

HOUSE BILL REPORT

E3SHB 1860

As Amended by the Senate

Title: An act relating to partisan elections.

Brief Description: Regarding partisan elections.

Sponsors: House Committee on General Government Appropriations & Oversight (originally sponsored by Representative Hurst).

Brief History:

Committee Activity:

State Government & Tribal Affairs: 1/25/12, 1/26/12 [DP2S];

General Government Appropriations & Oversight: 2/2/12, 2/3/12 [DP3S].

Floor Activity:

Passed House: 3/5/11, 53-44.

Floor Activity:

Passed House: 2/13/12, 98-0.

Senate Amended.

Passed Senate: 2/28/12, 44-4.

<p>Brief Summary of Engrossed Third Substitute Bill</p> <ul style="list-style-type: none">• Requires elections for precinct committee officers be conducted at the primary election.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 10 members: Representatives Hunt, Chair; Appleton, Vice Chair; Overstreet, Assistant Ranking Minority Member; Alexander, Condotta, Darneille, Dunshee, Hurst, McCoy and Miloscia.

Minority Report: Do not pass. Signed by 1 member: Representative Taylor, Ranking Minority Member.

Staff: Marsha Reilly (786-7135).

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.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass. Signed by 13 members: Representatives Hudgins, Chair; Miloscia, Vice Chair; Moscoso, Vice Chair; McCune, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Ahern, Armstrong, Blake, Fitzgibbon, Ladenburg, Pedersen, Van De Wege and Wilcox.

Staff: Wendy Polzin (786-7137).

Background:

The election of precinct committee officers (PCOs) are conducted at the primary election. In January 2011 the United States District Court (Court) ruled that the state's implementation of the Top Two Primary is constitutional based on the fact that the ballot and accompanying information clearly explains that a candidate's preference does not imply party endorsement. However, the Court also ruled that the state's method of electing the PCOs is unconstitutional because it "severely burdens the political parties' ability to identify and associate with members of their respective parties." At issue was the Top Two Primary ballot which allows all voters, regardless of party affiliation, to vote for and elect the PCOs.

Summary of Engrossed Third Substitute Bill:

Elections for PCOs must be held at the primary election in even-numbered years. Only contested races may appear on the ballot, and write-in candidates are not allowed. If no one files for office, the position must be filled by the county chair of the county central committee of the appropriate political party.

County auditors may offer the PCO election on a consolidated ballot or a physically separate ballot. If a consolidated ballot is used, the race for the PCO must be clearly delineated from other races on the ballot. If a physically separate ballot is used, it must be distinguishable from the top two primary ballot. A ballot is not invalidated if it is returned outside of the security envelope.

Ballot instructions must include the following statement: "In order to vote for precinct committee officer, a partisan office, you must affirm that you are a Democrat or a Republican and may vote only for one candidate from the party you select. This preference is private and will not be matched to your name or shared."

Party affiliation is affirmed by including the following statement after the name of each candidate: "By voting for this candidate, I affirm that I am a Democrat" if the candidate is a Democrat, or "By voting for this candidate, I affirm that I am a Republican" if the candidate is a Republican. In the event a voter votes for candidates from both parties, the votes cast for PCO on the ballot are not counted.

If a provision of the act is held invalid, the remainder of the act is not affected.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment makes changes to the affirmation of party affiliation. The statement "Your vote for a candidate affirms your affiliation with the same party as the candidate" is added to the ballot instructions for precinct committee officer elections. The statement that appears after the name of the candidate for purposes of affirmation is changed from "By voting for this candidate, I affirm that I am a Democrat" if the candidate is a Democrat, or "By voting for this candidate, I affirm that I am a Republican" if the candidate is a Republican, to "I affirm I am a Democrat" or "I affirm I am a Republican."

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony (State Government & Tribal Affairs):

(In support) Our political system is more transparent and more democratic because we elect the PCOs. The PCOs are elected by voters in the precinct and not by party bosses. The political parties are not Rotary Clubs. Unlike the PCOs, the Rotary Club is not mentioned in the state Constitution. Political parties were asked to take part in the constitutional duty of filling of vacancies and have agreed to do so. Political parties matter and should not be weakened. They have played an important role in our democracy. Democracy is too important to tinker with and the state needs to continue to elect the PCOs.

(Commented) There continues to be discussions that the PCOs are constitutionally mandated offices, or even public offices. The Court has indicated that the PCOs are not public offices, even though they provide a public purpose. For election proposals, there is a four-prong test: (1) does it satisfy the judge's ruling; (2) does it retain the Top Two Primary system; (3) does it violate voter secrecy; and (4) is it prohibitively expensive and, if so, who bears the cost.

(Opposed) None.

Staff Summary of Public Testimony (General Government Appropriations & Oversight):

(In support) Both Republicans and Democrats are supporting this bill. This bill limits write-in ballots for PCOs to contested races only. The parties are willing to talk and negotiate on this bill. The Secretary of State removed rules for electing PCOs in December.

(Opposed) Precinct committee officers are not public or constitutional officers. Counties bear the cost of the PCO elections. Every jurisdiction pays a share of the cost to put on an election, except for the state and political parties. The political parties sued the state over the constitutionality of the current system for electing PCOs. The bill in its current form is unmanageable. The parties are requiring a public statement of party affiliation. The issue of who pays for these elections will have to be addressed.

Persons Testifying (State Government & Tribal Affairs): (In support) Representative Hurst, prime sponsor; and Dwight Pelz, Washington State Democrats.

(Commented) James McMahan, Washington Association of County Officials.

Persons Testifying (General Government Appropriations & Oversight): (In support) Dwight Pelz, Washington State Democratic Committee.

(Opposed) James McMahan, Washington Association of County Officials; and Katie Blinn, Office of the Secretary of State.

Persons Signed In To Testify But Not Testifying (State Government & Tribal Affairs): None.

Persons Signed In To Testify But Not Testifying (General Government Appropriations & Oversight): None.