

# HOUSE BILL REPORT

## ESHB 1431

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### As Passed House:

March 13, 2003

**Title:** An act relating to the date of the primary.

**Brief Description:** Changing the date of the primary election.

**Sponsors:** By House Committee on State Government (originally sponsored by Representatives McDermott, McMahan, Hunt, Kenney, Haigh, Rockefeller, Simpson, Alexander, Cody, Berkey and Linville; by request of Secretary of State).

### Brief History:

#### Committee Activity:

State Government: 2/13/03, 2/27/03 [DPS].

#### Floor Activity:

Passed House: 3/13/03, 93-3.

### Brief Summary of Engrossed Substitute Bill

- Moves the date of the primary back two weeks to the Wednesday after Labor Day.
- Moves the filing week back two weeks to accommodate the primary date.
- Moves the date ballots are mailed out to overseas and service voters back to provide 45 days of transit time for overseas and service voter ballots.

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## HOUSE COMMITTEE ON STATE GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Haigh, Chair; Miloscia, Vice Chair; Armstrong, Ranking Minority Member; Shabro, Assistant Ranking Minority Member; Hunt, McDermott, Nixon, Tom and Wallace.

**Staff:** Katie Blinn (786-7114).

### Background:

The state primary election is held either the third Tuesday in September, or the seventh

Tuesday before the general election, whichever is earlier.

The Federal Voting Assistance Program administered by the Department of Defense requires a minimum of 45 days of transit time between the date ballots are mailed to service and overseas voters and the date the voted ballots are due back to local election administrators. Because Washington law only requires absentee ballots to be ready for mailing 20 days before an election, and election results are certified 10 days after a primary election and 15 days after a general election, only 30 days of transit time exists for primary election ballots, and 35 days for general election ballots.

Special elections may be called six times during the year: February, March, April, May, the September primary, and the November general election. A jurisdiction requesting a special election must notify the county auditor of the need for a special election at least 45 days before the election date.

Declarations of candidacy are filed the week starting the fourth Monday in July. Minor party and independent candidate nominating conventions are held between the last Saturday in June and the first Saturday in July. A number of other election-related events are conditioned on circumstances occurring before or after the sixth Tuesday before the primary. For example:

- A special three-day filing period is opened when a void in candidacy for a nonpartisan office occurs before the sixth Tuesday before the primary; or
- The office is stricken from the ballot when a void in candidacy for supreme court justice occurs on or after the sixth Tuesday before the primary.

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### **Summary of Engrossed Substitute Bill:**

-The date of the primary is moved back two weeks to the Wednesday after Labor Day, which is the first Wednesday after the first Monday in September.

For a primary election, absentee ballots must be mailed to overseas and service voters at least 36 days before the election, and the results are certified nine days after the election. For a general election, absentee ballots must be mailed to overseas and service voters at least 30 days before the election, and the results are certified 15 days after the election. These changes establish the necessary 45 days of transit time between the date ballots are mailed out to service and overseas voters and the date the voted ballots must be received by local election administrators to satisfy the Federal Voting Assistance Program. Because the day of the primary is changed from a Tuesday to a Wednesday, the certification date must be changed from 10 days after the election to nine days to prevent the certification day from falling on a Saturday. Absentee ballots for voters that are not overseas or in the military continue to be mailed 20 days before an election. The date by which a jurisdiction must request a special election is moved from 45 days before a

special election date to 55 days to accommodate the 10-day change in the date ballots are mailed out.

The filing week for declarations of candidacy is moved back two weeks from the week beginning the fourth Monday in July to the week beginning the second Monday in July. The time frame for minor party and independent candidate nominating conventions is moved back two weeks from the week beginning the last Saturday in June to the week beginning the second Saturday in June. Because the day of the primary is changed from a Tuesday to a Wednesday, other election-related events that were previously conditioned on circumstances occurring before or after the "sixth Tuesday prior to a primary" are changed to the "seventh Tuesday prior to a primary."

Prior to the 2004 and 2005 primary elections, the Secretary of State and the county auditors must notify the public of the change in the date of the primary. Notice must be provided on all appropriate election materials, and the Secretary of State and the county auditors must make a reasonable effort to provide the notice in multiple languages.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on January 1, 2004.

**Testimony For:** Washington has the latest primary election of any state in the nation. Moving the date of the primary is important because currently there are only seven weeks between the primary election and the general election. This period of time is too short to adequately process primary election results and prepare for the general election. The period of time is also not in compliance with federal law; the Department of Defense requires 45 days between the time absentee ballots are mailed to service and overseas voters and the date they are due back to election administrators. The short period of time impacts mandatory and discretionary election recounts, and the workloads in county auditor offices across the state. Even after the counties certify their election results, which occurs 10 days after the primary, the Secretary has another 10 days to certify election results for statewide offices. Recounts can chew up time that is necessary to have the general election ballots ready to mail 20 days before the general election. Changing the date that vote-by-mail ballots are due to the county auditors' offices will not solve the problem because that requires the auditors to mail ballots to voters even earlier.

June was the date recommended by the task force that convened in 1999. July or August dates would allow Washington to be in compliance with federal law but those months were not popular since so many people are on vacation. Even a change of two weeks would help in the administration of elections. Many states have primaries in late May or June. In those states, the campaign activity dies down between the primary election and

Labor Day. Voters, parties, and candidates have a right to know which candidates will be appearing on the general election ballot and have time to adequately educate themselves on the candidates and campaign.

**Testimony Against:** A June primary date is too early and may inhibit the ability of legislative incumbents to campaign during session. An earlier primary will extend the campaign season and make campaigning more expensive. Candidates will have to spend more time fund-raising and less time discussing the issues. The bill contains too many subjects that are unrelated to moving the date of the primary. The petition process contained in the bill for minor party and independent candidates to appear on the ballot does not need notice requirements. If minor party and independent candidates have to petition to appear on the ballot, they should appear on the general rather than the primary ballot.

The Public Disclosure Commission is opposed to eliminating the legislative freeze on fund-raising during special sessions. This law was part of I-134, approved by voters in 1992. Fund-raising and voting should not occur simultaneously. The Washington State School Directors' Association is concerned about eliminating the May special election date.

**Testified:** (In support) Representative McDermott, prime sponsor; Sam Reed, Secretary of State; Representative Haigh on behalf of the League of Women Voters; Karen Flynn, Kitsap County Auditor; Bob Terwiliger, Snohomish County Auditor; and Bob Bruce, citizen.

(With concerns) Dan Steele, Washington State School Director's Association; and Brent White, citizen advocate.

(Opposed) Don Braziere; and Richard Shepard, Libertarian Party of Washington State.