
HOUSE BILL 1475

State of Washington

68th Legislature

2023 Regular Session

By Representatives Farivar, Mena, Fosse, Taylor, Reed, Gregerson, and Simmons

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

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 29A.40
8 RCW to read as follows:

9 (1) The secretary of state, in consultation with county auditors
10 and the state chief information security officer, shall establish a
11 statewide online ballot portal that allows voters to access their
12 ballot electronically, and voters described in subsection (4) of this
13 section to submit a voted ballot using the online ballot portal.
14 Counties must use the online ballot portal established by the
15 secretary of state unless the county auditor receives a waiver from
16 the secretary of state to use another approved online ballot portal.
17 (2) Any online ballot portal used in the state must, at a
18 minimum:

- 19 (a) Comply with all state and federal requirements and current
20 best practices for accessibility for individuals with disabilities;
21 (b) Provide the voter with their correct and accurate ballot;

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

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

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

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

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

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

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

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

27 (a) Overseas voters and service voters;

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

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

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

37 **Sec. 2.** RCW 29A.40.091 and 2021 c 10 s 3 are each amended to
38 read as follows:

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

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

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

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

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

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

31 (4) The voter must be instructed to either return the ballot to
32 the county auditor no later than 8:00 p.m. the day of the election or
33 primary, or mail the ballot to the county auditor with a postmark no
34 later than the day of the election or primary. Return envelopes for
35 all election ballots must include prepaid postage. Service and
36 overseas voters may return a voted ballot and signed declaration by
37 fax or email and must be provided with instructions and a privacy
38 sheet for returning the ballot and signed declaration by fax or
39 email. Voters described in section 1(4) of this act must be provided
40 with instructions for accessing their ballot, marking their ballot,

1 and returning a voted ballot, using an approved online ballot portal.
2 A voted ballot and signed declaration returned by fax or email by a
3 service or overseas voter must be received by 8:00 p.m. on the day of
4 the election or primary. A voted ballot returned by a voter described
5 in section 1(4) of this act using an approved online ballot portal
6 must be received by 8:00 p.m. on the day of the election or primary.

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

11 (6) For purposes of this section(~~(7-"prepaid")~~):

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

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

16 **Sec. 3.** RCW 29A.40.110 and 2011 c 349 s 18, 2011 c 348 s 4, and
17 2011 c 10 s 41 are each reenacted and amended to read as follows:

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

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

29 (3) The canvassing board, or its designated representatives,
30 shall examine the postmark on the return envelope and signature on
31 the declaration before processing the ballot. The ballot must either
32 be received no later than 8:00 p.m. on the day of the primary or
33 election, or must be postmarked no later than the day of the primary
34 or election. All personnel assigned to verify signatures must receive
35 training on statewide standards for signature verification. Personnel
36 shall verify that the voter's signature on the ballot declaration is
37 the same as the signature of that voter in the registration files of
38 the county. Verification may be conducted by an automated
39 verification system approved by the secretary of state. A variation

1 between the signature of the voter on the ballot declaration and the
2 signature of that voter in the registration files due to the
3 substitution of initials or the use of common nicknames is permitted
4 so long as the surname and handwriting are clearly the same.

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

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

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

21 **Sec. 4.** RCW 29A.60.235 and 2018 c 218 s 9 are each amended to
22 read as follows:

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

- 26 (a) The number of registered voters;
- 27 (b) The number of ballots issued;
- 28 (c) The number of ballots received;
- 29 (d) The number of ballots counted;
- 30 (e) The number of ballots rejected;
- 31 (f) The number of provisional ballots issued;
- 32 (g) The number of provisional ballots received;
- 33 (h) The number of provisional ballots counted;
- 34 (i) The number of provisional ballots rejected;
- 35 (j) The number of federal write-in ballots received;
- 36 (k) The number of federal write-in ballots counted;
- 37 (l) The number of federal write-in ballots rejected;
- 38 (m) The number of overseas and service ballots issued by mail,
39 online ballot portal, email, website link, or facsimile;

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

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

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

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

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

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

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

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

16 (t) The number of voters credited with voting;

17 (u) The number of replacement ballots requested;

18 (v) The number of replacement ballots issued;

19 (w) The number of replacement ballots received;

20 (x) The number of replacement ballots counted;

21 (y) The number of replacement ballots rejected; and

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

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

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

38 (b) The state report must include a comparison among counties on
39 rates of votes received, counted, and rejected, including
40 provisional, write-in, overseas ballots, and ballots transmitted

1 electronically. The comparison information may be in the form of
2 rankings, percentages, or other relevant quantifiable data that can
3 be used to measure performance and trends.

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

11 **Sec. 5.** RCW 29A.04.611 and 2011 c 10 s 13 are each amended to
12 read as follows:

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

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

- 24 (1) The maintenance of voter registration records;
- 25 (2) The preparation, maintenance, distribution, review, and
26 filing of precinct maps;
- 27 (3) Standards for the design, layout, and production of ballots;
- 28 (4) The examination and testing of voting systems for
29 certification;
- 30 (5) The source and scope of independent evaluations of voting
31 systems that may be relied upon in certifying voting systems for use
32 in this state;
- 33 (6) Standards and procedures for the acceptance testing of voting
34 systems by counties;
- 35 (7) Standards and procedures for testing the programming of vote
36 tallying software for specific primaries and elections;
- 37 (8) Standards and procedures for the preparation and use of each
38 type of certified voting system including procedures for the
39 operation of counting centers where vote tallying systems are used;

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

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

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

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

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

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

17 (15) Voter registration applications and records;

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

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

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

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

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

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

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

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

38 (24) Procedures and forms for declarations of candidacy;

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

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

4 (27) Filing for office;

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

6 (29) Sample ballots;

7 (30) Independent evaluations of voting systems;

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

9 (32) The testing of vote tallying software programming;

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

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

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

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

20 (37) The tabulation of paper ballots;

21 (38) The accessibility of voting centers;

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

25 (40) Procedures for conducting a statutory recount;

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

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

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

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

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

38 (46) Procedures for conducting special elections regarding
39 nuclear waste sites if the general statutory time requirements for

1 availability of ballots, certification, canvassing, and related
2 procedures cannot be met;

3 (47) Procedures for conducting partisan primary elections;

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

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

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

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

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

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

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

27 (55) Standards and procedures for the approval and use of the
28 statewide online ballot portal to allow voters described in section
29 1(4) of this act to access, mark, and return ballots using an
30 approved online ballot portal.

31 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2025.

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