

# HOUSE BILL REPORT

## HB 2163

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**As Reported By House Committee On:**  
Government Operations

**Title:** An act relating to the election of officials at general elections.

**Brief Description:** Revising nonpartisan election laws.

**Sponsors:** Representatives Benton, D. Schmidt, Smith and Thompson.

**Brief History:**

**Committee Activity:**

Government Operations: 1/19/96, 1/23/96 [DPS].

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### HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Goldsmith, Vice Chairman; Rust, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Conway; R. Fisher; Hargrove; Honeyford; Hymes; Mulliken; Scheurman; D. Schmidt and Wolfe.

Staff: Steve Lundin (786-7127).

**Background:**

1. Differing procedures to elect nonpartisan elected officials.

A variety of procedures exists for the election of nonpartisan officials.

a. Normal procedure.

All local government nonpartisan elected officials (other than Superior Court judges) are elected according to the same general election procedures. A primary is held only if more than two persons have filed for the same position. If a primary is held, the names of the two persons receiving the two greatest numbers of votes are placed on the general election ballot for that position, but the name of a candidate will not be placed on the general election ballot if he or she does not receive at least 1 percent of the total vote cast for that office at the last preceding primary. In all instances, the

person who receives the greatest number of votes at the general election is elected to the nonpartisan elected office.

b. Election of Superior Court judges in counties with a population of 100,000 or more.

Unique procedures exist for the election of superior court judges in counties with a population of 100,000 or more.

If only one person files for election as a Superior Court judge, then no primary or general election is held for that position, and the person who filed for that position is issued a certificate of election.

In all other instances, a primary is held. If a person receives a majority of the vote at a **contested primary**, that person is issued a certificate of election and no general election is held for that position. If no one receives a majority of the vote at the primary, then the two candidates receiving the greatest number of votes are placed on the general election ballot, and the person receiving the greatest number of votes in the general election is elected to the position of Superior Court judge..

The following 10 counties have a population of 100,000 or more: King, Pierce, Snohomish, Spokane, Clark, Kitsap, Yakima, Thurston, Whatcom, and Benton Counties.

c. Election of Superior Court judges in counties with a population of less than 100,000.

Unique provisions exist for the election of Superior Court judges in counties with a population of less than 100,000.

A primary is held in all instances. In theory, three different procedures could occur. First, if a person receives a majority vote at a **contested primary**, a certificate of election is issued to that person and no general election is held for that position. Second, if the **primary is not contested**, the name of the person receiving the greatest number of votes is the only name placed on the general election ballot, and the person who receives the greatest number of votes in the general election is elected. Third, if the **primary is contested and no one receives a majority vote** in the primary, the names of the two candidates receiving the greatest number of votes are placed on the general election ballot and the person who receives the most number of votes at the general election is elected to the position of Superior Court judge.

d. Election of judges of the Supreme Court and Court of Appeals and the election of the Superintendent of Public Instruction.

Unique provisions exist for the election judges of the Supreme Court and Court of Appeals and for the election of the Superintendent of Public Instruction.

A primary is held in all instances. If a person receives a majority vote at a **contested primary**, only that person's name is placed on the general election ballot. If a person receives a majority of the votes cast at the primary, then only that person's name is placed on the general election ballot. If no one receives a majority vote at the primary, the names of the two candidates receiving the greatest number of votes in the primary are placed on the general election ballot. The person is elected to the position who receives the most number of votes at the general election.

2. Conflicting constitutional and statutory provisions for the election of Superior Court judges.

The statutory provisions for the election of Superior Court judges are in conflict with Article IV, section 29, (Amendment 41) of the state constitution.

Amendment 41 includes two unique provisions for the election of Superior Court judges, one of which is self-executing and is effective without implementing statutes, and one of which is not self-executing and becomes effective only if statutes include a particular provision.

Amendment 41 provides that, if after the last day for withdrawing declarations of candidacy, only one person has filed for the office of Superior Court judge in a county with a population of 100,000 or more, a certificate of election is issued to that candidate. No primary or general election is held for that office. This provision is self-executing and controls any conflicting statutory provision. No statute includes the provisions of Amendment 41, and there are statutes in conflict with Amendment 41.

Amendment 41 also provides that, if after a **contested primary** for a Superior Court judge position in any county, only one candidate is entitled to have his or her name placed on the general election ballot for that position, then no general election contest is held for that position, and the certificate of election is issued to the candidate who won the primary. This provision is not self-executing and applies only if a statute provides for a single name of a candidate in a contested primary for a Superior Court judge position to be placed on the general election ballot. This provision of Amendment 41 becomes effective because RCW 29.30.085(2) provides that if a candidate for certain judicial positions (including Superior Court judge) or the Superintendent of Public Instruction receives a majority of the votes in a **contested primary**, only the name of that candidate is placed on the general election ballot. RCW 29.30.085 does not refer to Amendment 41. In all other instances, RCW 29.30.085 is followed for the election of superior court judges.

**Summary of Substitute Bill:** Statutes are altered relating to the election of judges of a Superior Court, the Court of Appeals, and Supreme Court, and the election of the Superintendent of Public Instruction.

Except for elections of Superior Court judges in counties with populations of 100,000 or more, which are controlled by the self-executing provisions of Amendment 41 of the state constitution, the elections of all other judges and the Superintendent of Public Instruction conform with the normal nonpartisan election procedures. A primary is held for such a position only if more than two persons file for the office. The names of the two persons receiving the two greatest numbers of votes are placed on the general election ballot. The name of a candidate will not be placed on the general election ballot, however, if he or she does not receive at least 1 percent of the total vote cast for that office at the last preceding primary. The person who receives the greatest number of votes at the general election is elected to the position.

Statutes are amended to describe the self-executing provision of Amendment 41 relating to the election of Superior Court judges in counties with a population of 100,000 or more if only one person files for the position.

**Substitute Bill Compared to Original:** The substitute bill corrects the citation of the constitutional provision, which is applied to the election of Superior Court judges in counties with populations of 100,000 or more.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** More people vote at general elections. This is where the election should be decided.

**Testimony Against:** None.

**Testified:** Representative Benton, prime sponsor.