

HOUSE BILL REPORT

ESSB 6363

As Reported By House Committee On:
State Government

Title: An act relating to ballots cast by mail.

Brief Description: Clarifying procedures for absentee voting and mail ballots.

Sponsors: Senate Committee on State & Local Government (originally sponsored by Senators Gardner, Patterson, McCaslin, Winsley and Costa).

Brief History:

Committee Activity:

State Government: 2/23/00, 2/25/00 [DPA].

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

- Revises absentee voting and mail ballot laws and recodifies mail ballot laws into a new chapter of law.
- Allows absentee ballots and mail ballots to be forwarded only if clear instructions are included explaining qualifications necessary to voter in an election along with a statement that a voter with questions about his or her eligibility should contact the county auditor.
- Clarifies that replacement absentee ballots may be issued.
- Requires mail ballots to be sent to all active registered voters, and either mail ballots or applications for mail ballots to be sent to all inactive registered voters, in a precinct that is newly designated as a vote-by-mail precinct.
- Expands the time when voters may request absentee ballots to include the period from 90 days before an election or primary to the day of the election or primary.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass as amended. Signed by 7 members: Representatives McMorris, Republican Co-Chair; Romero, Democratic Co-Chair; Miloscia, Democratic Vice Chair; Dunshee; Haigh; Lambert and D. Schmidt.

Minority Report: Without recommendation. Signed by 1 member: Representative Campbell, Republican Vice Chair.

Staff: Steve Lundin (786-7127).

Background:

Voters may vote using different procedures, including casting regular ballots at polling places, casting absentee ballots, or casting mail ballots.

A voter may obtain an absentee ballot for a single election or primary or may become an ongoing absentee voter and automatically receive an absentee ballot for all elections and primaries.

Absentee ballots returned to the county auditor may be processed beginning 10 days prior to the election or primary for which they are issued, which includes all the normal processing steps necessary to prepare the ballots for tabulation. Absentee ballots may not be tabulated until after the close of the polls on the day of the or primary election.

Mail ballot voting is allowed as follows:

- A county auditor may designate vote-by-mail precincts where voting at every special election, primary, or general election is conducted using mail ballots. A voting precinct may be designated as a vote-by-mail precinct if the precinct has 200 or fewer active registered voters who are not permanent absentee voters.
- A county auditor may conduct a mail ballot election where all active registered voters are sent mail ballots at either: (a) A special election if the local government requesting the special election requests a mail ballot election and the auditor consents to the request; or (b) a primary if the county auditor chooses to conduct the primary using mail ballots, the primary is held in an odd-numbered year, and a partisan office, statewide office, or a statewide ballot proposition, does not appear on the ballot. Inactive registered voters are sent either a mail ballot or a card to request a mail ballot.

Mail ballots are generally processed in the same manner as absentee ballots. However, mail ballots may not be forwarded.

Summary of Amended Bill:

A variety of changes are made for mail ballots and absentee ballots and statutes providing for mail ballots are codified in a chapter of law separate from the chapter of law providing for absentee ballots.

ABSENTEE BALLOTS.

1. Requesting absentee ballots.

The period during which a voter may request an absentee ballot is expanded to include the period from 90 days before the election or primary to the day of the election or primary. A request for an absentee ballot may be made electronically.

The special process for voters confined to a hospital to request absentee ballots on the day of the primary or election by messenger is expanded to include persons confined in a health care facility, and requirements are eliminated for verification of the status of the person requesting the ballot.

2. Special absentee ballots.

Specific reasons for issuing a special absentee ballot for a specific election or primary are eliminated. A voter requesting a special absentee ballot need only state that he or she will be unable to vote and return a regular absentee ballot by normal mail within the normal period.

3. Ballots used to elect precinct committee officers.

Contested elections for the office of precinct committee officer that are considered at even-numbered year general elections may be included on the regular absentee ballot in lieu of being included on a separate absentee ballot.

4. Replacement absentee ballots.

A registered voter who is eligible to receive an absentee ballot may obtain a replacement ballot if the ballot is destroyed, spoiled, or lost, or is not received. The request may be made by telephone, mail, electronically, or in person.

5. Forwarding absentee ballots.

County auditors are given express authority to choose whether or not the envelope containing an absentee ballot that is sent to an absentee voter may be forwarded. If the envelope may be forwarded, clear instructions must be included explaining

qualifications necessary to voter in an election along with a statement that a voter with questions about his or her eligibility should contact the county auditor.

6. Processing absentee ballots.

The existing authority of the secretary of state to adopt rules for specific aspects of absentee voting is replaced with generic authority to adopt such rules.

County auditors must request major political parties to appoint observers who are to be present when absentee ballots are processed. The absence of these observers shall not prevent the processing of absentee ballots if the county auditor has requested their presence.

The date on the return envelope where an out-of-state voter, overseas voter, or service voter attests to have voted determines the validity of the time of voting the absentee ballot.

7. Reporting absentee ballot vote counts.

It is clarified that absentee ballot results must be reported at a minimum on a congressional and legislative district basis, in addition to being included to the total votes cast at polling places.

8. Other matters.

County auditors are required to keep a listing of ongoing absentee voters and make these lists available to the public in either paper or electronic format. Challenged absentee ballots are handled in the same manner as other challenged ballots. The report each county auditor must make to the secretary of state on the number of absentee ballots cast in each precinct for or against each state measure, and for each candidate for state and federal office, at a general election may be submitted at any date rather than by no later than March 31 of the year after the election.

MAIL BALLOT ELECTIONS.

1. Vote-by-mail precincts.

The initial distribution of mail ballots in a newly established vote-by-mail precinct is altered. Notice that a precinct has been converted to a vote-by-mail precinct must be mailed to each registered voter in the precinct. At the first election or primary after a precinct has been designated a vote-by-mail precinct, the county auditor mails a mail ballot to each active registered voter in the precinct and either a mail ballot or a request for a mail ballot to each inactive registered voter in the precinct. Express authorization is made for a vote-by-mail precinct to be converted back a poll place

voting precinct, with notice of the conversion being mailed to each registered voter in the precinct.

2. Mail ballots in general.

Mail ballots are generally treated in the same manner as absentee ballots.

Replacement mail ballots requested in person or by mail, telephone, or other electronic means. A replacement mail ballot is only counted in the final tabulations if the original ballot is not returned and the replacement ballot meets all requirements for a regular mail ballot to be tabulated.

OTHER CHANGES IN ELECTION LAWS.

General election returns shall be reported on an individual precinct basis even if the county auditor combined precincts for election purposes. County auditors prepare abstracts, rather than reports, of general election results on state measures and federal and state offices. Abstracts on absentee ballots cast on state issues and offices at a general election must be transmitted to the secretary of state by no later than the next business day following certification of the results by the county canvassing board, rather than by no later than March 31 of the year following the general election.

Amended Bill Compared to Engrossed Substitute Bill: A variety of technical changes are made. Details about replacement mail ballots are deleted and references are made to the details about replacement absentee ballots. Language is deleted about how a mail ballot is returned and references are made to how absentee ballots are returned. It is clarified that the outer return envelope is opened, not the absentee ballot. Clarifies that votes for or against nominees, as well as candidates, are included in abstracts sent by auditors by the secretary of state.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This is basically a housekeeping bill that clarifies how absentee and mail ballots are administered and allows voters to more easily understand the law. This draft was basically put together by a group of county auditors, secretary of state elections staff, and some legislators three years ago. Virtually all of these changes were in a House bill approved in a prior session but the bill died in Senate Rules. This is a priority of WACO.

(Concerns) I have some concerns that county auditors will make mail ballot lists available instantaneous. Don't bend over to aid parties.

Testimony Against: None.

Testified: Susan Sinclair, Island County Auditor; Bob Terwilliger, Snohomish County Auditor; John Pearson, Office of the Secretary of State; and Barbara Sandall, Washington Association of County Officials.

(Concerns) Paul Telford, Reform Party of Washington.