S-1432.1

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**SUBSTITUTE SENATE BILL 5378**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate State Government & Elections (originally sponsored by Senators Kauffman, J. Wilson, Hunt, Hasegawa, Rivers, Keiser, Dozier, King, Van De Wege, Lovick, MacEwen, Conway, Lovelett, Saldaña, Wellman, and C. Wilson; by request of Secretary of State)

AN ACT Relating to requiring voter education within jurisdictions engaged in changing the method of selecting candidates during a primary or removing a primary as the result of employing a single event election process in a general election including a new cause of action, and reversion of the candidate selection processes when necessary; adding new sections to chapter 29A.52 RCW; creating new sections; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature finds that:

(1) Local jurisdictions changing the voting system used to select candidates and choosing alternative methods of candidate selection not defined in chapter 29A.52 RCW must be responsible for educating all voters affected by the change and seeks to define minimum levels of voter education to be conducted by county election offices in conjunction with any voting jurisdiction making a change;

(2) Because the methods of candidate selection are very different from the methods defined in chapter 29A.52 RCW it is necessary for county election offices in conjunction with the voting jurisdiction making the change to ensure full education of all voters participating in the changed system including persons with limited English language proficiency, limited literacy, and intellectual disabilities;

(3) Voter education should be accomplished in several ways, including by providing detailed information to each voter via United States postal service mail describing the method to be used in selecting candidates while contrasting the changed method with the method employed by the jurisdiction prior to the change. This notice must be in addition to any information provided in voter pamphlets;

(4) The notice must be translated into the languages required for that jurisdiction by federal law;

(5) Communication will best be served by the voting jurisdiction providing an electronic information portal, or website, available to voters 24 hours a day for a minimum period of 12 months prior to the beginning of the candidate selection process, fully describing the changed process, and providing answers to frequently asked questions. This information portal must be translated and available in the required languages being used by voters living in the jurisdiction; and

(6) The importance of full voter understanding of the new method of candidate selection is paramount and failure to provide these notifications and voter education should result in reversion of the method of candidate selection to methods consistent with the requirements of chapter 29A.52 RCW.

NEW SECTION. **Sec.**  (1) Whenever a voting jurisdiction changes the method of candidate selection used in that jurisdiction from the methods described in this chapter, that jurisdiction must make notification to the public of the change and create a public education campaign intended to familiarize the voting public with any unique elements of the new process. This includes:

(a) Production and distribution of education materials to each voter of the jurisdiction provided via the voter's mailing address found in each voter registration record, using the United States postal service for delivery.

(i) The education materials must be understandable by all voters and written in a manner that ensures comprehension by all voters including:

(A) Persons with limited English proficiency and for whom English is not their first language;

(B) Persons with special needs and intellectual disabilities that require assistance in understanding the new method of candidate selection; and

(C) Students and future voters living within the voting jurisdiction.

(ii) The materials must be translated into the languages required by federal law and spoken by voters within the voting jurisdiction that is changing its method of selecting candidates.

(iii) The materials must be drafted in a manner that can be easily understood by all members of the community including those persons with limited English proficiency, limited literacy, and intellectual disabilities.

(iv) These materials, production, and distribution shall be in addition to any voter pamphlet materials provided on the subject;

(b) Creation of an electronic information portal, or website, fully describing and explaining the changed process and contrasting it with the current method of candidate selection. This resource shall:

(i) Be available to voters 24 hours a day for a minimum period of 12 months prior to the beginning of the candidate selection process;

(ii) Include answers to frequently asked questions;

(iii) Be translated and available in the languages required by federal law that may be used by voters living in the jurisdiction;

(iv) Include a location for voters to ask questions about the change via a question submission portal and provide an email address for questions to be submitted that is monitored and provides a response within one business day of submission; and

(v) Provide a toll-free telephonic hotline, providing customer support during regular business hours of the election office serving the voting jurisdiction. The hotline must be available beginning 12 months prior to the first election event using the changed candidate selection process.

(2) Translation of materials must occur for every language required by federal law and spoken within the voting jurisdiction changing the method of selecting candidates.

(3) In addition to the other requirements of this section, an advertising and education campaign must be undertaken during the 12-month period preceding the change to the method of candidate selection. This includes:

(a) A social media campaign targeting potential voters in the voting jurisdiction during the 12-month period preceding the change to the method of candidate selection. This may include electronic advertising;

(b) A radio and television advertising campaign targeting the potential voters in the voting jurisdiction during the 12-month period preceding the change to the method of candidate selection. The media campaign must clearly identify the county and voting jurisdiction making the change in order to avoid confusion for other listeners and viewers of the media outlet; and

(c) A newspaper advertising campaign providing weekly ads published on the day of highest expected circulation in all newspapers serving the voting jurisdiction, during the 12-month period preceding the change to the method of candidate selection. Legal notice advertising is not adequate to satisfy the requirements of this section.

(4) In addition to the other requirements of this section, the county election office shall provide instructional materials and instructors when requested to all high schools serving students who reside within the voting jurisdiction, and as part of the education program described in subsection (5) of this section. These materials shall:

(a) Provide an overview of the new method of selecting candidates;

(b) Provide contrast with the previous method of selecting candidates;

(c) Provide education explaining that ballots will feature different methods of selecting candidates based on the method chosen by each voting jurisdiction, including:

(i) The method chosen by the voting jurisdiction;

(ii) Any other method of selecting candidates chosen for use by other voting jurisdictions that are sharing the same ballot;

(iii) The methods of selecting candidates described in this chapter; and

(iv) Information for a voter demonstrating processes to use in differentiating the method or methods being used when casting ballots to avoid confusion.

(5) The county election office in conjunction with the jurisdiction making the change must coordinate a series of educational events with local organizations serving persons with intellectual disabilities. These events must:

(a) Occur on a monthly basis during the 12 months before the changed method being employed in the jurisdiction;

(b) Occur within the boundaries of the jurisdiction in a location served by public transportation;

(c) Be well-advertised with an option for parents, guardians, and persons with intellectual disabilities to sign up beforehand; or

(d) Provide focused information in a manner similar to that described in subsection (4) of this section.

(6) The office of the secretary of state and the county election office may provide additional notification at their discretion. This may include:

(a) Community visits and presentations at service clubs, schools, and other community gatherings as appropriate; and

(b) Educational kiosks or booths at community events.

(7) Costs of the education campaign, materials, community appearances, and advertising, including all preparation, distribution, and translation costs are to be borne solely by the voting jurisdiction through reimbursement of the election office serving the voting jurisdiction.

NEW SECTION. **Sec.**  Failure by a voting jurisdiction to conduct the education and outreach described in section 2 of this act, including failure to meet the time-based requirements of section 2 of this act, is cause for the method of candidate selection to revert to the method previously employed in the voting jurisdiction consistent with this chapter.

NEW SECTION. **Sec.**  Any voter eligible to participate in an election in a voting jurisdiction that has changed the method of candidate selection to a method other than those required in this chapter who finds the public education and outreach campaign associated with the change inadequate in meeting the requirements of section 2 of this act may file an action against the voting jurisdiction and the election office serving the voting jurisdiction in the appropriate court of record serving the voting jurisdiction. The court shall give any filing and associated case priority on its calendar and may award financial damages as appropriate. A cause of action cannot be used to abridge the 12-month education period. A voting jurisdiction found to have failed to provide the full 12-month program must revert to the previous method of candidate selection employed by the voting jurisdiction prior to the proposed change in method.

NEW SECTION. **Sec.**  Sections 2 through 4 of this act are each added to chapter 29A.52 RCW.

NEW SECTION. **Sec.**  This act applies to cities or towns changing their method of candidate selection from the methods described in chapter 29A.52 RCW through an ordinance or ballot measure passed or adopted by voters after January 1, 2023. To this extent, this act applies retroactively, but in all other respects it applies prospectively.

NEW SECTION. **Sec.**  This act takes effect January 1, 2024.

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