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SENATE BILL 5317

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State of Washington                      63rd Legislature                      2013 Regular Session

By Senators Becker, Bailey, and Honeyford

Read first time 01/25/13. Referred to Committee on Governmental Operations.

1            AN ACT Relating to tabulation and receipt of ballots; reenacting  
2 and amending RCW 29A.40.091, 29A.40.110, and 29A.60.190; adding a new  
3 section to chapter 29A.40 RCW; providing an effective date; and  
4 declaring an emergency.

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

6            **Sec. 1.** RCW 29A.40.091 and 2011 c 349 s 17, 2011 c 348 s 3, 2011  
7 c 182 s 1, and 2011 c 10 s 39 are each reenacted and amended to read as  
8 follows:

9            (1) The county auditor shall send each voter a ballot, a security  
10 envelope in which to conceal the ballot after voting, a larger envelope  
11 in which to return the security envelope, a declaration that the voter  
12 must sign, and instructions on how to obtain information about the  
13 election, how to mark the ballot, and how to return the ballot to the  
14 county auditor.

15            (2) The voter must swear under penalty of perjury that he or she  
16 meets the qualifications to vote, and has not voted in any other  
17 jurisdiction at this election. The declaration must clearly inform the  
18 voter that it is illegal to vote if he or she is not a United States  
19 citizen; it is illegal to vote if he or she has been convicted of a

1 felony and has not had his or her voting rights restored; and it is  
2 illegal to cast a ballot or sign a return envelope on behalf of another  
3 voter. The voter must indicate the date on which the ballot was voted  
4 and sign the declaration. The ballot materials must also contain a  
5 space so that the voter may include a telephone number.

6 (3) For overseas and service voters, the signed declaration on the  
7 return envelope constitutes the equivalent of a voter registration for  
8 the election or primary for which the ballot has been issued. Return  
9 envelopes for overseas and service voters must enable the ballot to be  
10 returned postage free if mailed through the United States postal  
11 service, United States armed forces postal service, or the postal  
12 service of a United States foreign embassy under 39 U.S.C. 3406.

13 (4) The voter must be instructed to either return the ballot to the  
14 county auditor no later than 8:00 p.m. the day of the election or  
15 primary, or mail the ballot to the county auditor with a postmark (~~no~~  
16 ~~later than the day of the election or primary~~) in accordance with the  
17 time requirements of RCW 29A.40.110. Service and overseas voters must  
18 be provided with instructions and a secrecy cover sheet for returning  
19 the ballot and signed declaration by fax or e-mail. A voted ballot and  
20 signed declaration returned by fax or e-mail must be received by 8:00  
21 p.m. on the day of the election or primary.

22 **Sec. 2.** RCW 29A.40.110 and 2011 c 349 s 18, 2011 c 348 s 4, and  
23 2011 c 10 s 41 are each reenacted and amended to read as follows:

24 (1) The opening and subsequent processing of return envelopes for  
25 any primary or election may begin upon receipt. The tabulation of  
26 (~~absentee~~) ballots (~~must not~~) may commence (~~until after~~) at 8:00  
27 (~~p.m.~~) a.m. on the Monday immediately before the day of the primary  
28 or election. Tabulation results must be held in secrecy, as provided  
29 in RCW 29A.84.730, until after 8:00 p.m. on the day of the primary or  
30 election.

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

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

16 (4) (~~If the postmark is missing or illegible, the date on the~~  
17 ~~ballot declaration to which the voter has attested determines the~~  
18 ~~validity, as to the time of voting, for that ballot.~~) (a) Except as  
19 provided in (b) of this subsection, ballots must be received by the  
20 county auditor by 8:00 p.m. on the day of the primary or election in  
21 order to be valid. The county auditor may designate poll sites,  
22 deposit sites, or other locations for the receipt of ballots.

23 (b) For overseas voters ((and)) or service voters returning ballots  
24 by mail, the date on the declaration to which the voter has attested  
25 ((determines the validity, as to the time of voting, for that ballot))  
26 must not be later than the day of the primary or election in order for  
27 the ballot to be valid. Any overseas voter or service voter may return  
28 the signed declaration and voted ballot by fax or e-mail by 8:00 p.m.  
29 on the day of the primary or election, and the county auditor must use  
30 established procedures to maintain the secrecy of the ballot.

31 NEW SECTION. Sec. 3. A new section is added to chapter 29A.40 RCW  
32 to read as follows:

33 Following certification of each election, the county auditor shall  
34 notify each voter whose ballot was not counted because it was not  
35 returned within the time requirements provided in RCW 29A.40.110.

1           **Sec. 4.** RCW 29A.60.190 and 2011 c 349 s 21 and 2011 c 10 s 58 are  
2 each reenacted and amended to read as follows:

3           Fourteen days after a primary or special election and twenty-one  
4 days after a general election, the county canvassing board shall  
5 complete the canvass and certify the results. Each ballot that was  
6 returned (~~((before 8:00 p.m. on the day of the special election, general  
7 election, or primary, and each ballot bearing a postmark on or before  
8 the date of the special election, general election, or primary and  
9 received no later than the day before certification,))~~) in accordance  
10 with the time requirements of RCW 29A.40.110 must be included in the  
11 canvass report.

12           NEW SECTION.   **Sec. 5.** This act is necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of the  
14 state government and its existing public institutions, and takes effect  
15 July 1, 2013.

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