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**SENATE BILL 5068**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Miloscia, Rivers, Schoesler, Honeyford, and Padden

AN ACT Relating to establishing a voting rights act to promote equal voting opportunity in certain political subdivisions by authorizing district-based elections in cities, towns, code cities, and counties; amending RCW 35.18.020, 35.23.850, 35A.12.180, 36.32.050, and 36.32.0556; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature recognizes that many local governments are presently considering the option of converting from at large elections to electoral systems that are oriented towards district-based voting. However, several types of jurisdictions are required to conduct their general elections on an at large basis, and are thus precluded from any change. This state law prohibition may put certain jurisdictions in the precarious position of facing liability under the federal voting rights act, while state law prevents them from adopting a legitimate, good faith solution. Further, noting the outcome of the recent lawsuit within the state of Washington, the legislature recognizes that the federal voting rights act provides an effective means to challenge what a plaintiff considers to be an unfair electoral system. Therefore, the legislature intends to provide local governments with the tools they need to offer the most effective, inclusive, and fair electoral systems for their citizens.

**Sec.**  RCW 35.18.020 and 2015 c 53 s 32 are each amended to read as follows:

(1) The number of councilmembers in a city or town operating with a council-manager plan of government shall be based upon the latest population of the city or town that is determined by the office of financial management as follows:

(a) A city or town having not more than two thousand inhabitants, five councilmembers; and

(b) A city or town having more than two thousand, seven councilmembers.

(2) Except for the initial staggering of terms, councilmembers shall serve for four-year terms of office. All councilmembers shall serve until their successors are elected and qualified and assume office in accordance with RCW 29A.60.280. Councilmembers may be elected on a citywide or townwide basis, or from wards or districts, or any combination of these alternatives. Candidates shall run for specific positions. Wards or districts shall be redrawn as provided in chapter 29A.76 RCW. Wards or districts shall be used as follows: (a) Only a resident of the ward or district may be a candidate for, or hold office as, a councilmember of the ward or district; and (b) only voters of the ward or district may vote at a primary to nominate candidates for a councilmember of the ward or district. Voters of the entire city or town may vote at the general election to elect a councilmember of a ward or district, unless the city or town ((~~had prior to January 1, 1994, limited~~)) council has adopted an ordinance or the voters of the city or town have approved an initiative limiting the voting in the general election for any or all council positions to only voters residing within the ward or district associated with the council positions. If a city or town had so limited the voting in the general election to only voters residing within the ward or district, then the city or town shall be authorized to continue to do so.

(3) When a city or town has qualified for an increase in the number of councilmembers from five to seven by virtue of the next succeeding population determination made by the office of financial management, two additional council positions shall be filled at the next municipal general election ((~~with~~)). If the voting at the election includes voters of the entire city, the person elected to one of the new council positions receiving the greatest number of votes ((~~being elected for~~)) shall serve a four-year term of office, and the person elected to the other additional council position ((~~being elected for~~)) shall serve a two-year term of office. The two additional councilmembers shall assume office immediately when qualified in accordance with RCW 29A.04.133, but the term of office shall be computed from the first day of January after the year in which they are elected. Their successors shall be elected to four-year terms of office. The city or town may redistrict and create seven wards by ordinance or, if authorized, voter initiative, and conduct the appointment and election of the new councilmembers within the wards.

Prior to the election of the two new councilmembers, the city or town council shall fill the additional positions by appointment not later than forty-five days following the release of the population determination, and each appointee shall hold office only until the new position is filled by election.

(4) When a city or town has qualified for a decrease in the number of councilmembers from seven to five by virtue of the next succeeding population determination made by the office of financial management, two council positions shall be eliminated at the next municipal general election if four council positions normally would be filled at that election, or one council position shall be eliminated at each of the next two succeeding municipal general elections if three council positions normally would be filled at the first municipal general election after the population determination. The council shall by ordinance indicate which, if any, of the remaining positions shall be elected at-large or from wards or districts.

(5) Vacancies on a council shall occur and shall be filled as provided in chapter 42.12 RCW.

**Sec.**  RCW 35.23.850 and 2015 c 53 s 41 are each amended to read as follows:

In any 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, the city council may divide the city into wards, not exceeding six in all, or change the boundaries of existing wards at any time less than one hundred twenty days before a municipal general election. No change in the boundaries of wards shall affect the term of any councilmember, and councilmembers shall serve out their terms in the wards of their residences at the time of their elections. However, if these boundary changes result in one ward being represented by more councilmembers than the number to which it is entitled, those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of determining whether those positions are vacant and shall serve until a ward resident is elected.

The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable.

Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city ((~~had prior to January 1, 1994, limited~~)) council has adopted an ordinance or, if authorized, the voters of the city have approved an initiative limiting the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so. The elections for the remaining council position or council positions that are not associated with a ward shall be conducted as if the wards did not exist.

**Sec.**  RCW 35A.12.180 and 2015 c 53 s 53 are each amended to read as follows:

At any time not within three months previous to a municipal general election the council of a noncharter code city organized under this chapter may divide the city into wards or change the boundaries of existing wards. No change in the boundaries of wards shall affect the term of any councilmember, and councilmembers shall serve out their terms in the wards of their residences at the time of their elections: PROVIDED, That if this results in one ward being represented by more councilmembers than the number to which it is entitled those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of those positions being vacant and shall serve until a ward resident is elected. The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable.

Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city ((~~had prior to January 1, 1994, limited~~)) council has adopted an ordinance or, if authorized, the voters of the city have approved an initiative limiting the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. ((~~If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so.~~))

**Sec.**  RCW 36.32.050 and 2009 c 549 s 4063 are each amended to read as follows:

County commissioners shall be elected by the qualified voters of the county and the person receiving the highest number of votes for the office of commissioner for the district in which he or she resides shall be declared duly elected from that district, unless the commission has adopted an ordinance or, if authorized, the voters of the county have approved an initiative limiting voting in the general election to the voters of each district.

**Sec.**  RCW 36.32.0556 and 1990 c 252 s 5 are each amended to read as follows:

The commissioners in a five-member board of county commissioners shall be elected to four-year staggered terms. Each commissioner shall reside in a separate commissioner district. Each commissioner shall be nominated from a separate commissioner district by the voters of that district. Each shall be elected by the voters of the entire county, unless the commission has adopted an ordinance or, if authorized, the voters of the county have approved an initiative limiting voting in the general election to the voters of each district. Three members of a five-member board of commissioners shall constitute a quorum to do business.

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