H-0539.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1475**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Farivar, Mena, Fosse, Taylor, Reed, Gregerson, Simmons, Chapman, Ryu, Peterson, Ramel, Macri, Morgan, Bergquist, and Pollet

AN ACT Relating to increasing access to elections by allowing certain populations to return ballots using an online ballot portal; amending RCW 29A.40.091, 29A.60.235, and 29A.04.611; reenacting and amending RCW 29A.40.110; adding a new section to chapter 29A.40 RCW; and providing an effective date.

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

NEW SECTION. **Sec.**  A new section is added to chapter 29A.40 RCW to read as follows:

(1) The secretary of state, in consultation with county auditors and the state chief information security officer, shall establish a statewide online ballot portal that allows voters to access their ballot electronically, and voters described in subsection (4) of this section to submit a voted ballot using the online ballot portal. Counties must use the online ballot portal established by the secretary of state unless the county auditor receives a waiver from the secretary of state to use another approved online ballot portal.

(2) Any online ballot portal used in the state must, at a minimum:

(a) Comply with all state and federal requirements and current best practices for accessibility for individuals with disabilities;

(b) Provide the voter with their correct and accurate ballot;

(c) Allow the county auditor to verify whether any ballot returned through the portal was returned on time under subsection (5) of this section;

(d) Ensure the privacy and security of all ballots returned to the county auditor through the portal to confirm that ballots have not been viewed or altered during the transmission of the ballot;

(e) Allow the county canvassing board, or its designated representatives, to verify that each ballot returned through the portal was returned by a registered voter who is eligible to vote in the election or primary and has not returned another ballot in the same election or primary, while maintaining the secrecy of the selections made on the ballot;

(f) Not be connected to any part of a voting system as defined in RCW 29A.12.005 and produce a paper copy of each ballot returned through the portal to be used for tabulation on a voting system which is separate from the online ballot portal;

(g) Instruct the voter on how to return the voter's ballot; and

(h) Include on the screen where a voter described in subsection (4) of this section may submit a voted ballot the following: "I attest under penalty of perjury that I meet the qualifications to return my ballot using this online ballot portal."

(3) Any voter may access the voter's ballot through an online ballot portal that allows the voter to mark the ballot electronically and print out the ballot for return to the county auditor.

(4) The following voters may return a voted ballot to the county auditor using the online ballot portal described under this section:

(a) Overseas voters and service voters;

(b) Disabled voters as defined in RCW 29A.04.037; and

(c) Any eligible voter who is currently serving a sentence of total or partial confinement as defined in RCW 9.94A.030 in Washington state, and who is not serving a sentence of total confinement for a felony conviction.

(5) Any voted ballot returned to the county auditor through an approved online ballot portal described in subsection (1) of this section must be received by the county auditor no later than 8:00 p.m. on the day of the election or primary.

**Sec.**  RCW 29A.40.091 and 2021 c 10 s 3 are each amended to read as follows:

(1) The county auditor shall send each voter a ballot, a security envelope in which to conceal the ballot after voting, a larger envelope in which to return the security envelope, a declaration that the voter must sign, and instructions on how to obtain information about the election, how to mark the ballot, and how to return the ballot to the county auditor. The calendar date of the election must be prominently displayed in bold type, twenty-point font or larger, on the envelope sent to the voter containing the ballot and other materials listed in this subsection((~~:~~

~~(a) For all general elections in 2020 and after;~~

~~(b) For all primary elections in 2021 and after; and~~

~~(c) For all elections in 2022 and after~~)).

(2) The voter must swear under penalty of perjury that he or she meets the qualifications to vote, and has not voted in any other jurisdiction at this election. The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she is serving a sentence of total confinement under the jurisdiction of the department of corrections for a felony conviction or is currently incarcerated for a federal or out-of-state felony conviction; and it is illegal to cast a ballot or sign a ballot declaration on behalf of another voter. The ballot materials must provide space for the voter to sign the declaration, indicate the date on which the ballot was voted, and include a telephone number.

(3) For overseas and service voters, the signed declaration constitutes the equivalent of a voter registration. Return envelopes for overseas and service voters must enable the ballot to be returned postage free if mailed through the United States postal service, United States armed forces postal service, or the postal service of a United States foreign embassy under 39 U.S.C. 3406.

(4) The voter must be instructed to either return the ballot to the county auditor no later than 8:00 p.m. the day of the election or primary, or mail the ballot to the county auditor with a postmark no later than the day of the election or primary. Return envelopes for all election ballots must include prepaid postage. Service and overseas voters may return a voted ballot and signed declaration by fax or email and must be provided with instructions and a privacy sheet for returning the ballot and signed declaration by fax or email. Voters described in section 1(4) of this act must be provided with instructions for accessing their ballot, marking their ballot, and returning a voted ballot, using an approved online ballot portal. A voted ballot and signed declaration returned by fax or email by a service or overseas voter must be received by 8:00 p.m. on the day of the election or primary. A voted ballot returned by a voter described in section 1(4) of this act using an approved online ballot portal must be received by 8:00 p.m. on the day of the election or primary.

(5) The county auditor's name may not appear on the security envelope, the return envelope, or on any voting instructions or materials included with the ballot if he or she is a candidate for office during the same year.

(6) For purposes of this section((~~, "prepaid~~)):

(a) "Prepaid postage" means any method of return postage paid by the county or state.

(b) "Approved online ballot portal" means an online ballot portal described in section 1 of this act.

**Sec.**  RCW 29A.40.110 and 2011 c 349 s 18, 2011 c 348 s 4, and 2011 c 10 s 41 are each reenacted and amended to read as follows:

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

(2) All received return envelopes must be placed in secure locations from the time of delivery to the county auditor until their subsequent opening. After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until processing. Ballots may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation.

(3) The canvassing board, or its designated representatives, shall examine the postmark on the return envelope and signature on the declaration before processing the ballot. The ballot must either be received no later than 8:00 p.m. on the day of the primary or election, or must be postmarked no later than the day of the primary or election. All personnel assigned to verify signatures must receive training on statewide standards for signature verification. Personnel shall verify that the voter's signature on the ballot declaration is the same as the signature of that voter in the registration files of the county. Verification may be conducted by an automated verification system approved by the secretary of state. A variation between the signature of the voter on the ballot declaration and the signature of that voter in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

(4) ((~~If~~)) For ballots returned by mail, if the postmark is missing or illegible, the date on the ballot declaration to which the voter has attested determines the validity, as to the time of voting, for that ballot. For ballots returned by mail by overseas voters and service voters, the date on the declaration to which the voter has attested determines the validity, as to the time of voting, for that ballot.

(5) Any overseas voter or service voter may return the signed declaration and voted ballot by fax or email by 8:00 p.m. on the day of the primary or election, and the county auditor must use established procedures to maintain the secrecy of the ballot.

(6) A voter described in section 1(4) of this act may return a signed declaration and voted ballot using an approved online ballot portal, described under section 1 of this act, no later than 8:00 p.m. on the day of the primary or election. The county auditor shall establish procedures to maintain the secrecy of the ballot.

**Sec.**  RCW 29A.60.235 and 2018 c 218 s 9 are each amended to read as follows:

(1) The county auditor shall prepare at the time of certification an election reconciliation report that discloses the following information:

(a) The number of registered voters;

(b) The number of ballots issued;

(c) The number of ballots received;

(d) The number of ballots counted;

(e) The number of ballots rejected;

(f) The number of provisional ballots issued;

(g) The number of provisional ballots received;

(h) The number of provisional ballots counted;

(i) The number of provisional ballots rejected;

(j) The number of federal write-in ballots received;

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

(l) The number of federal write-in ballots rejected;

(m) The number of overseas and service ballots issued by mail, online ballot portal, email, website link, or facsimile;

(n) The number of overseas and service ballots received by mail, online ballot portal, email, or facsimile;

(o) The number of overseas and service ballots counted by mail, online ballot portal, email, or facsimile;

(p) The number of overseas and service ballots rejected by mail, online ballot portal, email, or facsimile;

(q) The number of nonoverseas and nonservice ballots sent by email, ((~~website link~~)) online ballot portal, or facsimile;

(r) The number of nonoverseas and nonservice ballots received by email, online ballot portal, or facsimile;

(s) The number of nonoverseas and nonservice ballots that were rejected for:

(i) Failing to send an original or hard copy of the ballot by the certification deadline; or

(ii) Any other reason, including the reason for rejection;

(t) The number of voters credited with voting;

(u) The number of replacement ballots requested;

(v) The number of replacement ballots issued;

(w) The number of replacement ballots received;

(x) The number of replacement ballots counted;

(y) The number of replacement ballots rejected; and

(z) Any other information the auditor or secretary of state deems necessary to reconcile the number of ballots counted with the number of voters credited with voting, and to maintain an audit trail.

(2) The county auditor must make the report available to the public at the auditor's office and must publish the report on the auditor's website at the time of certification. The county auditor must submit the report to the secretary of state at the time of certification in any form determined by the secretary of state.

(3)(a) The secretary of state must collect the reconciliation reports from each county auditor and prepare a statewide reconciliation report for each state primary and general election. The report may be produced in a form determined by the secretary that includes the information as described in this subsection (3). The report must be prepared and published on the secretary of state's website within two months after the last county's election results have been certified.

(b) The state report must include a comparison among counties on rates of votes received, counted, and rejected, including provisional, write-in, overseas ballots, and ballots transmitted electronically. The comparison information may be in the form of rankings, percentages, or other relevant quantifiable data that can be used to measure performance and trends.

(c) The state report must also include an analysis of the data that can be used to develop a better understanding of election administration and policy. The analysis must combine data, as available, over multiple years to provide broader comparisons and trends regarding voter registration and turnout and ballot counting. The analysis must incorporate national election statistics to the extent such information is available.

**Sec.**  RCW 29A.04.611 and 2011 c 10 s 13 are each amended to read as follows:

The secretary of state as chief election officer shall make reasonable rules in accordance with chapter 34.05 RCW not inconsistent with the federal and state election laws to effectuate any provision of this title and to facilitate the execution of its provisions in an orderly, timely, and uniform manner relating to any federal, state, county, city, town, and district elections. To that end the secretary shall assist local election officers by devising uniform forms and procedures.

In addition to the rule-making authority granted otherwise by this section, the secretary of state shall make rules governing the following provisions:

(1) The maintenance of voter registration records;

(2) The preparation, maintenance, distribution, review, and filing of precinct maps;

(3) Standards for the design, layout, and production of ballots;

(4) The examination and testing of voting systems for certification;

(5) The source and scope of independent evaluations of voting systems that may be relied upon in certifying voting systems for use in this state;

(6) Standards and procedures for the acceptance testing of voting systems by counties;

(7) Standards and procedures for testing the programming of vote tallying software for specific primaries and elections;

(8) Standards and procedures for the preparation and use of each type of certified voting system including procedures for the operation of counting centers where vote tallying systems are used;

(9) Standards and procedures to ensure the accurate tabulation and canvassing of ballots;

(10) Consistency among the counties of the state in the preparation of ballots, the operation of vote tallying systems, and the canvassing of primaries and elections;

(11) Procedures to ensure the secrecy of a voter's ballot when a small number of ballots are counted;

(12) The use of substitute devices or means of voting when a voting device is found to be defective, the counting of votes cast on the defective device, the counting of votes cast on the substitute device, and the documentation that must be submitted to the county auditor regarding such circumstances;

(13) Procedures for the transportation of sealed containers of voted ballots or sealed voting devices;

(14) The acceptance and filing of documents via electronic transmission;

(15) Voter registration applications and records;

(16) The use of voter registration information in the conduct of elections;

(17) The coordination, delivery, and processing of voter registration records accepted by driver licensing agents or the department of licensing;

(18) The coordination, delivery, and processing of voter registration records accepted by agencies designated by the governor to provide voter registration services;

(19) Procedures to receive and distribute voter registration applications by mail;

(20) Procedures for a voter to change his or her voter registration address within a county by telephone;

(21) Procedures for a voter to change the name under which he or she is registered to vote;

(22) Procedures for canceling dual voter registration records and for maintaining records of persons whose voter registrations have been canceled;

(23) Procedures for the electronic transfer of voter registration records between county auditors and the office of the secretary of state;

(24) Procedures and forms for declarations of candidacy;

(25) Procedures and requirements for the acceptance and filing of declarations of candidacy by electronic means;

(26) Procedures for the circumstance in which two or more candidates have a name similar in sound or spelling so as to cause confusion for the voter;

(27) Filing for office;

(28) The order of positions and offices on a ballot;

(29) Sample ballots;

(30) Independent evaluations of voting systems;

(31) The testing, approval, and certification of voting systems;

(32) The testing of vote tallying software programming;

(33) Standards and procedures to prevent fraud and to facilitate the accurate processing and canvassing of ballots, including standards for the approval and implementation of hardware and software for automated signature verification systems;

(34) Standards and procedures to guarantee the secrecy of ballots;

(35) Uniformity among the counties of the state in the conduct of elections;

(36) Standards and procedures to accommodate overseas voters and service voters;

(37) The tabulation of paper ballots;

(38) The accessibility of voting centers;

(39) The aggregation of precinct results if reporting the results of a single precinct could jeopardize the secrecy of a person's ballot;

(40) Procedures for conducting a statutory recount;

(41) Procedures for filling vacancies in congressional offices if the general statutory time requirements for availability of ballots, certification, canvassing, and related procedures cannot be met;

(42) Procedures for the statistical sampling of signatures for purposes of verifying and canvassing signatures on initiative, referendum, and recall election petitions;

(43) Standards and deadlines for submitting material to the office of the secretary of state for the voters' pamphlet;

(44) Deadlines for the filing of ballot titles for referendum bills and constitutional amendments if none have been provided by the legislature;

(45) Procedures for the publication of a state voters' pamphlet;

(46) Procedures for conducting special elections regarding nuclear waste sites if the general statutory time requirements for availability of ballots, certification, canvassing, and related procedures cannot be met;

(47) Procedures for conducting partisan primary elections;

(48) Standards and procedures for the proper conduct of voting on accessible voting devices;

(49) Standards for voting technology and systems used by the state or any political subdivision to be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as other voters;

(50) All data formats for transferring voter registration data on electronic or machine-readable media for the purpose of administering the statewide voter registration list required by the Help America Vote Act (P.L. 107-252);

(51) Defining the interaction of electronic voter registration election management systems employed by each county auditor to maintain a local copy of each county's portion of the official state list of registered voters;

(52) Provisions and procedures to implement the state-based administrative complaint procedure as required by the Help America Vote Act (P.L. 107-252);

(53) Facilitating the payment of local government grants to local government election officers or vendors; ((~~and~~))

(54) Standards for the verification of signatures on ballot declarations; and

(55) Standards and procedures for the approval and use of the statewide online ballot portal to allow voters described in section 1(4) of this act to access, mark, and return ballots using an approved online ballot portal.

NEW SECTION. **Sec.**  This act takes effect January 1, 2025.

**--- END ---**