

# HOUSE BILL REPORT

## SSB 5266

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### As Passed House - Amended:

April 12, 2019

**Title:** An act relating to ensuring timely elections for governing body members in jurisdictions modifying districting plans under the Washington voting rights act.

**Brief Description:** Concerning timely elections for governing body members in jurisdictions modifying districting plans under the Washington voting rights act.

**Sponsors:** Senate Committee on State Government, Tribal Relations & Elections (originally sponsored by Senators Saldaña, Hunt, Hasegawa, McCoy, Keiser and Das).

### Brief History:

#### Committee Activity:

State Government & Tribal Relations: 3/11/19, 3/22/19 [DPA].

#### Floor Activity:

Passed House - Amended: 4/12/19, 60-38.

### Brief Summary of Substitute Bill (As Amended by House)

- Requires the governing or legislative body positions of certain political subdivisions to be subject to election at the next general election if the political subdivision makes certain modifications, adopted under the Washington Voting Rights Act (WVRA), to its electoral system.
- Applies the act retroactively to January 16, 2019.
- Makes changes to various political subdivision statutes to align the provisions with the WVRA.

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## HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

**Majority Report:** Do pass as amended. Signed by 5 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Appleton, Dolan and Hudgins.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Mosbrucker and Smith.

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*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.*

**Staff:** Desiree Omli (786-7105).

**Background:**

Washington Voting Rights Act.

The Washington Voting Rights Act (WVRA) was established in 2018. The WVRA applies to elections held within counties, cities, towns, school districts, fire protection districts, port districts, or public utility districts (political subdivisions). Under the WVRA, the method of electing the governing body of a political subdivision may not be imposed in a manner that impairs the ability of members of a protected class or classes to have an equal opportunity to elect candidates of their choice as a result of the dilution or abridgment of the rights of voters who are members of a protected class or classes. A protected class includes voters who are members of a race, color, or language minority group.

A political subdivision is in violation of the WVRA when:

1. elections in the political subdivision exhibit polarized voting, meaning a difference in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by the voters in the rest of the electorate; and
2. members of a protected class or classes do not have an equity opportunity to elect candidates of their choice as a result of the dilution or abridgment of the rights of members of that protected class or classes.

Washington Voting Rights Act—Change in Electoral System.

Any political subdivision may voluntarily change its electoral system to remedy a potential violation of the WVRA, including implementation of a district-based election system where candidates for a governing body must reside within an election district that is a divisible part of the political subdivision and are elected only by voters residing within the election district.

In addition, a voter who resides in the political subdivision may notify the political subdivision of the voter's intent to challenge the political subdivision's electoral system. The political subdivision must work in good faith with the voter bringing the notice to implement a remedy, and the remedy must be acknowledged by court order. If, within 180 days, or, after July 1, 2021, 90 days, of receiving a notice of a challenge to its electoral system, the political subdivision has not obtained an order stating it has adopted a remedy in compliance with the WVRA, any voter who resides in the political subdivision may file an action. The court may order appropriate remedies, including the imposition of a district-based election system.

If a political subdivision adopts a new election plan or the court issues a remedy between the date of the general election and January 15 of the following year, the new election plan must be used in the next general election. If the political subdivision adopts the new election plan or the court issues a remedy between January 16 and the date of the next general election, the new election plan must be used in the general election the following year.

The WVRA supersedes other state laws and local ordinances to the extent that those state laws or ordinances would otherwise restrict a jurisdiction's ability to comply with the WVRA.

### Local Elections—Governing Body Terms.

The terms of the governing or legislative bodies of the various political subdivisions are governed by statute. For example, port district commissioners generally serve four-year terms. A port district that is not coterminous with a county which has the same number of county legislative authority districts as the number of port commissioners may redraw its district boundaries at any time without affecting the term of a commissioner.

Additionally, in a school district of the first class, which is a district with 2,000 or more student enrollments, within a city with a population of 400,000 people or more (Seattle School District) the directors elected to the Board of Directors generally serve a term of four years.

In a city initially classified as a second-class city prior to January 1, 1993, that retained its second-class city plan of government when the city reorganized as a noncharter code city (Hoquiam), the terms for councilmembers is four years. If the city council chooses to divide the city into wards or change the boundaries of existing wards, the change in the boundaries will not affect the term of any councilmember.

In a noncharter code city organized under the mayor-council plan of government, councilmembers are elected for four-year terms. The council of such a noncharter code city may divide the city into wards or change the boundaries of existing wards, but the change in the boundaries will not affect the term of any councilmember.

### **Summary of Amended Bill:**

All positions on the governing or legislative body of a political subdivision are subject to election at the next election if, pursuant to the WVRA:

1. a political subdivision voluntarily implements a district-based election system;
2. a political subdivision makes changes to its electoral system as a result of a court order issued; or
3. for the following political subdivisions, such political subdivisions adopt changes to its district or ward boundaries voluntarily or by court order:
  - a school board of any first class school district that is within a city with a population of 400,000 people;
  - a city initially classified as a second-class city prior to January 1, 1993, that retained its second-class city plan of government when the city reorganized as a noncharter code city;
  - a noncharter code city organized under the mayor-council plan of government; and
  - a port district that uses commissioner districts.
- 4.
5. For political subdivisions that voluntarily implement a district-based election system or make changes to its electoral system as a result of a court order, the governing body may subsequently stagger the terms of governing body positions.

The act makes changes to various political subdivision statutes to align the provisions with the provisions under the WVRA.

The act applies retroactively to January 16, 2019.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) None.

(Opposed) None.

**Persons Testifying:** None.

**Persons Signed In To Testify But Not Testifying:** None.