

HOUSE BILL REPORT

SHB 1860

As Reported by House Committee On:
State Government & Tribal Affairs
General Government Appropriations & Oversight

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: 1/25/12, 1/26/12 [DP2S];

General Government Appropriations & Oversight: 2/2/12, 2/3/12 [DP3S].

Brief Summary of Third Substitute Bill

- Requires elections for precinct committee officers be included on the primary election ballot.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 10 members: Representatives Hunt, Chair; Appleton, Vice Chair; Overstreet, Assistant Ranking Minority Member; Alexander, Condotta, Darneille, Dunshee, Hurst, McCoy and Miloscia.

Minority Report: Do not pass. Signed by 1 member: Representative Taylor, Ranking Minority Member.

Staff: Marsha Reilly (786-7135).

Background:

The election of precinct committee officers (PCOs) are conducted at the primary election. In January 2011 the United States District Court (Court) ruled that the state's implementation of

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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 the 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 the PCOs.

Summary of Second Substitute Bill:

The PCOs must be voted upon at the primary election in even-numbered years. Write-in candidates are not allowed for the PCO races. If no one files for office, the position must be filled by the county chair of the county central committee of the appropriate political party.

County auditors may offer the PCO election on a consolidated ballot or a physically separate ballot.

If a consolidated ballot is used, the race for the PCO must be clearly delineated from other races on the ballot. A voter's affiliation with a major political party is inferred from selecting that party in the check-off box. Instructions must indicate that only those voters who affiliate with a major political party may vote for the PCO candidates of that same major political party.

If a physically separate ballot is used, it must be distinguishable from the Top Two Primary ballot and must include instructions to the voter indicating that the office of the PCO is a partisan election and that the voter may vote only for the PCO of the party that he or she wishes to affiliate. The voter's affiliation with a major political party is inferred from selecting that party in the check-off box included on the ballot. The return envelope must include the same declaration and information required on the return envelope for other elections, including a space for a return address. The County Auditor must compile a list of the names of voters who returned a partisan ballot, separated by precinct, for each major political party.

A vote cast for a major political party candidate, regardless of ballot style, will only be tabulated and reported if cast by a voter who is affiliated with that same major political party by checking the appropriate box and voting for the candidate or candidates of that party. The candidate who receives the highest number of votes is declared elected.

If a provision of the act is held invalid, the remainder of the act is not affected.

Second Substitute Bill Compared to Substitute Bill:

The second substitute bill requires that the PCO elections take place every even-numbered year at the primary election, rather than at a presidential primary. Severability and emergency clauses were added.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 27, 2012.

Effective Date of Second Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Our political system is more transparent and more democratic because we elect the PCOs. The PCOs are elected by voters in the precinct and not by party bosses. The political parties are not Rotary Clubs. Unlike the PCOs, the Rotary Club is not mentioned in the state Constitution. Political parties were asked to take part in the constitutional duty of filling of vacancies and have agreed to do so. Political parties matter and should not be weakened. They have played an important role in our democracy. Democracy is too important to tinker with and the state needs to continue to elect the PCOs.

(Commented) There continues to be discussions that the PCOs are constitutionally mandated offices, or even public offices. The Court has indicated that the PCOs are not public offices, even though they provide a public purpose. For election proposals, there is a four-prong test: (1) does it satisfy the judge's ruling; (2) does it retain the Top Two Primary system; (3) does it violate voter secrecy; and (4) is it prohibitively expensive and, if so, who bears the cost.

(Opposed) None.

Persons Testifying: (In support) Representative Hurst, prime sponsor; and Dwight Pelz, Washington State Democrats.

(Commented) James McMahan, Washington Association of County Officials.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass. Signed by 13 members: Representatives Hudgins, Chair; Miloscia, Vice Chair; Moscoso, Vice Chair; McCune, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Ahern, Armstrong, Blake, Fitzgibbon, Ladenburg, Pedersen, Van De Wege and Wilcox.

Staff: Wendy Polzin (786-7137).

Summary of Recommendation of Committee On General Government Appropriations & Oversight Compared to Recommendation of Committee On State Government & Tribal Affairs:

The requirement is removed that the voter must check a box to infer party affiliation, instead affiliation is affirmed by including the following statement after the name of each candidate: "By voting for this candidate, I affirm that I am a Democrat/Republican." The provision requiring the county auditor to compile a list of the names of voters who returned a physically separate partisan ballot to each major political party is removed. Only contested races for precinct committee officer may be included on the ballot. A technical correction relating to write-in candidates is made. Intent language is added, indicating what the court stated about implementing an election for precinct committee officers.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Third Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Both Republicans and Democrats are supporting this bill. This bill limits write-in ballots for precinct committee officers to contested races only. The parties are willing to talk and negotiate on this bill. The Secretary of State removed rules for electing precinct committee officers in December.

(Opposed) Precinct committee officers are not public or constitutional officers. Counties bear the cost of the precinct committee officer elections. Every jurisdiction pays a share of the cost to put on an election, except for the state and political parties. The political parties sued the state over the constitutionality of the current system for electing precinct committee officers. The bill in its current form is unmanageable. The parties are requiring a public statement of party affiliation. The issue of who pays for these elections will have to be addressed.

Persons Testifying: (In support) Dwight Pelz, Washington State Democratic Committee.

(Opposed) James McMahan, Washington Association of County Officials; and Katie Blinn, Office of the Secretary of State.

Persons Signed In To Testify But Not Testifying: None.