday following the
19 closing of the filing period for nominations for such office and shall
20 be heard and finally disposed of by the court not later than five days
21 after the filing thereof. An affidavit of an elector under subsections
22 (1) and (3) of this section when relating to a general election must be
23 filed with the appropriate court no later than three days following the
24 official certification of the primary election returns and shall be
25 heard and finally disposed of by the court not later than five days
26 after the filing thereof. An affidavit of an elector under subsection
27 (6) of this section shall be filed with the appropriate court no later
28 than ten days following the (~~issuance of a certificate of election~~)
29 official certification of the election as provided in RCW 29A.60.190,
30 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after
31 the official certification of the amended abstract as provided in RCW
32 29A.64.061.

33 NEW SECTION. Sec. 23. A new section is added to chapter 29A.84
34 RCW to read as follows:

35 A person who knowingly destroys, alters, defaces, conceals, or
36 discards a completed voter registration form or signed absentee or
37 provisional ballot signature affidavit is guilty of a gross

1 misdemeanor. This section does not apply to (1) the voter who
2 completed the voter registration form, or (2) a county auditor or
3 registration assistant who acts as authorized by voter registration
4 law.

5 **Sec. 24.** RCW 29A.84.650 and 2003 c 111 s 2131 are each amended to
6 read as follows:

7 (1) Any person who intentionally votes or attempts to vote in this
8 state more than once at any ((primary or general or special)) election,
9 or who intentionally votes or attempts to vote in both this state and
10 another state at any election, is guilty of a ((gross misdemeanor,
11 ~~punishable to the same extent as a gross misdemeanor that is punishable~~
12 ~~under RCW 9A.20.021~~)) class C felony.

13 (2) Any person who recklessly or negligently violates this section
14 commits a class 1 civil infraction as provided in RCW 7.80.120.

15 NEW SECTION. **Sec. 25.** The secretary of state shall study the
16 feasibility of requiring that the names of the top two vote-getters in
17 primary elections of justices of the state supreme court, judges of the
18 courts of appeals, superior courts, and district courts, and the
19 superintendent of public instruction shall appear on the general
20 election ballot. The study shall include a survey of how many times a
21 judicial candidate and a candidate for superintendent of public
22 instruction have appeared without opposition on the general election
23 ballot from 1985 to present; the number of voters voting for these
24 races in the primary election as opposed to voting for the same races
25 in the general election; and if the differences in the numbers of
26 voters voting at the primary and voting at the general election may
27 have resulted in a different election result. The study shall also
28 include a financial analysis of the proposed changes. The secretary of
29 state shall report the results of the study to the appropriate
30 committees of the legislature no later than January 31, 2006.

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