

SENATE BILL REPORT

ESB 6453

As Passed Senate, March 2, 2004

Title: An act relating to a qualifying primary.

Brief Description: Enacting a modified blanket primary.

Sponsors: Senators Roach, Hargrove, Hale, T. Sheldon, Schmidt, Winsley, McCaslin, Carlson, Fairley and Rasmussen; by request of Secretary of State.

Brief History:

Committee Activity: Government Operations & Elections: 1/21/04, 2/3/04 [DPS, DNP].
Ways & Means: 2/23/04 [w/oRec].
Passed Senate: 3/2/04, 28-20.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 6453 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Stevens, Vice Chair; Berkey, Fairley and McCaslin.

Minority Report: Do not pass.

Signed by Senator Horn.

Staff: Mac Nicholson (786-7445)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That it be referred without recommendation.

Signed by Senators Zarelli, Chair; Hewitt, Vice Chair; Parlette, Vice Chair; Carlson, Fairley, Hale, Honeyford, Johnson, Rasmussen, Roach and Winsley.

Staff: Steve Jones (786-7440)

Background: The method used in Washington to nominate candidates for the general election ballot is called the "blanket primary." This primary allows the votes of voters who are not members of a major political party to be counted in determining what candidate will run in the general election as the major political party's candidate or standard bearer. This feature of the Washington blanket primary was held unconstitutional by the federal Court of Appeals because, in the court's opinion, the major political parties' First Amendment right of free association was violated. The Secretary of State has petitioned the United States Supreme Court to review the lower federal court's decision. The Supreme Court has said that it will issue its decision on this petition on February 23, 2004.

Summary of Bill: A primary may not be used to select the nominees of a political party. The purpose of the primary is to certify two candidates for any partisan office as qualified to appear on the general election ballot.

Primary candidates are qualified when they receive either the most or second most votes cast for each office appearing on the primary ballot. All voters are permitted to vote for the candidate they prefer for each office.

The existing election statutes are amended to implement these principles.

The title of the bill is "an act relating to a qualifying primary." The petition requirement for candidates for partisan office in existing law is removed. There are no contingent effective dates.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Testimony For: We may not even need a replacement primary. Why fix what is not broken? Should the parties or the people have substantial control over the primary process? A qualifying primary does not select the parties' standard bearer. The people of Washington feel that their party affiliation, if any, is a private matter. This bill is modeled after our current non-partisan primary, allowing the candidate, if he or she desires, to add a party designation.

Testimony Against: The blanket primary did not give the parties enough flexibility. If the parties do not get the primary they want, they will go back to party conventions. This will practically ensure that the average voter has no say in the decision for the party's standard bearer. Since so few people vote anyway, legislation that appears to limit people's choices is not a positive step. Voters want more than two choices on the general election ballot.

Testified: Andrew Pierce, WA Coalition For IRV; Jody Grage Haug, Green Party of WA State; Sam Reed, Secretary of State; Chris Vance, WSRP (con); Jim Pharris, Attorney General's Office.

House Amendment(s): If a court rules that a candidate cannot state a political party that best approximates his or her political philosophy on the declaration of candidacy, the Secretary of State must issue a notice to the Governor, leaders of the Legislature, Code Reviser, and all county auditors that the state can no longer hold a qualifying primary. Instead, the state will use a nominating primary commonly referred to as the straight Montana primary. The notice must be issued by June 1 in order to switch primaries for that year.

Because the amendment repeals and reenacts numerous statutes to eliminate the qualifying primary and establish a straight Montana primary, the House amendment also incorporates changes made in other election-related bills introduced this year (HB 2420; SSB 6419; SB 6417; SB 6518).