

# HOUSE BILL REPORT

## ESB 5273

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**As Passed House:**  
March 4, 2019

**Title:** An act relating to the presidential primary.

**Brief Description:** Concerning the presidential primary.

**Sponsors:** Senators Hunt, Kuderer, Wellman, Cleveland, McCoy, Dhingra, Saldaña, Billig, Mullet, Lias, Conway, Das, Frockt, Keiser and Palumbo.

**Brief History:**

**Committee Activity:**

State Government & Tribal Relations: 2/12/19, 2/19/19 [DP].

**Floor Activity:**

Passed House: 3/4/19, 54-42.

**Brief Summary of Engrossed Bill**

- Changes the date of the presidential primary from late May to the second Tuesday in March.
- Permits political parties, rather than the Secretary of State, to choose which candidates will appear on primary ballots.
- Allows party chairs to request that voters be able to indicate a preference for having delegates to the party's national convention remain uncommitted.
- Makes changes or clarifications to other aspects of presidential primaries.

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### HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

**Majority Report:** Do pass. Signed by 5 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Appleton, Dolan and Hudgins.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Mosbrucker and Smith.

**Staff:** Jason Zolle (786-7124).

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

## **Background:**

Washington holds a presidential primary to allow voters to express a preference for the presidential nominee of the major political parties. Political parties are not required to use the primary results to allocate their delegates to the national convention for naming a party nominee. Political parties may instead allocate delegates based on the results of precinct caucuses and conventions. In 2016 the Republican Party used primary results to select the state's delegates, while the Democratic Party used caucus results.

*Primary Date.* The primary is scheduled for the fourth Tuesday in May of the year in which a president will be elected. The Secretary of State (Secretary) may propose an alternative date for the primary no later than August 1 of the preceding year. The state committee of a major political party may also propose an alternative date for the primary by September 1 of the preceding year. An alternative date must be approved by a 2/3 majority vote of a bipartisan committee comprised of the Secretary, state party leadership, and state legislative leadership.

*Names on the Ballot.* Major political party candidates are placed on the ballot in one of two ways. The Secretary may include the name of a candidate who is "generally advocated" or is recognized in national news media. Political parties may also file a petition with at least 1,000 party members to include a candidate on the ballot. The Secretary must include these candidates unless the candidate files an affidavit declaring that he or she is not and will not become a candidate for president.

*Ballot Form and Arrangement.* Voters who subscribe to a specific political party must be given ballots that are readily distinguishable from those given to other voters. Under rules adopted by the Secretary, however, each ballot must have a blue-shaded bar with a "Democratic Party" heading and a red shaded-bar with a "Republican Party" heading, and the candidates for each party are to be printed immediately below. Ballots must contain a space where voters may indicate the political party to which they subscribe. Also pursuant to the Secretary's rules, the Secretary only counts votes cast for candidates that match the voter's party declaration.

*Record Retention.* Neither government agencies nor political parties may create or maintain records that link voters' names to information marked on their ballots, including the choice that a voter makes regarding political party affiliation. Under rules adopted by the Secretary, a voter's political party declaration is noted in the voter's registration file, but it must be removed 60 days after the Secretary certifies primary results.

## **Summary of Bill:**

*Primary Date.* The date for the presidential primary in Washington is changed to the second Tuesday in March. The deadline for the Secretary to propose an alternative date for the primary is changed to September 1. The Secretary's discretion to propose an alternative date is modified to specifically permit coordinating a regional primary with any of nine western states. A proposed alternative date may not be before the earliest date permitted by the national political party rules. Notice of the primary must be published in the same manner as with other elections.

*Names on the Ballot.* Provisions for placing candidates on the ballot are altered. Each party determines which names are placed on the ballot, including any write-in names.

*Ballot Form and Arrangement.* The requirement that ballots be distinguishable based on the voter's political party is removed. Voters who subscribe to a political party are permitted to vote only for a candidate of that party.

Party chairs may request that voters be able to indicate a preference for having delegates to the party's national convention remain uncommitted. Parties must be consulted with respect to the arrangement and form of ballots.

*Record Retention.* Government agencies and political parties may create or maintain records that link voters' names to their declared political party affiliation.

*Miscellaneous Changes.* The Secretary must certify results of a primary 10, rather than 14, days after the primary is held. All ballots received by 8 p.m. on the day of the presidential primary must be included in the county canvassing board's report.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill would bring the presidential primary process into alignment with the rules of the major political parties so that the parties could use primary results rather than caucuses to select delegates. This bill also moves up the primary date so that the state is relevant to the national nomination process. People can vote for a presidential nominee just like in other elections, so long as they choose to affiliate with the Democratic or Republican Party. For the Democrats to use the results of the Washington primary, the ballot must be a "Democrat or Republican" ballot. Including unaffiliated voters misleads people into thinking their votes count and instead creates a beauty contest.

(Opposed) None.

(Other) It is a good idea to move the primary date forward, as that will bring candidates to visit the state and region and pay attention to Washington issues when setting national policy. Requiring voters to choose to declare a party affiliation, however, knowing that their choice will be a party record, is a huge mistake and will lead to voter suppression of between 500,000 and 1 million voters. People who want to keep private their party affiliations (e.g. judges, even neighbors) will not vote. Voters have expressed their distaste at preventing unaffiliated voters from participating in the primary, a public election that costs \$10 million in public funds.

**Persons Testifying:** (In support) Senator Hunt, prime sponsor; and Jay Jennings, Office of the Secretary of State.

(Other) Ralph Munro.

**Persons Signed In To Testify But Not Testifying:** None.