

Andrea Gyger

From: Brandy Ward <bward@co.washington.co.us>
Sent: Monday, July 03, 2017 9:03 AM
To: SoS Rulemaking
Subject: Notice of Proposed Rulemaking
Attachments: Notice of Proposed Rulemaking.pdf

Secretary of State Williams:

Please find attached a short document that contains my comments, concerns, and edit suggestions for the election rule changes sent out on May 31, 2017.

I appreciate the chance to have an opinion on this very important matter for all of us. As an election official here in Washington County, I am very concerned about running elections effectively and lawfully. It's important to me that our elections stay clean and transparent, so that voter fraud doesn't run rampant. To do this, I need good rules to follow so that I can make sure all matters of elections are taken care of correctly. I was a new election deputy clerk starting last year and was quite pleased to see a rules manual that was so easy to follow. Now going through a year where many changes have been made to election law (as I'm sure there are always many), I see the complexity of this process and realize that it takes many eyes and perspectives to come up with rules that all can understand and follow. I, again, stress how much I appreciate this process that you follow for rule promulgation.

Happy Fourth of July to you and your staff.

Thank you.

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Notice of Proposed Rulemaking

Office of the Secretary of State

Election Rules

8 CCR 1505-1

May 31, 2017

Comments, *concerns*, and **editing** suggestions submitted by Brandy Ward, Election Deputy Clerk, Washington County.

New Rule 2.5.4 concerning affiliation in primary elections:

It feels like this rule is not quite in the right section. 2.5 talks about voter registration changes but doesn't touch on during the election cycle. Voter registration changes during election cycle is found in section **7.2. Ballots and ballot packets**. The rules in **7.2.4**. should be amended to reflect the needs of this rule. Possibly as follows:

7.2.4. Voiding ballots due to timely changes in address or affiliation.

(A) if an elector timely changes his or her address or affiliation after the county mails ballots or sends the voter file to the vender, the county must void the first ballot and generate a second ballot. EXCEPT DURING A PRIMARY, IF AN UNAFFILIATED VOTER CHANGES THEIR AFFILIATION AND HAS ALREADY BEEN MAILED A MAIL BALLOT PACKAGE, THIS CHANGE MUST BE DEFERRED UNTIL AFTER THE ELECTION.

What about if they change their political ballot preference as indicated in the rule below?

7.2.3 discusses mail ballot deadline dates, how does the change in affiliation or political party ballot preference work with this timeline? What if the preference or affiliation is a chosen change along with a change in address, how should that be addressed?

New Rule 2.17 concerning ballot preference for unaffiliated voters:

This rule is a lot like the rule above in that the placement is not a good place. It feels just like a throw in. It could fit better at 2.5.4 with a bit of a tweaking and again during election cycle should be addressed in rule 7.2 somewhere. I see that new proposed rule 7.2.12 touches on this but deals with replacement ballots and not the initial ballot. Not sure where the 29th day before a primary election is due to.

2.5.4 AN UNAFFILIATED VOTER MAY INDICATE A POLITICAL PARTY BALLOT PREFERENCE UP THROUGH THE 29TH DAY BEFORE A PRIMARY ELECTION. THIS PARTY BALLOT PREFERENCE IS ONLY VALID FOR A SINGLE PRIMARY ELECTION.

7.2.? THE COUNTY CLERK MUST ISSUE A MAIL BALLOT PACKET TO EVERY UNAFFILIATED VOTER THAT CONTAINS THE BALLOTS FOR ALL PARTICIPATING MAJOR POLITICAL PARTIES. UNLESS, THE UNAFFILIATED VOTER HAS INDICATED A POLITICAL PARTY BALLOT PREFERENCE ACCORDING TO RULE 2.5.4.

7.2.3 discusses mail ballot deadline dates (22 days and 8 days), how does the change in affiliation of an unaffiliated voter or political party ballot preference for an unaffiliated voter work with this timeline?

Amendments to Rule 7.7 concerning mail ballot cure procedures:

7.7 ~~Missing signature~~. MAIL BALLOT CURE PROCEDURES

(not sure how we missed this change in the first round of rule making)

I see a need to create a Mail Ballot Cure Procedure rule, however, I feel that this is the wrong way to do that. The original rules are discussing situation by situation. This originally is one situation of "missing signature", whereas the cure process deals with many of these situations. Noted here, I have identified where each is discussed and most do not have a discussion on cure. Perhaps making a section on curing all situations at the end of rule 7 would be a better way to address this issue.

*Rule 7.6 discusses the process for an unofficial envelope use. (no cure)

*Rule 7.8.9 discusses the letter for signature discrepancy and is quite vague about the cure process.

*Rule 7.8.13 discusses need to send to the DA but not whether it is all signature discrepancies or just the ones not cured, again no discussion of cure.

*I cannot find a rule for ID required but missing in the rules except under the provisional ballot section rule 17.2.7, perhaps this needs to be added to the rules.

If 7.7.3 were to stay as in the new rules, perhaps the following would be a bit more clearly understood:

7.7.3 IN ADDITION TO MAILING A NOTIFICATION LETTER, THE COUNTY CLERK MAY CONTACT ANY ELECTOR USING OTHER MEANS. IF THE COUNTY CLERK USES OTHER MEANS, THE CLERK MUST USE THAT SAME MEANS TO CONTACT ALL ELECTORS IN SIMILAR SITUATIONS IF THE INFORMATION EXISTS FOR SAID ELECTORS.

Amendments to Rule 7.9.1(c) and 7.9.3 and New Rules 7.9.8, 7.9.9, and 7.9.10 concerning VSPCs:

7.9.9 and 7.9.10 are one issue. Perhaps could format as follows:

7.9.9 ON ELECTION DAY DURING EACH GENERAL ELECTION, A COUNTY WITH AT LEAST FIFTY THOUSAND ACTIVE ELECTORS MUST MEASURE AND RECORD THE WAIT TIME AT EACH OF ITS VOTER SERVICE AND POLLING CENTERS.

(A) AT LEAST ONCE PER HOUR, FROM THE TIME A PERSON ENTERS THE LOCATION OR THE LINE TO THE TIME THAT THE PERSON BEGINS THE CHECK IN PROCESS.

(B) NO LATER THAN 30 DAYS AFTER THE ELECTION, THE COUNTY CLERK MUST SUBMIT THE REPORT OF THESE WAIT TIMES TO THE SECRETARY OF STATE.

New Rule 7.11 concerning cross-jurisdictional voter service and polling center pilot program:

Does rule 7.11 through 7.15 get renumbered or is this 7.11 replacing the old 7.11. They are not of the same nature.

If 7.11 through 7.15 get renumbered, then 7.16 indicated in the rules change would then be 7.17?

Amendments to Rule 10.5 concerning procedures for canvass:

I like the change to 10.5.1(e) to add the accepted vs rejected.

New Rule 25 concerning post-election audit:

Concerning 25.2.2, it is easier to follow rules if they are outlined. Parts D, E, F, G, I and J are written as such. Parts A, B C, H, and K are not written that way. Proposed change follows for these:

(A) RISK LIMIT

(1) NO LATER THAN 30 DAYS BEFORE ELECTION DAY, THE SECRETARY OF STATE WILL ESTABLISH AND PUBLISH ON THE AUDIT CENTER THE RISK LIMIT(S) THAT WILL APPLY IN RLAS FOR THAT ELECTION.

(2)THE SECRETARY OF STATE MAY ESTABLISH DIFFERENT RISK LIMITS FOR COMPARISON AUDITS AND BALLOT POLLING AUDITS.

(3) IN NO EVENT WILL THE RISK LIMIT EXCEED FIVE PERCENT.

(B) AUDIT BOARD.

(1) THE DEO MUST GIVE WRITTEN NOTICE TO THE COUNTY CHAIRPERSONS OF THEIR OBLIGATION TO NOMINATE AUDIT BOARD MEMBERS.

(2)MUST CONSIST OF ELECTORS NOMINATED BY THE MAJOR POLITICAL PARTY COUNTY CHAIRPERSONS.

(3) THE DEO MUST APPOINT AN AUDIT BOARD TO CONDUCT THE RISK-LIMITING AUDIT NO LATER THAN 15 DAYS BEFORE ELECTION DAY.

(4)THE DEO MAY DESIGNATE APPROPRIATELY AFFILIATED ELECTORS AS AUDIT BOARD MEMBERS IF ONE OR BOTH COUNTY CHAIRPERSONS FAIL TO DO SO IN A TIMELY MANNER.

(5)AT LEAST TWO CANVASS BOARD MEMBERS MUST OBSERVE THE RLA. CANVASS BOARD MEMBERS MAY ALSO SERVE ON THE AUDIT BOARD.

(6)THE DEO, MEMBERS OF HIS OR HER STAFF, AND OTHER DULY APPOINTED ELECTION JUDGES MAY ASSIST THE AUDIT BOARD IN CONDUCTING THE AUDIT.

C) BALLOT MANIFEST.

(1)WHILE TABULATING BALLOTS, THE COUNTY MUST MAINTAIN AN ACCURATE BALLOT MANIFEST IN A FORM APPROVED BY THE SECRETARY OF STATE.

AT A MINIMUM THE BALLOT MANIFEST MUST UNIQUELY IDENTIFY FOR EACH TABULATED BALLOT THE FOLLOWING:

(a)THE SCANNER ON WHICH THE BALLOT IS SCANNED.

(b)THE BALLOT BATCH OF WHICH THE BALLOT IS A PART

(c)THE NUMBER ORDER IT IS IN THAT BATCH

(d)THE STORAGE CONTAINER IN WHICH THE BALLOT BATCH IS STORED AFTER TABULATION.

(2)THE COUNTY MUST SECURE AND MAINTAIN IN SEALED BALLOT CONTAINERS ALL TABULATED BALLOTS IN THE BATCHES AND ORDER THEY ARE SCANNED USING PROPER CHAIN OF CUSTODY PROCEDURE.

(H) Random Seed.

(1) THE SECRETARY OF STATE WILL CONVENE A PUBLIC MEETING ON THE TENTH DAY AFTER ELECTION DAY TO ESTABLISH ...SHA256RAND.HTM.

(2)THE SECRETARY OF STATE WILL GIVE PUBLIC NOTICE OF THE MEETING AT LEAST SEVEN CALENDAR DAYS IN ADVANCE.

(3)THE SEED IS A NUMBER CONSISTING OF AT LEAST 20 DIGITS, AND EACH DIGIT WILL BE SELECTED IN ORDER BY SEQUENTIAL ROLLS OF A 10-SIDED DIE. THE SECRETARY OF STATE WILL RANDOMLY SELECT MEMBERS OF THE PUBLIC WHO ATTEND THE MEETING TO TAKE

**URNS ROLLING THE DIE, OR DESIGNATE ONE OR MORE STAFF MEMBERS TO TAKE TURNS ROLLING THE DIE IN THE EVEN THAT NO MEMBERS OF THE PUBLIC ATTEND THE MEETING.
(4)THE SECRETARY OF STATE WILL PUBLISH THE SEED ON THE AUDIT CENTER IMMEDIATELY AFTER IT IS ESTABLISHED.**

(K) BALLOTS FOR AUDIT

(1) USING THE SEED ESTABLISHED UNDER SUBSECTION (H) OF THIS RULE, THE SECRETARY OF STATE WILL USE A PSEUDO-RANDOM NUMBER GENERATOR TO RANDOMLY SELECT INDIVIDUAL BALLOTS FROM THE COUNTY PROVIDED CVR MANIFESTS ESTABLISHED BY SUBSECTION (C) OF THIS RULE.

(2) THE SECRETARY OF STATE WILL BOTH NOTIFY EACH COUNTY OF THEIR SELECTED BALLOTS AND ALSO PUBLISH THE SELECTED BALLOTS ON THE AUDIT CENTER.

(3)POSTING NO LATER THAN 11:59PM MT ON THE TENTH DAY AFTER ELECTION DAY.

As I'm reviewing these edits that I've come across and as I have listened to other counties on the ESRC meetings, I've realized that most of the concerns come from implementing rules for Prop 107 and 108. I almost feel that it would've made understanding the rules needed to implement these a lot easier if a whole new rule just on the unaffiliated voters in primaries would've been developed instead of trying to fit the various components into all the various sections. I realize right now, recreating such a section may not be feasible, but perhaps through the fall/winter before the first primary as these rules comes along, that might be a good undertaking and perhaps would make more sense in the end.

As an aside, Rule 2 seems to cover not only voter registration but also discusses SCORE user dos and do-nots, which seem to me that they should be in different rules. One on voter registration the hows and whens, and one on SCORE user dos and do-nots. Some headings are misleading to what the content actually is. For example, 2.13 Voter registration at a voter service and polling center. This sounds like rules for when or how a voter can register at a VSPC but the actual content is about who can register voters at a VSPC. Again, a section to look at for the next round of rule-making.