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**SENATE BILL 5338**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senators Kline, Finkbeiner and Kohl-Welles

Read first time 01/19/2001. Referred to Committee on State & Local Government.

1 AN ACT Relating to the process for election to Washington state and  
2 federal elective office, except governor and other executive offices;  
3 amending RCW 29.65.050; adding a new chapter to Title 29 RCW; creating  
4 a new section; and repealing RCW 29.30.085.

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

6 NEW SECTION. **Sec. 1.** FINDINGS AND PURPOSE. The legislature finds  
7 that it is in the public interest to adopt a voting system in which all  
8 successful candidates must win by a majority vote rather than a  
9 plurality of effective votes and that allows voters to vote secondary  
10 and other preferences in case their favorite candidate is not elected.  
11 A system known as instant runoff voting achieves that purpose. The  
12 legislature further finds that voter interest and participation in  
13 elections will increase because a voter has more choices and all votes  
14 will be more meaningful than under the present system. It is in the  
15 interest of participatory democracy that voters be given the  
16 opportunity to vote their true beliefs with their first choice votes,  
17 while still making effective secondary choices among the remaining  
18 acceptable candidates.

1        NEW SECTION.    **Sec. 2.**    DEFINITIONS.    The definitions set forth in  
2 this section apply throughout this chapter.

3        (1) "Instant runoff voting" means a system of voting whereby voters  
4 may rank three or more candidates for the same office in order of  
5 preference, so that voters may indicate a first choice, a second  
6 choice, and so on for as many of the candidates for the office as they  
7 wish, up to the maximum number of choices allowed.

8        (2) "Choice" means an indication on a ballot of a voter's ranking  
9 of candidates for a particular office according to the voter's  
10 preference.

11       (3) "Vote" means a ballot choice that is counted toward election of  
12 a candidate. All first choices are votes, and lower ranked choices are  
13 potential votes that may be credited to a candidate, and thus become  
14 votes for the candidate, according to the rules stated in this chapter.

15       (4) "Stage" or "stage in the counting" means a step in counting  
16 votes, where votes for all remaining candidates are counted to  
17 determine whether a candidate has achieved a majority and, if not,  
18 which candidate or candidates are eliminated.

19       (5) "Next choice" means the highest ranked choice for a remaining  
20 candidate that has not become a vote at the stage referred to.

21       (6) "Last place candidate" means a candidate who has received the  
22 fewest votes among the candidates who remain at any stage. Two or more  
23 candidates simultaneously become last place candidates where their  
24 combined votes add up to less than all votes for the candidate with the  
25 next highest number of votes.

26       (7) "Exhausted ballot" means a ballot on which all available  
27 choices have been used; for example, all choices made on the ballot  
28 have become votes for the various candidates so indicated or contain  
29 choices for eliminated candidates or both and no other choices remain.

30       (8) "Continuing ballot" means a ballot that is not exhausted.

31       (9) "Remaining candidate" means a candidate who has not been  
32 eliminated. "Candidates who remain" are all those who have not been  
33 eliminated at the stage referred to.

34       NEW SECTION.    **Sec. 3.**    INSTANT RUNOFF VOTING.    The instant runoff  
35 system of voting is adopted in this state in the manner specified in  
36 this chapter for all applicable elections.

1        NEW SECTION.        **Sec. 4.**        COUNTING OF BALLOTS.        (1) General

2 Explanation.    In general, instant runoff counting proceeds in the  
3 following manner:    First by counting all votes.    If a candidate  
4 receives a majority of votes he or she is elected.    If no candidate  
5 receives a majority on the first or any subsequent stage then the last  
6 place candidate at each stage is eliminated.    The next choices on  
7 ballots for an eliminated candidate become votes for the candidates  
8 indicated in those choices, and this process continues until all but  
9 one candidate has been eliminated.

10        (2) Specific Rules and Procedures.    The following specific rules  
11 and procedures, subject to the conditions of section 5 of this act,  
12 govern how votes must be counted for each office subject to instant  
13 runoff voting:

14        (a) All first choices are counted first and if a candidate has  
15 obtained a majority of those votes that candidate is elected and  
16 counting ends.

17        (b) If no candidate receives a majority of votes at the first stage  
18 then second stage counting begins by eliminating the last place  
19 candidate and the second choices made on ballots for the eliminated  
20 candidate become votes for the second choice candidate indicated on  
21 those ballots.    A candidate who receives a majority of votes at that  
22 stage is elected.

23        (c) If no candidate receives a majority at a previous stage then  
24 the last place candidate among the remaining candidates is eliminated  
25 and the next choices made on ballots for an eliminated candidate become  
26 votes for the candidate indicated on those ballots.    A candidate who  
27 receives a majority of votes at that stage is elected.

28        (d) If at any stage in the counting there are two or more last  
29 place candidates, these candidates are eliminated simultaneously and  
30 the next choices made on ballots that had votes for all such eliminated  
31 candidates become votes for any candidates so indicated who remain.

32        (e) The counting process continues in this manner with successive  
33 last place candidates being eliminated and the next choices made on  
34 continuing ballots on which votes were cast for eliminated candidates  
35 are counted for the remaining candidate or candidates indicated by  
36 those choices until all but one candidate has been eliminated and that  
37 candidate is then elected.

1        NEW SECTION.    **Sec. 5.**    VOTING CONDITIONS AND LIMITATIONS.    (1)

2 Exhausted Ballots.    (a) Once a ballot is exhausted it is disregarded  
3 and no longer counted.

4        (b) A ballot assigning the same ranking to more than one candidate  
5 for an office is exhausted when the duplicate ranking is reached, and  
6 in that case no vote is recorded for any of the duplicate candidates so  
7 chosen.

8        (c) If in a partisan primary election a voter makes a choice for a  
9 candidate for a particular office who is not a candidate of the party  
10 for which the voter has made a higher ranked choice, then that ballot  
11 is exhausted with respect to all subsequent choices for that office.

12        (2) Skipped Ranking.    If a ballot choice skips a ranking, then the  
13 next ranking below the skipped choice is moved up and counted as though  
14 it were the rank of the skipped choice.

15        (3) Tie Votes.    Ties between candidates occurring at any stage are  
16 resolved according to the general election laws of this state.

17        (4) Maximum Effective Choices.    Only five choices for any one  
18 office are counted.

19        (5) Write-in Votes.    Voters may write in one candidate for each  
20 office and assign a ranking to the write-in candidate along with  
21 candidates whose names are already on the ballot.    Write-in candidates  
22 with fewer than ten votes are automatically eliminated in elections in  
23 jurisdictions where more than one thousand total ballots were cast in  
24 the previous election.

25        (6) Insufficient Choice Votes Made.    If ballots do not contain  
26 sufficient effective second and lower choices for a particular office  
27 so that at the end of the counting no candidate achieves a majority  
28 then the candidate with the most votes credited to him or her is  
29 elected.

30        (7) Votes for Eliminated Candidates.    No votes may be counted for  
31 a candidate who has been eliminated no matter how many second and lower  
32 ranked choices might otherwise have become votes for the candidate in  
33 a later stage.

34        NEW SECTION.    **Sec. 6.**    APPLICABILITY.    (1) Offices Covered.    This  
35 chapter applies to elections for the following offices:

36        (a) Members of the Washington state legislature;

37        (b) Judges of the supreme court, the court of appeals, the superior  
38 courts, and district courts of this state;

1 (c) President and vice-president of the United States; and  
2 (d) Members of the United States senate and United States house of  
3 representatives.

4 (2) Elections Covered. This chapter applies to and governs voting  
5 in all primary, regular, and special elections where three or more  
6 candidates are running for the same office.

7 (3) Nonpartisan Primaries. Primaries for all nonpartisan offices  
8 are abolished, and there will be only a general election under instant  
9 runoff voting rules for these offices.

10 NEW SECTION. **Sec. 7.** LOCAL OPTION AUTHORIZED. A county, city,  
11 town, special purpose district, school district, port district, or  
12 other governmental subdivision having elected officers may use instant  
13 runoff voting in its elections if adopted by appropriate action of its  
14 governing body.

15 NEW SECTION. **Sec. 8.** BALLOT SPECIFICATIONS AND DIRECTIONS TO  
16 VOTERS. Ballots should be simple and easy to understand. Sample  
17 ballots illustrating voting procedures must be posted in or near the  
18 voting booth, and included in the instruction packet of absentee  
19 ballots. Directions provided to voters must conform substantially to  
20 the following specifications:

21 "You may vote for candidates in order of preference. Indicate  
22 your first choice by marking the number "1" beside a  
23 candidate's name (or by marking in the column labeled "First  
24 Choice"), your second choice by marking the number "2" (or by  
25 marking in the column labeled "Second Choice"), your third  
26 choice by the number "3" (or marking the "Third Choice"  
27 column), and so on, for as many or as few choices as you wish  
28 from one up to a total of five. You are under no obligation to  
29 rank more than one candidate for each office, but ranking  
30 additional candidates will not affect your first choice  
31 candidate. Do not mark the same number beside more than one  
32 candidate (or put more than one mark in each column for the  
33 office you are voting on). Do not skip numbers."

34 NEW SECTION. **Sec. 9.** CHANGES IN VOTING DEVICES AND COUNTING  
35 METHODS. Appropriate election officials of this state may provide for  
36 the use of electronic, computerized, or other devices for marking,

1 sorting, and counting the ballots and tabulating the results, and may  
2 modify the design and form of the ballots, the directions to voters,  
3 and the details with respect to the method of marking, sorting,  
4 invalidating, and retaining of ballots, and the counting of votes. No  
5 change may be made inconsistent with provisions, purposes, or  
6 principles of this chapter. Election officials should provide voters  
7 with a ballot that has a special design, format, or layout for offices  
8 to which instant runoff voting applies, but the parts of ballots for  
9 contests that have only one or two candidates for the same office may  
10 differ from the parts of a ballot to which instant runoff voting  
11 applies.

12 **Sec. 10.** RCW 29.65.050 and 1965 c 9 s 29.65.050 are each amended  
13 to read as follows:

14 The clerk shall issue subpoenas for witnesses in such contested  
15 election at the request of either party, which shall be served by the  
16 sheriff or constable, as other subpoenas, and the superior court shall  
17 have full power to issue attachments to compel the attendance of  
18 witnesses who shall have been duly subpoenaed to attend if they fail to  
19 do so.

20 The court shall meet at the time and place designated to determine  
21 such contested election by the rules of law and evidence governing the  
22 determination of questions of law and fact, so far as the same may be  
23 applicable, and may dismiss the proceedings if the statement of the  
24 cause or causes of contest is insufficient, or for want of prosecution.  
25 After hearing the proofs and allegations of the parties, the court  
26 shall pronounce judgment in the premises, either confirming or  
27 annulling and setting aside such election, according to the law and  
28 right of the case.

29 If in any such case it shall appear that another person than the  
30 one returned has the highest number of legal votes, said court shall  
31 declare such person duly elected, consistent with the requirements  
32 for instant runoff voting contained in chapter 29.-- RCW (sections 1  
33 through 9 of this act).

34 NEW SECTION. **Sec. 11.** RCW 29.30.085 (Nonpartisan candidates  
35 qualified for general election) and 1992 c 181 s 2 & 1990 c 59 s 95  
36 are each repealed.

1        NEW SECTION.    **Sec. 12.**    Sections 1 through 9 of this act  
2    constitute a new chapter in Title 29 RCW.

3        NEW SECTION.    **Sec. 13.**    Section captions used in this act are not  
4    part of the law.

5        NEW SECTION.    **Sec. 14.**    If any provision of this act or its  
6    application to any person or circumstance is held invalid, the  
7    remainder of the act or the application of the provision to other  
8    persons or circumstances is not affected.

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