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**State Government & Tribal Affairs**  
**Committee**

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**HB 2612**

**Brief Description:** Enacting the Washington voting rights act of 2012.

**Sponsors:** Representatives Kenney, Hunt, Appleton, Hasegawa, Reykdal, Moscoso, Ladenburg, Ryu, Jinkins, Upthegrove, Pettigrew, Ormsby, McCoy, Roberts and Hudgins.

**Brief Summary of Bill**

- Enacts the Washington Voting Rights Act of 2012.
- Prohibits at-large elections and district-based elections that are drawn or maintained in a manner that denies an equal opportunity of a protected class to elect candidates of its choice or an equal opportunity to influence the outcome of an election as a result of the vote dilution of voters who are members of a protected class.
- Establishes procedures for filing suit and remedies for violation.

**Hearing Date:** 1/26/12

**Staff:** Cece Clynych (786-7195).

**Background:**

Federal Voting Rights Act.

The Voting Rights Act of 1965 (VRA) prohibits discrimination in elections. The VRA contains several sections, some of which impact all states and localities and some which do not. For instance, all states and localities are prohibited from using practices or procedures that impair the ability of a protected class to elect its candidate of choice on an equal basis with other voters. States and political subdivisions are prohibited from conditioning the right to vote on the voter's ability to pass a literacy, subject matter, or morals test. All states and localities must also allow voters who need assistance because of a disability to receive assistance by someone of the voter's choice. Some states, not including Washington, must receive advance clearance for any changes

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in voting practices or regulations. Private citizens, as well as the United States Attorney General, may sue to enforce the VRA.

### California Voting Rights Act.

The California Voting Rights Act of 2001 (CVRA) prohibits at-large methods of election that impair the ability of a protected class to elect candidates of its choice or limit its ability to influence the outcome of an election, as a result of the dilution or the abridgment of the rights of voters who are members of a protected class. A violation is established if it is shown that racially polarized voting occurs in elections for members of the governing body. The fact that members of a protected class are not geographically compact or concentrated may not preclude a finding of racially polarized voting but may be a factor in determining an appropriate remedy. Proof of an intent on the part of voters or elected officials to discriminate against a protected class is not required.

### **Summary of Bill:**

The Washington Voting Rights Act of 2012 (WVRA) prohibits at-large elections and district-based elections that are drawn or maintained in a manner that denies an equal opportunity of a protected class to elect candidates of its choice or an equal opportunity to influence the outcome of an election as a result of the vote dilution of voters who are members of a protected class. "Protected class" means a class of voters who are members of a race, color, or language minority group, as this class is defined in the VRA.

An "at-large method of election" means any of the following methods of electing members of the governing body of a political subdivision:

- one in which the voters of the entire jurisdiction elect the members to the governing body;
- one in which the candidates must reside within given areas of the jurisdiction and the voters of the entire jurisdiction elect the members of the governing body; or
- one which combines at-large elections with district-based elections.

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

An at-large election district or a district-based election district is dilutive, and in violation of the act, when it is shown that:

- a political subdivision utilizes an at-large or district-based election district;
- the elections in the political subdivisions are racially polarized;
- the racially polarized voting in the political subdivision results in vote dilution where the protected class members do not have an equal opportunity to elect candidates of their choice or an equal opportunity to influence the outcome of an election; and
- a remedy exists that provides members of the protected class with an equal opportunity to elect candidates of their choice or an equal opportunity to influence the outcome of an election.

The fact that members of a protected class are not geographically compact or concentrated to constitute a numerical majority in a proposed district-based election district does not preclude a finding of racially polarized voting that results in vote dilution. Racially polarized voting that results in vote dilution is shown by demonstrating that there is a difference in voting preferences between members of a protected class and the rest of the electorate. The occurrence of racially polarized voting that results in vote dilution may be determined from examining results of elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class who are voters of the political subdivision which is the subject of an action filed.

Proof of an intent on the part of voters or elected officials to discriminate against a protected class is not required.

Upon a finding a violation, a court must implement appropriate remedies, including the imposition of a district-based election district that is tailored to remedy the violation but it must be geographically compact. The court may direct the affected jurisdiction to draw or redraw district boundaries or appoint an individual or panel to draw or redraw district lines. In tailoring a remedy after a finding of a violation of the act, the court must order new elections to be scheduled at the next date authorized by state law for conducting elections. All of the positions that were elected pursuant to the at-large or district-based election that was the subject of the action and have at least two years remaining in their terms of office must be subject to new elections in order to continue their term in office.

Prevailing plaintiffs, but not defendants, are entitled to recover attorneys' fees, as well as a fees multiplier. Plaintiffs are also entitled to recover attorneys' fees and fees multiplier award for work performed in any ancillary administrative, legislative, or citizen redistricting commission proceeding where the prevailing plaintiff sought to secure a district based election district that was different from the one adopted and that was ultimately declared by a court to violate the WVRA. Prevailing defendants may recover costs, but only if the action is frivolous, unreasonable, or without foundation.

There is no prior claim filing requirement, nor is the plaintiff required to file a bond. A cause of action arises every time there is an election. There is not right to a jury trial. An action is to be filed in the superior court of the county where the political subdivision is located, except that if the action is against a county it may be filed in either of the two nearest counties.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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