

SHB 1745 - H AMD TO H AMD (H-2238.1/15) 161
By Representative Manweller

WITHDRAWN 3/5/2015

1 Beginning on page 1, line 3, strike all material through "RCW."
2 on page 14, line 12 and insert the following:

3 "NEW SECTION. **Sec. 1.** This act may be known and cited as the
4 Washington voting rights act of 2015.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise. In applying these definitions and other terms in this
8 chapter, courts may rely on relevant federal case law for guidance.

9 (1) "At-large method of election" means any of the following
10 methods of electing members of the governing body of a political
11 subdivision:

12 (a) One in which the voters of the entire jurisdiction elect the
13 members to the governing body;

14 (b) One in which the candidates are required to reside within
15 given areas of the jurisdiction and the voters of the entire
16 jurisdiction elect the members to the governing body; or

17 (c) One that combines the criteria in (a) and (b) of this
18 subsection.

19 (2) "District-based elections" means a method of electing members
20 to the governing body of a political subdivision in which the
21 candidate must reside within an election district that is a divisible
22 part of the political subdivision and is elected only by voters
23 residing within that election district.

24 (3) "Polarized voting" means voting in which there is a
25 difference in the choice of candidates or other electoral choices
26 that are preferred by voters in a protected class, and in the choice
27 of candidates and electoral choices that are preferred by voters in
28 the rest of the electorate.

29 (4) "Political subdivision" means any county, city, town, or
30 school district, but does not include the state.

31 (5) "Protected class" means a class of voters who are members of
32 a race, color, or language minority group.

1 NEW SECTION. **Sec. 3.** (1) A political subdivision is in
2 violation of this section when it is shown that:

3 (a) Based on a totality of the circumstance, elections in the
4 political subdivision exhibit polarized voting; and

5 (b) Members of a protected class do not have an equal opportunity
6 to elect candidates of their choice or an equal opportunity to
7 influence the outcome of an election.

8 (2) In determining whether there is polarized voting under this
9 section, the court shall analyze elections of the governing body of
10 the political subdivision and elections in which at least five
11 candidates are members of a protected class. Only elections conducted
12 prior to the filing of an action pursuant to this chapter shall be
13 used to establish or rebut the existence of polarized voting.

14 (3) A political subdivision has an absolute defense from
15 liability, and a finding of polarized voting is precluded, if the
16 proportion of elected officials serving on the political
17 subdivision's legislative body who are members of the protected class
18 is statistically equivalent to, or greater than, the proportion of
19 the voting age population who are members of the protected class.

20 (4) No voting qualification or prerequisite to voting, or
21 standard, practice, or procedure, may be imposed or applied by any
22 political subdivision to deny or abridge the right to vote because
23 they are a member of a race, color, or language minority group.

24 NEW SECTION. **Sec. 4.** (1) In an action filed pursuant to this
25 section, the trial court shall set a trial to be held no later than
26 one year after the filing of a complaint, and shall set a discovery
27 and motions calendar accordingly.

28 (2) Proof of intent on the part of the voters or elected
29 officials to discriminate against a protected class is not required
30 for a cause of action to be sustained.

31 (3) For purposes of any applicable statute of limitations, a
32 cause of action under this section arises every time there is an
33 election pursuant to an at-large method of election.

34 (4) The plaintiff's constitutional right to the secrecy of the
35 plaintiff's vote is preserved and is not waived by the filing of an
36 action pursuant to this section, and is not subject to discovery or
37 disclosure.

1 (5) In seeking a temporary restraining order or a preliminary
2 injunction, a plaintiff shall not be required to post a bond or any
3 other security in order to secure such equitable relief.

4 (6) No action may be filed pursuant to this act before January
5 15, 2016. No action may be filed against a political subdivision
6 within four years of an action filed against that subdivision under
7 the federal voting rights act.

8 NEW SECTION. **Sec. 5.** (1) A political subdivision that conducts
9 an election pursuant to state, county, or local law, is authorized to
10 change its electoral system including, but not limited to,
11 implementing a district-based election system to remedy a potential
12 violation of section 3 of this act. If a political subdivision
13 invokes its authority under this section to implement a district-
14 based election system, the districts shall be drawn in a manner
15 consistent with section 6 of this act.

16 (2) If a political subdivision implements a district-based
17 election system, the plan shall be consistent with the following
18 criteria:

19 (a) Each district shall be as reasonably equal in population as
20 possible to each and every other such district comprising the
21 political subdivision.

22 (b) Each district shall be reasonably compact.

23 (c) Each district shall consist of geographically contiguous
24 area.

25 (d) To the extent feasible, the district boundaries shall
26 coincide with existing recognized natural boundaries and shall, to
27 the extent possible, preserve existing communities of related and
28 mutual interest.

29 (e) District boundaries may not be drawn or maintained in a
30 manner that denies any person an equal opportunity to elect
31 candidates of his or her choice or an equal opportunity to influence
32 the outcome of an election.

33 (3) During the adoption of its plan, the political subdivision
34 shall ensure that full and reasonable public notice of its actions is
35 provided. The political subdivision shall hold at least one public
36 hearing on the redistricting plan at least one week before adoption
37 of the plan.

38 (4)(a) If the political subdivision invokes its authority under
39 this section and the plan is adopted during the period of time

1 between the first Tuesday after the first Monday of November and on
2 or before January 15th of the following year, the political
3 subdivision shall order new elections to occur at the next succeeding
4 general election.

5 (b) If the political subdivision invokes its authority under this
6 section and the plan is adopted during the period of time between
7 January 16th and on or before the first Monday of November, the next
8 election will occur as scheduled and organized under the current
9 electoral system, but the political subdivision shall order new
10 elections to occur pursuant to the remedy at the general election the
11 following calendar year.

12 (c) All of the positions that were elected pursuant to the
13 previous electoral system may continue their term of office.

14 (5) Within forty-five days after receipt of federal decennial
15 census information applicable to a specific local area, the
16 commission established in RCW 44.05.030 shall forward the census
17 information to each political subdivision that has invoked its
18 authority under this section to implement a district-based election
19 system, or that is charged with redistricting under section 6 of this
20 act.

21 (6) No later than eight months after its receipt of federal
22 decennial census data, the governing body of the political
23 subdivision that had previously invoked its authority under this
24 section to implement a district-based election system, or that was
25 previously charged with redistricting under section 4 of this act,
26 shall prepare a plan for redistricting its districts, pursuant to RCW
27 29A.76.010, and in a manner consistent with this act.

28 NEW SECTION. **Sec. 6.** (1) Upon a finding of a violation of
29 section 3 of this act, the court shall order appropriate remedies
30 that are tailored to remedy the violation. The remedies may include,
31 but are not limited to, the imposition of a district-based election
32 system. The court may order the affected jurisdiction to draw or
33 redraw district boundaries or appoint an individual or panel to draw
34 or redraw district lines. The proposed districts must be approved by
35 the court prior to their implementation.

36 (2) Implementation of a district-based remedy, pursuant to
37 section 4 of this act, is not precluded by the fact that members of a
38 protected class do not constitute a numerical majority within a
39 proposed district-based election district. If, in tailoring a remedy,

1 the court orders the implementation of a district-based election
2 district where the members of the protected class are not a numerical
3 majority, the court shall do so in a manner that provides the
4 protected class an equal opportunity to elect candidates of their
5 choice or an equal opportunity to influence the outcome of an
6 election.

7 NEW SECTION. **Sec. 7.** (1) In any action to enforce this chapter,
8 the court may allow the prevailing plaintiff or plaintiffs, other
9 than the state or political subdivision thereof, reasonable
10 attorneys' fees, all nonattorney fee costs as defined by RCW
11 4.84.010, and all reasonable expert witness fees. However, the court
12 may elect not to allow the award of attorneys' fees, costs, or expert
13 witness fees under this section or may elect to reduce the amount of
14 fees and costs awarded when, in the court's determination:

15 (a) The award would create undue hardship to the political
16 subdivision; and

17 (b) The award would directly impact the ability of the political
18 subdivision to provide services to low-income protected class members
19 within the political subdivision.

20 (2) Prevailing defendants may recover an award of fees or costs
21 pursuant to RCW 4.84.185.

22 (3) No fees or costs may be awarded if no action is filed.

23 NEW SECTION. **Sec. 8.** Any voter who is a member of a protected
24 class and who resides in a political subdivision where a violation of
25 section 3 of this act is alleged may file an action in the superior
26 court of the county in which the political subdivision is located. If
27 the action is against a county, the action may be filed in the
28 superior court of such county, or in the superior court of either of
29 the two nearest judicial districts as determined pursuant to RCW
30 36.01.050(2). An action filed pursuant to this chapter does not need
31 to be filed as a class action.

32 NEW SECTION. **Sec. 9.** (1) Prior to filing an action pursuant to
33 this act, a person shall first notify the political subdivision that
34 he or she intends to challenge the political subdivision's electoral
35 system under this act. If the political subdivision does not show any
36 intent to invoke its authority under section 5 of this act to

1 implement the person's proposed remedy within one hundred eighty days
2 after receiving notice, any person may file an action under this act.

3 (2) The notice provided shall identify the person or persons who
4 intend to file an action, and the protected class or classes whose
5 members do not have an equal opportunity to elect candidates of their
6 choice or an equal opportunity to influence the outcome of an
7 election. The notice shall also include a reasonable analysis of the
8 person's data concerning the alleged vote dilution and polarized
9 voting, and a proposed remedy or remedies, based on that data, which
10 would address the alleged violation of section 3 of this act.

11 (3) If, within one hundred eighty days after receiving a person's
12 notice, a political subdivision receives another notice containing a
13 materially different proposed remedy than the first notice, the
14 political subdivision shall have an additional ninety days from the
15 date of this subsequent notice before an action may be filed under
16 this act.

17 (4) The political subdivision shall work in good faith with the
18 person providing the notice to implement a remedy that provides the
19 protected class or classes identified in the notice an equal
20 opportunity to elect candidates of their choice or influence the
21 outcome of an election.

22 (5) Should the political subdivision adopt the proposed remedy
23 set forth in the notice, an action under this act by any party may
24 not be brought against that political subdivision for four years;
25 provided, however, that the political subdivision does not enact a
26 change to or deviation from the remedy during this four-year period
27 that would otherwise give rise to an action under this act.

28 (6) Should the political subdivision adopt a different remedy
29 that takes the notice into account, the political subdivision may
30 seek a court order acknowledging that the political subdivision's
31 remedy complies with section 3 of this act. The person who submitted
32 the notice may support or oppose such an order. If the court
33 concludes that the political subdivision's remedy complies with
34 section 3 of this act, an action under this act by any party may not
35 be brought against that political subdivision for four years;
36 provided, however, that the political subdivision does not enact a
37 change to or deviation from the remedy during this four-year period
38 that would otherwise give rise to an action under this act.

39 (7) If a political subdivision has received two or more notices
40 containing materially different proposed remedies, the political

1 subdivision shall work in good faith with the persons to implement a
2 remedy that provides the protected class or classes identified in the
3 notices an equal opportunity to elect candidates of their choice or
4 influence the outcome of an election. Should the political
5 subdivision adopt one of the remedies offered, or a different remedy
6 that takes multiple notices into account, the political subdivision
7 may seek a court order acknowledging that the political subdivision's
8 remedy complies with section 3 of this act. The persons who submitted
9 notices may support or oppose such an order. If the court concludes
10 that the political subdivision's remedy complies with section 3 of
11 this act, an action under this act by any party may not be brought
12 against that political subdivision for four years; provided, however,
13 that the political subdivision does not enact a change to or
14 deviation from the remedy during this four-year period that would
15 otherwise give rise to an action under this act.

16 NEW SECTION. **Sec. 10.** (1) If, after considering the person's
17 notice, the political subdivision adopts a remedy, an action under
18 this act by any person may not be brought against that political
19 subdivision for four years; provided, however, that the political
20 subdivision does not enact a change to or deviation from the remedy
21 during this four-year period that would otherwise give rise to an
22 action under this act. In agreeing to adopt the person's proposed
23 remedy, the political subdivision may do so by stipulation, which
24 shall become a public document.

25 (2) If, after an action is filed, the political subdivision
26 adopts the person's proposed remedy or a court-ordered remedy, or
27 another remedy that would satisfy the court, an action under this act
28 by any party may not be brought against that political subdivision
29 for four years; provided, however, that the political subdivision
30 does not enact a change to or deviation from the remedy during this
31 four-year period that would otherwise give rise to an action under
32 this act.

33 NEW SECTION. **Sec. 11.** The provisions of this act are not
34 applicable to cities and towns with populations under two thousand or
35 to school districts with K-12 full-time equivalent enrollments of
36 less than five hundred.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 28A.343
2 RCW to read as follows:

3 The school board of directors may authorize a change to a
4 district-based election as defined in section 2(2) of this act, such
5 districts to be drawn in a manner consistent with sections 5 and 6 of
6 this act. The school board of directors shall order new elections to
7 be scheduled pursuant to section 5(4) of this act. The staggering of
8 directors' terms shall be accomplished as provided in RCW 28A.343.030
9 and 28A.343.620 through 28A.343.650.

10 **Sec. 13.** RCW 36.32.020 and 1982 c 226 s 4 are each amended to
11 read as follows:

12 The board of county commissioners of each county shall divide
13 their county into three commissioner districts so that each district
14 shall comprise as nearly as possible one-third of the population of
15 the county: PROVIDED, That the territory comprised in any voting
16 precincts of such districts shall remain compact, and shall not be
17 divided by the lines of said districts.

18 However, the commissioners of any county composed entirely of
19 islands and with a population of less than thirty-five thousand may
20 divide their county into three commissioner districts without regard
21 to population, except that if any single island is included in more
22 than one district, the districts on such island shall comprise, as
23 nearly as possible, equal populations.

24 Except where necessary to comply with a court order issued
25 pursuant to sections 3 and 6 of this act, the lines of the districts
26 shall not be changed ((oftener)) more often than once in four years
27 and only when a full board of commissioners is present. The districts
28 shall be designated as districts numbered one, two and three.

29 NEW SECTION. **Sec. 14.** A new section is added to chapter 35.21
30 RCW to read as follows:

31 The legislative authority of a city or town may authorize a
32 change to its electoral system, including the implementation of a
33 district-based election system as defined in section 2(2) of this
34 act, to remedy a potential violation of section 3 of this act. If the
35 legislative authority of a city or town invokes its authority under
36 this section to implement a district-based election system, the
37 districts shall be drawn in a manner consistent with section 5 of
38 this act.

1 NEW SECTION. **Sec. 15.** A new section is added to chapter 35A.21
2 RCW to read as follows:

3 The legislative authority of a code city or town may authorize a
4 change to its electoral system, including the implementation of a
5 district-based election system as defined in section 2(2) of this
6 act, to remedy a potential violation of section 3 of this act. If the
7 legislative authority of a code city or town invokes its authority
8 under this section to implement a district-based election system, the
9 districts shall be drawn in a manner consistent with section 5 of
10 this act.

11 **Sec. 16.** RCW 29A.76.010 and 2011 c 349 s 26 are each amended to
12 read as follows:

13 (1) It is the responsibility of each county, municipal
14 corporation, and special purpose district with a governing body
15 comprised of internal director, council, or commissioner districts
16 not based on statutorily required land ownership criteria to
17 periodically redistrict its governmental unit, based on population
18 information from the most recent federal decennial census.

19 (2) Within forty-five days after receipt of federal decennial
20 census information applicable to a specific local area, the
21 commission established in RCW 44.05.030 shall forward the census
22 information to each municipal corporation, county, and district
23 charged with redistricting under this section.

24 (3) No later than eight months after its receipt of federal
25 decennial census data, the governing body of the municipal
26 corporation, county, or district shall prepare a plan for
27 redistricting its internal or director districts.

28 (4) The plan shall be consistent with the following criteria:

29 (a) Each internal director, council, or commissioner district
30 shall be as nearly equal in population as possible to each and every
31 other such district comprising the municipal corporation, county, or
32 special purpose district.

33 (b) Each district shall be as compact as possible.

34 (c) Each district shall consist of geographically contiguous
35 area.

36 (d) Population data may not be used for purposes of favoring or
37 disfavoring any racial group or political party, except to the extent
38 necessary to ensure compliance with this act.

1 (e) To the extent feasible and if not inconsistent with the basic
2 enabling legislation for the municipal corporation, county, or
3 district, the district boundaries shall coincide with existing
4 recognized natural boundaries and shall, to the extent possible,
5 preserve existing communities of related and mutual interest.

6 (5) During the adoption of its plan, the municipal corporation,
7 county, or district shall ensure that full and reasonable public
8 notice of its actions is provided. The municipal corporation, county,
9 or district shall hold at least one public hearing on the
10 redistricting plan at least one week before adoption of the plan.

11 (6)(a) Any registered voter residing in an area affected by the
12 redistricting plan may request review of the adopted local plan by
13 the superior court of the county in which he or she resides, within
14 fifteen days of the plan's adoption. Any request for review must
15 specify the reason or reasons alleged why the local plan is not
16 consistent with the applicable redistricting criteria. The municipal
17 corporation, county, or district may be joined as respondent. The
18 superior court shall thereupon review the challenged plan for
19 compliance with the applicable redistricting criteria set out in
20 subsection (4) of this section.

21 (b) If the superior court finds the plan to be consistent with
22 the requirements of this section, the plan shall take effect
23 immediately.

24 (c) If the superior court determines the plan does not meet the
25 requirements of this section, in whole or in part, it shall remand
26 the plan for further or corrective action within a specified and
27 reasonable time period.

28 (d) If the superior court finds that any request for review is
29 frivolous or has been filed solely for purposes of harassment or
30 delay, it may impose appropriate sanctions on the party requesting
31 review, including payment of attorneys' fees and costs to the
32 respondent municipal corporation, county, or district.

33 **Sec. 17.** RCW 29A.76.040 and 2003 c 111 s 1904 are each amended
34 to read as follows:

35 (1) With regard to functions relating to census, apportionment,
36 and the establishment of legislative (~~and~~), congressional, and
37 supreme court districts, the secretary of state shall:

38 (a) Coordinate and monitor precinct mapping functions of the
39 county auditors and county engineers;

1 (b) Maintain official state base maps and correspondence lists
2 and maintain an index of all such maps and lists;

3 (c) Furnish to the United States bureau of the census as needed
4 for the decennial census of population, current, accurate, and easily
5 readable versions of maps of all counties, cities, towns, and other
6 areas of this state, which indicate current precinct boundaries
7 together with copies of the census correspondence lists.

8 (2) The secretary of state shall serve as the state liaison with
9 the United States bureau of census on matters relating to the
10 preparation of maps and the tabulation of population for
11 apportionment purposes.

12 NEW SECTION. **Sec. 18.** (1) Supreme court districts may not be
13 drawn or applied in a manner that denies a protected class an equal
14 opportunity to elect candidates of its choice or an equal opportunity
15 to influence the outcome of an election.

16 (a) The protected class must be politically cohesive and
17 sufficiently large and geographically compact to constitute a
18 majority in a single member district; and

19 (b) The majority in the district must vote sufficiently as a bloc
20 to enable it usually to defeat the protected class's preferred
21 candidate.

22 (2) A supreme court district is in violation of this section when
23 it is shown that the elections in the district exhibit, considering
24 the totality of the circumstances, that members of a protected class
25 do not have an equal opportunity to elect candidates of their choice
26 or an equal opportunity to influence the outcome of an election for a
27 candidate for supreme court.

28 (3) In determining whether there is polarized voting under this
29 section, a court shall analyze elections for members of the supreme
30 court. The election of candidates who are members of a protected
31 class and who were elected prior to the filing of an action pursuant
32 to this chapter shall not preclude a finding of polarized voting that
33 results in an unequal opportunity for a protected class to elect
34 candidates of their choice or influence the outcome of elections.

35 (4) The court shall determine whether polarized voting has
36 occurred by examining results of elections in which at least one
37 candidate is a member of a protected class. Only elections conducted
38 prior to the filing of an action pursuant to this chapter shall be
39 used to establish or rebut the existence of polarized voting that

1 results in an unequal opportunity for a protected class to elect
2 candidates of their choice.

3 (5) In an action filed pursuant to this section, the trial court
4 shall set a trial to be held no later than twelve months after the
5 filing of a complaint, and shall set a discovery and motions calendar
6 accordingly.

7 (6) Proof of intent on the part of the voters or elected
8 officials to discriminate against a protected class is not required.

9 (7) For purposes of any applicable statute of limitations, a
10 cause of action under this section arises every time there is an
11 election for supreme court justices pursuant to an at-large method of
12 election or a district-based election that includes at least one
13 candidate with credible qualifications of a protected class.

14 (8) The plaintiff's constitutional right to secrecy of the
15 plaintiff's vote is not waived by the filing of any action pursuant
16 to this chapter and is not subject to discovery.

17 (9) In seeking a temporary restraining order of a preliminary
18 injunction, a plaintiff shall be required to post a bond or any other
19 security in order to secure such equitable relief.

20 (10) For purposes of this section, "protected class" means a
21 class of voters who are members of a race, color, or language
22 minority group.

23 NEW SECTION. **Sec. 19.** Upon a finding of a violation of section
24 18 of this act, the court shall implement appropriate remedies,
25 including notifying the legislature to call for a reconvening of the
26 redistricting commission. Any proposed districts by the commission
27 must be submitted to the court prior to its implementation. The court
28 may raise concerns with the redistricting commission if it suspects
29 the remedy will not rectify the legal problem.

30 NEW SECTION. **Sec. 20.** A voter who voted in the election and who
31 is a member of a protected class and who resides in the supreme court
32 district where a violation of section 18 of this act is alleged may
33 file an action in the superior court of the county in which the
34 resident resides or the two nearest judicial districts as determined
35 pursuant to RCW 36.01.050(2). There is no requirement that an action
36 filed pursuant to this chapter be filed as a class action.

1 **Sec. 21.** RCW 44.05.020 and 2011 c 60 s 41 are each amended to
2 read as follows:

3 The definitions set forth in this section apply throughout this
4 chapter, unless the context requires otherwise.

5 (1) "Chief election officer" means the secretary of state.

6 (2) "Federal census" means the decennial census required by
7 federal law to be prepared by the United States bureau of the census
8 in each year ending in zero.

9 (3) "Lobbyist" means an individual required to register with the
10 Washington public disclosure commission pursuant to RCW 42.17A.600.

11 (4) "Plan" means a plan for legislative ~~((and))~~ congressional,
12 and supreme court redistricting mandated by Article II, section 43 of
13 the state Constitution.

14 **Sec. 22.** RCW 44.05.030 and 1984 c 13 s 1 are each amended to
15 read as follows:

16 A redistricting commission shall be established in January of
17 each year ending in one to accomplish state legislative ~~((and))~~
18 congressional, and supreme court redistricting. The five-member
19 commission shall be appointed as follows:

20 (1) Each legislative leader of the two largest political parties
21 in each house of the legislature shall appoint one voting member to
22 the commission by January 15th of each year ending in one.

23 (2) The four legislators appointing commission members pursuant
24 to this section shall certify their appointments to the chief
25 election officer. If an appointing legislator does not certify an
26 appointment by January 15th of each year ending in one, within five
27 days the supreme court shall certify an appointment to the chief
28 election officer.

29 (3) No later than January 31st of the year of their selection,
30 the four appointed members, by an affirmative vote of at least three,
31 shall appoint and certify to the chief election officer the nonvoting
32 fifth member who shall act as the commission's chairperson. If by
33 January 31st of the year of their selection three of the four voting
34 members fail to elect a chairperson, the supreme court shall within
35 five days certify an appointment to the chief election officer. A
36 vacancy on the commission shall be filled by the person who made the
37 initial appointment, or their successor, within fifteen days after
38 the vacancy occurs.

1 **Sec. 23.** RCW 44.05.060 and 1984 c 13 s 3 are each amended to
2 read as follows:

3 No member of the commission may:

4 (1) Campaign for elective office while a member of the
5 commission;

6 (2) Actively participate in or contribute to any political
7 campaign of any candidate for state or federal elective office while
8 a member of the commission; or

9 (3) Hold or campaign for a seat in the state house of
10 representatives, the state senate, the state supreme court, or
11 congress for two years after the effective date of the plan.

12 **Sec. 24.** RCW 44.05.090 and 1990 c 126 s 1 are each amended to
13 read as follows:

14 In the redistricting plan:

15 (1) Districts shall have a population as nearly equal as is
16 practicable, excluding nonresident military personnel, based on the
17 population reported in the federal decennial census.

18 (2) To the extent consistent with subsection (1) of this section
19 the commission plan should, insofar as practical, accomplish the
20 following:

21 (a) District lines should be drawn so as to coincide with the
22 boundaries of local political subdivisions and areas recognized as
23 communities of interest. The number of counties and municipalities
24 divided among more than one district should be as small as possible;

25 (b) Districts should be composed of convenient, contiguous, and
26 compact territory. Land areas may be deemed contiguous if they share
27 a common land border or are connected by a ferry, highway, bridge, or
28 tunnel. Areas separated by geographical boundaries or artificial
29 barriers that prevent transportation within a district should not be
30 deemed contiguous; and

31 (c) Whenever practicable, a precinct shall be wholly within a
32 single legislative district.

33 (3) The commission's plan and any plan adopted by the supreme
34 court under RCW 44.05.100(4) shall provide for forty-nine legislative
35 districts and supreme court districts.

36 (4) The house of representatives shall consist of ninety-eight
37 members, two of whom shall be elected from and run at large within
38 each legislative district. The senate shall consist of forty-nine
39 members, one of whom shall be elected from each legislative district.

1 (5) The commission shall exercise its powers to provide fair and
2 effective representation and to encourage electoral competition. The
3 commission's plan shall not be drawn purposely to favor or
4 discriminate against any political party or group.

5 **Sec. 25.** RCW 44.05.100 and 2002 c 4 s 1 are each amended to read
6 as follows:

7 (1) Upon approval of a redistricting plan by three of the voting
8 members of the commission, but not later than January 1st of the year
9 ending in two, the commission shall submit the plan to the
10 legislature.

11 (2) After submission of the plan by the commission, the
12 legislature shall have the next thirty days during any regular or
13 special session to amend the commission's plan. If the legislature
14 amends the commission's plan the legislature's amendment must be
15 approved by an affirmative vote in each house of two-thirds of the
16 members elected or appointed thereto, and may not include more than
17 two percent of the population of any legislative or congressional
18 district.

19 (3) The plan approved by the commission, with any amendment
20 approved by the legislature, shall be final upon approval of such
21 amendment or after expiration of the time provided for legislative
22 amendment by subsection (2) of this section whichever occurs first,
23 and shall constitute the districting law applicable to this state for
24 legislative and congressional elections, beginning with the next
25 elections held in the year ending in two. This plan shall be in force
26 until the effective date of the plan based upon the next succeeding
27 federal decennial census or until a modified plan takes effect as
28 provided in RCW 44.05.120(6).

29 (4) If three of the voting members of the commission fail to
30 approve and submit a plan within the time limitations provided in
31 subsection (1) of this section, the supreme court shall adopt a plan
32 by March 1st of the year ending in two. Any such plan approved by the
33 court is final and constitutes the districting law applicable to this
34 state for legislative and congressional elections, beginning with the
35 next election held in the year ending in two. Any plan adopted
36 pursuant to direction of the courts must subsequently be approved by
37 the legislature. This plan shall be in force until the effective date
38 of the plan based on the next succeeding federal decennial census or
39 until a modified plan takes effect as provided in RCW 44.05.120(6).

1 **Sec. 26.** RCW 44.05.120 and 1983 c 16 s 12 are each amended to
2 read as follows:

3 (1) If a commission has ceased to exist, the legislature may,
4 upon an affirmative vote in each house of two-thirds of the members
5 elected or appointed thereto, adopt legislation reconvening the
6 commission for the purpose of modifying the redistricting plan.

7 (2) RCW 44.05.050 governs the eligibility of persons to serve on
8 the reconvened commission. A vacancy involving a voting member of the
9 reconvened commission shall be filled by the person who made the
10 initial appointment, or their successor, within fifteen days after
11 the effective date of the legislation reconvening the commission. A
12 vacancy involving the nonvoting member of the commission shall be
13 filled by an affirmative vote of at ~~((lease--{least}))~~ least three of
14 four voting members, within fifteen days after all other vacancies
15 are filled or, if no other vacancies exist, within fifteen days after
16 the effective date of the legislation reconvening the commission. A
17 subsequent vacancy on a reconvened commission shall be filled by the
18 person or persons who made the initial appointment, or their
19 successor, within fifteen days after the vacancy occurs. If any
20 appointing authority fails to make a required appointment within the
21 time limitations established by this subsection, within five days
22 after that date the supreme court shall make the required
23 appointment.

24 (3) The provisions of RCW 44.05.070 and 44.05.080 are applicable
25 if a commission is reconvened under this section.

26 (4) The commission shall complete the modification to the
27 redistricting plan as soon as possible, but no later than sixty days
28 after the effective date of the legislation reconvening the
29 commission. At least three of the voting members shall approve the
30 modification to the redistricting plan.

31 (5) Following approval of a modification to the redistricting
32 plan by the commission, the legislature has the next thirty days
33 during any regular or special session to amend the commission's
34 modification. Any amendment by the legislature must be approved by an
35 affirmative vote in each house of two-thirds of the members elected
36 or appointed thereto. No amendment by the legislature may include
37 more than two percent of the population of any legislative ~~((or))~~
38 congressional, or supreme court district contained in the
39 commission's modification.

1 (6) The commission's modification to the redistricting plan, with
2 any amendments approved by the legislature, shall be final upon
3 approval of the amendments or after expiration of the time provided
4 for legislative amendment by subsection (5) of this section,
5 whichever occurs first.

6 (7) Following the period provided by subsection (4) of this
7 section for the commission's approval of a modification to the
8 redistricting plan, the commission shall take all necessary steps to
9 conclude its business and cease operations in accordance with RCW
10 44.05.110(1). A reconvened commission shall cease to exist ninety
11 days after the effective date of the legislation reconvening the
12 commission, unless the supreme court extends the commission's term.

13 NEW SECTION. **Sec. 27.** This act supersedes other state laws and
14 local ordinances to the extent that those state laws or ordinances
15 would otherwise restrict a jurisdiction's ability to implement a
16 remedy pursuant to this act.

17 NEW SECTION. **Sec. 28.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 29.** Sections 1 through 11 and 27 of this act
22 constitute a new chapter in Title 29A RCW.

23 NEW SECTION. **Sec. 30.** Sections 18 through 20 of this act
24 constitute a new chapter in Title 29A RCW.

25 NEW SECTION. **Sec. 31.** Sections 17 through 26 and 30 of this act
26 take effect if House Joint Resolution No. 4211, the proposed
27 amendment to Article II, section 43 and Article IV, sections 3 and 4
28 of the state Constitution creating districts from which supreme court
29 justices will be elected is validly submitted to and is approved and
30 ratified by the voters at the next general election and certified by
31 the secretary of state. If the proposed amendment is not so approved,
32 ratified, and certified, sections 17 through 26 and 30 of this act
33 are null and void in their entirety."

34 Correct the title.

EFFECT: (1) Removes fire, port, and public utility districts from the political subdivisions covered under the act;

(2) Excludes cities and towns under 2,000 people as well as school districts with less than 500 students from the act;

(3) Removes language that a protected class need not be compact or concentrated in order for a court to find a violation;

(4) Requires a court to analyze elections where five or more candidates are members of a protected class, instead of one candidate;

(5) Provides that subdivisions have an affirmative defense to a claim of polarized voting where the proportion of elected members of its governing body who are members of a protected class is equal to or greater than the proportion of protected class adults in the population of the subdivision;

(6) Removes language permitting members of different protected classes to jointly file a claim under the act;

(7) Prohibits an action to be filed within four years of a lawsuit filed against a subdivision under the federal Voting Rights Act of 1965;

(8) Removes the requirement that elected positions with two years remaining in their terms are subject to a new election ordered under the act;

(9) Removes language instructing how courts should tailor remedies providing for new districts;

(10) Permits courts to waive or reduce attorney's fees if such fees would create a hardship for a subdivision or impact its ability to provide services for low-income protected class members;

(11) Allows subdivisions to adopt a remedy, not limited to the proposed remedy included in the notice, in order to be covered under the four-year safe harbor provision;

(12) Establishes districts for electing supreme court justices;

(13) Authorizes the redistricting commission to establish supreme court districts;

(14) Any districting plan authorized by the supreme court must be approved by the legislature;

(15) Requires that supreme court districts are not drawn in a manner that denies a protected class an equal opportunity to elect candidates;

(16) Permits courts to notify the legislature to reconvene the redistricting commission, upon finding a violation in supreme court district elections affecting a protected class; and

(17) Subjects the creation of supreme court election districts upon ratification of a constitutional amendment (HJR 4211) that authorizes district-based supreme court elections.

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