
SUBSTITUTE HOUSE BILL 1390

State of Washington

58th Legislature

2003 Regular Session

By House Committee on Local Government (originally sponsored by Representatives Moeller, Jarrett, Lovick, Fromhold, Voloria, Kessler, Pettigrew, Miloscia, McDermott, Dunshee, Upthegrove, DeBolt, Wallace, Wood, Sullivan, Schual-Berke, Kagi and Nixon)

READ FIRST TIME 03/04/03.

1 AN ACT Relating to the process for election to local nonpartisan
2 offices; amending RCW 29.21.015, 29.62.020, and 29.65.050; adding a new
3 chapter to Title 29 RCW; creating new sections; and providing an
4 expiration date.

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

6 NEW SECTION. **Sec. 1.** FINDINGS AND PURPOSE. (1) The legislature
7 finds that it is in the public interest to adopt a voting system in
8 which all successful candidates must win by a majority vote rather than
9 a plurality of effective votes and that allows voters to vote secondary
10 and other preferences in case their favorite candidate does not receive
11 a majority of the votes cast. The legislature recognizes that the
12 system known as instant runoff voting achieves that purpose.

13 (2) The legislature further finds that voter interest and
14 participation in elections will increase by use of instant runoff
15 voting because a voter has more choices and all votes will be more
16 meaningful than votes under the present system. The legislature
17 declares it is in the interest of participatory democracy that voters
18 be given the opportunity to vote their true beliefs with their first

1 choice votes, while still making effective secondary choices among the
2 remaining acceptable candidates.

3 (3) The legislature therefore intends to authorize a pilot project
4 to study the effects of using instant runoff voting as a local option
5 for nonpartisan offices in charter cities.

6 NEW SECTION. **Sec. 2.** PILOT PROJECT--INSTANT RUNOFF VOTING. The
7 secretary of state shall conduct a pilot project on the use of instant
8 runoff voting as a local option for nonpartisan offices in charter
9 cities. The pilot project must begin by August 1, 2003, and conclude
10 no later than June 30, 2008.

11 (1) The secretary of state shall select at least one city to
12 participate in the pilot project. Only the city or cities selected by
13 the secretary of state may participate in the pilot project. The
14 county auditor for the county containing a selected city must also be
15 selected to participate in this project. Cities demonstrating support
16 for instant runoff voting as indicated by compliance with the charter
17 amendment required in section 7 of this act will receive first
18 consideration for participation in the pilot project.

19 (2) Elections conducted under the instant runoff voting method for
20 the pilot project must comply with this chapter and may be held only on
21 the dates specified by RCW 29.13.020(1).

22 (3) For the purpose of implementing this chapter, the secretary of
23 state shall develop and adopt:

24 (a) Rules governing the conduct of elections conducted under the
25 instant runoff voting method; and

26 (b) A pilot project timeline. The secretary of state may consult
27 with appropriate local officials to develop this timeline. The
28 timeline is subject to review and amendment by the secretary of state,
29 as necessary.

30 (4) The secretary of state shall certify all election equipment and
31 related processes before the conduct of an election under the instant
32 runoff voting method.

33 (5) The secretary of state shall submit a report of findings to the
34 legislature by July 1, 2008, that includes, but is not limited to:

35 (a) An assessment of all elections conducted using the instant
36 runoff voting method;

1 (b) Recommendations for statutory, rule, and local voting
2 procedural changes necessary to implement instant runoff voting as an
3 alternative election method for special and general elections;

4 (c) An inventory of currently available election equipment
5 necessary for the conduct of elections using the instant runoff method,
6 including costs associated with the equipment; and

7 (d) Any recommendations from any city legislative body or county
8 auditor participating in this pilot project.

9 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
10 section apply throughout this chapter unless the context clearly
11 requires otherwise.

12 (1) "Instant runoff voting" means a system of voting in which
13 voters may rank up to three candidates for the same office in order of
14 preference, so that voters may indicate a first choice, a second
15 choice, and a third choice.

16 (2) "Choice" means an indication on a ballot of a voter's ranking
17 of candidates for a particular office according to the voter's
18 preference.

19 (3) "Vote" means a ballot choice that is counted toward election of
20 a candidate. All first choices are votes, and lower ranked choices are
21 potential votes that may be credited to a candidate, and thus become
22 votes for the candidate, according to the rules stated in this chapter.

23 (4) "Stage" or "stage in the counting" means a step in counting
24 votes, in which votes for all remaining candidates are counted to
25 determine whether a candidate has achieved a majority and, if not,
26 which candidate or candidates are eliminated.

27 (5) "Next choice" means the highest ranked choice for a remaining
28 candidate that has not become a vote at a previous stage.

29 (6) "Last place candidate" means a candidate who has received the
30 fewest votes among the candidates who remain at any stage. Two or more
31 candidates simultaneously become last place candidates when their
32 combined votes are fewer than all votes for the candidate with the next
33 highest number of votes.

34 (7) "Exhausted ballot" means a ballot on which all available
35 choices have been used such that all choices made on the ballot have
36 become votes for the various candidates so indicated or contain choices
37 for eliminated candidates or both and no other choices remain.

1 (8) "Continuing ballot" means a ballot that is not exhausted.

2 (9) "Remaining candidate" means a candidate who has not been
3 eliminated.

4 (10) "Candidates who remain" means all candidates who have not been
5 eliminated at a previous stage.

6 NEW SECTION. **Sec. 4.** INSTANT RUNOFF VOTING--APPLICABLE
7 PROVISIONS. To the extent they are not inconsistent with this chapter,
8 the laws governing the conduct of elections apply to the pilot project
9 on instant runoff voting authorized by section 2 of this act. The
10 authority of a city meeting the criteria of section 7 of this act to
11 participate in an election conducted under the instant runoff voting
12 method expires on June 30, 2008.

13 NEW SECTION. **Sec. 5.** COUNTING OF BALLOTS. (1) General
14 explanation. In general, instant runoff counting proceeds in the
15 following manner: All votes are counted in the first stage. If a
16 candidate receives a majority of votes, he or she is elected. If no
17 candidate receives a majority on the first or any subsequent stage,
18 then the last place candidate at each stage is eliminated. The next
19 choices on ballots for an eliminated candidate become votes for the
20 candidates indicated in those choices, and this process continues until
21 all but one candidate has been eliminated.

22 (2) Specific rules and procedures. The following specific rules
23 and procedures, subject to the conditions of section 6 of this act,
24 govern how votes must be counted for each office subject to instant
25 runoff voting:

26 (a) All first choices are counted first. If a candidate has
27 obtained a majority of those votes, that candidate is elected and
28 counting ends.

29 (b) If no candidate receives a majority of votes at the first
30 stage, then second stage counting begins by eliminating the last place
31 candidate. The second choices made on ballots for the eliminated
32 candidate become votes for the second choice candidate indicated on
33 those ballots. A candidate who receives a majority of votes at that
34 stage is elected.

35 (c) If no candidate receives a majority at a previous stage, then
36 the last place candidate among the remaining candidates is eliminated.

1 The next choices made on ballots for an eliminated candidate become
2 votes for the candidate indicated on those ballots. A candidate who
3 receives a majority of votes at that stage is elected.

4 (d) If at any stage in the counting there are two or more last
5 place candidates, these candidates are eliminated simultaneously. The
6 next choices made on ballots that had votes for all such eliminated
7 candidates become votes for any candidates so indicated who remain.

8 (e) The counting process continues in this manner with successive
9 last place candidates being eliminated and the next choices made on
10 continuing ballots on which votes were cast for eliminated candidates
11 are counted for the remaining candidate or candidates indicated by
12 those choices until all but one candidate has been eliminated. That
13 candidate is then elected.

14 NEW SECTION. **Sec. 6.** VOTING CONDITIONS AND LIMITATIONS. (1)

15 Exhausted ballots. (a) Once a ballot is exhausted, it is disregarded
16 and no longer counted.

17 (b) A ballot assigning the same ranking to more than one candidate
18 for an office is exhausted when the duplicate ranking is reached. In
19 that case no vote is recorded for any of the duplicate candidates so
20 chosen.

21 (2) Maximum effective choices. Only three choices for any one
22 office are counted.

23 (3) Write-in votes. If the total votes of all write-in candidates
24 in each race during any stage is less than the last place candidate
25 among the candidates appearing on the ballot, all write-in candidates
26 are considered eliminated for the current and subsequent stages.

27 (4) Insufficient choice votes made. If ballots do not contain
28 sufficient effective second and lower choices for a particular office
29 so that at the end of the counting no candidate achieves a majority,
30 the candidate with the most votes credited to him or her is elected.

31 (5) Votes for eliminated candidates. No votes may be counted for
32 a candidate who has been eliminated no matter how many second and lower
33 ranked choices might otherwise have become votes for the candidate in
34 a later stage.

35 NEW SECTION. **Sec. 7.** LOCAL OPTION AUTHORIZED. (1) After a

36 charter amendment as provided in RCW 35.22.120 through 35.22.190 or

1 chapter 35A.09 RCW authorizing a city to adopt instant runoff voting as
2 an alternative election method and selection by the secretary of state
3 to participate in the pilot project authorized by section 2 of this
4 act, the legislative body of a charter city may adopt instant runoff
5 voting as the method for electing candidates for all nonpartisan city
6 offices.

7 (2) After adoption of instant runoff voting by the legislative body
8 of a charter city as provided for in subsection (1) of this section,
9 the city shall notify the county auditor and the secretary of state of
10 its intent to hold an election under the instant runoff voting method
11 before such election. If the county auditor notifies the city that
12 existing election equipment of the county is insufficient for the
13 conduct of an election under the instant runoff voting method, the city
14 and the county auditor shall reach an agreement for the purchase of any
15 new equipment specifically required for such election. Nothing in this
16 subsection precludes the auditor from canvassing the returns by hand.

17 (3) The date of an election conducted under the instant runoff
18 voting method must be consistent with the timeline required by section
19 2 of this act.

20 NEW SECTION. **Sec. 8.** BALLOT SPECIFICATIONS AND DIRECTIONS TO
21 VOTERS. Ballots should be simple and easy to understand. Sample
22 ballots illustrating voting procedures must be posted in or near the
23 voting booth, and included in the instruction packet of absentee
24 ballots. Directions provided to voters must conform substantially to
25 the following specifications:

26 "You may vote for up to three candidates in order of
27 preference. Indicate your first choice by marking the number
28 "1" beside a candidate's name (or by marking in the column
29 labeled "First Choice"), your second choice by marking the
30 number "2" (or by marking in the column labeled "Second
31 Choice"), your third choice by the number "3" (or by marking
32 the "Third Choice" column). You are under no obligation to
33 rank more than one candidate for each office and ranking
34 additional candidates will not affect your first choice
35 candidate. Do not mark the same number beside more than one
36 candidate (or put more than one mark in each column for the
37 office on which you are voting). Do not skip numbers."

1 NEW SECTION. **Sec. 9.** CHANGES IN VOTING DEVICES AND COUNTING
2 METHODS. Appropriate election officials of this state may provide for
3 the use of electronic, computerized, or other devices for marking,
4 sorting, and counting the ballots and tabulating the results, and may
5 modify the design and form of the ballots, the directions to voters,
6 and the details with respect to the method of marking, sorting,
7 invalidating, and retaining of ballots, and the counting of votes. No
8 change may be made inconsistent with provisions, purposes, or
9 principles of this chapter. Election officials should provide voters
10 with a ballot that has a special design, format, or layout for offices
11 to which instant runoff voting applies, but the parts of ballots for
12 contests that have only one or two candidates for the same office may
13 differ from the parts of a ballot to which instant runoff voting
14 applies.

15 **Sec. 10.** RCW 29.21.015 and 1998 c 19 s 1 are each amended to read
16 as follows:

17 (1) No primary may be held for any single position in any city,
18 town, district, or district court, as required by RCW 29.21.010, if,
19 after the last day allowed for candidates to withdraw, there are no
20 more than two candidates filed for the position. The county auditor
21 shall, as soon as possible, notify all the candidates so affected that
22 the office for which they filed will not appear on the primary ballot.

23 (2) (a) No primary may be held for nonpartisan offices in charter
24 cities if the city:

25 (i) Has been selected to participate in the pilot project
26 authorized by section 2 of this act; and

27 (ii) Is conducting an election using the instant runoff voting
28 method authorized by this chapter.

29 (b) This subsection (2) expires June 30, 2008.

30 (3) No primary may be held for the office of commissioner of a park
31 and recreation district or for the office of cemetery district
32 commissioner.

33 (~~(3)~~) (4) Names of candidates for offices that do not appear on
34 the primary ballot shall be printed upon the general election ballot in
35 the manner specified by RCW 29.30.025.

1 **Sec. 11.** RCW 29.62.020 and 1999 c 259 s 4 are each amended to read
2 as follows:

3 (1) At least every third day after a special election, primary, or
4 general election and before certification of the election results,
5 except Sundays and legal holidays, the county auditor shall convene the
6 county canvassing board or their designees to process absentee ballots
7 and canvass the votes cast at that special election, primary, or
8 general election, if the county auditor is in possession of more than
9 twenty-five ballots that have yet to be canvassed. The county auditor
10 may use his or her discretion in determining when to convene the
11 canvassing board or their designees during the final four days before
12 the certification of election results in order to protect the secrecy
13 of any ballot.

14 Each absentee ballot previously not canvassed that was received by
15 the county auditor two days or more before the convening of the
16 canvassing board or their designees and that either was received by the
17 county auditor before the closing of the polls on the day of the
18 special election, primary, or general election for which it was issued,
19 or that bears a date of mailing on or before the special election,
20 primary, or general election for which it was issued, must be processed
21 at that time. The tabulation of votes that results from that day's
22 canvass must be made available to the general public immediately upon
23 completion of the canvass.

24 (2) Except as provided in subsection (4) of this section, on the
25 tenth day after a special election or a primary and on the fifteenth
26 day after a general election, the canvassing board shall complete the
27 canvass and certify the results. Each absentee ballot that was
28 returned before the closing of the polls on the date of the primary or
29 election for which it was issued, and each absentee ballot with a date
30 of mailing on or before the date of the primary or election for which
31 it was issued and received on or before the date on which the primary
32 or election is certified, shall be included in the canvass report.

33 (3) At the request of any caucus of the state legislature, the
34 county auditor shall transmit copies of all unofficial returns of state
35 and legislative primaries or elections prepared by or for the county
36 canvassing board to either the secretary of the senate or the chief
37 clerk of the house.

1 (4) On or before the thirtieth day after an election conducted
2 under the instant runoff voting method for the pilot project authorized
3 by section 2 of this act, the canvassing board shall complete the
4 canvass and certify the results. This subsection expires June 30,
5 2008.

6 **Sec. 12.** RCW 29.65.050 and 1965 c 9 s 29.65.050 are each amended
7 to read as follows:

8 (1) The clerk shall issue subpoenas for witnesses in ~~((such))~~ a
9 contested election at the request of either party, which shall be
10 served by the sheriff or constable, as other subpoenas, and the
11 superior court shall have full power to issue attachments to compel the
12 attendance of witnesses who shall have been duly subpoenaed to attend
13 if they fail to do so.

14 (2) The court shall meet at the time and place designated to
15 determine such contested election by the rules of law and evidence
16 governing the determination of questions of law and fact, so far as the
17 same may be applicable, and may dismiss the proceedings if the
18 statement of the cause or causes of contest is insufficient, or for
19 want of prosecution. After hearing the proofs and allegations of the
20 parties, the court shall pronounce judgment in the premises, either
21 confirming or annulling and setting aside such election, according to
22 the law and right of the case.

23 (3) If in any such case it shall appear that another person than
24 the one returned has the highest number of legal votes, said court
25 shall declare such person duly elected.

26 (4) When applicable, subsections (1) through (3) of this section
27 apply to elections conducted under the instant runoff voting method as
28 authorized by section 2 of this act. This subsection expires June 30,
29 2008.

30 NEW SECTION. **Sec. 13.** Sections 1 through 9 of this act apply to
31 the pilot project for instant runoff voting authorized by section 2 of
32 this act.

33 NEW SECTION. **Sec. 14.** Sections 1 through 9 of this act expire on
34 June 30, 2008.

1 NEW SECTION. **Sec. 15.** Sections 1 through 9 of this act constitute
2 a new chapter in Title 29 RCW.

3 NEW SECTION. **Sec. 16.** Section captions used in this act are not
4 part of the law.

5 NEW SECTION. **Sec. 17.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

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