

SENATE BILL REPORT

SB 5518

As Reported by Senate Committee On:
Governmental Operations, February 18, 2013

Title: An act relating to making nonsubstantive changes to election laws.

Brief Description: Making nonsubstantive changes to election laws.

Sponsors: Senators Roach, Darneille, Sheldon and Hatfield; by request of Secretary of State.

Brief History:

Committee Activity: Governmental Operations: 2/11/13, 2/18/13 [DPS].

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Majority Report: That Substitute Senate Bill No. 5518 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Braun, Conway, Fraser and Rivers.

Staff: Samuel Brown (786-7470)

Background: Changes and challenges to state and federal election laws have created redundant statutes, outdated references and citations, and errors in dates.

Election Law Reorganization. In 2003, the Legislature reorganized and streamlined the election procedures statutes that were in Title 29. The result is the current Title 29A, which now contains the laws establishing procedures for the conduct of elections.

Primary Elections. Also in 2003, the Ninth Circuit Court of Appeals struck down Washington's blanket primary system, which had been in place since 1935. Holding that the system violates the right of political parties to exclude those who did not affiliate themselves with the party from selecting the party's standard bearer, the court found the system unconstitutional.

In response, the Legislature passed ESB 6453 in 2004, which created two alternative primary systems: a top-two primary system, where candidates merely state a party preference; and a pick-a-party primary system, where voters affiliate with one party and select only that party's ticket. Statutes for both systems were included in the bill in the event the top-two primary

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was declared unconstitutional. The provisions creating the top-two primary were vetoed, and the pick-a-party system became law.

Voters then passed Initiative 872 in 2004 to implement the top-two primary method. After its constitutionality was upheld, it remains today as the primary election method. Many statutes implementing the pick-a-party primary, which is not in use, have not been repealed.

Primary Election Date. In 2006 and 2011, the Legislature changed the date of the primary election to comply with federal law regarding the mailing of ballots to military and overseas voters. Previously held the second Tuesday in September, the primary is now held on the first Tuesday in August. These changes required additional election-related dates and deadlines to be changed.

Superior Court Judge Residency Requirement. In the case of *Parker v. Wyman*, the Washington Supreme Court held that a candidate for county superior court judge does not need to reside in that county to appear on the ballot and stand for election.

Summary of Bill (Recommended Substitute): Nonsubstantive changes are made to election law statutes, including the following:

- statutes related to the pick-a-party primary system are repealed or amended to comply with the top-two primary;
- laws declared unconstitutional, including term limits, the blanket primary, and the superior court judge residency requirement are amended or repealed;
- the time period when ballots must be mailed to military and overseas voters is corrected;
- dates relating to the primary election are corrected;
- language regarding restoration of voter rights and the voter's oath are corrected; and
- other language is clarified or updated.

EFFECT OF CHANGES MADE BY GOVERNMENTAL OPERATIONS COMMITTEE (Recommended Substitute): Provides that the voter's oath reads as such: "I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least 30 days immediately before the next election at which I vote, I will be at least 18 years old when I vote, I am not disqualified from voting due to a court order, and I am not under Department of Corrections supervision for a Washington felony conviction."

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The top-two primary is the primary of choice in Washington. This brings closure to a long road of litigation and discrepancies within our primary system. We have had a lot of changes to election law over

the last few years; this bill tries to clean up some of the things that were missed in prior bills. The bulk of this bill is repealing the pick-a-party primary. The definition of minor parties is in the law now, so any change to that would be a policy change, and this bill makes no policy changes, only establishes existing law.

OTHER: When we define a minor party, it is always helpful to ask the minor parties what they would like to be defined as. The current definition will eliminate some minor parties and cause logistical problems for other parties. Because of the lateness of the Libertarian Party's national convention, this definition presents a serious problem for them in having conventions and gathering signatures. The Constitution Party has a logistical problem. There has been some question about the difference between a Political Action Committee and a minor party. The Green Party cannot select its nominees until all states have had their caucuses, and some states have very late caucuses. Making it so minor parties cannot add names to the ticket after collecting signatures is an enormous detriment to the parties.

Persons Testifying: PRO: Holli Johnson, WA State Grange; Katie Blinn, Office of the Secretary of State.

OTHER: Linde Knighton, Jody Grage, 3rd Party Coalition.