

# HOUSE BILL REPORT

## HB 2796

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**As Reported by House Committee On:**  
State Government & Tribal Affairs

**Title:** An act relating to identifying marks on ballots.

**Brief Description:** Preventing rejection of ballots that have voter identifying marks.

**Sponsors:** Representatives Loomis, Chandler, Miloscia, Hunt, Lias and Armstrong; by request of Secretary of State.

**Brief History:**

**Committee Activity:**

State Government & Tribal Affairs: 1/22/08, 2/1/08 [DPS].

### Brief Summary of Substitute Bill

- Clarifies that election officials may not mark a ballot in any manner that would allow for the identification of the voter.
- Provides that ballots with marks that identify the voter will not be invalidated and will still be counted.

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## HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hunt, Chair; Appleton, Vice Chair; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Kretz, Lias, Miloscia and Ormsby.

**Staff:** Tracey Taylor (786-7196).

### Background:

In 2002 Congress passed the Help America Vote Act (HAVA). The HAVA mandated that states adopt uniform standards that define what constitutes a vote and what will be counted as a vote for each voting system in the state. These standards were deemed necessary to ensure consistency across the state and prevent equal protection violations. Washington's uniform

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

standards are explained and illustrated in the Secretary of State's publication "Voter Intent: Statewide Standards on What Is a Vote" (revised 2007).

Washington, being a voter intent state, does not disenfranchise voters merely because they marked a ballot differently than directed. State law provides that when voter intent can be discerned, the votes will be counted. Therefore, if a voter signs his or her name illegibly, and the name is not discernible, or merely initials the ballot, the ballot is counted. However, if the voter legibly signs his or her name on the ballot, thereby revealing his or her identity, by law, the ballot is rejected.

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### **Summary of Substitute Bill:**

An election official may not mark a ballot in any manner including encrypted and unencrypted bar codes, that allows for the identification of the voter. Randomly assigned unique marks for auditing and voter reconciliation or to indicate a vote has been counted are allowed.

A ballot may not be invalidated and must be counted if it is marked so as to identify the voter. In addition, an incorrect internal reference is corrected.

### **Substitute Bill Compared to Original Bill:**

The substitute bill prohibits ballots from containing encrypted and unencrypted bar codes or other unique identifying marks, except for randomly assigned unique marks that are used for auditing and vote reconciliation, or to determine if a vote has been previously counted. In addition, the substitute bill provides that unique identifying marks must not be associated with a voter.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

### **Staff Summary of Public Testimony:**

(In support) The directions on a ballot tell a voter to cross out their mistake. Many voters who make corrections on their ballots sign the mistake in an attempt to validate it, as required in other settings. This has the opposite effect in elections as it causes their ballot not to be counted. Based on expected voter turnout in the November 2008 general election, this could lead to approximately 1,000 ballots per county not being counted. This could impact the outcome of a race.

This bill also protects the voter's free speech to make a free, open, and clear declaration of their vote.

(Opposed) None.

**Persons Testifying:** Representative Loomis, prime sponsor; Shane Hamlin, Office of the Secretary of State; Rick DeWitt; and Mike Garrison, Skamania County Auditor.

**Persons Signed In To Testify But Not Testifying:** None.