**5597-S2.E AMH SGOV H2793.1 - NOT FOR FLOOR USE**

**E2SSB 5597** - H COMM AMD

By Committee on State Government & Tribal Relations

Strike everything after the enacting clause and insert the following:

**"PART I**

**VOTE DILUTION PROHIBITION AND COST RECOVERY MECHANISM**

**Sec.**  RCW 29A.92.020 and 2018 c 113 s 104 are each amended to read as follows:

((~~As~~)) It is a violation of this chapter for a political subdivision to impose a method of electing its governing body that constitutes vote dilution as provided in RCW 29A.92.030((~~, no method of electing the governing body of a political subdivision may be imposed or applied 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~~)).

**Sec.**  RCW 29A.92.030 and 2019 c 64 s 7 are each amended to read as follows:

(1) A political subdivision ((~~is~~)) commits vote dilution and shall be found in violation of this chapter when it is shown that:

(a) Elections in the political subdivision exhibit polarized voting; and

(b) Members of a protected class or classes do not have an equal 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.

(2) ((~~The fact that members of a protected class are not geographically compact or concentrated to constitute a majority in a proposed or existing district-based election district shall not preclude a finding of a violation under this chapter, but may be a factor in determining a remedy. The equal opportunity to elect shall be assessed pragmatically, based on local election conditions, and may include crossover districts.~~

~~(3)~~)) In determining whether there is polarized voting under this chapter, the court shall analyze elections of the governing body of the political subdivision, ballot measure elections, elections in which at least one candidate is a member of a protected class, and other electoral choices that affect the rights and privileges of members of a protected class. Elections conducted prior to the filing of an action pursuant to this chapter are more probative to establish the existence of ((~~racially~~)) polarized voting than elections conducted after the filing of an action.

((~~(4)~~)) (3) The election of candidates who are members of a protected class and who were elected prior to the filing of an action pursuant to this chapter shall not preclude a finding of polarized voting that results in an unequal opportunity for a protected class to elect candidates of their choice.

(4) The equal opportunity to elect shall be assessed pragmatically, based on local election conditions, and may include crossover districts. No single factor is dispositive or necessary to establish a violation of this section. The fact that members of a protected class are not geographically compact or concentrated to constitute a majority in a proposed or existing district-based election district shall not preclude a finding of a violation under this chapter, but may be a factor in determining a remedy.

(5) Proof of intent on the part of the voters or elected officials to discriminate against a protected class is not required for a cause of action to be sustained.

(6) Other factors such as the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns are probative, but not necessary factors, to establish a violation of this chapter.

(7) A class of citizens protected by this section may include a cohesive coalition of members of different racial, ethnic, or language minority groups.

**Sec.**  RCW 29A.92.060 and 2019 c 64 s 9 are each amended to read as follows:

(1) A voter who resides in the political subdivision, or an organization whose membership includes or is likely to include a voter in the jurisdiction and who resides in the political subdivision, who intends to challenge a political subdivision's electoral system under this chapter shall first notify the political subdivision. The political subdivision shall promptly make such notice public.

(2) The notice provided shall identify and provide contact information for the person or persons who intend to file an action, and shall identify the protected class or classes whose members do not have an equal opportunity to elect candidates of their choice or an equal opportunity to influence the outcome of an election because of alleged vote dilution and polarized voting. The notice shall also include a type of remedy the person believes may address the alleged violation of RCW 29A.92.030.

**Sec.**  RCW 29A.92.090 and 2019 c 64 s 12 are each amended to read as follows:

(1) After exhaustion of the time period in RCW 29A.92.080, any voter who resides in a political subdivision or organization whose membership includes or is likely to include a voter in the jurisdiction and who resides in the political subdivision where a violation of RCW 29A.92.020 is alleged may file an action in the superior court of the county in which the political subdivision is located. If the action is against a county, the action may be filed in the superior court of such county, or in the superior court of either of the two nearest judicial districts as determined pursuant to RCW 36.01.050(2). An action filed pursuant to this chapter does not need to be filed as a class action.

(2) ((~~Members~~)) A cohesive coalition of members of different protected classes may file an action jointly pursuant to this chapter if they demonstrate that the combined voting preferences of the multiple protected classes are polarized against the rest of the electorate.

**Sec.**  RCW 29A.92.110 and 2019 c 454 s 2 are each amended to read as follows:

(1) ((~~The~~)) After finding a violation of RCW 29A.92.020 or upon stipulation of the parties, the court may order appropriate remedies including, but not limited to, the imposition of a district-based election system. ((~~The court may order the affected jurisdiction to draw or redraw district boundaries or appoint an individual or panel to draw or redraw district lines. The proposed districts must be approved by the court prior to their implementation.~~)) In tailoring a remedy, the court shall consider proposed remedies by the parties and may not give deference to a proposed remedy only because it is proposed by the political subdivision. The court may not approve a remedy that has a dilutive effect on the protected class.

(2) If the court orders a district-based remedy, the court must approve proposed district boundaries prior to their implementation. The court must determine that the proposed district boundaries will not have a dilutive effect on the protected class before court approval.

(3) Implementation of a district-based remedy is not precluded by the fact that members of a protected class do not constitute a numerical majority within a proposed district-based election district. If, in tailoring a remedy, the court orders the implementation of a district-based election district where the members of the protected class are not a numerical majority, the court shall do so in a manner that provides the protected class an equal opportunity to elect candidates of their choice. The court may also approve a district-based election system that provides the protected class the opportunity to join in a coalition of two or more protected classes to elect candidates of their choice if there is demonstrated political cohesion among the protected classes.

((~~(3)~~)) (4) In tailoring a remedy after a finding of a violation of RCW 29A.92.020 or upon stipulation of the parties:

(a) If the court's order providing a remedy or approving proposed districts, whichever is later, is issued during the period of time between the first Tuesday after the first Monday of November and on or before January 15th of the following year, the court shall order new elections, conducted pursuant to the remedy, to occur at the next succeeding general election. If a special filing period is required, filings for that office shall be reopened for a period of three business days, such three-day period to be fixed by the filing officer.

(b) If the court's order providing a remedy or approving proposed districts, whichever is later, is issued during the period of time between January 16th and on or before the first Monday of November, the next election will occur as scheduled and organized under the current electoral system, but the court shall order new elections to occur pursuant to the remedy at the general election the following calendar year.

(c) The remedy may provide for the political subdivision to hold elections for the members of its governing body at the same time as regularly scheduled elections for statewide or federal offices. All positions on the governing body must stand for election at the next election for the governing body, scheduled pursuant to this subsection ((~~(3)~~)) (4). The governing body may subsequently choose to stagger the terms of its positions.

((~~(4)~~)) (5) Within thirty days of the conclusion of any action filed under RCW 29A.92.100, the political subdivision must publish on the subdivision's website, the outcome and summary of the action, as well as the legal costs incurred by the subdivision. If the political subdivision does not have its own website, then it may publish on the county website.

**Sec.**  RCW 29A.92.070 and 2019 c 64 s 10 are each amended to read as follows:

(1) The political subdivision shall work in good faith with the person or organization providing the notice to implement a remedy that provides the protected class or classes identified in the notice an equal opportunity to elect candidates of their choice. Such work in good faith to implement a remedy may include, but is not limited to consideration of: (a) Relevant electoral data; (b) relevant demographic data, including the most recent census data available; and (c) any other information that would be relevant to implementing a remedy.

(2) If the political subdivision adopts a remedy that takes the notice into account, or adopts the notice's proposed remedy, the political subdivision shall seek a court order acknowledging that the political subdivision's remedy complies with RCW 29A.92.020 and was prompted by a plausible violation. The person who submitted the notice may support or oppose such an order, and may obtain public records to do so. The political subdivision must provide all political, census, and demographic data and any analysis of that data used to develop the remedy in its filings seeking the court order and with any documents made public. All facts and reasonable inferences shall be viewed in the light most favorable to those opposing the political subdivision's proposed remedy at this stage. There shall be a rebuttable presumption that the court will decline to approve the political subdivision's proposed remedy at this stage.

(3) If the court concludes that the political subdivision's remedy complies with RCW 29A.92.020, an action under this chapter may not be brought against that political subdivision for four years by any party so long as the political subdivision does not enact a change to or deviation from the remedy during this four-year period that would otherwise give rise to an action under this chapter.

(4) In agreeing to adopt the person's or organization's proposed remedy, the political subdivision may do so by stipulation, which shall become a public document.

(5)(a) If the court issues an order under subsection (2) of this section, the person or organization who sent the notice may make a demand to the political subdivision for reimbursement of the costs incurred in conducting the research necessary to send the notice. A demand made under this subsection must:

(i) Be in writing;

(ii) Be received by the political subdivision within 30 days of the adoption of the new electoral system; and

(iii) Include financial documentation, such as a detailed invoice for demographic services, that support the demand. The political subdivision may request additional documentation if the documentation provided is insufficient for the political subdivision to corroborate the claimed costs.

(b) The political subdivision shall, within 60 days of receiving the demand, reimburse the reasonable costs of the person or organization who sent the notice, not to exceed $50,000.

**Sec.**  RCW 29A.92.080 and 2019 c 64 s 11 are each amended to read as follows:

(1) Any voter who resides in the political subdivision or organization whose membership includes or is likely to include a voter in the jurisdiction and who resides in the political subdivision may file an action under this chapter if, ((~~one hundred eighty~~)) 90 days after a political subdivision receives notice of a challenge to its electoral system under RCW 29A.92.060, the political subdivision has not obtained a court order stating that it has adopted a remedy in compliance with RCW 29A.92.020. ((~~However, if notice is received after July 1, 2021, then the political subdivision shall have ninety days to obtain a court order before an action may be filed.~~))

(2) If a political subdivision has received two or more notices containing materially different proposed remedies, the political subdivision shall work in good faith with the persons to implement a remedy that provides the protected class or classes identified in the notices an equal opportunity to elect candidates of their choice. If the political subdivision adopts one of the remedies offered, or a different remedy that takes multiple notices into account, the political subdivision shall seek a court order acknowledging that the political subdivision's remedy is reasonably necessary to avoid a violation of RCW 29A.92.020. The persons or organizations who submitted the notice may support or oppose such an order, and may obtain public records to do so. The political subdivision must provide all political, census, and demographic data and any analysis of that data used to develop the remedy in its filings seeking the court order and with any documents made public. All facts and reasonable inferences shall be viewed in the light most favorable to those opposing the political subdivision's proposed remedy at this stage. There shall be a rebuttable presumption that the court will decline to approve the political subdivision's proposed remedy at this stage.

(3) If the court concludes that the political subdivision's remedy complies with RCW 29A.92.020, an action under this chapter may not be brought against that political subdivision for four years by any party so long as the political subdivision does not enact a change to or deviation from the remedy during this four-year period that would otherwise give rise to an action under this chapter.

(4)(a) If the court issues an order under subsection (2) of this section, the persons or organizations who sent notices may make a demand to the political subdivision for reimbursement of the costs incurred in conducting the research necessary to send the notices. A demand made under this subsection must:

(i) Be in writing;

(ii) Be received by the political subdivision within 30 days of the adoption of the new electoral system; and

(iii) Include financial documentation, such as a detailed invoice for demographic services, that support the demand. The political subdivision may request additional documentation if the documentation provided is insufficient for the political subdivision to corroborate the claimed costs.

(b) The political subdivision shall, within 60 days of receiving the demand, reimburse the reasonable costs of the persons or organizations who sent the notices, not to exceed $50,000.

**Sec.**  RCW 29A.92.130 and 2018 c 113 s 405 are each amended to read as follows:

(1) In any action to enforce this chapter, the court may allow the prevailing plaintiff or plaintiffs, other than the state or political subdivision thereof, reasonable attorneys' fees, all nonattorney fee costs as defined by RCW 4.84.010, and all reasonable expert witness fees, including all such reasonable fees and costs incurred before filing the action. ((~~No fees or costs may be awarded if no action is filed.~~))

(2)(a) A prevailing plaintiff does not need to achieve relief or favorable judgment if the plaintiff demonstrates that they succeeded in altering the political subdivision's behavior to correct a claimed harm.

(b) For purposes of this section, "altering the political subdivision's behavior" includes, but is not limited to, adopting a new method of electing a governing body, modifying district boundaries, or amending a voting rule or qualification.

(3) Prevailing defendants may recover an award of fees or costs pursuant to RCW 4.84.185.

(4) In an action in which a political subdivision has, through the preclearance procedures in section 9 of this act, obtained a declaratory judgment from a superior court or a certification of no objection from the attorney general before the action was filed, the court may consider the political subdivision's reliance on preclearance when awarding reasonable attorneys' fees.

**PART II**

**PRECLEARANCE**

NEW SECTION. **Sec.**  A new section is added to chapter 29A.92 RCW to read as follows:

(1) For purposes of this section and section 10 of this act:

(a) "Covered jurisdiction" means:

(i) A county in which, based on data from the American community survey:

(A) The proportion of members of any protected class consisting of at least 10,000 voting age citizens or whose members comprise at least 10 percent of the citizen voting age population of the county that has an income below the poverty level exceeds that of the total population of the county as a whole by at least 5 percent at any point within the previous ten years;

(B) The proportion of members of any protected class consisting of at least 10,000 voting age citizens or whose members comprise at least 10 percent of the citizen voting age population of the county that is considered uninsured in terms of health coverage exceeds that of the total population of the county as a whole by at least 5 percent at any point within the previous ten years; or

(C) The proportion of members of any protected class consisting of at least 10,000 voting age citizens or whose members comprise at least 10 percent of the citizen voting age population of the county that is at least 25 years of age and does not have a high school diploma or its equivalent exceeds that of the total population of the county as a whole by at least 5 percent at any point within the previous ten years;

(ii) A school district with a difference of at least 10 percent between the graduation rates of students of any protected class and the district as a whole;

(iii) A political subdivision that, within the previous 25 years, has become subject to a court order or government enforcement action based upon a finding of any violation of this chapter, the federal voting rights act, the Fifteenth Amendment to the United States Constitution, or a voting-related violation of the Fourteenth Amendment to the United States Constitution; or

(iv) A political subdivision that, within the previous five years, has failed to comply with its obligations to provide data or information to the repository, as stated in section 11 of this act.

(b) "Covered practice" means:

(i) Any change to the method of election of members of a governing body by adding seats elected at large or by converting one or more seats elected from a single-member district to one or more at large seats or seats from a multimember district;

(ii) Any change, or series of changes within a 12-month period, to the boundaries of the covered jurisdiction that reduces by more than five percentage points the proportion of the jurisdiction's voting age population that is composed of members of a single racial or language-minority group, as determined by the most recent American community survey data;

(iii) Any change to the boundaries of election districts or wards in the covered jurisdiction;

(iv) Any change that restricts the ability of any person to provide interpreter services to voters in any language other than English or which limits or impairs the creation or distribution of voting materials in any language other than English; or

(v) Any change to the covered jurisdiction's plan of government, including a change to or in the framing of a jurisdiction's charter.

(2)(a) Prior to enacting or seeking to administer any voting qualification or prerequisite to voting, or any standard, practice, or procedure with respect to voting, that is a covered practice, the governing body of a covered jurisdiction shall either:

(i) Institute an action in Thurston county superior court for a declaratory judgment or, if the jurisdiction is located within Thurston county, institute an action in King county superior court for a declaratory judgment; or

(ii) Submit such covered practice to the attorney general for issuance of a certification that no objection exists to the enactment or administration by the covered jurisdiction of the covered practice.

(b) The superior court shall issue the declaratory judgment or, if applicable, the attorney general shall issue a certification of no objection, only if the covered practice:

(i) Does not violate RCW 29A.92.020; and

(ii) Will not result in the retrogression in the position of persons based on race, color, or membership in a language-minority group such that the covered practice does not have the purpose or effect of diminishing the ability of any citizen on account of race, color, or membership in a language-minority group to participate in the electoral process or elect their preferred candidates of choice.

(c) The attorney general, or any person whose opportunity to vote is affected by a covered practice that has been enacted or administered by a covered jurisdiction, may institute an action in superior court to compel the governing body of the jurisdiction to institute an action for a declaratory judgment or to seek issuance of a certification of no objection pursuant to this subsection.

(3)(a) No qualification, prerequisite, standard, practice, or procedure that is a covered practice is effective until the superior court has entered a declaratory judgment or the attorney general has issued a certification of no objection.

(b) A certification of no objection is deemed to have been issued if:

(i) The attorney general does not issue an objection within 60 days of the governing body's submission of any other covered policy; or

(ii) The attorney general affirmatively indicates that no such objection will be made, upon a showing of good cause to facilitate an expedited approval within 60 days of the governing body's submission.

(c) An affirmative indication by the attorney general that no objection will be made, the attorney general's failure to object, or a declaratory judgment entered by the superior court pursuant to this section does not bar a subsequent action to enjoin enforcement of any qualification, prerequisite, standard, practice, or procedure.

(d) If the attorney general affirmatively indicates that no objection will be made within the 60-day period following the receipt of the governing body's submission, the attorney general may reserve the right to reexamine the submission if additional information that would otherwise require objection in accordance with this section comes to his or her attention during the remainder of the 60-day period.

(4) If the attorney general objects to a covered practice submitted by a covered jurisdiction, the governing body of such jurisdiction may file an appeal to the objection in Thurston county superior court.

(5) If the attorney general issues a certification of no objection to a covered practice submitted by a covered jurisdiction, any person whose opportunity to vote is affected by the covered practice may file an action in superior court to appeal the attorney general's issuance of a certification of no objection.

(6) In any action filed pursuant to this subsection, the superior court shall enjoin the enactment or administration of the covered practice that is the subject of the action unless it determines that the covered practice neither has the purpose or effect of denying or abridging the right to vote on account of race or color or membership in a language-minority group nor will it result in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise.

(7) As early as practicable each fifth calendar year, the secretary of state shall, in consultation with the attorney general, the office of financial management, and other relevant agencies, determine and notify those political subdivisions which qualify as covered jurisdictions pursuant to subsection (1) of this section, based on the most recent American community survey data or other census data. The attorney general shall publish the list of these counties, cities, and towns on a website established and maintained for this purpose. A determination made pursuant to this subsection is effective upon publication.

(8) This section expires June 30, 2029.

NEW SECTION. **Sec.**  A new section is added to chapter 29A.92 RCW to read as follows:

(1) No later than December 1, 2028, the attorney general shall prepare and transmit a report to the legislature on the activities conducted under and the effects of section 9 of this act. The report shall include, at a minimum, the following information:

(a)(i) The number of practices referred to the attorney general for a certification of no objection;

(ii) The number of instances in which the attorney general issued a certification of no objection;

(b) The number of instances in which covered jurisdictions sought a declaratory judgment in superior court for preclearance of a covered practice, and the outcomes of all such cases;

(c) The number of instances in which a claimant challenged a certification of no objection;

(d) The number of instances in which, after a certification of no objection was not issued, the covered jurisdiction:

(i) Challenged the determination in superior court; or

(ii) Modified the covered practice and sought a certification of no objection for the modified practice;

(e) The number of instances in which the attorney general instituted an action in superior court to compel a covered jurisdiction to institute an action for declaratory judgment or seek a certification of no objection for a covered practice;

(f) Other summary statistics regarding preclearance that categorize covered practices by practice type and jurisdiction type;

(g) A narrative summary of the overall outcomes of the preclearance requirements in section 9 of this act in the state;

(h) The fiscal impact of implementing the provisions of section 9 of this act on the office of the attorney general; and

(i) Any other information the attorney general believes is relevant to evaluating the impacts of section 9 of this act.

(2) This section expires June 30, 2029.

**PART III**

**DATA COLLECTION AND REQUIRED REPORTING**

NEW SECTION. **Sec.**  A new section is added to chapter 29A.92 RCW to read as follows:

(1) There shall be established within the University of Washington a repository of the data necessary to assist the state and all political subdivisions with evaluating whether and to what extent existing laws and practices with respect to voting and elections are consistent with the public policy expressed in this title, implementing best practices in voting and elections to achieve the purposes of this title, and to investigate potential infringements upon the right to vote.

(2) The operation of the repository shall be the responsibility of the director of the repository, hereinafter referred to in this title as the "director," who shall be employed by the University of Washington with doctoral level expertise in demography, statistical analysis, and electoral systems. The director shall be appointed by the governor.

(3) The director shall appoint such staff as are necessary to implement and maintain the repository.

(4) The repository shall maintain in electronic format at least the following data and records, where available, for at least the previous 12-year period:

(a) Estimates of the total population, voting age population, and citizen voting age population by race, ethnicity, and language-minority groups, broken down to the election district and precinct level on a year-by-year basis for every political subdivision in the state, based on data from the United States census bureau, American community survey, or data of comparable quality collected by a public office;

(b) Election results at the precinct level for every statewide election and every election in every political subdivision;

(c) Regularly updated voter registration lists, voter history files, voting center locations, ballot drop box locations, and student engagement hub locations for every election in every political subdivision;

(d) Contemporaneous maps, descriptions of boundaries, and shapefiles for election districts and precincts;

(e) Ballot rejection lists, curing lists, and reasoning for ballot rejection for every election in every political subdivision;

(f) Apportionment plans for every election in every political subdivision; and

(g) Any other data that the director deems advisable to maintain in furtherance of the purposes of this title.

(5) The director shall update the data in the repository no later than 30 business days after certification of each election as required by RCW 29A.60.190 or 29A.60.250.

(6) Except for any data, information, or estimates that identifies individual voters, the data, information, and estimates maintained by the repository shall be posted online and made available to the public at no cost.

(7) The repository shall prepare any estimates made pursuant to this section by applying the most advanced, peer-reviewed, and validated methodologies.

(8) On or before January 1, 2023, and every fifth year thereafter, the repository shall publish on its website and transmit to the state for dissemination to county auditors secretary of a list of political subdivisions required pursuant to section 203 of the federal voting rights act to provide assistance to members of language-minority groups and each language in which those political subdivisions are required to provide assistance. Each county auditor shall transmit the list described herein to all political subdivisions within their jurisdiction.

(9) Upon the certification of election results and the completion of the voter history file after each election, the secretary of state shall transmit copies of:

(a) Election results at the election district level;

(b) Contemporaneous voter registration lists;

(c) Voter history files;

(d) Maps, descriptions, and shapefiles for election districts; and

(e) Lists of voting centers and student engagement hubs.

(10) Staff at the repository may provide nonpartisan technical assistance to political subdivisions, scholars, and the general public seeking to use the resources of the repository.

**PART IV**

**PROVISIONS FOR COUNTIES**

**Sec.**  RCW 36.32.010 and 1990 c 252 s 1 are each amended to read as follows:

There is established in each county in this state a board of county commissioners. Except as provided in RCW 36.32.020, 36.32.055, and 36.32.0552, each board of county commissioners shall consist of three qualified electors, two of whom shall constitute a quorum to do business.

**Sec.**  RCW 36.32.020 and 2018 c 113 s 204 are each amended to read as follows:

The board of county commissioners of each county shall divide their county into three commissioner districts so that each district shall comprise as nearly as possible one-third of the population of the county: PROVIDED, That the territory comprised in any voting precincts of such districts shall remain compact, and shall not be divided by the lines of said districts.

However, the commissioners of any county composed entirely of islands and with a population of less than thirty-five thousand may divide their county into three commissioner districts without regard to population, except that if any single island is included in more than one district, the districts on such island shall comprise, as nearly as possible, equal populations.

The commissioners of any county may authorize a change to their electoral system, including expanding from three to five commissioners, pursuant to RCW 29A.92.040. Except where necessary to comply with a court order issued pursuant to RCW 29A.92.110, and except in the case of an intervening census, the lines of the districts shall not be changed more often than once in four years and only when a full board of commissioners is present. The districts shall be designated as districts numbered one, two and three.

**Sec.**  RCW 36.32.030 and 2018 c 301 s 6 are each amended to read as follows:

(1) Except as provided otherwise in subsection (2) of this section, the terms of office of county commissioners shall be four years and shall extend until their successors are elected and qualified and assume office in accordance with RCW 29A.60.280. The terms of office of county commissioners shall be staggered so that either one or two commissioners are elected at a general election held in each even-numbered year.

(2)(a) At the general election held in 2022, any noncharter county with a population of four hundred thousand or more must elect county commissioners in accordance with a districting plan adopted under RCW 36.32.054. Any county commissioner whose term is set to expire on or after January 1, 2023, is subject to the new election in accordance with the districting plan. The county commissioners shall begin their terms of office on January 1, 2023, and such terms shall be staggered terms, as designated in the districting plan.

(b) A county expanding to five commissioners pursuant to RCW 29A.92.040 must elect county commissioners and stagger their terms as designated in its districting plan.

**PART V**

**GENERAL PROVISIONS**

**Sec.**  RCW 29A.92.010 and 2018 c 113 s 103 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise. In applying these definitions and other terms in this chapter, courts may rely on relevant federal case law for guidance to the extent such case law does not violate the spirit, intent, and elements of this chapter.

(1) "At large election" means any of the following methods of electing members of the governing body of a political subdivision:

(a) One in which the voters of the entire jurisdiction elect the members to the governing body;

(b) One in which the candidates are required to reside within given areas of the jurisdiction and the voters of the entire jurisdiction elect the members to the governing body; or

(c) One that combines the criteria in (a) and (b) of this subsection or one that combines at large with district-based elections.

(2) "Crossover district" means a district where a protected class is a minority of the population but potentially large enough to elect candidates of choice with help from voters who are not members of the protected class who cross over to support a protected class's candidate of choice.

(3) "District-based elections" means a method of electing members to the governing body of a political subdivision in which the candidate must reside within an election district that is a divisible part of the political subdivision and is elected only by voters residing within that election district.

((~~(3)~~)) (4) "Federal voting rights act" means the federal voting rights act of 1965, 52 U.S.C. 10301 et seq.

(5) "Plan of government" has the meaning defined in RCW 35A.01.070 for cities operating under the optional municipal code, or the structure of elected officials serving executive and legislative functions in other jurisdictions.

(6) "Polarized voting" means voting in which there is a difference, as defined in case law regarding enforcement of the federal voting rights act((~~, 52 U.S.C. 10301 et seq.,~~)) 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 voters in the rest of the electorate.

((~~(4)~~)) (7) "Political subdivision" means any county, city, town, school district, fire protection district, port district, or public utility district, but does not include the state.

((~~(5)~~)) (8) "Protected class" means a class of voters who are members of ((~~a~~)) any race, color, or language-minority group, as this class is referenced and defined in the federal voting rights act((~~, 52 U.S.C. 10301 et seq~~)).

(9) "Retrogression" means diminution of the ability of a protected class to participate in the electoral process or elect candidates of their choice.

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

NEW SECTION. **Sec.**  Sections 1 through 4, 6 through 9, and 15 of this act take effect January 1, 2023."

Correct the title.

EFFECT: (1) Modifies the jurisdictions subject to preclearance by removing overall population-based thresholds for cities, counties, and school districts, and instead requiring counties to be subject to preclearance if they have protected classes with a proportion of members that are in poverty or lack health insurance or a high school diploma that exceeds that of the county's total population by at least 5 percent.

(2) Removes from the jurisdictions that must seek preclearance a political subdivision that has been subject to at least three violations of state or federal law in the past 25 years for engaging in racial discrimination.

(3) Removes port districts from the list of jurisdictions that must seek preclearance.

(4) Provides that courts may consider whether a political subdivision had obtained preclearance for a covered practice when awarding attorneys' fees in a successful challenge to that practice.

(5) Removes the ability of the Attorney General to invoke up to two 90-day extensions when reviewing certain covered practices for preclearance.

(6) Clarifies that the Secretary of State is tasked with determining which political subdivisions are subject to the preclearance requirement.

(7) Requires the Attorney General to submit a report to the Legislature with a number of statistics related to preclearance activities and a narrative summary of the overall outcomes of the program.