

Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Select Committee on Elections Committee

HB 2240

Brief Description: *Revising primary election law.*

Sponsors: *Representatives Ogden, D. Schmidt, Jackley and Fromhold.*

Brief Summary of Bill

- *Eliminates the blanket primary system of wide voter choice using a simple ballot where voters may vote for candidates for different partisan offices without regard to the party affiliation, if any, of the voter or candidates.*
 - *Provides more limited voter choice using multiple ballots, including a separate "party ballot" for each major political party that only includes candidates affiliated with that party for each partisan office and a "traditional ballot" that includes all candidates for each partisan office, including all major party candidates, minor party candidates, and independent candidates.*
 - *Allows each voter at a primary to make a confidential choice whether to vote using a "party ballot" of a major political party or a "traditional ballot".*
 - *Retains the nature of the primary as a system of nominating party candidates.*
 - *Provides that the nominee of a major political party for each partisan office who advances to the general election ballot is the candidate affiliated with that party who receives a plurality of the votes for the office cast at the primary by voters using "party ballots" of that major political party. However, a major political party may adopt a rule allowing votes cast for candidates associated with that party by voters using "traditional ballots" to be added to those cast on its "party ballot" to determine its nominees at the primary.*
 - *Requires prominent notification to be made regarding whether or not votes cast using traditional ballots will be added to the votes cast on party ballots to determine each major party's nominees. This notification must be made on: (1) Traditional ballots; (2) voters' pamphlets; (3) the website of the Secretary of State; and (4) each county auditor's web site, if a web site is in existence.*
- *Provides that a minor party candidate, or independent candidate, advances to the general election ballot if the candidate receives at least 2 percent of the total vote cast for the office on "traditional" ballots.*

Hearing Date: April 10, 2001

Staff: Steve Lundin (786-7127).

Background:

A. Washington system of blanket primaries and general elections.

Candidates for partisan offices gain access to or appear on the primary ballot using two different procedures, one for candidates affiliated with major political parties and another for candidates affiliated with minor political parties and for independent candidates.

Washington State has a blanket primary system where voters are given a single ballot containing all candidates for each partisan office (including those affiliated with each major political party, minor political party, and independents) and voters may vote for any candidate for each partisan office without regard to the party affiliation, if any, of the candidate or voter. Washington State does not have a public system of either voluntary or mandatory party registration.

Two different procedures exist for candidates for a partisan office to gain access to or appear on the primary ballot. First, any voter eligible to serve in a partisan office may file a declaration of candidacy to be the nominee of a major political party for that office. The candidate indicates his or her major party affiliation on the declaration of candidacy. Second, a minor party may hold a convention and nominate a single candidate as its nominee for each partisan office. The nomination of a minor party candidate is evidenced by the party filing both a certificate of nomination and a nomination petition signed by at least 200 registered voters for an office voted on a statewide basis or 25 registered voters for all other offices. A convention may be held to nominate an independent candidate for a partisan office following the same requirements for a minor party to nominate a candidate, including the certificate of nomination and nominating petition. Each minor party candidate and independent candidate must also file a declaration of candidacy for the office, indicating his or her affiliation with a minor party or independent status.

Under the blanket primary system a single ballot contains all the candidates for each partisan office and a voter may vote for any candidate for a partisan office, without regard to party affiliation, if any, of the voter or candidate. A voter may cross party lines at the primary and vote for a candidate from a different political party, or independent candidate, for different partisan offices on the ballot. A major party candidate becomes the nominee of a major political party and advances to the general election ballot if the candidate receives a plurality of the votes cast for that office among candidates of that political party and if this vote constitutes at least one percent of the total vote cast for all candidates for the partisan office. A minor party candidate or independent candidate advances to the general election ballot if the candidate receives at least one percent of the total vote cast for the partisan office.

Voters at the general election may also vote for any candidate for any partisan office without regard to the candidate's or voter's party affiliation. The candidate receiving a plurality of the vote at the general election for each partisan office is elected.

B. Recent Supreme Court Decision and related lawsuit.

California had a blanket primary that was similar to the blanket primary in Washington. The United States Supreme Court recently held that the California blanket primary law was an unconstitutional violation of political parties' rights of free association.

The Washington State Democratic Party and the Republican State Committee of Washington filed a lawsuit in federal district court seeking to enjoin the use of the blanket primary in this state. A preliminary injunction was issued against the state conducting a blanket primary after 2000 using the blanket primary unless the political parties consent to the use of the blanket primary. Both parties have filed language for a permanent

injunction. The Secretary of State is directed "to respond" no later than 30 days after adjournment of the regular session in 2001, or 30 days after enactment of legislation addressing the United States Supreme Court decision, whichever is earlier, but in no case earlier than 30 days after the political parties filed their proposed permanent injunctions.

Summary of Bill:

The blanket primary system of wide voter choice with a single ballot primary is replaced with an open, confidential choice system that retains the nature of the primary as a party nomination system, but provides for more limited voter choice with multiple ballots, as follows:

- Each major political party has a separate "party ballot" only including that party's candidates for each partisan office; and*
- A "traditional ballot" including all candidates for partisan office without regard to party affiliation, including major party candidates, minor party candidates, and independent candidates.*

All ballots (whether "party ballots" or "traditional ballots") include all candidates for nonpartisan offices and all ballot measures. A voter makes a confidential choice at the primary to vote using a "party ballot" of a major political party or a "traditional ballot".

Votes cast using the "party ballots" of each major political party and "traditional ballots" are tabulated separately. However, votes cast for each candidate for a nonpartisan office from all "party ballots" and "traditional ballots" are added together to determine which two candidates for a nonpartisan office advance to the general election ballot. Similarly, votes cast for or against each ballot proposition from all "party ballots" and "traditional ballots" are added together to determine if the ballot measure has been approved or rejected.

The nominee of each major party for a partisan office who advances to the general election is the candidate affiliated with that party who receives a plurality of the votes for that office from the "party ballots" of that major political party. However, a major party may adopt a rule allowing votes for candidates affiliated with that party cast using "traditional ballots" to be added to votes cast for candidates associated with that party on its "party ballots" to determine its nominees. This rule must be adopted by July 1 to be effective for that year's primary.

A candidate from a minor party, or an independent candidate, advances to the general election if the candidate receives at least two percent of the total vote cast for the office from "traditional ballots".

Prominent notification must be made regarding whether or not votes cast using "traditional ballots" will be counted along with votes cast using "party ballots" to determine each major party's nominees. This notice must be made on: (1) Traditional ballots; (2) voters' pamphlets; (3) the website of the Secretary of State; and (4) each county auditor's web site, if a web site is in existence.

No change is made in how candidates file for office, including the process for a candidate for nomination by a major party to designate his or her major party preference when filing a declaration of candidacy and a separate convention/nominating petition process for minor party candidates and independent candidates

Appropriation: *None.*

Fiscal Note: *Not Requested.*

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