

E2SSB 5597 - H COMM AMD

By Committee on State Government & Tribal Relations

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART I

4 **VOTE DILUTION PROHIBITION AND COST RECOVERY MECHANISM**

5 **Sec. 1.** RCW 29A.92.020 and 2018 c 113 s 104 are each amended to
6 read as follows:

7 ~~((As))~~ It is a violation of this chapter for a political
8 subdivision to impose a method of electing its governing body that
9 constitutes vote dilution as provided in RCW 29A.92.030 ~~((, no method~~
10 ~~of electing the governing body of a political subdivision may be~~
11 ~~imposed or applied in a manner that impairs the ability of members of~~
12 ~~a protected class or classes to have an equal opportunity to elect~~
13 ~~candidates of their choice as a result of the dilution or abridgment~~
14 ~~of the rights of voters who are members of a protected class or~~
15 ~~classes)).~~

16 **Sec. 2.** RCW 29A.92.030 and 2019 c 64 s 7 are each amended to
17 read as follows:

18 (1) A political subdivision ~~((is))~~ commits vote dilution and
19 shall be found in violation of this chapter when it is shown that:

20 (a) Elections in the political subdivision exhibit polarized
21 voting; and

22 (b) Members of a protected class or classes do not have an equal
23 opportunity to elect candidates of their choice as a result of the
24 dilution or abridgment of the rights of members of that protected
25 class or classes.

26 (2) ~~((The fact that members of a protected class are not~~
27 ~~geographically compact or concentrated to constitute a majority in a~~
28 ~~proposed or existing district-based election district shall not~~
29 ~~preclude a finding of a violation under this chapter, but may be a~~

1 ~~factor in determining a remedy. The equal opportunity to elect shall~~
2 ~~be assessed pragmatically, based on local election conditions, and~~
3 ~~may include crossover districts.~~

4 ~~(3))~~ In determining whether there is polarized voting under this
5 chapter, the court shall analyze elections of the governing body of
6 the political subdivision, ballot measure elections, elections in
7 which at least one candidate is a member of a protected class, and
8 other electoral choices that affect the rights and privileges of
9 members of a protected class. Elections conducted prior to the filing
10 of an action pursuant to this chapter are more probative to establish
11 the existence of ~~((racially))~~ polarized voting than elections
12 conducted after the filing of an action.

13 ~~((4))~~ (3) The election of candidates who are members of a
14 protected class and who were elected prior to the filing of an action
15 pursuant to this chapter shall not preclude a finding of polarized
16 voting that results in an unequal opportunity for a protected class
17 to elect candidates of their choice.

18 (4) The equal opportunity to elect shall be assessed
19 pragmatically, based on local election conditions, and may include
20 crossover districts. No single factor is dispositive or necessary to
21 establish a violation of this section. The fact that members of a
22 protected class are not geographically compact or concentrated to
23 constitute a majority in a proposed or existing district-based
24 election district shall not preclude a finding of a violation under
25 this chapter, but may be a factor in determining a remedy.

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

29 (6) Other factors such as the history of discrimination, the use
30 of electoral devices or other voting practices or procedures that may
31 enhance the dilutive effects of at large elections, denial of access
32 to those processes determining which groups of candidates will
33 receive financial or other support in a given election, the extent to
34 which members of a protected class bear the effects of past
35 discrimination in areas such as education, employment, and health,
36 which hinder their ability to participate effectively in the
37 political process, and the use of overt or subtle racial appeals in
38 political campaigns are probative, but not necessary factors, to
39 establish a violation of this chapter.

1 (7) A class of citizens protected by this section may include a
2 cohesive coalition of members of different racial, ethnic, or
3 language minority groups.

4 **Sec. 3.** RCW 29A.92.060 and 2019 c 64 s 9 are each amended to
5 read as follows:

6 (1) A voter who resides in the political subdivision, or an
7 organization whose membership includes or is likely to include a
8 voter in the jurisdiction and who resides in the political
9 subdivision, who intends to challenge a political subdivision's
10 electoral system under this chapter shall first notify the political
11 subdivision. The political subdivision shall promptly make such
12 notice public.

13 (2) The notice provided shall identify and provide contact
14 information for the person or persons who intend to file an action,
15 and shall identify the protected class or classes whose members do
16 not have an equal opportunity to elect candidates of their choice or
17 an equal opportunity to influence the outcome of an election because
18 of alleged vote dilution and polarized voting. The notice shall also
19 include a type of remedy the person believes may address the alleged
20 violation of RCW 29A.92.030.

21 **Sec. 4.** RCW 29A.92.090 and 2019 c 64 s 12 are each amended to
22 read as follows:

23 (1) After exhaustion of the time period in RCW 29A.92.080, any
24 voter who resides in a political subdivision or organization whose
25 membership includes or is likely to include a voter in the
26 jurisdiction and who resides in the political subdivision where a
27 violation of RCW 29A.92.020 is alleged may file an action in the
28 superior court of the county in which the political subdivision is
29 located. If the action is against a county, the action may be filed
30 in the superior court of such county, or in the superior court of
31 either of the two nearest judicial districts as determined pursuant
32 to RCW 36.01.050(2). An action filed pursuant to this chapter does
33 not need to be filed as a class action.

34 (2) (~~Members~~) A cohesive coalition of members of different
35 protected classes may file an action jointly pursuant to this chapter
36 if they demonstrate that the combined voting preferences of the
37 multiple protected classes are polarized against the rest of the
38 electorate.

1 **Sec. 5.** RCW 29A.92.110 and 2019 c 454 s 2 are each amended to
2 read as follows:

3 (1) ~~((The))~~ After finding a violation of RCW 29A.92.020 or upon
4 stipulation of the parties, the court may order appropriate remedies
5 including, but not limited to, the imposition of a district-based
6 election system. ~~((The court may order the affected jurisdiction to~~
7 draw or redraw district boundaries or appoint an individual or panel
8 to draw or redraw district lines. The proposed districts must be
9 approved by the court prior to their implementation.)) In tailoring a
10 remedy, the court shall consider proposed remedies by the parties and
11 may not give deference to a proposed remedy only because it is
12 proposed by the political subdivision. The court may not approve a
13 remedy that has a dilutive effect on the protected class.

14 (2) If the court orders a district-based remedy, the court must
15 approve proposed district boundaries prior to their implementation.
16 The court must determine that the proposed district boundaries will
17 not have a dilutive effect on the protected class before court
18 approval.

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

31 ~~((3))~~ (4) In tailoring a remedy after a finding of a violation
32 of RCW 29A.92.020 or upon stipulation of the parties:

33 (a) If the court's order providing a remedy or approving proposed
34 districts, whichever is later, is issued during the period of time
35 between the first Tuesday after the first Monday of November and on
36 or before January 15th of the following year, the court shall order
37 new elections, conducted pursuant to the remedy, to occur at the next
38 succeeding general election. If a special filing period is required,
39 filings for that office shall be reopened for a period of three

1 business days, such three-day period to be fixed by the filing
2 officer.

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

10 (c) The remedy may provide for the political subdivision to hold
11 elections for the members of its governing body at the same time as
12 regularly scheduled elections for statewide or federal offices. All
13 positions on the governing body must stand for election at the next
14 election for the governing body, scheduled pursuant to this
15 subsection (~~((3))~~) (4). The governing body may subsequently choose to
16 stagger the terms of its positions.

17 (~~((4))~~) (5) Within thirty days of the conclusion of any action
18 filed under RCW 29A.92.100, the political subdivision must publish on
19 the subdivision's website, the outcome and summary of the action, as
20 well as the legal costs incurred by the subdivision. If the political
21 subdivision does not have its own website, then it may publish on the
22 county website.

23 **Sec. 6.** RCW 29A.92.070 and 2019 c 64 s 10 are each amended to
24 read as follows:

25 (1) The political subdivision shall work in good faith with the
26 person or organization providing the notice to implement a remedy
27 that provides the protected class or classes identified in the notice
28 an equal opportunity to elect candidates of their choice. Such work
29 in good faith to implement a remedy may include, but is not limited
30 to consideration of: (a) Relevant electoral data; (b) relevant
31 demographic data, including the most recent census data available;
32 and (c) any other information that would be relevant to implementing
33 a remedy.

34 (2) If the political subdivision adopts a remedy that takes the
35 notice into account, or adopts the notice's proposed remedy, the
36 political subdivision shall seek a court order acknowledging that the
37 political subdivision's remedy complies with RCW 29A.92.020 and was
38 prompted by a plausible violation. The person who submitted the
39 notice may support or oppose such an order, and may obtain public

1 records to do so. The political subdivision must provide all
2 political, census, and demographic data and any analysis of that data
3 used to develop the remedy in its filings seeking the court order and
4 with any documents made public. All facts and reasonable inferences
5 shall be viewed in the light most favorable to those opposing the
6 political subdivision's proposed remedy at this stage. There shall be
7 a rebuttable presumption that the court will decline to approve the
8 political subdivision's proposed remedy at this stage.

9 (3) If the court concludes that the political subdivision's
10 remedy complies with RCW 29A.92.020, an action under this chapter may
11 not be brought against that political subdivision for four years by
12 any party so long as the political subdivision does not enact a
13 change to or deviation from the remedy during this four-year period
14 that would otherwise give rise to an action under this chapter.

15 (4) In agreeing to adopt the person's or organization's proposed
16 remedy, the political subdivision may do so by stipulation, which
17 shall become a public document.

18 (5) (a) If the court issues an order under subsection (2) of this
19 section, the person or organization who sent the notice may make a
20 demand to the political subdivision for reimbursement of the costs
21 incurred in conducting the research necessary to send the notice. A
22 demand made under this subsection must:

23 (i) Be in writing;

24 (ii) Be received by the political subdivision within 30 days of
25 the adoption of the new electoral system; and

26 (iii) Include financial documentation, such as a detailed invoice
27 for demographic services, that support the demand. The political
28 subdivision may request additional documentation if the documentation
29 provided is insufficient for the political subdivision to corroborate
30 the claimed costs.

31 (b) The political subdivision shall, within 60 days of receiving
32 the demand, reimburse the reasonable costs of the person or
33 organization who sent the notice, not to exceed \$50,000.

34 **Sec. 7.** RCW 29A.92.080 and 2019 c 64 s 11 are each amended to
35 read as follows:

36 (1) Any voter who resides in the political subdivision or
37 organization whose membership includes or is likely to include a
38 voter in the jurisdiction and who resides in the political
39 subdivision may file an action under this chapter if, (~~one hundred~~

1 ~~eighty)) 90~~ days after a political subdivision receives notice of a
2 challenge to its electoral system under RCW 29A.92.060, the political
3 subdivision has not obtained a court order stating that it has
4 adopted a remedy in compliance with RCW 29A.92.020. (~~However, if~~
5 ~~notice is received after July 1, 2021, then the political subdivision~~
6 ~~shall have ninety days to obtain a court order before an action may~~
7 ~~be filed.))~~

8 (2) If a political subdivision has received two or more notices
9 containing materially different proposed remedies, the political
10 subdivision shall work in good faith with the persons to implement a
11 remedy that provides the protected class or classes identified in the
12 notices an equal opportunity to elect candidates of their choice. If
13 the political subdivision adopts one of the remedies offered, or a
14 different remedy that takes multiple notices into account, the
15 political subdivision shall seek a court order acknowledging that the
16 political subdivision's remedy is reasonably necessary to avoid a
17 violation of RCW 29A.92.020. The persons or organizations who
18 submitted the notice may support or oppose such an order, and may
19 obtain public records to do so. The political subdivision must
20 provide all political, census, and demographic data and any analysis
21 of that data used to develop the remedy in its filings seeking the
22 court order and with any documents made public. All facts and
23 reasonable inferences shall be viewed in the light most favorable to
24 those opposing the political subdivision's proposed remedy at this
25 stage. There shall be a rebuttable presumption that the court will
26 decline to approve the political subdivision's proposed remedy at
27 this stage.

28 (3) If the court concludes that the political subdivision's
29 remedy complies with RCW 29A.92.020, an action under this chapter may
30 not be brought against that political subdivision for four years by
31 any party so long as the political subdivision does not enact a
32 change to or deviation from the remedy during this four-year period
33 that would otherwise give rise to an action under this chapter.

34 (4) (a) If the court issues an order under subsection (2) of this
35 section, the persons or organizations who sent notices may make a
36 demand to the political subdivision for reimbursement of the costs
37 incurred in conducting the research necessary to send the notices. A
38 demand made under this subsection must:

39 (i) Be in writing;

1 (ii) Be received by the political subdivision within 30 days of
2 the adoption of the new electoral system; and

3 (iii) Include financial documentation, such as a detailed invoice
4 for demographic services, that support the demand. The political
5 subdivision may request additional documentation if the documentation
6 provided is insufficient for the political subdivision to corroborate
7 the claimed costs.

8 (b) The political subdivision shall, within 60 days of receiving
9 the demand, reimburse the reasonable costs of the persons or
10 organizations who sent the notices, not to exceed \$50,000.

11 **Sec. 8.** RCW 29A.92.130 and 2018 c 113 s 405 are each amended to
12 read as follows:

13 (1) In any action to enforce this chapter, the court may allow
14 the prevailing plaintiff or plaintiffs, other than the state or
15 political subdivision thereof, reasonable attorneys' fees, all
16 nonattorney fee costs as defined by RCW 4.84.010, and all reasonable
17 expert witness fees, including all such reasonable fees and costs
18 incurred before filing the action. (~~No fees or costs may be awarded~~
19 ~~if no action is filed.~~)

20 (2)(a) A prevailing plaintiff does not need to achieve relief or
21 favorable judgment if the plaintiff demonstrates that they succeeded
22 in altering the political subdivision's behavior to correct a claimed
23 harm.

24 (b) For purposes of this section, "altering the political
25 subdivision's behavior" includes, but is not limited to, adopting a
26 new method of electing a governing body, modifying district
27 boundaries, or amending a voting rule or qualification.

28 (3) Prevailing defendants may recover an award of fees or costs
29 pursuant to RCW 4.84.185.

30 (4) In an action in which a political subdivision has, through
31 the preclearance procedures in section 9 of this act, obtained a
32 declaratory judgment from a superior court or a certification of no
33 objection from the attorney general before the action was filed, the
34 court may consider the political subdivision's reliance on
35 preclearance when awarding reasonable attorneys' fees.

36 **PART II**
37 **PRECLEARANCE**

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 29A.92
2 RCW to read as follows:

3 (1) For purposes of this section and section 10 of this act:

4 (a) "Covered jurisdiction" means:

5 (i) A county in which, based on data from the American community
6 survey:

7 (A) The proportion of members of any protected class consisting
8 of at least 10,000 voting age citizens or whose members comprise at
9 least 10 percent of the citizen voting age population of the county
10 that has an income below the poverty level exceeds that of the total
11 population of the county as a whole by at least 5 percent at any
12 point within the previous ten years;

13 (B) The proportion of members of any protected class consisting
14 of at least 10,000 voting age citizens or whose members comprise at
15 least 10 percent of the citizen voting age population of the county
16 that is considered uninsured in terms of health coverage exceeds that
17 of the total population of the county as a whole by at least 5
18 percent at any point within the previous ten years; or

19 (C) The proportion of members of any protected class consisting
20 of at least 10,000 voting age citizens or whose members comprise at
21 least 10 percent of the citizen voting age population of the county
22 that is at least 25 years of age and does not have a high school
23 diploma or its equivalent exceeds that of the total population of the
24 county as a whole by at least 5 percent at any point within the
25 previous ten years;

26 (ii) A school district with a difference of at least 10 percent
27 between the graduation rates of students of any protected class and
28 the district as a whole;

29 (iii) A political subdivision that, within the previous 25 years,
30 has become subject to a court order or government enforcement action
31 based upon a finding of any violation of this chapter, the federal
32 voting rights act, the Fifteenth Amendment to the United States
33 Constitution, or a voting-related violation of the Fourteenth
34 Amendment to the United States Constitution; or

35 (iv) A political subdivision that, within the previous five
36 years, has failed to comply with its obligations to provide data or
37 information to the repository, as stated in section 11 of this act.

38 (b) "Covered practice" means:

39 (i) Any change to the method of election of members of a
40 governing body by adding seats elected at large or by converting one

1 or more seats elected from a single-member district to one or more at
2 large seats or seats from a multimember district;

3 (ii) Any change, or series of changes within a 12-month period,
4 to the boundaries of the covered jurisdiction that reduces by more
5 than five percentage points the proportion of the jurisdiction's
6 voting age population that is composed of members of a single racial
7 or language-minority group, as determined by the most recent American
8 community survey data;

9 (iii) Any change to the boundaries of election districts or wards
10 in the covered jurisdiction;

11 (iv) Any change that restricts the ability of any person to
12 provide interpreter services to voters in any language other than
13 English or which limits or impairs the creation or distribution of
14 voting materials in any language other than English; or

15 (v) Any change to the covered jurisdiction's plan of government,
16 including a change to or in the framing of a jurisdiction's charter.

17 (2) (a) Prior to enacting or seeking to administer any voting
18 qualification or prerequisite to voting, or any standard, practice,
19 or procedure with respect to voting, that is a covered practice, the
20 governing body of a covered jurisdiction shall either:

21 (i) Institute an action in Thurston county superior court for a
22 declaratory judgment or, if the jurisdiction is located within
23 Thurston county, institute an action in King county superior court
24 for a declaratory judgment; or

25 (ii) Submit such covered practice to the attorney general for
26 issuance of a certification that no objection exists to the enactment
27 or administration by the covered jurisdiction of the covered
28 practice.

29 (b) The superior court shall issue the declaratory judgment or,
30 if applicable, the attorney general shall issue a certification of no
31 objection, only if the covered practice:

32 (i) Does not violate RCW 29A.92.020; and

33 (ii) Will not result in the retrogression in the position of
34 persons based on race, color, or membership in a language-minority
35 group such that the covered practice does not have the purpose or
36 effect of diminishing the ability of any citizen on account of race,
37 color, or membership in a language-minority group to participate in
38 the electoral process or elect their preferred candidates of choice.

39 (c) The attorney general, or any person whose opportunity to vote
40 is affected by a covered practice that has been enacted or

1 administered by a covered jurisdiction, may institute an action in
2 superior court to compel the governing body of the jurisdiction to
3 institute an action for a declaratory judgment or to seek issuance of
4 a certification of no objection pursuant to this subsection.

5 (3) (a) No qualification, prerequisite, standard, practice, or
6 procedure that is a covered practice is effective until the superior
7 court has entered a declaratory judgment or the attorney general has
8 issued a certification of no objection.

9 (b) A certification of no objection is deemed to have been issued
10 if:

11 (i) The attorney general does not issue an objection within 60
12 days of the governing body's submission of any other covered policy;
13 or

14 (ii) The attorney general affirmatively indicates that no such
15 objection will be made, upon a showing of good cause to facilitate an
16 expedited approval within 60 days of the governing body's submission.

17 (c) An affirmative indication by the attorney general that no
18 objection will be made, the attorney general's failure to object, or
19 a declaratory judgment entered by the superior court pursuant to this
20 section does not bar a subsequent action to enjoin enforcement of any
21 qualification, prerequisite, standard, practice, or procedure.

22 (d) If the attorney general affirmatively indicates that no
23 objection will be made within the 60-day period following the receipt
24 of the governing body's submission, the attorney general may reserve
25 the right to reexamine the submission if additional information that
26 would otherwise require objection in accordance with this section
27 comes to his or her attention during the remainder of the 60-day
28 period.

29 (4) If the attorney general objects to a covered practice
30 submitted by a covered jurisdiction, the governing body of such
31 jurisdiction may file an appeal to the objection in Thurston county
32 superior court.

33 (5) If the attorney general issues a certification of no
34 objection to a covered practice submitted by a covered jurisdiction,
35 any person whose opportunity to vote is affected by the covered
36 practice may file an action in superior court to appeal the attorney
37 general's issuance of a certification of no objection.

38 (6) In any action filed pursuant to this subsection, the superior
39 court shall enjoin the enactment or administration of the covered
40 practice that is the subject of the action unless it determines that

1 the covered practice neither has the purpose or effect of denying or
2 abridging the right to vote on account of race or color or membership
3 in a language-minority group nor will it result in the retrogression
4 in the position of members of a racial or ethnic group with respect
5 to their effective exercise of the electoral franchise.

6 (7) As early as practicable each fifth calendar year, the
7 secretary of state shall, in consultation with the attorney general,
8 the office of financial management, and other relevant agencies,
9 determine and notify those political subdivisions which qualify as
10 covered jurisdictions pursuant to subsection (1) of this section,
11 based on the most recent American community survey data or other
12 census data. The attorney general shall publish the list of these
13 counties, cities, and towns on a website established and maintained
14 for this purpose. A determination made pursuant to this subsection is
15 effective upon publication.

16 (8) This section expires June 30, 2029.

17 NEW SECTION. **Sec. 10.** A new section is added to chapter 29A.92
18 RCW to read as follows:

19 (1) No later than December 1, 2028, the attorney general shall
20 prepare and transmit a report to the legislature on the activities
21 conducted under and the effects of section 9 of this act. The report
22 shall include, at a minimum, the following information:

23 (a)(i) The number of practices referred to the attorney general
24 for a certification of no objection;

25 (ii) The number of instances in which the attorney general issued
26 a certification of no objection;

27 (b) The number of instances in which covered jurisdictions sought
28 a declaratory judgment in superior court for preclearance of a
29 covered practice, and the outcomes of all such cases;

30 (c) The number of instances in which a claimant challenged a
31 certification of no objection;

32 (d) The number of instances in which, after a certification of no
33 objection was not issued, the covered jurisdiction:

34 (i) Challenged the determination in superior court; or

35 (ii) Modified the covered practice and sought a certification of
36 no objection for the modified practice;

37 (e) The number of instances in which the attorney general
38 instituted an action in superior court to compel a covered

1 jurisdiction to institute an action for declaratory judgment or seek
2 a certification of no objection for a covered practice;

3 (f) Other summary statistics regarding preclearance that
4 categorize covered practices by practice type and jurisdiction type;

5 (g) A narrative summary of the overall outcomes of the
6 preclearance requirements in section 9 of this act in the state;

7 (h) The fiscal impact of implementing the provisions of section 9
8 of this act on the office of the attorney general; and

9 (i) Any other information the attorney general believes is
10 relevant to evaluating the impacts of section 9 of this act.

11 (2) This section expires June 30, 2029.

12 **PART III**

13 **DATA COLLECTION AND REQUIRED REPORTING**

14 NEW SECTION. **Sec. 11.** A new section is added to chapter 29A.92
15 RCW to read as follows:

16 (1) There shall be established within the University of
17 Washington a repository of the data necessary to assist the state and
18 all political subdivisions with evaluating whether and to what extent
19 existing laws and practices with respect to voting and elections are
20 consistent with the public policy expressed in this title,
21 implementing best practices in voting and elections to achieve the
22 purposes of this title, and to investigate potential infringements
23 upon the right to vote.

24 (2) The operation of the repository shall be the responsibility
25 of the director of the repository, hereinafter referred to in this
26 title as the "director," who shall be employed by the University of
27 Washington with doctoral level expertise in demography, statistical
28 analysis, and electoral systems. The director shall be appointed by
29 the governor.

30 (3) The director shall appoint such staff as are necessary to
31 implement and maintain the repository.

32 (4) The repository shall maintain in electronic format at least
33 the following data and records, where available, for at least the
34 previous 12-year period:

35 (a) Estimates of the total population, voting age population, and
36 citizen voting age population by race, ethnicity, and language-
37 minority groups, broken down to the election district and precinct
38 level on a year-by-year basis for every political subdivision in the

1 state, based on data from the United States census bureau, American
2 community survey, or data of comparable quality collected by a public
3 office;

4 (b) Election results at the precinct level for every statewide
5 election and every election in every political subdivision;

6 (c) Regularly updated voter registration lists, voter history
7 files, voting center locations, ballot drop box locations, and
8 student engagement hub locations for every election in every
9 political subdivision;

10 (d) Contemporaneous maps, descriptions of boundaries, and
11 shapefiles for election districts and precincts;

12 (e) Ballot rejection lists, curing lists, and reasoning for
13 ballot rejection for every election in every political subdivision;

14 (f) Apportionment plans for every election in every political
15 subdivision; and

16 (g) Any other data that the director deems advisable to maintain
17 in furtherance of the purposes of this title.

18 (5) The director shall update the data in the repository no later
19 than 30 business days after certification of each election as
20 required by RCW 29A.60.190 or 29A.60.250.

21 (6) Except for any data, information, or estimates that
22 identifies individual voters, the data, information, and estimates
23 maintained by the repository shall be posted online and made
24 available to the public at no cost.

25 (7) The repository shall prepare any estimates made pursuant to
26 this section by applying the most advanced, peer-reviewed, and
27 validated methodologies.

28 (8) On or before January 1, 2023, and every fifth year
29 thereafter, the repository shall publish on its website and transmit
30 to the state for dissemination to county auditors secretary of a list
31 of political subdivisions required pursuant to section 203 of the
32 federal voting rights act to provide assistance to members of
33 language-minority groups and each language in which those political
34 subdivisions are required to provide assistance. Each county auditor
35 shall transmit the list described herein to all political
36 subdivisions within their jurisdiction.

37 (9) Upon the certification of election results and the completion
38 of the voter history file after each election, the secretary of state
39 shall transmit copies of:

40 (a) Election results at the election district level;

- 1 (b) Contemporaneous voter registration lists;
2 (c) Voter history files;
3 (d) Maps, descriptions, and shapefiles for election districts;
4 and
5 (e) Lists of voting centers and student engagement hubs.
6 (10) Staff at the repository may provide nonpartisan technical
7 assistance to political subdivisions, scholars, and the general
8 public seeking to use the resources of the repository.

9 **PART IV**
10 **PROVISIONS FOR COUNTIES**

11 **Sec. 12.** RCW 36.32.010 and 1990 c 252 s 1 are each amended to
12 read as follows:

13 There is established in each county in this state a board of
14 county commissioners. Except as provided in RCW 36.32.020, 36.32.055,
15 and 36.32.0552, each board of county commissioners shall consist of
16 three qualified electors, two of whom shall constitute a quorum to do
17 business.

18 **Sec. 13.** RCW 36.32.020 and 2018 c 113 s 204 are each amended to
19 read as follows:

20 The board of county commissioners of each county shall divide
21 their county into three commissioner districts so that each district
22 shall comprise as nearly as possible one-third of the population of
23 the county: PROVIDED, That the territory comprised in any voting
24 precincts of such districts shall remain compact, and shall not be
25 divided by the lines of said districts.

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

32 The commissioners of any county may authorize a change to their
33 electoral system, including expanding from three to five
34 commissioners, pursuant to RCW 29A.92.040. Except where necessary to
35 comply with a court order issued pursuant to RCW 29A.92.110, and
36 except in the case of an intervening census, the lines of the
37 districts shall not be changed more often than once in four years and

1 only when a full board of commissioners is present. The districts
2 shall be designated as districts numbered one, two and three.

3 **Sec. 14.** RCW 36.32.030 and 2018 c 301 s 6 are each amended to
4 read as follows:

5 (1) Except as provided otherwise in subsection (2) of this
6 section, the terms of office of county commissioners shall be four
7 years and shall extend until their successors are elected and
8 qualified and assume office in accordance with RCW 29A.60.280. The
9 terms of office of county commissioners shall be staggered so that
10 either one or two commissioners are elected at a general election
11 held in each even-numbered year.

12 (2) (a) At the general election held in 2022, any noncharter
13 county with a population of four hundred thousand or more must elect
14 county commissioners in accordance with a districting plan adopted
15 under RCW 36.32.054. Any county commissioner whose term is set to
16 expire on or after January 1, 2023, is subject to the new election in
17 accordance with the districting plan. The county commissioners shall
18 begin their terms of office on January 1, 2023, and such terms shall
19 be staggered terms, as designated in the districting plan.

20 (b) A county expanding to five commissioners pursuant to RCW
21 29A.92.040 must elect county commissioners and stagger their terms as
22 designated in its districting plan.

23 **PART V**

24 **GENERAL PROVISIONS**

25 **Sec. 15.** RCW 29A.92.010 and 2018 c 113 s 103 are each amended to
26 read as follows:

27 The definitions in this section apply throughout this chapter
28 unless the context clearly requires otherwise. In applying these
29 definitions and other terms in this chapter, courts may rely on
30 relevant federal case law for guidance to the extent such case law
31 does not violate the spirit, intent, and elements of this chapter.

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

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

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

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

7 (2) "Crossover district" means a district where a protected class
8 is a minority of the population but potentially large enough to elect
9 candidates of choice with help from voters who are not members of the
10 protected class who cross over to support a protected class's
11 candidate of choice.

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

17 ~~((3))~~ (4) "Federal voting rights act" means the federal voting
18 rights act of 1965, 52 U.S.C. 10301 et seq.

19 (5) "Plan of government" has the meaning defined in RCW
20 35A.01.070 for cities operating under the optional municipal code, or
21 the structure of elected officials serving executive and legislative
22 functions in other jurisdictions.

23 (6) "Polarized voting" means voting in which there is a
24 difference, as defined in case law regarding enforcement of the
25 federal voting rights act(~~(7-52 U.S.C. 10301 et seq.,)~~) in the choice
26 of candidates or other electoral choices that are preferred by voters
27 in a protected class, and in the choice of candidates and electoral
28 choices that are preferred by voters in the rest of the electorate.

29 ~~((4))~~ (7) "Political subdivision" means any county, city, town,
30 school district, fire protection district, port district, or public
31 utility district, but does not include the state.

32 ~~((5))~~ (8) "Protected class" means a class of voters who are
33 members of ~~((a))~~ any race, color, or language-minority group, as this
34 class is referenced and defined in the federal voting rights act(~~(7-~~
35 ~~52 U.S.C. 10301 et seq))~~).

36 (9) "Retgression" means diminution of the ability of a
37 protected class to participate in the electoral process or elect
38 candidates of their choice.

1 NEW SECTION. **Sec. 16.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 17.** Sections 1 through 4, 6 through 9, and 15
6 of this act take effect January 1, 2023."

7 Correct the title.

EFFECT: (1) Modifies the jurisdictions subject to preclearance by removing overall population-based thresholds for cities, counties, and school districts, and instead requiring counties to be subject to preclearance if they have protected classes with a proportion of members that are in poverty or lack health insurance or a high school diploma that exceeds that of the county's total population by at least 5 percent.

(2) Removes from the jurisdictions that must seek preclearance a political subdivision that has been subject to at least three violations of state or federal law in the past 25 years for engaging in racial discrimination.

(3) Removes port districts from the list of jurisdictions that must seek preclearance.

(4) Provides that courts may consider whether a political subdivision had obtained preclearance for a covered practice when awarding attorneys' fees in a successful challenge to that practice.

(5) Removes the ability of the Attorney General to invoke up to two 90-day extensions when reviewing certain covered practices for preclearance.

(6) Clarifies that the Secretary of State is tasked with determining which political subdivisions are subject to the preclearance requirement.

(7) Requires the Attorney General to submit a report to the Legislature with a number of statistics related to preclearance activities and a narrative summary of the overall outcomes of the program.

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