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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5597

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State of Washington

67th Legislature

2022 Regular Session

**By** Senate Ways & Means (originally sponsored by Senators Saldaña, Hunt, Conway, Das, Dhingra, Frockt, Hasegawa, Kuderer, Lias, Lovelett, Nguyen, Nobles, Pedersen, Stanford, and C. Wilson)

READ FIRST TIME 02/07/22.

1 AN ACT Relating to the Washington voting rights act; amending RCW  
2 29A.92.020, 29A.92.030, 29A.92.060, 29A.92.090, 29A.92.110,  
3 29A.92.070, 29A.92.080, 29A.92.130, 36.32.010, 36.32.020, 36.32.030,  
4 and 29A.92.010; adding new sections to chapter 29A.92 RCW; providing  
5 an effective date; and providing an expiration date.

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

7 **PART I**

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

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

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

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

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

5       (a) Elections in the political subdivision exhibit polarized  
6 voting; and

7       (b) Members of a protected class or classes do not have an equal  
8 opportunity to elect candidates of their choice as a result of the  
9 dilution or abridgment of the rights of members of that protected  
10 class or classes.

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

21       (3) In determining whether there is polarized voting under this  
22 chapter, the court shall analyze elections of the governing body of  
23 the political subdivision, ballot measure elections, elections in  
24 which at least one candidate is a member of a protected class, and  
25 other electoral choices that affect the rights and privileges of  
26 members of a protected class. Elections conducted prior to the filing  
27 of an action pursuant to this chapter are more probative to establish  
28 the existence of (~~racially~~) polarized voting than elections  
29 conducted after the filing of an action.

30       (4) The election of candidates who are members of a protected  
31 class and who were elected prior to the filing of an action pursuant  
32 to this chapter shall not preclude a finding of polarized voting that  
33 results in an unequal opportunity for a protected class to elect  
34 candidates of their choice.

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

38       (6) Other factors such as the history of discrimination, the use  
39 of electoral devices or other voting practices or procedures that may  
40 enhance the dilutive effects of at large elections, denial of access

1 to those processes determining which groups of candidates will  
2 receive financial or other support in a given election, the extent to  
3 which members of a protected class bear the effects of past  
4 discrimination in areas such as education, employment, and health,  
5 which hinder their ability to participate effectively in the  
6 political process, and the use of overt or subtle racial appeals in  
7 political campaigns are probative, but not necessary factors, to  
8 establish a violation of this chapter.

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

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

14 (1) A voter who resides in the political subdivision or an  
15 organization whose membership includes or is likely to include a  
16 voter in the jurisdiction and who resides in the political  
17 subdivision who intends to challenge a political subdivision's  
18 electoral system under this chapter shall first notify the political  
19 subdivision. The political subdivision shall promptly make such  
20 notice public.

21 (2) The notice provided shall identify and provide contact  
22 information for the person or persons who intend to file an action,  
23 and shall identify the protected class or classes whose members do  
24 not have an equal opportunity to elect candidates of their choice or  
25 an equal opportunity to influence the outcome of an election because  
26 of alleged vote dilution and polarized voting. The notice shall also  
27 include a type of remedy the person believes may address the alleged  
28 violation of RCW 29A.92.030.

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

31 (1) After exhaustion of the time period in RCW 29A.92.080, any  
32 voter who resides in a political subdivision or organization whose  
33 membership includes or is likely to include a voter in the  
34 jurisdiction and who resides in the political subdivision where a  
35 violation of RCW 29A.92.020 is alleged may file an action in the  
36 superior court of the county in which the political subdivision is  
37 located. If the action is against a county, the action may be filed  
38 in the superior court of such county, or in the superior court of

1 either of the two nearest judicial districts as determined pursuant  
2 to RCW 36.01.050(2). An action filed pursuant to this chapter does  
3 not need to be filed as a class action.

4 (2) (~~Members~~) A cohesive coalition of members of different  
5 protected classes may file an action jointly pursuant to this chapter  
6 if they demonstrate that the combined voting preferences of the  
7 multiple protected classes are polarized against the rest of the  
8 electorate.

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

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

22 (2) If the court orders a district-based remedy, the court must  
23 approve proposed district boundaries prior to their implementation.  
24 The court must determine that the proposed district boundaries will  
25 not have a dilutive effect on the protected class before court  
26 approval.

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

1       (~~(3)~~) (4) In tailoring a remedy after a finding of a violation  
2 of RCW 29A.92.020 or upon stipulation of the parties:

3       (a) 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 the first Tuesday after the first Monday of November and on  
6 or before January 15th of the following year, the court shall order  
7 new elections, conducted pursuant to the remedy, to occur at the next  
8 succeeding general election. If a special filing period is required,  
9 filings for that office shall be reopened for a period of three  
10 business days, such three-day period to be fixed by the filing  
11 officer.

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

19       (c) The remedy may provide for the political subdivision to hold  
20 elections for the members of its governing body at the same time as  
21 regularly scheduled elections for statewide or federal offices. All  
22 positions on the governing body must stand for election at the next  
23 election for the governing body, scheduled pursuant to this  
24 subsection (~~(3)~~) (4). The governing body may subsequently choose to  
25 stagger the terms of its positions.

26       (~~(4)~~) (5) Within thirty days of the conclusion of any action  
27 filed under RCW 29A.92.100, the political subdivision must publish on  
28 the subdivision's website, the outcome and summary of the action, as  
29 well as the legal costs incurred by the subdivision. If the political  
30 subdivision does not have its own website, then it may publish on the  
31 county website.

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

34       (1) The political subdivision shall work in good faith with the  
35 person or organization providing the notice to implement a remedy  
36 that provides the protected class or classes identified in the notice  
37 an equal opportunity to elect candidates of their choice. Such work  
38 in good faith to implement a remedy may include, but is not limited  
39 to consideration of: (a) Relevant electoral data; (b) relevant

1 demographic data, including the most recent census data available;  
2 and (c) any other information that would be relevant to implementing  
3 a remedy.

4 (2) If the political subdivision adopts a remedy that takes the  
5 notice into account, or adopts the notice's proposed remedy, the  
6 political subdivision shall seek a court order acknowledging that the  
7 political subdivision's remedy complies with RCW 29A.92.020 and was  
8 prompted by a plausible violation. The person who submitted the  
9 notice may support or oppose such an order, and may obtain public  
10 records to do so. The political subdivision must provide all  
11 political, census, and demographic data and any analysis of that data  
12 used to develop the remedy in its filings seeking the court order and  
13 with any documents made public. All facts and reasonable inferences  
14 shall be viewed in the light most favorable to those opposing the  
15 political subdivision's proposed remedy at this stage. There shall be  
16 a rebuttable presumption that the court will decline to approve the  
17 political subdivision's proposed remedy at this stage.

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

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

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

32 (i) Be in writing;

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

35 (iii) Include financial documentation, such as a detailed invoice  
36 for demographic services, that support the demand. The political  
37 subdivision may request additional documentation if the documentation  
38 provided is insufficient for the political subdivision to corroborate  
39 the claimed costs.

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

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

6 (1) Any voter who resides in the political subdivision or  
7 organization whose membership includes or is likely to include a  
8 voter in the jurisdiction and who resides in the political  
9 subdivision may file an action under this chapter if, (~~one hundred~~  
10 ~~eighty~~) 90 days after a political subdivision receives notice of a  
11 challenge to its electoral system under RCW 29A.92.060, the political  
12 subdivision has not obtained a court order stating that it has  
13 adopted a remedy in compliance with RCW 29A.92.020. (~~However, if~~  
14 ~~notice is received after July 1, 2021, then the political subdivision~~  
15 ~~shall have ninety days to obtain a court order before an action may~~  
16 ~~be filed.~~)

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

37 (3) If the court concludes that the political subdivision's  
38 remedy complies with RCW 29A.92.020, an action under this chapter may  
39 not be brought against that political subdivision for four years by

1 any party so long as the political subdivision does not enact a  
2 change to or deviation from the remedy during this four-year period  
3 that would otherwise give rise to an action under this chapter.

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

9 (i) Be in writing;

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

12 (iii) Include financial documentation, such as a detailed invoice  
13 for demographic services, that support the demand. The political  
14 subdivision may request additional documentation if the documentation  
15 provided is insufficient for the political subdivision to corroborate  
16 the claimed costs.

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

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

22 (1) In any action to enforce this chapter, the court may allow  
23 the prevailing plaintiff or plaintiffs, other than the state or  
24 political subdivision thereof, reasonable attorneys' fees, all  
25 nonattorney fee costs as defined by RCW 4.84.010, and all reasonable  
26 expert witness fees, including all such reasonable fees and costs  
27 incurred before filing the action. (~~No fees or costs may be awarded~~  
28 ~~if no action is filed.~~)

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

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

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

**PART II**  
**PRECLEARANCE**

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

(1) For purposes of this section:

(a) "Covered jurisdiction" means:

(i) Any of the following types of political subdivision that are determined pursuant to subsection (7) of this section to contain more than one racial or ethnic group, or at least one language minority group, which constitutes at least 10 percent of the subdivision's voting age population:

(A) A city with at least 10,000 residents;

(B) A county with at least 50,000 residents; or

(C) Any port district;

(ii) A school district with at least 2,000 students;

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

(iv) A political subdivision which, within the previous five years, has failed to comply with its obligations to provide data or information to the repository, as stated in section 10 of this act; or

(v) A political subdivision which, within the previous 25 years, has become subject to at least three court orders or government enforcement actions based upon a finding of any violation of state or federal civil rights law or the Fourteenth Amendment to the United States Constitution concerning discrimination against members of a protected class.

(b) "Covered practice" means:

(i) Any change to the method of election of members of a governing body by adding seats elected at large or by converting one or more seats elected from a single-member district to one or more at large seats or seats from a multimember district;

(ii) Any change, or series of changes within a 12-month period, to the boundaries of the covered jurisdiction that reduces by more than five percentage points the proportion of the jurisdiction's

1 voting age population that is composed of members of a single racial  
2 or language-minority group, as determined by the most recent American  
3 community survey data;

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

6 (iv) Any change that restricts the ability of any person to  
7 provide interpreter services to voters in any language other than  
8 English or which limits or impairs the creation or distribution of  
9 voting materials in any language other than English; or

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

12 (2)(a) Prior to enacting or seeking to administer any voting  
13 qualification or prerequisite to voting, or any standard, practice,  
14 or procedure with respect to voting, that is a covered practice, the  
15 governing body of a covered jurisdiction shall either:

16 (i) Institute an action in Thurston county superior court for a  
17 declaratory judgment or, if the jurisdiction is located within  
18 Thurston county, institute an action in King county superior court  
19 for a declaratory judgment; or

20 (ii) Submit such covered practice to the attorney general for  
21 issuance of a certification that no objection exists to the enactment  
22 or administration by the covered jurisdiction of the covered  
23 practice.

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

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

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

34 (c) The attorney general, or any person whose opportunity to vote  
35 is affected by a covered practice that has been enacted or  
36 administered by a covered jurisdiction, may institute an action in  
37 superior court to compel the governing body of the jurisdiction to  
38 institute an action for a declaratory judgment or to seek issuance of  
39 a certification of no objection pursuant to this subsection.

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

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

7 (i) The attorney general does not issue an objection within:

8 (A) Thirty days of submission of any covered policy concerning  
9 designation of a site as a voting center or removal of a ballot drop  
10 box; or

11 (B) Within 60 days of the governing body's submission of any  
12 other covered policy; or

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

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

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

28 (e) For any covered policy concerning the establishment of a  
29 district-based election system, apportionment plans, or a change to  
30 the form of government of a political subdivision, the attorney  
31 general may invoke up to two extensions of 90 days each.

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

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

1 (6) In any action filed pursuant to this subsection, the superior  
2 court shall enjoin the enactment or administration of the covered  
3 practice that is the subject of the action unless it determines that  
4 the covered practice neither has the purpose or effect of denying or  
5 abridging the right to vote on account of race or color or membership  
6 in a language-minority group nor will it result in the retrogression  
7 in the position of members of a racial or ethnic group with respect  
8 to their effective exercise of the electoral franchise.

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

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

20 **PART III**

21 **DATA COLLECTION AND REQUIRED REPORTING**

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

24 (1) There shall be established within the University of  
25 Washington a repository of the data necessary to assist the state and  
26 all political subdivisions with evaluating whether and to what extent  
27 existing laws and practices with respect to voting and elections are  
28 consistent with the public policy expressed in this title,  
29 implementing best practices in voting and elections to achieve the  
30 purposes of this title, and to investigate potential infringements  
31 upon the right to vote.

32 (2) The operation of the repository shall be the responsibility  
33 of the director of the repository, hereinafter referred to in this  
34 title as the "director," who shall be employed by the University of  
35 Washington with doctoral level expertise in demography, statistical  
36 analysis, and electoral systems. The director shall be appointed by  
37 the governor.

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

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

6 (a) Estimates of the total population, voting age population, and  
7 citizen voting age population by race, ethnicity, and language-  
8 minority groups, broken down to the election district and precinct  
9 level on a year-by-year basis for every political subdivision in the  
10 state, based on data from the United States census bureau, American  
11 community survey, or data of comparable quality collected by a public  
12 office;

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

15 (c) Regularly updated voter registration lists, voter history  
16 files, voting center locations, ballot drop box locations, and  
17 student engagement hub locations for every election in every  
18 political subdivision;

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

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

23 (f) Apportionment plans for every election in every political  
24 subdivision; and

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

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

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

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

37 (8) On or before January 1, 2023, and every fifth year  
38 thereafter, the repository shall publish on its website and transmit  
39 to the state for dissemination to county auditors secretary of a list  
40 of political subdivisions required pursuant to section 203 of the

1 federal voting rights act to provide assistance to members of  
2 language-minority groups and each language in which those political  
3 subdivisions are required to provide assistance. Each county auditor  
4 shall transmit the list described herein to all political  
5 subdivisions within their jurisdiction.

6 (9) Upon the certification of election results and the completion  
7 of the voter history file after each election, the secretary of state  
8 shall transmit copies of:

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

10 (b) Contemporaneous voter registration lists;

11 (c) Voter history files;

12 (d) Maps, descriptions, and shapefiles for election districts;

13 and

14 (e) Lists of voting centers and student engagement hubs.

15 (10) Staff at the repository may provide nonpartisan technical  
16 assistance to political subdivisions, scholars, and the general  
17 public seeking to use the resources of the repository.

#### 18 PART IV

#### 19 PROVISIONS FOR COUNTIES

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

22 There is established in each county in this state a board of  
23 county commissioners. Except as provided in RCW 36.32.020, 36.32.055,  
24 and 36.32.0552, each board of county commissioners shall consist of  
25 three qualified electors, two of whom shall constitute a quorum to do  
26 business.

27 **Sec. 12.** RCW 36.32.020 and 2018 c 113 s 204 are each amended to  
28 read as follows:

29 The board of county commissioners of each county shall divide  
30 their county into three commissioner districts so that each district  
31 shall comprise as nearly as possible one-third of the population of  
32 the county: PROVIDED, That the territory comprised in any voting  
33 precincts of such districts shall remain compact, and shall not be  
34 divided by the lines of said districts.

35 However, the commissioners of any county composed entirely of  
36 islands and with a population of less than thirty-five thousand may  
37 divide their county into three commissioner districts without regard

1 to population, except that if any single island is included in more  
2 than one district, the districts on such island shall comprise, as  
3 nearly as possible, equal populations.

4 The commissioners of any county may authorize a change to their  
5 electoral system, including expanding from three to five  
6 commissioners, pursuant to RCW 29A.92.040. Except where necessary to  
7 comply with a court order issued pursuant to RCW 29A.92.110, and  
8 except in the case of an intervening census, the lines of the  
9 districts shall not be changed more often than once in four years and  
10 only when a full board of commissioners is present. The districts  
11 shall be designated as districts numbered one, two and three.

12 **Sec. 13.** RCW 36.32.030 and 2018 c 301 s 6 are each amended to  
13 read as follows:

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

21 (2) (a) At the general election held in 2022, any noncharter  
22 county with a population of four hundred thousand or more must elect  
23 county commissioners in accordance with a districting plan adopted  
24 under RCW 36.32.054. Any county commissioner whose term is set to  
25 expire on or after January 1, 2023, is subject to the new election in  
26 accordance with the districting plan. The county commissioners shall  
27 begin their terms of office on January 1, 2023, and such terms shall  
28 be staggered terms, as designated in the districting plan.

29 (b) A county expanding to five commissioners pursuant to RCW  
30 29A.92.040 must elect county commissioners and stagger their terms as  
31 designated in its districting plan.

32 **PART V**  
33 **GENERAL PROVISIONS**

34 **Sec. 14.** RCW 29A.92.010 and 2018 c 113 s 103 are each amended to  
35 read as follows:

36 The definitions in this section apply throughout this chapter  
37 unless the context clearly requires otherwise. In applying these

1 definitions and other terms in this chapter, courts may rely on  
2 relevant federal case law for guidance to the extent such case law  
3 does not violate the spirit, intent, and elements of this chapter.

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

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

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

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

14 (2) "Crossover district" means a district where a protected class  
15 is a minority of the population but potentially large enough to elect  
16 candidates of choice with help from voters who are not members of the  
17 protected class who cross over to support a protected class's  
18 candidate of choice.

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

24 ~~((3))~~ (4) "Federal voting rights act" means the federal voting  
25 rights act of 1965, 52 U.S.C. 10301 et seq.

26 (5) "Plan of government" has the meaning defined in RCW  
27 35A.01.070 for cities operating under the optional municipal code, or  
28 the structure of elected officials serving executive and legislative  
29 functions in other jurisdictions.

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

36 ~~((4))~~ (7) "Political subdivision" means any county, city, town,  
37 school district, fire protection district, port district, or public  
38 utility district, but does not include the state.

39 ~~((5))~~ (8) "Protected class" means a class of voters who are  
40 members of ~~((a))~~ any race, color, or language-minority group, as this

1 class is referenced and defined in the federal voting rights act(~~7~~  
2 ~~52 U.S.C. 10301 et seq~~)).

3 (9) "Retrogression" means diminution of the ability of a  
4 protected class to participate in the electoral process or elect  
5 candidates of their choice.

6 NEW SECTION. **Sec. 15.** If any provision of this act or its  
7 application to any person or circumstance is held invalid, the  
8 remainder of the act or the application of the provision to other  
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 16.** Sections 1 through 4, 6 through 9, and 14  
11 of this act take effect January 1, 2023.

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