

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5266

66th Legislature
2019 Regular Session

Passed by the Senate April 23, 2019
Yeas 27 Nays 19

President of the Senate

Passed by the House April 12, 2019
Yeas 60 Nays 38

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5266** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5266

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senate State Government, Tribal Relations & Elections (originally sponsored by Senators Saldaña, Hunt, Hasegawa, McCoy, Keiser, and Das)

READ FIRST TIME 02/05/19.

1 AN ACT Relating to ensuring timely elections for governing body
2 members in jurisdictions modifying districting plans under the
3 Washington voting rights act; amending RCW 29A.92.050, 29A.92.110,
4 28A.343.670, 35.22.370, 35.23.051, 35.23.850, 35A.12.180, 52.14.013,
5 53.16.015, and 53.16.030; creating a new section; and declaring an
6 emergency.

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

8 **Sec. 1.** RCW 29A.92.050 and 2018 c 113 s 202 are each amended to
9 read as follows:

10 (1)(a) Prior to the adoption of its proposed plan, the political
11 subdivision must provide public notice to residents of the
12 subdivision about the proposed remedy to a potential violation of RCW
13 29A.92.020. If a significant segment of the residents of the
14 subdivision have limited English proficiency and speaks a language
15 other than English, the political subdivision must:

16 (i) Provide accurate written and verbal notice of the proposed
17 remedy in languages that diverse residents of the political
18 subdivision can understand, as indicated by demographic data; and

19 (ii) Air radio or television public service announcements
20 describing the proposed remedy broadcast in the languages that

1 diverse residents of the political subdivision can understand, as
2 indicated by demographic data.

3 (b) The political subdivision shall hold at least one public
4 hearing on the proposed plan at least one week before adoption.

5 (c) For purposes of this section, "significant segment of the
6 community" means five percent or more of residents, or five hundred
7 or more residents, whichever is fewer, residing in the political
8 subdivision.

9 (2)(a) If the political subdivision invokes its authority under
10 RCW 29A.92.040 and the plan is adopted during the period of time
11 between the first Tuesday after the first Monday of November and on
12 or before January 15th of the following year, the political
13 subdivision shall order new elections to occur at the next succeeding
14 general election.

15 (b) If the political subdivision invokes its authority under RCW
16 29A.92.040 and the plan is adopted during the period of time between
17 January 16th and on or before the first Monday of November, the next
18 election will occur as scheduled and organized under the current
19 electoral system, but the political subdivision shall order new
20 elections to occur pursuant to the remedy at the general election the
21 following calendar year.

22 (3) If a political subdivision implements a district-based
23 election system under RCW 29A.92.040(2), the plan shall be consistent
24 with the following criteria:

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

28 (b) Each district shall be reasonably compact.

29 (c) Each district shall consist of geographically contiguous
30 area.

31 (d) To the extent feasible, the district boundaries shall
32 coincide with existing recognized natural boundaries and shall, to
33 the extent possible, preserve existing communities of related and
34 mutual interest.

35 (e) District boundaries may not be drawn or maintained in a
36 manner that creates or perpetuates the dilution of the votes of the
37 members of a protected class or classes.

38 (f) All positions on the governing body must stand for election
39 at the next election for the governing body, scheduled pursuant to

1 subsection (2) of this section. The governing body may subsequently
2 choose to stagger the terms of its positions.

3 (4) Within forty-five days after receipt of federal decennial
4 census information applicable to a specific local area, the
5 commission established in RCW 44.05.030 shall forward the census
6 information to each political subdivision.

7 (5) No later than eight months after its receipt of federal
8 decennial census data, the governing body of the political
9 subdivision that had previously invoked its authority under RCW
10 29A.92.040 to implement a district-based election system, or that was
11 previously charged with redistricting under RCW 29A.92.110, shall
12 prepare a plan for redistricting its districts, pursuant to RCW
13 29A.76.010, and in a manner consistent with this chapter (~~113, Laws~~
14 ~~of 2018~~)).

15 **Sec. 2.** RCW 29A.92.110 and 2018 c 113 s 403 are each amended to
16 read as follows:

17 (1) The court may order appropriate remedies including, but not
18 limited to, the imposition of a district-based election system. The
19 court may order the affected jurisdiction to draw or redraw district
20 boundaries or appoint an individual or panel to draw or redraw
21 district lines. The proposed districts must be approved by the court
22 prior to their implementation.

23 (2) Implementation of a district-based remedy is not precluded by
24 the fact that members of a protected class do not constitute a
25 numerical majority within a proposed district-based election
26 district. If, in tailoring a remedy, the court orders the
27 implementation of a district-based election district where the
28 members of the protected class are not a numerical majority, the
29 court shall do so in a manner that provides the protected class an
30 equal opportunity to elect candidates of their choice. The court may
31 also approve a district-based election system that provides the
32 protected class the opportunity to join in a coalition of two or more
33 protected classes to elect candidates of their choice if there is
34 demonstrated political cohesion among the protected classes.

35 (3) In tailoring a remedy after a finding of a violation of RCW
36 29A.92.020:

37 (a) If the court's order providing a remedy or approving proposed
38 districts, whichever is later, is issued during the period of time
39 between the first Tuesday after the first Monday of November and on

1 or before January 15th of the following year, the court shall order
2 new elections, conducted pursuant to the remedy, to occur at the next
3 succeeding general election. If a special filing period is required,
4 filings for that office shall be reopened for a period of three
5 business days, such three-day period to be fixed by the filing
6 officer.

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

14 (c) The remedy may provide for the political subdivision to hold
15 elections for the members of its governing body at the same time as
16 regularly scheduled elections for statewide or federal offices. All
17 positions on the governing body must stand for election at the next
18 election for the governing body, scheduled pursuant to this
19 subsection (3). The governing body may subsequently choose to stagger
20 the terms of its positions.

21 (4) Within thirty days of the conclusion of any action filed
22 under RCW 29A.92.100, the political subdivision must publish on the
23 subdivision's web site, the outcome and summary of the action, as
24 well as the legal costs incurred by the subdivision. If the political
25 subdivision does not have its own web site, then it may publish on
26 the county web site.

27 **Sec. 3.** RCW 28A.343.670 and 2015 c 53 s 15 are each amended to
28 read as follows:

29 The school boards of any school district of the first class
30 having within its boundaries a city with a population of four hundred
31 thousand people or more shall establish the director district
32 boundaries. Appointment of a board member to fill any vacancy
33 existing for a new director district prior to the next regular school
34 election shall be by the school board. Prior to the next regular
35 election in the school district and the filing of declarations of
36 candidacy therefor, the incumbent school board shall designate said
37 director districts by number. Directors appointed to fill vacancies
38 as above provided shall be subject to election, one for a six-year
39 term, and one for a two-year term and thereafter the term of their

1 respective successors shall be for four years. The term of office of
2 incumbent members of the board of such district shall not be affected
3 by RCW 28A.343.300, 28A.343.600, 28A.343.610, 28A.343.660, and
4 (~~28A.343.670~~) this section. If the district is changing its
5 director district boundaries under RCW 29A.92.040 or 29A.92.110, all
6 director positions are subject to election at the next regular
7 election.

8 **Sec. 4.** RCW 35.22.370 and 1965 c 7 s 35.22.370 are each amended
9 to read as follows:

10 Notwithstanding that the charter of a city of the first class may
11 forbid the city council from redividing the city into wards except at
12 stated periods, if the city has failed to redivide the city into
13 wards during any such period, the city council by ordinance may do so
14 at any time thereafter: PROVIDED, That there shall not be more than
15 one redivision into wards during any one period specified in the
16 charter unless pursuant to RCW 29A.92.040 or 29A.92.110.

17 **Sec. 5.** RCW 35.23.051 and 2015 c 53 s 39 are each amended to
18 read as follows:

19 General municipal elections in second-class cities shall be held
20 biennially in the odd-numbered years and shall be subject to general
21 election law.

22 The terms of office of the mayor, city attorney, clerk, and
23 treasurer shall be four years and until their successors are elected
24 and qualified and assume office in accordance with RCW 29A.60.280:
25 PROVIDED, That if the offices of city attorney, clerk, and treasurer
26 are made appointive, the city attorney, clerk, and treasurer shall
27 not be appointed for a definite term: PROVIDED FURTHER, That the term
28 of the elected treasurer shall not commence in the same biennium in
29 which the term of the mayor commences, nor in which the terms of the
30 city attorney and clerk commence if they are elected.

31 Council positions shall be numbered in each second-class city so
32 that council position seven has a two-year term of office and council
33 positions one through six shall each have four-year terms of office.
34 Each councilmember shall remain in office until a successor is
35 elected and qualified and assumes office in accordance with RCW
36 29A.60.280.

37 In its discretion the council of a second-class city may divide
38 the city by ordinance, into a convenient number of wards, not

1 exceeding six, fix the boundaries of the wards, and change the ward
2 boundaries from time to time and as provided in RCW 29A.76.010. No
3 change in the boundaries of any ward shall be made within one hundred
4 twenty days next before the date of a general municipal election, nor
5 within twenty months after the wards have been established or altered
6 unless pursuant to RCW 29A.92.040 or 29A.92.110. However, if a
7 boundary change results in one ward being represented by more
8 councilmembers than the number to which it is entitled, those having
9 the shortest unexpired terms shall be assigned by the council to
10 wards where there is a vacancy, and the councilmembers so assigned
11 shall be deemed to be residents of the wards to which they are
12 assigned for purposes of determining whether those positions are
13 vacant.

14 Whenever such city is so divided into wards, the city council
15 shall designate by ordinance the number of councilmembers to be
16 elected from each ward, apportioning the same in proportion to the
17 population of the wards. Thereafter the councilmembers so designated
18 shall be elected by the voters resident in such ward, or by general
19 vote of the whole city as may be designated in such ordinance.
20 Council position seven shall not be associated with a ward and the
21 person elected to that position may reside anywhere in the city and
22 voters throughout the city may vote at a primary to nominate
23 candidates for position seven, when a primary is necessary, and at a
24 general election to elect the person to council position seven.
25 Additional territory that is added to the city shall, by act of the
26 council, be annexed to contiguous wards without affecting the right
27 to redistrict at the expiration of twenty months after last previous
28 division. The removal of a councilmember from the ward for which he
29 or she was elected shall create a vacancy in such office.

30 Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards
31 shall be used as follows: (1) Only a resident of the ward may be a
32 candidate for, or hold office as, a councilmember of the ward; and
33 (2) only voters of the ward may vote at a primary to nominate
34 candidates for a councilmember of the ward. Voters of the entire city
35 may vote at the general election to elect a councilmember of a ward,
36 unless the city had prior to January 1, 1994, limited the voting in
37 the general election for any or all council positions to only voters
38 residing within the ward associated with the council positions. If a
39 city had so limited the voting in the general election to only voters
40 residing within the ward, then the city shall be authorized to

1 continue to do so. The elections for the remaining council position
2 or council positions that are not associated with a ward shall be
3 conducted as if the wards did not exist.

4 **Sec. 6.** RCW 35.23.850 and 2015 c 53 s 41 are each amended to
5 read as follows:

6 In any city initially classified as a second-class city prior to
7 January 1, 1993, that retained its second-class city plan of
8 government when the city reorganized as a noncharter code city, the
9 city council may divide the city into wards, not exceeding six in
10 all, or change the boundaries of existing wards at any time less than
11 one hundred twenty days before a municipal general election. Unless
12 the city is dividing into wards or changing the boundaries of
13 existing wards under RCW 29A.92.040 or 29A.92.110, no change in the
14 boundaries of wards shall affect the term of any councilmember, and
15 councilmembers shall serve out their terms in the wards of their
16 residences at the time of their elections. However, if these boundary
17 changes result in one ward being represented by more councilmembers
18 than the number to which it is entitled, those having the shortest
19 unexpired terms shall be assigned by the council to wards where there
20 is a vacancy, and the councilmembers so assigned shall be deemed to
21 be residents of the wards to which they are assigned for purposes of
22 determining whether those positions are vacant.

23 If the city is dividing into wards or changing the boundaries of
24 existing wards under RCW 29A.92.040 or 29A.92.110, all council
25 positions are subject to election at the next regular election.

26 The representation of each ward in the city council shall be in
27 proportion to the population as nearly as is practicable.

28 Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards
29 shall be used as follows: (1) Only a resident of the ward may be a
30 candidate for, or hold office as, a councilmember of the ward; and
31 (2) only voters of the ward may vote at a primary to nominate
32 candidates for a councilmember of the ward. Voters of the entire city
33 may vote at the general election to elect a councilmember of a ward,
34 unless the city had prior to January 1, 1994, limited the voting in
35 the general election for any or all council positions to only voters
36 residing within the ward associated with the council positions. If a
37 city had so limited the voting in the general election to only voters
38 residing within the ward, then the city shall be authorized to
39 continue to do so. The elections for the remaining council position

1 or council positions that are not associated with a ward shall be
2 conducted as if the wards did not exist.

3 **Sec. 7.** RCW 35A.12.180 and 2015 c 53 s 53 are each amended to
4 read as follows:

5 At any time not within three months previous to a municipal
6 general election the council of a noncharter code city organized
7 under this chapter may divide the city into wards or change the
8 boundaries of existing wards. Unless the city is dividing into wards
9 or changing the boundaries of existing wards under RCW 29A.92.040 or
10 29A.92.110, no change in the boundaries of wards shall affect the
11 term of any councilmember, and councilmembers shall serve out their
12 terms in the wards of their residences at the time of their
13 elections: PROVIDED, That if this results in one ward being
14 represented by more councilmembers than the number to which it is
15 entitled those having the shortest unexpired terms shall be assigned
16 by the council to wards where there is a vacancy, and the
17 councilmembers so assigned shall be deemed to be residents of the
18 wards to which they are assigned for purposes of those positions
19 being vacant. The representation of each ward in the city council
20 shall be in proportion to the population as nearly as is practicable.

21 If the city is dividing into wards or changing the boundaries of
22 existing wards under RCW 29A.92.040 or 29A.92.110, all council
23 positions are subject to election at the next regular election.

24 Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards
25 shall be used as follows: (1) Only a resident of the ward may be a
26 candidate for, or hold office as, a councilmember of the ward; and
27 (2) only voters of the ward may vote at a primary to nominate
28 candidates for a councilmember of the ward. Voters of the entire city
29 may vote at the general election to elect a councilmember of a ward,
30 unless the city had prior to January 1, 1994, limited the voting in
31 the general election for any or all council positions to only voters
32 residing within the ward associated with the council positions. If a
33 city had so limited the voting in the general election to only voters
34 residing within the ward, then the city shall be authorized to
35 continue to do so.

36 **Sec. 8.** RCW 52.14.013 and 2012 c 174 s 3 are each amended to
37 read as follows:

1 The board of fire commissioners of a fire protection district may
2 adopt a resolution by unanimous vote causing a ballot proposition to
3 be submitted to voters of the district authorizing the creation of
4 commissioner districts. The board of fire commissioners shall create
5 commissioner districts if the ballot proposition authorizing the
6 creation of commissioner districts is approved by a simple majority
7 vote of the voters of the fire protection district voting on the
8 proposition. Three commissioner districts shall be created for a fire
9 protection district with three commissioners, five commissioner
10 districts shall be created for a fire protection district with five
11 commissioners, and seven commissioner districts shall be created for
12 a fire protection district with seven commissioners. No two
13 commissioners may reside in the same commissioner district.

14 No change in the boundaries of any commissioner district shall be
15 made within one hundred twenty days next before the date of a general
16 district election, nor within twenty months after the commissioner
17 districts have been established or altered unless pursuant to RCW
18 29A.92.040 or 29A.92.110. However, if a boundary change results in
19 one commissioner district being represented by two or more
20 commissioners, those commissioners having the shortest unexpired
21 terms shall be assigned by the commission to commissioner districts
22 where there is a vacancy, and the commissioners so assigned shall be
23 deemed to be residents of the commissioner districts to which they
24 are assigned for purposes of determining whether those positions are
25 vacant.

26 The population of each commissioner district shall include
27 approximately equal population. Commissioner districts shall be
28 redrawn as provided in chapter 29A.76 RCW. Commissioner districts
29 shall be used as follows: (1) Only a registered voter who resides in
30 a commissioner district may be a candidate for, or serve as, a
31 commissioner of the commissioner district; and (2) only voters of a
32 commissioner district may vote at a primary to nominate candidates
33 for a commissioner of the commissioner district. Voters of the entire
34 fire protection district may vote at a general election to elect a
35 person as a commissioner of the commissioner district.

36 When a board of fire commissioners that has commissioner
37 districts has been increased to five or seven members under RCW
38 52.14.015, the board of fire commissioners shall divide the fire
39 protection district into five or seven commissioner districts before
40 it appoints the two or four additional fire commissioners. The two or

1 four additional fire commissioners who are appointed shall reside in
2 separate commissioner districts in which no other fire commissioner
3 resides.

4 **Sec. 9.** RCW 53.16.015 and 2015 c 53 s 82 are each amended to
5 read as follows:

6 The port commission of a port district that uses commissioner
7 districts may redraw the commissioner district boundaries as provided
8 in chapter 29A.76 RCW or RCW 29A.92.040 or 29A.92.110 at any time and
9 submit the redrawn boundaries to the county auditor if the port
10 district is not coterminous with a county that has the same number of
11 county legislative authority districts as the port has port
12 commissioners. The new commissioner districts shall be used at the
13 next election at which a port commissioner is regularly elected that
14 occurs at least one hundred eighty days after the redrawn boundaries
15 have been submitted. Each commissioner district shall encompass as
16 nearly as possible the same population.

17 **Sec. 10.** RCW 53.16.030 and 1992 c 146 s 11 are each amended to
18 read as follows:

19 Any change of boundary lines provided for in this chapter shall
20 not affect the term for which a commissioner shall hold office at the
21 time the change is made. If the port district commission is redrawing
22 the commissioner district boundaries pursuant to RCW 29A.92.040 or
23 29A.92.110, each commissioner position is subject to election at the
24 next general election.

25 NEW SECTION. **Sec. 11.** This act applies retroactively to January
26 16, 2019.

27 NEW SECTION. **Sec. 12.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

--- **END** ---