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HOUSE BILL 1228

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State of Washington

55th Legislature

1997 Regular Session

By Representatives H. Sommers, Reams, Scott, Dunshee, Blalock, Linville, Hatfield, Tokuda, O'Brien, Murray, Constantine, Costa, Ogden, Mason, Butler and Kessler

Read first time 01/17/97. Referred to Committee on Government Administration.

1 AN ACT Relating to conducting elections with the use of absentee  
2 ballots and mailed ballots; amending RCW 29.30.075, 29.36.045,  
3 29.36.060, 29.36.121, 29.36.130, 29.62.020, and 29.62.040; and  
4 repealing RCW 29.36.126 and 29.36.139.

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

6 **Sec. 1.** RCW 29.30.075 and 1987 c 54 s 1 are each amended to read  
7 as follows:

8 Except where a recount or litigation under RCW 29.04.030 is  
9 pending, the county auditor shall (~~have sufficient~~) mail absentee  
10 ballots (~~ready to mail to absentee~~) to overseas voters and service  
11 voters of that county at least twenty days before ((any)) the primary,  
12 general election, or special election for which they are issued and  
13 shall mail absentee ballots to all other absentee voters of the county  
14 at least twelve, but no more than fourteen, days before the primary,  
15 general election, or special election for which they are issued.

16 **Sec. 2.** RCW 29.36.045 and 1987 c 346 s 12 are each amended to read  
17 as follows:

1       The county auditor shall send each absentee voter a ballot, a  
2 security envelope in which to seal the ballot after voting, a larger  
3 envelope in which to return the security envelope, and instructions on  
4 how to mark the ballot and how to return it to the county auditor. The  
5 larger return envelope shall contain a declaration by the absentee  
6 voter reciting his or her qualifications and stating that he or she has  
7 not voted in any other jurisdiction at this election, together with a  
8 summary of the penalties for any violation of any of the provisions of  
9 this chapter. The return envelope shall provide space for the voter to  
10 indicate the date on which the ballot was voted and for the voter to  
11 sign the oath. A summary of the applicable penalty provisions of this  
12 chapter shall be printed on the return envelope immediately adjacent to  
13 the space for the voter's signature. The signature of the voter on the  
14 return envelope shall affirm and attest to the statements regarding the  
15 qualifications of that voter and to the validity of the ballot. For  
16 ~~((out-of-state voters,))~~ overseas voters~~((,))~~ and service voters, the  
17 signed declaration on the return envelope constitutes the equivalent of  
18 a voter registration for the election or primary for which the ballot  
19 has been issued.

20       The ~~((voter shall be instructed to either return))~~ instructions  
21 must indicate that, to be counted, the absentee ballot must be returned  
22 to the county auditor by ~~((whom it was issued or attach sufficient~~  
23 first class postage, if applicable, and mail the ballot to the  
24 appropriate county auditor)) depositing the ballot at the office of the  
25 county auditor or at a polling place in the county, or by sending the  
26 ballot by first class mail to the office of the county auditor, and  
27 must be received by the county auditor no later than 8:00 p.m. on the  
28 day of the election or primary ~~((for which the ballot was issued)).~~  
29 Emphasis must be given to the date and time by which an absentee ballot  
30 must be received if it is to be counted. Special instructions must be  
31 provided to overseas voters and service voters describing the exception  
32 where absentee ballots cast by overseas voters and service voters are  
33 counted if mailed on or before the date of the primary or election and  
34 received by the county auditor on or before noon on the day the results  
35 of the primary or election are certified.

36       **Sec. 3.** RCW 29.36.060 and 1991 c 81 s 32 are each amended to read  
37 as follows:

1       (1) Before testing equipment or processing absentee ballots, the  
2 county auditor shall notify the county chair of each major political  
3 party of the time and date when equipment testing will begin, or the  
4 time and date the processing of absentee ballots will begin, and shall  
5 request that each major political party appoint official observers to  
6 observe the testing of electronic vote tallying equipment and the  
7 processing and tabulating of absentee ballots. If a major political  
8 party has appointed observers, the observers may be present for all  
9 equipment testing and all processing and tabulating of absentee  
10 ballots, if they so choose, but failure to appoint or attend does not  
11 preclude the testing of equipment or the processing or tabulating of  
12 absentee ballots. Political party observers may select at random  
13 ballots to be counted manually under RCW 29.54.025.

14       (2) The opening and subsequent processing of return envelopes ((for  
15 any primary or election)) may begin on or after the tenth day ((prior  
16 to such)) before the primary or election. ((The opening of the)) In  
17 counties tabulating absentee ballots by hand, security envelopes ((and  
18 tabulation of absentee ballots shall not commence)) must not be opened  
19 until after 8:00 ((o'clock)) p.m. on the day of the primary or  
20 election, at which time the processing of the ballots may be completed  
21 and the absentee ballots tabulated. In counties tabulating absentee  
22 ballots with an electronic vote tallying system, security envelopes may  
23 be opened and the absentee ballots fully processed at any time on or  
24 after the tenth day before the primary or election, but the results may  
25 not be tabulated until after 8:00 p.m. on the day of the primary or  
26 election.

27       After opening the return envelopes, the county canvassing board or  
28 its representatives shall place all of the ((ballot)) unopened security  
29 envelopes in containers that can be secured with numbered seals.  
30 Absentee ballots that are fully processed, but not tabulated, before  
31 8:00 p.m. on the day of the primary or election, as authorized under  
32 this subsection, must be placed in containers that can be secured with  
33 numbered seals. These sealed containers shall be stored in a secure  
34 location until after 8:00 ((o'clock)) p.m. of the day of the primary or  
35 election. ((Absentee ballots that are to be tabulated on an electronic  
36 vote tallying system may be taken from the inner envelopes and all the  
37 normal procedural steps may be performed to prepare these ballots for  
38 tabulation before sealing the containers.))

1       (3) The canvassing board or its representatives shall examine the  
2 ~~((postmark,))~~ statement~~((,))~~ and signature on each return envelope  
3 containing the security envelope and absentee ballot~~((. — They shall))~~,  
4 verify that the voter's signature is the same as that in the  
5 registration files for that voter, determine when the ballot was  
6 received, and for absentee ballots cast by overseas voters or service  
7 voters, determine the date of mailing. ~~((For absentee voters other~~  
8 ~~than out-of-state voters, overseas voters, and service voters, if the~~  
9 ~~postmark is illegible, the date on the return envelope to which the~~  
10 ~~voter attests shall determine the validity, as to the time of voting,~~  
11 ~~of that absentee ballot under this chapter.))~~ For any absentee voter,  
12 a variation between the signature of the voter on the return envelope  
13 and that in the registration files due to the substitution of initials  
14 or the use of common nicknames is permitted so long as the surname and  
15 handwriting are clearly the same.

16       (4) An absentee ballot cast by a voter other than an overseas voter  
17 or service voter may be counted only if it is signed by the voter and  
18 received by the county auditor on or before 8:00 p.m. on the day of the  
19 primary or election. An absentee ballot cast by an overseas voter or  
20 service voter may be counted only if it is signed by the voter, mailed  
21 on or before the day of the primary or election, and received by the  
22 county auditor on or before noon on the day the results are certified.

23       **Sec. 4.** RCW 29.36.121 and 1994 c 57 s 49 are each amended to read  
24 as follows:

25       (1) At any nonpartisan special election not being held in  
26 conjunction with a state primary or general election, the county, city,  
27 town, or district requesting the election pursuant to RCW 29.13.010 or  
28 29.13.020 may also request that the election be conducted by mail  
29 ballot. The county auditor may honor the request or may determine that  
30 the election is not to be conducted by mail ballot. The decision of  
31 the county auditor in this regard is final.

32       (2) In an odd-numbered year, the county auditor may conduct by mail  
33 ballot a primary or a special election concurrently with the primary:

34       (a) For any office or ballot measure of a special purpose district  
35 which is entirely within the county;

36       (b) For any office or ballot measure of a special purpose district  
37 which lies in the county and one or more other counties if the auditor

1 first secures the concurrence of the county auditors of those other  
2 counties to conduct the primary in this manner district-wide; and

3 (c) For any ballot measure or nonpartisan office of a county, city,  
4 or town if the auditor first secures the concurrence of the legislative  
5 authority of the county, city, or town involved.

6 A primary in an odd-numbered year may not be conducted by mail  
7 ballot in any precinct with two hundred or more active registered  
8 voters if a partisan office or state office or state ballot measure is  
9 to be voted upon at that primary in the precinct.

10 (3) (~~For all special elections not being held in conjunction with~~  
11 ~~a state primary or state general election where voting is conducted by~~  
12 ~~mail ballot, the county auditor shall, not less than fifteen days~~  
13 ~~before the date of such election, mail or deliver to each registered~~  
14 ~~voter a mail ballot and an envelope, preaddressed to the issuing~~  
15 ~~officer.)) The county auditor shall notify an election jurisdiction  
16 for which a primary is to be held that the primary will be conducted by  
17 mail ballot.~~

18 (4) To the extent they are not inconsistent with subsections (1)  
19 through (3) of this section, the laws governing the conduct of mail  
20 ballot special elections apply to nonpartisan primaries conducted by  
21 mail ballot.

22 **Sec. 5.** RCW 29.36.130 and 1993 c 417 s 5 are each amended to read  
23 as follows:

24 All mail ballots authorized by RCW 29.36.120 or 29.36.121 shall  
25 contain the same offices, names of candidates, and propositions to be  
26 voted upon, including precinct offices, as if the ballot had been voted  
27 in person at the polling place. Except as otherwise provided in this  
28 chapter, mail ballots shall be issued, prepared, and canvassed in the  
29 same manner as absentee ballots are issued (~~pursuant to the request of~~  
30 ~~the voter. The county canvassing board, at the request of the county~~  
31 ~~auditor, may direct that mail ballots be counted on the day of the~~  
32 ~~election. If such count is made, it must be done in secrecy in the~~  
33 ~~presence of the canvassing board or their authorized representatives~~  
34 ~~and the results not revealed to any unauthorized person until 8:00 p.m.~~  
35 ~~or later if the auditor so directs. If electronic vote tallying~~  
36 ~~devices are used, political party observers shall be afforded the~~  
37 ~~opportunity to be present, and a test of the equipment must be~~  
38 ~~performed as required by RCW 29.33.350 prior to the count of ballots.~~

1 ~~Political party observers may select at random ballots to be counted~~  
2 ~~manually as provided by RCW 29.54.025. Any violation of the secrecy of~~  
3 ~~such count shall be subject to the same penalties as provided for in~~  
4 ~~RCW 29.85.225)), prepared, and canvassed, and are subject to the same~~  
5 ~~conditions as absentee ballots. In addition to returning mailed~~  
6 ~~ballots in the same manner as the absentee ballots may be returned,~~  
7 ~~mailed ballots may be deposited at the designated place or places by no~~  
8 ~~later than 8:00 p.m. on the day of the primary or election.~~

9       **Sec. 6.** RCW 29.62.020 and 1995 c 139 s 2 are each amended to read  
10 as follows:

11       (1) No later than the tenth day after a special election or primary  
12 and no later than the fifteenth day after a general election, the  
13 county auditor shall convene the county canvassing board to ((process  
14 the absentee ballots and)) canvass the votes cast at that primary or  
15 election, including votes cast at voting places on the day of the  
16 primary or election, absentee or mailed ballots that were received by  
17 the county auditor on or before 8:00 p.m. on the day of the primary or  
18 election, and absentee ballots cast by overseas voters or service  
19 voters that were mailed on or before the day of the primary or election  
20 and received on or before noon on the date the results of the primary  
21 or election are certified. On the tenth day after a special election  
22 or a primary and on the fifteenth day after a general election, the  
23 canvassing board shall complete the canvass and certify the results.  
24 ~~((Each absentee ballot that was returned before the closing of the~~  
25 ~~polls on the date of the primary or election for which it was issued,~~  
26 ~~and each absentee ballot with a date of mailing on or before the date~~  
27 ~~of the primary or election for which it was issued and received on or~~  
28 ~~before the date on which the primary or election is certified, shall be~~  
29 ~~included in the canvass report.))~~

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

35       **Sec. 7.** RCW 29.62.040 and 1990 c 59 s 63 are each amended to read  
36 as follows:

37       Before canvassing the returns of a primary or election, the

1 chairman of the county legislative authority shall administer an oath  
2 to the county auditor attesting to the authenticity of the information  
3 presented to the canvassing board. This oath must be signed by the  
4 county auditor and filed with the returns of the primary or election.

5 The county canvassing board shall proceed to verify the results  
6 (~~from the precincts and the absentee ballots. The board~~) and shall  
7 execute a certificate of the results of the primary or election signed  
8 by all members of the board. Failure to certify the returns, if they  
9 can be ascertained with reasonable certainty, is a misdemeanor.

10 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each  
11 repealed:

12 (1) RCW 29.36.126 and 1993 c 417 s 4 & 1983 1st ex.s. c 71 s 4; and

13 (2) RCW 29.36.139 and 1993 c 417 s 6 & 1983 1st ex.s. c 71 s 6.

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