

HOUSE BILL REPORT

SHB 1860

As Passed House:
March 5, 2011

Title: An act relating to partisan elections.

Brief Description: Regarding partisan elections.

Sponsors: House Committee on State Government & Tribal Affairs (originally sponsored by Representative Hurst).

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/16/11, 2/17/11 [DPS];
Ways & Means: 2/24/11, 2/25/11 [DPS(SGTA)].

Floor Activity:

Passed House: 3/5/11, 53-44.

Brief Summary of Substitute Bill

- Requires that elections for precinct committee officers be included on the presidential primary ballot.
- Specifies that no presidential primary election will be held unless the major political parties agree to use the results of the presidential primary election for the selection of their delegates.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Hunt, Chair; Darneille, Dunshee, Hurst, McCoy and Miloscia.

Minority Report: Do not pass. Signed by 4 members: Representatives Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander and Condotta.

Staff: Marsha Reilly (786-7135).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The substitute bill by Committee on State Government & Tribal Affairs be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Carlyle, Cody, Dickerson, Haigh, Hudgins, Hunt, Kagi, Kenney, Ormsby, Pettigrew, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler, Haler, Hinkle, Parker, Ross, Schmick and Wilcox.

Staff: Wendy Polzin (786-7137).

Background:

Presidential Primaries.

Historically, political parties in Washington selected their nominee for President and allocated their delegates to the national nominating conventions through party caucuses. In 1989 the Legislature approved an Initiative to the Legislature which established the presidential primary. The Secretary of State (Secretary) must conduct a primary each presidential election year to allow citizens the opportunity to express their preferences as to the major political party candidates for President. Following the primary, the state and county committees of each major political party are provided lists of voters who participated in their party's presidential primary.

The original legislation required delegates to the party national conventions to be allocated to each candidate for President based on the results of the preference primary. Votes cast for a particular presidential candidate were considered votes cast for delegate positions committed to that candidate. The selection of actual individuals as delegates remained a party function. In 1995 the Legislature amended the law to allow party delegates to be allocated in whole or in part based on the results of party precinct caucuses, rather than the preference primary. The 1995 legislation also requires the Secretary to amend its administrative rules to comply with the major political parties' national and state rules.

Election of Precinct Committee Officers.

The election of precinct committee officers (PCOs) occurs at the primary election. In January 2011 the United States District Court (Court) ruled that the state's implementation of the Top Two Primary is constitutional based on the fact that the ballot and accompanying information clearly explains that a candidate's preference does not imply party endorsement. However, the Court also ruled that the state's method of electing PCOs is unconstitutional because it "severely burdens the political parties' ability to identify and associate with members of their respective parties." At issue was the Top Two Primary ballot which allows all voters, regardless of party affiliation, to vote for and elect PCOs.

Summary of Substitute Bill:

The PCOs must be voted upon at the presidential primary election. Candidates must file a declaration of candidacy with the appropriate county auditor during a filing period beginning on the Monday 10 weeks before the primary and ending at 5 p.m. on Friday of the same week. The county auditor must provide daily, by precinct, an online list of candidates who have filed for the office. Withdrawals of candidacy may be made at any time if the ballots for that precinct have not been printed.

The names of all PCO candidates must appear on the proper party and office designations on the ballot for the appropriate precinct. The candidate receiving the highest number of votes is declared elected.

Provisions allow that if only one candidate files for a position, his or her name will not appear on the ballot, and no write-in candidates may be allowed. However, if no one has filed for the office, any person who meets the qualifications may file as a write-in candidate by submitting the proper forms at least one week before the election.

The term of office for a PCO is changed from two years to four years commencing on December 1 following the presidential primary. Elected PCOs filling a vacancy shall take office immediately.

The major political parties are required to notify the Secretary of their decision to allocate delegates to the national nominating conventions based on the results of the presidential primary. A presidential primary may only be held if both parties agree to use only the results of that election for the allocation of their delegates. If a presidential primary is not held, the parties must elect their PCOs by other means.

The state must reimburse the counties costs associated with the presidential primary and the election of PCOs.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (State Government & Tribal Affairs):

(In support) The state and counties have cooperated in the past on PCO elections and it is hoped that this cooperation can continue. The recent events in Spokane indicate the need to elect PCOs. Eliminating the election of PCOs would allow party leaders to choose their friends.

(With concerns) Political parties have been suing the state for about 10 years. The two major parties requested the courts to declare the election of precinct committee officers (PCOs) at the Top Two Primary unconstitutional and the court agreed. Parties can appoint PCOs.

(Opposed) The bill presents a big cost to counties. The presidential primary cost would be split between the state and the counties. If the cost of the presidential primary is \$10 million, the counties would pay half. Even if no candidates apply, there would still be costs associated for a write-in candidate.

Neither the state nor the counties asked the judges to declare the previous primary unconstitutional. The counties cannot afford to pay \$5 million in costs for the presidential primary. A cost/benefit analysis indicates there is a great cost to the public with very little benefit. Most people do not know what PCOs are or what they do. For the last three election cycles, less than 5 percent of the PCO races were contested, and in a majority of races, no one files. The courts have indicated that political parties are private organizations, and that PCOs are not public officers. Why is the state bearing the cost for a private organization's election? Twenty-seven states do not elect PCOs on a public ballot.

Staff Summary of Public Testimony (Ways & Means):

(In support) None.

(Opposed) There are over 6,500 precincts in the state. This bill requires an election for a PCO at the same time as the presidential primary. Before deciding this question, the Legislature needs to decide whether to have a presidential primary at all. Request legislation was introduced that would suspend the 2012 Presidential Primary. The state's fiscal concerns should be addressed before the policy of this bill.

Persons Testifying (State Government & Tribal Affairs): (In support) Representative Hurst, prime sponsor.

(With concerns) Katie Blinn, Office of the Secretary of State; Cody Arledge and Jaxon Ravens, Washington State Democrats; and David Anderson.

(Opposed) James McMahan, Washington Association of County Officials; and Skip Moore, Chelan County Auditor.

Persons Testifying (Ways & Means): Katie Blinn, Office of the Secretary State; and James McMahan, Washington Association of County Officials.

Persons Signed In To Testify But Not Testifying (State Government & Tribal Affairs): None.

Persons Signed In To Testify But Not Testifying (Ways & Means): None.