

HOUSE BILL REPORT

ESHB 1752

As Passed House:

March 5, 2009

Title: An act relating to the observation of election procedures.

Brief Description: Regarding the observation of election procedures.

Sponsors: House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hurst and Hunt).

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/17/09, 2/20/09 [DPS].

Floor Activity

Passed House: 3/5/09, 92-5.

Brief Summary of Engrossed Substitute Bill

- Requires that major party observers be allowed close enough to the election workers and process to provide meaningful monitoring.
- Requires that designated observers be allowed close enough to election workers and the process during a recount to provide meaningful monitoring.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Hunt, Chair; Appleton, Vice Chair; Flannigan, Hurst and Miloscia.

Minority Report: Do not pass. Signed by 2 members: Representatives Armstrong, Ranking Minority Member; Alexander.

Staff: Tracey O'Brien (786-7196)

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Major political parties have a responsibility to provide observers to monitor the election process. Prior to an election, the County Auditor or County Election Department must contact the major political parties and inform them of how many observers are needed to the election. A political party is designated as a major political party if one of its nominees received more than 5 percent of the total votes cast for President, U.S. Senator, or a statewide office in a general election in an even numbered year.

Major party observers are required to receive training prior to an election. An observer should observe all aspects of the election process from the printing of ballots through the certification of the election. Observers cannot touch or interfere with the processing of ballots. He or she may be as close to the process as space allows.

Summary of Engrossed Substitute Bill:

Major party observers must be allowed, if they choose, to witness the duplication of damaged ballots.

Major party observers must be allowed close enough to election workers to provide meaningful monitoring of the processing of ballots, as determined by the County Canvassing Board. "Meaningful monitoring" includes, but is not limited to, being able to view individual ballots, hear conversations between election workers, and observe the selection of ballots for a random check.

Designated observers of a recount must be close enough to the election workers to provide meaningful monitoring of the process, as determined by the County Canvassing Board. This includes, but is not limited to, viewing the individual ballots and hearing conversations among the election workers.

Observers may only engage in direct conversations with those election workers identified by the County Auditor.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Several counties do not allow the major party observers closer than 100 feet. Another county keeps the major party observers behind glass windows. By not allowing the major party observers close enough to actually observe what is going on by seeing and hearing, it makes the oversight of the major party observers almost meaningless. This bill would help improve the transparency and openness of elections.

(Neutral with concerns) County auditors are committed to open and transparent elections. The cold hard reality is major party observers only show up at hotly contested elections.

Section 3 of the bill will make it difficult to maintain ballot security. In addition, there are counties where lack of additional space to accommodate the major party observers differently will be an issue. There is a fear that this bill will allow for additional confrontations between election officials and major party observers as the implementation of this bill is subjective.

(With concerns) We work hard to make elections open and transparent to our major party observers. This bill creates several ballot security issues. County auditors need flexibility in administering the elections. In addition, what constitutes "meaningful observation" is vague and undefined. We cannot have major party observers in the way of processing the election any more than they already are. Also, space to accommodate the major party observers differently could be an issue for many counties.

(Opposed) None.

Persons Testifying: (In support) Representative Hunt, prime sponsor.

(Neutral with concerns) Kim Wyman, Washington Association of County Auditors.

(With concerns) Carolyn Weikel, Snohomish County Auditors Office; and Corky Mattingly, Yakima County Auditors Office.

Persons Signed In To Testify But Not Testifying: None.