**1048-S.E AMS FORT S2981.1 - NOT FOR FLOOR USE**

**ESHB 1048** - S AMD **279**

By Senator Fortunato

**WITHDRAWN 04/05/2023**

Strike everything after the enacting clause and insert the following:

**"Sec.**  RCW 29A.92.040 and 2018 c 113 s 201 are each amended to read as follows:

(1) A political subdivision that conducts an election pursuant to state, county, or local law, is authorized to change its electoral system, including, but not limited to, implementing a district-based election system, to remedy a potential violation of RCW 29A.92.020.

(2) If a political subdivision invokes its authority under this section to implement a district-based election system, the districts shall be drawn in a manner consistent with RCW 29A.92.050.

(3) A political subdivision that changes its electoral system under this section must utilize the same method of election for its primary and general elections.

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

(1) 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.

(2) 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) In tailoring a remedy after a finding of a violation of RCW 29A.92.020:

(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). The governing body may subsequently choose to stagger the terms of its positions.

(d) The remedy must require that the political subdivision use the same method of election for its primary and general elections.

(4) 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 35A.12.180 and 2019 c 454 s 7 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. Unless the city is dividing into wards or changing the boundaries of existing wards under RCW 29A.92.040 or 29A.92.110, 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. The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable.

If the city is dividing into wards or changing the boundaries of existing wards under RCW 29A.92.040 or 29A.92.110, all council positions are subject to election at the next regular election.

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 or elect 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 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 35.23.051 and 2019 c 454 s 5 are each amended to read as follows:

General municipal elections in second‑class cities shall be held biennially in the odd-numbered years and shall be subject to general election law.

The terms of office of the mayor, city attorney, clerk, and treasurer shall be four years and until their successors are elected and qualified and assume office in accordance with RCW 29A.60.280: PROVIDED, That if the offices of city attorney, clerk, and treasurer are made appointive, the city attorney, clerk, and treasurer shall not be appointed for a definite term: PROVIDED FURTHER, That the term of the elected treasurer shall not commence in the same biennium in which the term of the mayor commences, nor in which the terms of the city attorney and clerk commence if they are elected.

Council positions shall be numbered in each second‑class city so that council position seven has a two-year term of office and council positions one through six shall each have four-year terms of office. Each councilmember shall remain in office until a successor is elected and qualified and assumes office in accordance with RCW 29A.60.280.

In its discretion the council of a second‑class city may divide the city by ordinance, into a convenient number of wards, not exceeding six, fix the boundaries of the wards, and change the ward boundaries from time to time and as provided in RCW 29A.76.010. No change in the boundaries of any ward shall be made within one hundred twenty days next before the date of a general municipal election, nor within twenty months after the wards have been established or altered unless pursuant to RCW 29A.92.040 or 29A.92.110. However, if a boundary change 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 determining whether those positions are vacant.

Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmembers to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmembers so designated shall be elected by the voters resident in such ward((~~, or by general vote of the whole city as may be designated in such ordinance~~)). Council position seven shall not be associated with a ward and the person elected to that position may reside anywhere in the city and voters throughout the city may vote at a primary to nominate candidates for position seven, when a primary is necessary, and at a general election to elect the person to council position seven. Additional territory that is added to the city shall, by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilmember from the ward for which he or she was elected shall create a vacancy in such office.

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 or elect 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 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 36.32.050 and 2018 c 301 s 7 are each amended to read as follows:

((~~(1) Except as provided otherwise in subsection (2) of this section or this chapter, 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.~~

~~(2) Beginning in 2022, in any noncharter county with a population of four hundred thousand or more, county~~)) County commissioners must be nominated and elected by the qualified electors of the commissioner district in which he or she resides. The person receiving the highest number of votes at a general election for the office of commissioner for the district in which he or she resides must be declared duly elected from that district.

**Sec.**  RCW 52.14.013 and 2019 c 454 s 8 are each amended to read as follows:

The board of fire commissioners of a fire protection district may adopt a resolution by unanimous vote causing a ballot proposition to be submitted to voters of the district authorizing the creation of commissioner districts. The board of fire commissioners shall create commissioner districts if the ballot proposition authorizing the creation of commissioner districts is approved by a simple majority vote of the voters of the fire protection district voting on the proposition. Three commissioner districts shall be created for a fire protection district with three commissioners, five commissioner districts shall be created for a fire protection district with five commissioners, and seven commissioner districts shall be created for a fire protection district with seven commissioners. No two commissioners may reside in the same commissioner district.

No change in the boundaries of any commissioner district shall be made within one hundred twenty days next before the date of a general district election, nor within twenty months after the commissioner districts have been established or altered unless pursuant to RCW 29A.92.040 or 29A.92.110. However, if a boundary change results in one commissioner district being represented by two or more commissioners, those commissioners having the shortest unexpired terms shall be assigned by the commission to commissioner districts where there is a vacancy, and the commissioners so assigned shall be deemed to be residents of the commissioner districts to which they are assigned for purposes of determining whether those positions are vacant.

The population of each commissioner district shall include approximately equal population. Commissioner districts shall be redrawn as provided in chapter 29A.76 RCW. Commissioner districts shall be used as follows: (1) Only a registered voter who resides in a commissioner district may be a candidate for, or serve as, a commissioner of the commissioner district; and (2) only voters of a commissioner district may vote ((~~at a primary~~)) to nominate or elect candidates for a commissioner of the commissioner district. ((~~Voters of the entire fire protection district may vote at a general election to elect a person as a commissioner of the commissioner district.~~))

When a board of fire commissioners that has commissioner districts has been increased to five or seven members under RCW 52.14.015, the board of fire commissioners shall divide the fire protection district into five or seven commissioner districts before it appoints the two or four additional fire commissioners. The two or four additional fire commissioners who are appointed shall reside in separate commissioner districts in which no other fire commissioner resides.

**Sec.**  RCW 53.12.010 and 2022 c 47 s 1 are each amended to read as follows:

(1) The powers of the port district shall be exercised through a port commission consisting of three or, when permitted by this title, five members. Every port district that is not coextensive with a county having a population of five hundred thousand or more shall be divided into the same number of commissioner districts as there are commissioner positions, each having approximately equal population, unless provided otherwise under subsection (2) of this section. Where a port district with three commissioner positions is coextensive with the boundaries of a county that has a population of less than five hundred thousand and the county has three county legislative authority districts, the port commissioner districts shall be the county legislative authority districts. In other instances where a port district is divided into commissioner districts, the port commission shall divide the port district into commissioner districts unless the commissioner districts have been described pursuant to RCW 53.04.031. The commissioner districts shall be altered as provided in chapter 53.16 RCW.

Commissioner districts shall be used as follows: (a) Only a registered voter who resides in a commissioner district may be a candidate for, or hold office as, a commissioner of the commissioner district; and (b) only the voters of a commissioner district may vote ((~~at a primary~~)) to nominate or elect candidates for a commissioner of the commissioner district. ((~~Voters of the entire port district may vote at a general election to elect a person as a commissioner of the commissioner district.~~))

(2)(a) In port districts with five commissioners, two of the commissioner districts may include the entire port district if approved by the voters of the district either at the time of formation or at a subsequent port district election at which the issue is proposed pursuant to a resolution adopted by the board of commissioners and delivered to the county auditor.

(b) In a port district with five commissioners, where two of the commissioner districts include the entire port district, the port district may be divided into five commissioner districts if proposed pursuant to a resolution adopted by the board of commissioners or pursuant to a petition by the voters and approved by the voters of the district at the next general or special election occurring sixty or more days after the adoption of the resolution. A petition proposing such an increase must be submitted to the county auditor of the county in which the port district is located and signed by voters of the port district at least equal in number to ten percent of the number of voters in the port district who voted at the last general election.

Upon approval by the voters, the commissioner district boundaries shall be redrawn into five districts prior to the first day of January in the year in which the two additional commissioners shall be elected and submitted to the county auditor pursuant to RCW 53.16.015. The new commissioner districts shall be numbered one through five and the three incumbent commissioners representing the three former districts shall represent commissioner districts one through three. The two at large incumbent commissioners shall represent commissioner districts four and five. If, as a result of redrawing the district boundaries more than one of the incumbent commissioners resides in one of the new commissioner districts, the commissioners who reside in the same commissioner district shall determine by lot which of the numbered commissioner districts they shall represent for the remainder of their respective terms.

**Sec.**  RCW 54.12.010 and 2018 c 113 s 210 are each amended to read as follows:

A public utility district that is created as provided in RCW 54.08.010 shall be a municipal corporation of the state of Washington, and the name of such public utility district shall be Public Utility District No. . . . . of . . . . . . County.

The powers of the public utility district shall be exercised through a commission consisting of three members in three commissioner districts, and five members in five commissioner districts.

(1) If the public utility district is countywide and the county has three county legislative authority districts, then, at the first election of commissioners and until any change is made in the boundaries of public utility district commissioner districts, one public utility district commissioner shall be chosen from each of the three county legislative authority districts.

(2) If the public utility district comprises only a portion of the county, with boundaries established in accordance with chapter 54.08 RCW, or if the public utility district is countywide and the county does not have three county legislative authority districts, three public utility district commissioner districts, numbered consecutively, each with approximately equal population and following precinct lines, as far as practicable, shall be described in the petition for the formation of the public utility district, subject to appropriate change by the county legislative authority if and when it changes the boundaries of the proposed public utility district. One commissioner shall be elected as a commissioner of each of the public utility district commissioner districts.

(3) Only a registered voter who resides in a commissioner district may be a candidate for, or hold office as, a commissioner of the commissioner district. Only voters of a commissioner district may vote ((~~at a primary~~)) to nominate or elect candidates for a commissioner of the commissioner district. ((~~Voters of the entire public utility district may vote at a general election to elect a person as a commissioner of the commissioner district.~~))

(4) The term of office of each public utility district commissioner other than the commissioners at large shall be six years, and the term of each commissioner at large shall be four years. Each term shall be computed in accordance with RCW 29A.60.280 following the commissioner's election. All public utility district commissioners shall hold office until their successors shall have been elected and have qualified and assume office in accordance with RCW 29A.60.280.

(5) A vacancy in the office of public utility district commissioner shall occur as provided in chapter 42.12 RCW or by nonattendance at meetings of the public utility district commission for a period of sixty days unless excused by the public utility district commission. Vacancies on a board of public utility district commissioners shall be filled as provided in chapter 42.12 RCW.

(6) The boundaries of the public utility district commissioner districts may be changed only by the public utility district commission or by a court order issued pursuant to RCW 29A.92.110, and shall be examined every ten years to determine substantial equality of population in accordance with chapter 29A.76 RCW. Except as provided in this section, RCW 29A.92.110, RCW 54.04.039, or in the case of an intervening census, the boundaries shall not be changed more often than once in four years. Boundaries may only be changed when all members of the commission are present. Whenever territory is added to a public utility district under RCW 54.04.035, or added or withdrawn under RCW 54.04.039, the boundaries of the public utility commissioner districts shall be changed to include the additional or exclude the withdrawn territory. Unless the boundaries are changed pursuant to RCW 54.04.039, the proposed change of the boundaries of the public utility district commissioner district must be made by resolution and after public hearing. Notice of the time of the public hearing shall be published for two weeks before the hearing. Upon a referendum petition signed by ten percent of the qualified voters of the public utility district being filed with the county auditor, the county legislative authority shall submit the proposed change of boundaries to the voters of the public utility district for their approval or rejection. The petition must be filed within ninety days after the adoption of resolution of the proposed action. The validity of the petition is governed by the provisions of chapter 54.08 RCW."

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By Senator Fortunato

**WITHDRAWN 04/05/2023**

On page 1, line 1 of the title, after "act;" strike the remainder of the title and insert "and amending RCW 29A.92.040, 29A.92.110, 35A.12.180, 35.23.051, 36.32.050, 52.14.013, 53.12.010, and 54.12.010."

EFFECT: Strikes all provisions in the underlying bill and replaces them with a requirement that primary and general elections in each political subdivision covered by the Washington Voting Rights Act be conducted uniformly at-large or uniformly by districts.