

**SUBSTITUTE HOUSE BILL 1800**

**State of Washington                      65th Legislature                      2018 Regular Session**

**By** House State Government, Elections & Information Technology (originally sponsored by Representatives Gregerson, Hudgins, Ortiz-Self, Peterson, Orwall, Springer, Lovick, Sells, Stonier, Clibborn, Dolan, McBride, Ryu, Goodman, Macri, Senn, Cody, Hansen, Bergquist, Slatter, Frame, Sawyer, Kloba, Stanford, Pollet, Doglio, Robinson, Wylie, Kagi, Jinkins, Sullivan, Appleton, Fitzgibbon, Ormsby, Reeves, Morris, Tharinger, Fey, Pellicciotti, Pettigrew, Haler, Kilduff, and Farrell)

READ FIRST TIME 01/18/18.

1            AN ACT Relating to establishing a voting rights act to promote  
2 equal voting opportunity in certain political subdivisions and  
3 establishing a cause of action to redress lack of voter opportunity;  
4 amending RCW 36.32.020, 36.32.040, and 54.12.010; adding a new  
5 section to chapter 28A.343 RCW; adding a new section to chapter 35.21  
6 RCW; adding a new section to chapter 35A.21 RCW; adding a new section  
7 to chapter 52.14 RCW; adding a new section to chapter 53.12 RCW;  
8 adding a new section to chapter 29A.76 RCW; and adding a new chapter  
9 to Title 29A RCW.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**PART I - GENERAL PROVISIONS**

12            NEW SECTION.    **Sec. 101.** This act may be known and cited as the  
13 Washington voting rights act of 2018.

14            NEW SECTION.    **Sec. 102.** The legislature finds that electoral  
15 systems that deny race, color, or language minority groups an equal  
16 opportunity to elect candidates of their choice are inconsistent with  
17 the right to free and equal elections as provided by Article I,  
18 section 19 and Article VI, section 1 of the Washington state  
19 Constitution as well as protections found in the fourteenth and

1 fifteenth amendments to the United States Constitution. The well-  
2 established principle of "one person, one vote" and the prohibition  
3 on vote dilution have been consistently upheld in federal and state  
4 courts for more than fifty years.

5 The legislature also finds that local government subdivisions are  
6 often prohibited from addressing these challenges because of  
7 Washington laws that narrowly prescribe the methods by which they may  
8 elect members of their legislative bodies. The legislature finds that  
9 in some cases, this has resulted in an improper dilution of voting  
10 power for these minority groups. The legislature intends to modify  
11 existing prohibitions in state laws so that these jurisdictions may  
12 voluntarily adopt changes on their own, in collaboration with  
13 affected community members, to remedy potential electoral issues so  
14 that minority groups have an equal opportunity to elect candidates of  
15 their choice or influence the outcome of an election.

16 The legislature intends for this act to be consistent with  
17 federal protections that may provide a similar remedy for minority  
18 groups. Remedies shall also be available where the drawing of leaning  
19 and influence districts is able to address both vote dilution and  
20 racial polarization.

21 The legislature also intends for this act to be consistent with  
22 legal precedent from *Mt. Spokane Skiing Corp. v. Spokane Co.* (86 Wn.  
23 App. 165, 1997) that found that noncharter counties need not adhere  
24 to a single uniform county system of government, but that each county  
25 have the same "authority available" in order to be deemed uniform.

26 NEW SECTION. **Sec. 103.** The definitions in this section apply  
27 throughout this chapter unless the context clearly requires  
28 otherwise. In applying these definitions and other terms in this  
29 chapter, courts may rely on relevant federal case law for guidance.

30 (1) "At-large election" means any of the following methods of  
31 electing members of the governing body of a political subdivision:

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

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

37 (c) One that combines the criteria in (a) and (b) of this  
38 subsection or one that combines at-large with district-based  
39 elections.

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

6 (3) "Polarized voting" means voting in which there is a  
7 difference, as defined in case law regarding enforcement of the  
8 federal voting rights act, 52 U.S.C. 10301 et seq., in the choice of  
9 candidates or other electoral choices that are preferred by voters in  
10 a protected class, and in the choice of candidates and electoral  
11 choices that are preferred by voters in the rest of the electorate.

12 (4) "Political subdivision" means any county, city, town, school  
13 district, fire protection district, port district, or public utility  
14 district, but does not include the state.

15 (5) "Protected class" means a class of voters who are members of  
16 a race, color, or language minority group, as this class is  
17 referenced and defined in the federal voting rights act, 52 U.S.C.  
18 10301 et seq.

19 NEW SECTION. **Sec. 104.** As provided in section 302 of this act,  
20 no method of electing the governing body of a political subdivision  
21 may be imposed or applied in a manner that impairs the ability of  
22 members of a protected class to have an equal opportunity to elect  
23 candidates of their choice or an equal opportunity to influence the  
24 outcome of an election as a result of the dilution or abridgment of  
25 the rights of voters who are members of a protected class.

## 26 **PART II - VOLUNTARY CHANGES TO ELECTORAL PROCESSES**

27 NEW SECTION. **Sec. 201.** (1) A political subdivision that  
28 conducts an election pursuant to state, county, or local law, is  
29 authorized to change its electoral system including, but not limited  
30 to, implementing a district-based election system to remedy a  
31 potential violation of section 104 of this act.

32 (2) If a political subdivision invokes its authority under this  
33 section to implement a district-based election system, the districts  
34 shall be drawn in a manner consistent with section 202 of this act.

35 NEW SECTION. **Sec. 202.** (1) Prior to the adoption of its  
36 proposed plan, the political subdivision shall provide full and

1 reasonable public notice of its actions. The political subdivision  
2 shall hold at least one public hearing on the proposed plan at least  
3 one week before adoption.

4 (a) Political subdivisions shall provide such notices and  
5 information in the languages of any community or area where a  
6 significant segment of the community speaks a language other than  
7 English and has limited proficiency in English.

8 (b) Political subdivisions must provide accurate written and  
9 verbal notices in the languages represented by their communities who  
10 speak a language other than English. Political subdivisions must air  
11 public service announcements by radio or television broadcast in the  
12 languages represented by their communities who speak a language other  
13 than English.

14 (c) "Significant segment," for purposes of this section, means  
15 five percent or more of residents, or five hundred residents,  
16 whichever is fewer, residing in the affected political subdivision  
17 who are of limited English proficiency.

18 (2)(a) If the political subdivision invokes its authority under  
19 this section and the plan is adopted during the period of time  
20 between the first Tuesday after the first Monday of November and on  
21 or before January 15th of the following year, the political  
22 subdivision shall order new elections to occur at the next succeeding  
23 general election.

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

31 (3) If a political subdivision implements a district-based  
32 election system, the plan shall be consistent with the following  
33 criteria:

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

37 (b) Each district shall be reasonably compact.

38 (c) Each district shall consist of geographically contiguous  
39 area.

1 (d) To the extent feasible, the district boundaries shall  
2 coincide with existing recognized natural boundaries and shall, to  
3 the extent possible, preserve existing communities of related and  
4 mutual interest.

5 (e) District boundaries may not be drawn or maintained in a  
6 manner that denies a protected class an equal opportunity to elect  
7 candidates of its choice or an equal opportunity to influence the  
8 outcome of an election.

9 (4) Within forty-five days after receipt of federal decennial  
10 census information applicable to a specific local area, the  
11 commission established in RCW 44.05.030 shall forward the census  
12 information to each political subdivision that has invoked its  
13 authority under this section to implement a district-based election  
14 system, or that is charged with redistricting under section 403 of  
15 this act.

16 (5) No later than eight months after its receipt of federal  
17 decennial census data, the governing body of the political  
18 subdivision that had previously invoked its authority under this  
19 section to implement a district-based election system, or that was  
20 previously charged with redistricting under section 403 of this act,  
21 shall prepare a plan for redistricting its districts, pursuant to RCW  
22 29A.76.010, and in a manner consistent with this act.

23 NEW SECTION. **Sec. 203.** A new section is added to chapter  
24 28A.343 RCW to read as follows:

25 The school board of directors may authorize a change to its  
26 electoral system pursuant to section 201 of this act. Any staggering  
27 of directors' terms shall be accomplished as provided in RCW  
28 28A.343.030 and 28A.343.600 through 28A.343.650.

29 **Sec. 204.** RCW 36.32.020 and 1982 c 226 s 4 are each amended to  
30 read as follows:

31 The board of county commissioners of each county shall divide  
32 their county into three commissioner districts so that each district  
33 shall comprise as nearly as possible one-third of the population of  
34 the county: PROVIDED, That the territory comprised in any voting  
35 precincts of such districts shall remain compact, and shall not be  
36 divided by the lines of said districts.

37 However, the commissioners of any county composed entirely of  
38 islands and with a population of less than thirty-five thousand may

1 divide their county into three commissioner districts without regard  
2 to population, except that if any single island is included in more  
3 than one district, the districts on such island shall comprise, as  
4 nearly as possible, equal populations.

5 The commissioners of any county may authorize a change to their  
6 electoral system pursuant to section 201 of this act. Except where  
7 necessary to comply with a court order issued pursuant to section 403  
8 of this act, the lines of the districts shall not be changed  
9 ((oftener)) more often than once in four years and only when a full  
10 board of commissioners is present. The districts shall be designated  
11 as districts numbered one, two and three.

12 **Sec. 205.** RCW 36.32.040 and 1982 c 226 s 5 are each amended to  
13 read as follows:

14 (1) Except as provided in subsection (2) of this section, the  
15 qualified electors of each county commissioner district, and they  
16 only, shall nominate from among their own number, candidates for the  
17 office of county commissioner of such commissioner district to be  
18 voted for at the following general election. Such candidates shall be  
19 nominated in the same manner as candidates for other county and  
20 district offices are nominated in all other respects.

21 (2) Where the commissioners of a county composed entirely of  
22 islands with a population of less than thirty-five thousand have  
23 chosen to divide the county into unequal-sized commissioner districts  
24 pursuant to the exception provided in RCW 36.32.020, the qualified  
25 electors of the entire county shall nominate from among their own  
26 number who reside within a commissioner district, candidates for the  
27 office of county commissioner of such commissioner district to be  
28 voted for at the following general election. Such candidates shall be  
29 nominated in the same manner as candidates for other county offices  
30 are nominated in all other respects.

31 (3) The commissioners of any county may authorize a change to  
32 their electoral system pursuant to section 201 of this act.

33 NEW SECTION. **Sec. 206.** A new section is added to chapter 35.21  
34 RCW to read as follows:

35 The legislative authority of a city or town may authorize a  
36 change to its electoral system pursuant to section 201 of this act.

1        NEW SECTION.    **Sec. 207.**    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 pursuant to section 201 of this act.

5        NEW SECTION.    **Sec. 208.**    A new section is added to chapter 52.14  
6    RCW to read as follows:

7        The board of fire commissioners of a fire protection district may  
8    authorize a change to its electoral system pursuant to section 201 of  
9    this act by majority vote.

10       NEW SECTION.    **Sec. 209.**    A new section is added to chapter 53.12  
11    RCW to read as follows:

12       The port commission may authorize a change to its electoral  
13    system pursuant to section 201 of this act.

14       **Sec. 210.**    RCW 54.12.010 and 2004 c 113 s 1 are each amended to  
15    read as follows:

16       A public utility district that is created as provided in RCW  
17    54.08.010 shall be a municipal corporation of the state of  
18    Washington, and the name of such public utility district shall be  
19    Public Utility District No. . . . . of . . . . . County.

20       The powers of the public utility district shall be exercised  
21    through a commission consisting of three members in three  
22    commissioner districts, and five members in five commissioner  
23    districts.

24       (1) If the public utility district is countywide and the county  
25    has three county legislative authority districts, then, at the first  
26    election of commissioners and until any change is made in the  
27    boundaries of public utility district commissioner districts, one  
28    public utility district commissioner shall be chosen from each of the  
29    three county legislative authority districts.

30       (2) If the public utility district comprises only a portion of  
31    the county, with boundaries established in accordance with chapter  
32    54.08 RCW, or if the public utility district is countywide and the  
33    county does not have three county legislative authority districts,  
34    three public utility district commissioner districts, numbered  
35    consecutively, each with approximately equal population and following  
36    precinct lines, as far as practicable, shall be described in the  
37    petition for the formation of the public utility district, subject to

1 appropriate change by the county legislative authority if and when it  
2 changes the boundaries of the proposed public utility district. One  
3 commissioner shall be elected as a commissioner of each of the public  
4 utility district commissioner districts.

5 (3) Only a registered voter who resides in a commissioner  
6 district may be a candidate for, or hold office as, a commissioner of  
7 the commissioner district. Only voters of a commissioner district may  
8 vote at a primary to nominate candidates for a commissioner of the  
9 commissioner district. Voters of the entire public utility district  
10 may vote at a general election to elect a person as a commissioner of  
11 the commissioner district.

12 (4) The term of office of each public utility district  
13 commissioner other than the commissioners at large shall be six  
14 years, and the term of each commissioner at large shall be four  
15 years. Each term shall be computed in accordance with RCW  
16 (~~(29A.20.040)~~) 29A.60.280 following the commissioner's election. All  
17 public utility district commissioners shall hold office until their  
18 successors shall have been elected and have qualified and assume  
19 office in accordance with RCW (~~(29A.20.040)~~) 29A.60.280.

20 (5) A vacancy in the office of public utility district  
21 commissioner shall occur as provided in chapter 42.12 RCW or by  
22 nonattendance at meetings of the public utility district commission  
23 for a period of sixty days unless excused by the public utility  
24 district commission. Vacancies on a board of public utility district  
25 commissioners shall be filled as provided in chapter 42.12 RCW.

26 (6) The boundaries of the public utility district commissioner  
27 districts may be changed only by the public utility district  
28 commission or by a court order issued pursuant to section 403 of this  
29 act, and shall be examined every ten years to determine substantial  
30 equality of population in accordance with chapter 29A.76 RCW. Except  
31 as provided in this section, section 403 of this act, or RCW  
32 54.04.039, the boundaries shall not be changed (~~(often)~~) more often  
33 than once in four years. Boundaries may only be changed when all  
34 members of the commission are present. Whenever territory is added to  
35 a public utility district under RCW 54.04.035, or added or withdrawn  
36 under RCW 54.04.039, the boundaries of the public utility  
37 commissioner districts shall be changed to include the additional or  
38 exclude the withdrawn territory. Unless the boundaries are changed  
39 pursuant to RCW 54.04.039, the proposed change of the boundaries of  
40 the public utility district commissioner district must be made by



1 resolution and after public hearing. Notice of the time of the public  
2 hearing shall be published for two weeks before the hearing. Upon a  
3 referendum petition signed by ten percent of the qualified voters of  
4 the public utility district being filed with the county auditor, the  
5 county legislative authority shall submit the proposed change of  
6 boundaries to the voters of the public utility district for their  
7 approval or rejection. The petition must be filed within ninety days  
8 after the adoption of resolution of the proposed action. The validity  
9 of the petition is governed by the provisions of chapter 54.08 RCW.

10 **PART III - CITIZEN-INITIATED CHANGES TO ELECTORAL PROCESSES**

11 NEW SECTION. **Sec. 301.** (1) A person who intends to challenge a  
12 political subdivision's electoral system under this act shall first  
13 notify the political subdivision. The political subdivision shall  
14 promptly make such notice public.

15 (2) The notice provided shall identify and provide contact  
16 information for the person or persons who intend to file an action,  
17 and shall identify the protected class or classes whose members do  
18 not have an equal opportunity to elect candidates of their choice or  
19 an equal opportunity to influence the outcome of an election as a  
20 result of the dilution or abridgment of the rights of voters who are  
21 members of a protected class. The notice shall also include a type of  
22 remedy the person believes may address the alleged violation of  
23 section 302 of this act.

24 NEW SECTION. **Sec. 302.** (1) No method of electing the governing  
25 body of a political subdivision may be imposed or applied in a manner  
26 that impairs the ability of members of a protected class to have an  
27 equal opportunity to elect candidates of their choice or an equal  
28 opportunity to influence the outcome of an election as a result of  
29 the dilution or abridgment of the rights of voters who are members of  
30 a protected class.

31 (2) A political subdivision is in violation of this act when it  
32 is shown that elections in the political subdivision exhibit  
33 polarized voting that dilutes or abridges the right to vote.

34 (3) The fact that members of a protected class are not  
35 geographically compact or concentrated shall not preclude a finding  
36 of a violation under this act, but may be a factor in determining a  
37 remedy.

1 (4) In determining whether there is polarized voting under this  
2 act, the court shall analyze elections of the governing body of the  
3 political subdivision, ballot measure elections, elections in which  
4 at least one candidate is a member of a protected class, and other  
5 electoral choices that affect the rights and privileges of members of  
6 a protected class. One circumstance that may be considered in  
7 determining a violation of this act is the extent to which candidates  
8 who are members of a protected class and who are preferred by voters  
9 of the protected class, as determined by an analysis of voting  
10 behavior, have been elected to the governing body of a political  
11 subdivision that is the subject of an action. Elections conducted  
12 prior to the filing of an action pursuant to this act are more  
13 probative to establish the existence of racially polarized voting  
14 than elections conducted after the filing of an action.

15 (5) The election of candidates who are members of a protected  
16 class and who were elected prior to the filing of an action pursuant  
17 to this act shall not preclude a finding of polarized voting that  
18 results in an unequal opportunity for a protected class to elect  
19 candidates of their choice or influence the outcome of an election.

20 (6) Proof of intent on the part of the voters or elected  
21 officials to discriminate against a protected class is not required  
22 for a cause of action to be sustained.

23 (7) Other factors such as the history of discrimination, the use  
24 of electoral devices or other voting practices or procedures that may  
25 enhance the dilutive effects of the election system, denial of access  
26 to those processes determining which groups of candidates will  
27 receive financial or other support in a given election, the extent to  
28 which members of a protected class bear the effects of past  
29 discrimination in areas such as education, employment, and health,  
30 which hinder their ability to participate effectively in the  
31 political process, and the use of overt or subtle racial appeals in  
32 political campaigns are probative, but not necessary factors, to  
33 establish a violation of this act.

34 NEW SECTION. **Sec. 303.** (1) The political subdivision shall work  
35 in good faith with the person providing the notice to implement a  
36 remedy that provides the protected class or classes identified in the  
37 notice an equal opportunity to elect candidates of their choice or  
38 influence the outcome of an election.

1 (2) If the political subdivision adopts a remedy after receiving  
2 notice, the political subdivision shall seek a court order  
3 acknowledging that the political subdivision's remedy is reasonably  
4 necessary to avoid a violation of section 104 of this act, and shall  
5 notify the person who submitted the notice about the attempt to  
6 obtain a court order. The person who submitted the notice may support  
7 or oppose such an order, and may obtain public records to do so. The  
8 political subdivision must provide all political, census, and  
9 demographic data and any analysis of that data used to develop the  
10 remedy in its filings seeking the court order and with any documents  
11 made public. All facts and reasonable inferences shall be viewed in  
12 the light most favorable to those opposing the political  
13 subdivision's proposed remedy at this stage. There shall be a  
14 rebuttable presumption that the court will decline to approve the  
15 political subdivision's proposed remedy at this stage.

16 (3) If the court concludes that the political subdivision's  
17 remedy is reasonably necessary to avoid a violation of section 104 of  
18 this act, an action under this act may not be brought against that  
19 political subdivision for four years by any party so long as the  
20 political subdivision does not enact a change to or deviation from  
21 the remedy during this four-year period.

22 (4) In agreeing to adopt the person's proposed remedy, the  
23 political subdivision may do so by stipulation, which shall become a  
24 public document. Any interested party may oppose any such stipulation  
25 with leave of the court.

26 NEW SECTION. **Sec. 304.** (1) Any person may file an action under  
27 this act if, one hundred eighty days after a political subdivision  
28 receives notice of a challenge to its electoral system under section  
29 301 of this act, the political subdivision has not obtained a court  
30 order stating that it has adopted a remedy in compliance with section  
31 104 of this act. However, if notice is received after July 1, 2021,  
32 then the political subdivision shall have ninety days to obtain a  
33 court order before an action may be filed.

34 (2) If, within one hundred eighty days after receiving a person's  
35 notice, a political subdivision receives any other notice containing  
36 a materially different proposed remedy than the first notice, no  
37 action may be filed under this act within two hundred seventy days  
38 after receiving the initial notice. However, if the first notice is  
39 received after July 1, 2021, then the political subdivision shall

1 have one hundred eighty days to obtain a court order before an action  
2 may be filed. All notices shall be made public promptly.

3 (3) If a political subdivision has received two or more notices  
4 containing materially different proposed remedies, the political  
5 subdivision shall work in good faith with the persons to implement a  
6 remedy that provides the protected class or classes identified in the  
7 notices an equal opportunity to elect candidates of their choice or  
8 influence the outcome of an election. If the political subdivision  
9 adopts one of the remedies offered, or a different remedy that takes  
10 multiple notices into account, the political subdivision shall seek a  
11 court order acknowledging that the political subdivision's remedy is  
12 reasonably necessary to avoid a violation of section 104 of this act.  
13 The persons who submitted the notice may support or oppose such an  
14 order, and may obtain public records to do so. The political  
15 subdivision must provide all political, census, and demographic data  
16 and any analysis of that data used to develop the remedy in its  
17 filings seeking the court order and with any documents made public.  
18 All facts and reasonable inferences shall be viewed in the light most  
19 favorable to those opposing the political subdivision's proposed  
20 remedy at this stage. There shall be a rebuttable presumption that  
21 the court will decline to approve the political subdivision's  
22 proposed remedy at this stage.

23 (4) If the court concludes that the political subdivision's  
24 remedy is reasonably necessary to avoid a violation of section 104 of  
25 this act, an action under this act may not be brought against that  
26 political subdivision for four years; provided, however, that the  
27 political subdivision does not enact a change to or deviation from  
28 the remedy during this four-year period that would otherwise give  
29 rise to an action under this act.

#### 30 **PART IV - SAFE HARBOR AND LEGAL ACTION UNDER THIS ACT**

31 NEW SECTION. **Sec. 401.** (1) After exhaustion of the time period  
32 in section 304 of this act, any voter who resides in a political  
33 subdivision where a violation of section 104 of this act is alleged  
34 may file an action in the superior court of the county in which the  
35 political subdivision is located. If the action is against a county,  
36 the action may be filed in the superior court of such county, or in  
37 the superior court of either of the two nearest judicial districts as

1 determined pursuant to RCW 36.01.050(2). An action filed pursuant to  
2 this chapter does not need to be filed as a class action.

3 (2) Members of different protected classes may file an action  
4 jointly pursuant to this act if they demonstrate that their combined  
5 voting preferences as a group are different from the rest of the  
6 electorate.

7 NEW SECTION. **Sec. 402.** (1) In an action filed pursuant to this  
8 act, the trial court shall set a trial to be held no later than one  
9 year after the filing of a complaint, and shall set a discovery and  
10 motions calendar accordingly.

11 (2) For purposes of any applicable statute of limitations, a  
12 cause of action under this act arises every time there is an election  
13 for any members of the governing body of the political subdivision.

14 (3) The plaintiff's constitutional right to the secrecy of the  
15 plaintiff's vote is preserved and is not waived by the filing of an  
16 action pursuant to this act, and the filing is not subject to  
17 discovery or disclosure.

18 (4) In seeking a temporary restraining order or a preliminary  
19 injunction, a plaintiff shall not be required to post a bond or any  
20 other security in order to secure such equitable relief.

21 (5) No notice may be submitted to any political subdivision  
22 pursuant to this act before July 19, 2018.

23 NEW SECTION. **Sec. 403.** (1) The court may order appropriate  
24 remedies including, but not limited to, the imposition of a district-  
25 based election. The court may order the affected jurisdiction to draw  
26 or redraw district boundaries or appoint an individual or panel to  
27 draw or redraw district lines. The proposed districts must be  
28 approved by the court prior to their implementation.

29 (2) Implementation of a district-based remedy is not precluded by  
30 the fact that members of a protected class do not constitute a  
31 numerical majority within a proposed district-based election  
32 district. If, in tailoring a remedy, the court orders the  
33 implementation of a district-based election district where the  
34 members of the protected class are not a numerical majority, the  
35 court shall do so in a manner that provides the protected class or  
36 classes an equal opportunity to elect candidates of their choice or  
37 an equal opportunity to influence the outcome of an election. The  
38 court may also approve a district-based election system that provides

1 the protected class the opportunity to join in a coalition of two or  
2 more protected classes to elect candidates of their choice if there  
3 is demonstrated political cohesion among the protected classes.

4 (3) In tailoring a remedy after a finding of a violation of  
5 section 104 of this act:

6 (a) If the court's order providing a remedy or approving proposed  
7 districts, whichever is later, is issued during the period of time  
8 between the first Tuesday after the first Monday of November and on  
9 or before January 15th of the following year, the court shall order  
10 new elections, conducted pursuant to the remedy, to occur at the next  
11 succeeding general election. If a special filing period is required,  
12 filings for that office shall be reopened for a period of three  
13 business days, such three-day period to be fixed by the filing  
14 officer.

15 (b) If the court's order providing a remedy or approving proposed  
16 districts, whichever is later, is issued during the period of time  
17 between January 16th and on or before the first Monday of November,  
18 the next election will occur as scheduled and organized under the  
19 current electoral system, but the court shall order new elections to  
20 occur pursuant to the remedy at the general election the following  
21 calendar year.

22 NEW SECTION. **Sec. 404.** (1) No action under this act may be  
23 brought by any person against a political subdivision that has  
24 adopted a remedy to its electoral system after an action is filed  
25 that is approved by a court pursuant to section 303 of this act or  
26 implemented a court-ordered remedy pursuant to section 403 of this  
27 act for four years after adoption of the remedy if the political  
28 subdivision does not enact a change to or deviation from the remedy  
29 during this four-year period that would otherwise give rise to an  
30 action under this act.

31 (2) No action under this act may be brought by any person against  
32 a political subdivision that has adopted a remedy to its electoral  
33 system in the previous decade before the effective date of this  
34 section as a result of a claim under the federal voting rights act  
35 until after the political subdivision completes redistricting  
36 pursuant to RCW 29A.76.010 for the 2020 decennial census.

37 NEW SECTION. **Sec. 405.** (1) In any action to enforce this  
38 chapter, the court may allow the prevailing plaintiff or plaintiffs,

1 other than the state or political subdivision thereof, reasonable  
2 attorneys' fees, all nonattorney fee costs as defined by RCW  
3 4.84.010, and all reasonable expert witness fees. No fees or costs  
4 may be awarded if no action is filed.

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

7 **PART V - MISCELLANEOUS PROVISIONS**

8 NEW SECTION. **Sec. 501.** The provisions of parts I, III, and IV  
9 of this act are not applicable to cities and towns with populations  
10 under one thousand or to school districts with K-12 full-time  
11 equivalent enrollments of less than two hundred fifty.

12 NEW SECTION. **Sec. 502.** A new section is added to chapter 29A.76  
13 RCW to read as follows:

14 In any change to its electoral system under section 201 of this  
15 act or preparation of a subsequent redistricting plan, political  
16 subdivisions may use population data regarding political parties or  
17 racial, ethnic, or language groups only to the extent necessary to  
18 ensure compliance with this act.

19 NEW SECTION. **Sec. 503.** This act supersedes other state laws and  
20 local ordinances to the extent that those state laws or ordinances  
21 would otherwise restrict a jurisdiction's ability to comply with this  
22 act.

23 NEW SECTION. **Sec. 504.** If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 505.** Sections 101 through 202, 301 through  
28 501, and 503 of this act constitute a new chapter in Title 29A RCW.

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