

HOUSE BILL REPORT

ESSB 5890

As Passed House - Amended:

February 22, 2024

Title: An act relating to reducing ballot rejection rates through updates to ballot curing, canvassing, reporting, and outreach processes.

Brief Description: Reducing ballot rejection rates through updates to ballot curing, canvassing, reporting, and outreach processes.

Sponsors: Senate Committee on State Government & Elections (originally sponsored by Senators Valdez, Hunt, Dhingra, Kuderer, Nguyen, Nobles and Pedersen).

Brief History:

Committee Activity:

State Government & Tribal Relations: 2/14/24, 2/16/24 [DPA].

Floor Activity:

Passed House: 2/22/24, 93-0.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Requires county auditors to contact voters by phone or email, in addition to first class mail, when notifying voters that their ballot is unsigned or the signature does not match the one on file, if the voter's contact information is available.
- Directs the Secretary of State to adopt statewide standards for signature verification, a training manual for implementing the standards, and tools to confirm compliance with the standards and develop standardized forms for addressing incomplete declarations and updating signatures.
- Creates a work group to approve a uniform ballot envelope design.
- Requires that canvassing board meetings are held at times and locations that are accessible to the public.

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

- Requires county auditors to develop a community outreach plan to educate voters about signature verification requirements.
- Establishes numerous other measures to assist voters and election officials with signature verification requirements.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass as amended. Signed by 7 members: Representatives Ramos, Chair; Stearns, Vice Chair; Cheney, Ranking Minority Member; Christian, Assistant Ranking Minority Member; Gregerson, Low and Mena.

Staff: Connor Schiff (786-7093).

Background:

Voter Registration.

Any citizen who wishes to vote and is eligible to do so must first register. The registration process requires a person to provide their name, residential address, date of birth, affirmation of citizenship, and a signature attesting to the truth of the information provided and the person's eligibility to vote.

An applicant may register to vote online if the applicant has a Washington driver's license or state identification card. In this case, the Office of the Secretary of State (OSOS) must obtain a digital copy of the voter's signature as provided on their driver's license or state identification card from the Department of Licensing. The online registration form allows an individual to include a telephone number and email address when registering.

Ballot Declaration and Signature.

Washington permits voting by mail. County auditors must send each voter a ballot with instructions about how to mark and return the ballot to the auditor. Ballots delivered to voters must include a space for the voter to include a telephone number and sign a declaration under penalty of perjury recognizing that:

- the voter meets the qualifications to vote;
- the voter has not voted in any other jurisdiction for that election;
- the voter is aware it is illegal to vote if they are not a United States citizen;
- the voter is aware it is illegal to vote if serving a prison sentence for a felony conviction; and
- the voter is aware it is illegal to cast a ballot or sign a ballot declaration on behalf of another person.

Ballot Signature Verification.

The county auditor or county canvassing board processes returned ballots. When the county

processes returned ballots, it is required to verify that the voter's signature on the ballot declaration matches the signature of that voter in the voter's registration file.

If the signature on the ballot does not match the signature on the registration file because the voter's name is different, the ballot may be counted if the handwriting is clearly the same. The auditor must send the voter a change-of-name form and direct the voter to complete the form.

If the signature on the ballot does not match because the voter used a nickname, the ballot may be counted if the surname and handwriting are clearly the same.

The Secretary of State must make rules for standards for signature verification. Under the rules made by the Secretary of State, certain characteristics must be evaluated to verify signatures. Canvassing personnel must receive training on standards for signature verification.

Ballot Curing Procedures.

If the ballot declaration is unsigned or the signature does not match the voter's registration, the county auditor must notify the voter by first-class mail of the correct procedures to cure the defect. If the ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first-class mail and has not responded at least three business days before the meeting, then the auditor must attempt to notify the voter by telephone.

A record must be kept of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted, or the notice was mailed, as well as the date on which the voter submitted updated information.

Electronic Ballot Submittal.

Only service and overseas voters are eligible to return a ballot electronically. County auditors must apply procedures to protect the secrecy of the ballot.

Statewide Survey of Ballot Rejections.

Every odd-numbered year, the Secretary of State must conduct and publish a statewide survey of voted ballot rejection rates and the reasons for those rejections by county auditors and canvassing boards. The survey must include an analysis of current practices by county auditors and canvassing boards in the acceptance and rejection of ballots, and include recommendations for improvements in those practices, with a goal of statewide standardization.

County Canvassing Board Meetings.

County canvassing board meetings are subject to the Open Public Meetings Act (OPMA). Under the OPMA, all meetings of the governing body of a public agency must be open and public. Public agencies are encouraged to increase access for the public through real-time

telephonic, electronic, internet, or other means of remote access.

Voting Rights Act.

The federal Voting Rights Act requires that when a covered state or political subdivision provides registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it must provide them in the language of the applicable minority group as well as in the English language. A jurisdiction is covered when the number of voting age United States citizens in a single language group within the jurisdiction have an illiteracy rate higher than the national illiteracy rate and if the specific language group:

- contains more than 10,000 individuals;
- is more than 5 percent of all voting age citizens; or
- on an Indian reservation, exceeds 5 percent of all reservation residents.

Summary of Amended Bill:

Voter Registration Form.

The Secretary of State is encouraged to provide multiple signature blocks on voter applications to assist in signature verification for ballot declarations.

Ballot Declaration.

By June 1, 2025, the ballot declaration must, in addition to existing warnings, inform the voter that the signature on the declaration will be compared to the signature in the voter's registration file. Ballot declarations may inform the voter that the signature on the declaration will be compared to the signature in the voter's registration file prior to June 1, 2025.

Ballot Curing Procedures.

In addition to notifying the voter by first-class mail that the voter's ballot declaration is unsigned or the signature does not match the voter's registration, a county auditor must also notify the voter by telephone, text message, or email, if the voter has a telephone number or email address on file. The notification must inform the voter of the applicable defect in addition to informing the voter of the correct procedures to cure the defect. If the ballot is received within five, rather than three, business days of the final meeting of the canvassing board, or the voter has been notified by first-class mail and has not responded at least five, rather than three, business days before the meeting, then the auditor must attempt to notify the voter by telephone. If voicemail is available, the auditor must leave a voicemail if the voter does not answer a telephone call.

The Secretary of State must design forms for voters to complete incomplete ballot declarations and provide an updated signature. The forms must include the oath and warning language used on voter registration forms. County auditors must provide the forms on the auditor's website and in the auditor's office.

Electronic Signature Verification.

County auditors who provide for electronic submittal of the ballot declaration signature must establish privacy and security protocols that ensure that the information transmitted is received directly by the auditor and used only for signature verification.

Updating Signatures.

After certification of general, primary, or presidential primary election results, county auditors are encouraged to contact each registered voter to obtain an updated signature for the voter's registration file. Any contact must clearly state that the voter is not required to provide an updated signature. Failure to respond to the contact does not impact a voter's registration status.

If a voter's ballot is rejected in two consecutive primary or general elections because of a mismatched signature, the auditor must contact the voter by telephone, text, or email, if the voter has a telephone number or email address on file, and request that the voter update their signature for the registration file.

Statewide Signature Verification Standards.

In addition to adopting statewide standards for signature verification, the Secretary of State must adopt, publish, and update a training manual on the standards for local election personnel and design tools to confirm compliance with the standards. The tools may include signature comparisons. All training materials must be open to the public for observation.

County auditors must publish on their websites the names of all canvassing board members who received training on statewide standards and the dates on which the training was completed.

Community Outreach Plan.

County auditors must develop a community outreach plan to educate voters about signature verification requirements and updating voter registration files. Outreach materials must be published on the auditor's website and distributed throughout the community. Materials must be produced in English, Spanish, and any other language required by the federal Voting Rights Act. Materials should be informed by the data collected in the statewide survey of ballot rejections and should target groups with higher rates of ballot rejection. County auditors are encouraged to partner with community organizations to implement the outreach plan.

The Secretary of State may assist in preparation of materials for a county's outreach plan, including coordinating between multiple counties and providing information about statewide requirements.

Canvassing Board Meetings.

County canvassing board meetings must be held at times and locations that are accessible to

the public. The time and location of the meetings must be published in accordance with the Open Public Meetings Act.

Ballot Envelope Design Work Group.

A work group is established to approve a uniform ballot envelope design for all counties to use beginning with the 2026 primary.

The work group must be chaired by the Secretary of State or the Secretary's designee. The work group must include the following members, to be appointed by the Secretary of State:

- two county auditors or their designees, with one auditor from Eastern Washington and one from Western Washington;
- a representative from the University of Washington Evans School of Public Policy and Governance;
- a representative from a nonprofit educational research organization with expertise in designing voting materials; and
- other recognized experts and staff as deemed necessary by the work group's chair.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony:

(In support) County auditors work every election to cure rejected ballots. This bill helps county auditors and their staff. The bill requires the Secretary of State to make recommendations on a uniform ballot envelope to ensure that there is a standard and consistency amongst all counties. The bill helps educate voters on ballot verification. Expanded curing procedures ensure that more ballots are cured and would reduce ballot rejection. Every vote counts and it's important to hear the voices of those whose ballots were rejected. Counting every vote is critical for democracy. Individuals from certain communities are more likely to have their ballots rejected. The bill standardizes curing procedures and improves voter outreach. The bill requires ballot envelope declarations to be updated, but existing ballot envelope stock should be exhausted. Many counties order envelopes well in advance of election to take advantage of bulk prices and protect against paper supply changes. If compliance with the ballot declaration update was delayed to June 1, 2025, counties could use existing ballot envelope stock.

(Opposed) None.

Persons Testifying: Senator Javier Valdez, prime sponsor; Cindy Madigan, League of Women Voters Washington; Jazmine Smith, The Washington Bus; and Julie Wise, King County Director of Elections.

Persons Signed In To Testify But Not Testifying: None.