
ENGROSSED SUBSTITUTE SENATE BILL 6002

State of Washington

65th Legislature

2018 Regular Session

By Senate State Government, Tribal Relations & Elections (originally sponsored by Senators Saldaña, Billig, Palumbo, Frockt, Rolfes, Van De Wege, Lias, Ranker, Keiser, Pedersen, Hunt, Wellman, Conway, Chase, McCoy, Dhingra, Kuderer, Hasegawa, Nelson, Carlyle, and Mullet)

READ FIRST TIME 01/15/18.

1 AN ACT Relating to establishing a voting rights act to promote
2 equal voting opportunity in certain political subdivisions and
3 establishing a cause of action to redress lack of voter opportunity;
4 amending RCW 36.32.020, 36.32.040, 54.12.010, and 2.06.030; adding a
5 new section to chapter 28A.343 RCW; adding a new section to chapter
6 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new
7 section to chapter 52.14 RCW; adding a new section to chapter 53.12
8 RCW; adding a new section to chapter 29A.76 RCW; and adding a new
9 chapter to Title 29A RCW.

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

11 **PART I - GENERAL PROVISIONS**

12 NEW SECTION. **Sec. 101.** This act may be known and cited as the
13 Washington voting rights act of 2018.

14 NEW SECTION. **Sec. 102.** The legislature finds that electoral
15 systems that deny race, color, or language minority groups an equal
16 opportunity to elect candidates of their choice are inconsistent with
17 the right to free and equal elections as provided by Article I,
18 section 19 and Article VI, section 1 of the Washington state
19 Constitution as well as protections found in the fourteenth and

1 fifteenth amendments to the United States Constitution. The well-
2 established principle of "one person, one vote" and the prohibition
3 on vote dilution have been consistently upheld in federal and state
4 courts for more than fifty years.

5 The legislature also finds that local government subdivisions are
6 often prohibited from addressing these challenges because of
7 Washington laws that narrowly prescribe the methods by which they may
8 elect members of their legislative bodies. The legislature finds that
9 in some cases, this has resulted in an improper dilution of voting
10 power for these minority groups. The legislature intends to modify
11 existing prohibitions in state laws so that these jurisdictions may
12 voluntarily adopt changes on their own, in collaboration with
13 affected community members, to remedy potential electoral issues so
14 that minority groups have an equal opportunity to elect candidates of
15 their choice or influence the outcome of an election.

16 The legislature intends for this act to be consistent with
17 federal protections that may provide a similar remedy for minority
18 groups. Remedies shall also be available where the drawing of
19 crossover and coalition districts is able to address both vote
20 dilution and racial polarization.

21 The legislature also intends for this act to be consistent with
22 legal precedent from *Mt. Spokane Skiing Corp. v. Spokane Co.* (86 Wn.
23 App. 165, 1997) that found that noncharter counties need not adhere
24 to a single uniform county system of government, but that each county
25 have the same "authority available" in order to be deemed uniform.

26 NEW SECTION. **Sec. 103.** The definitions in this section apply
27 throughout this chapter unless the context clearly requires
28 otherwise. In applying these definitions and other terms in this
29 chapter, courts may rely on relevant federal case law for guidance.

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

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

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

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

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

6 (3) "Polarized voting" means voting in which there is a
7 difference, as defined in case law regarding enforcement of the
8 federal voting rights act, 52 U.S.C. 10301 et seq., in the choice of
9 candidates or other electoral choices that are preferred by voters in
10 a protected class, and in the choice of candidates and electoral
11 choices that are preferred by voters in the rest of the electorate.

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

15 (5) "Protected class" means a class of voters who are members of
16 a race, color, or language minority group, as this class is
17 referenced and defined in the federal voting rights act, 52 U.S.C.
18 10301 et seq.

19 NEW SECTION. **Sec. 104.** As provided in section 302 of this act,
20 no method of electing the governing body of a political subdivision
21 may be imposed or applied in a manner that impairs the ability of
22 members of a protected class or classes to have an equal opportunity
23 to elect candidates of their choice as a result of the dilution or
24 abridgment of the rights of voters who are members of a protected
25 class or classes.

26 **PART II - VOLUNTARY CHANGES TO ELECTORAL PROCESSES**

27 NEW SECTION. **Sec. 201.** (1) A political subdivision that
28 conducts an election pursuant to state, county, or local law, is
29 authorized to change its electoral system, including, but not limited
30 to, implementing a district-based election system, to remedy a
31 potential violation of section 104 of this act.

32 (2) If a political subdivision invokes its authority under this
33 section to implement a district-based election system, the districts
34 shall be drawn in a manner consistent with section 202 of this act.

35 NEW SECTION. **Sec. 202.** (1)(a) Prior to the adoption of its
36 proposed plan, the political subdivision must provide public notice

1 to the community about the proposed remedy to a potential violation
2 of section 104 of this act. If a significant segment of the community
3 has limited English proficiency and speaks a language other than
4 English, the political subdivision must:

5 (i) Provide accurate written and verbal notice of the proposed
6 remedy in languages that diverse residents of the political
7 subdivision can understand, as indicated by demographic data; and

8 (ii) Air radio or television public service announcements
9 describing the proposed remedy broadcast in the languages that
10 diverse residents of the political subdivision can understand, as
11 indicated by demographic data.

12 (b) The political subdivision shall hold at least one public
13 hearing on the proposed plan at least one week before adoption.

14 (c) For purposes of this section, "significant segment of the
15 community" means five percent or more of residents, or five hundred
16 or more residents, whichever is fewer, residing in the political
17 subdivision.

18 (2)(a) If the political subdivision invokes its authority under
19 this section and the plan is adopted during the period of time
20 between the first Tuesday after the first Monday of November and on
21 or before January 15th of the following year, the political
22 subdivision shall order new elections to occur at the next succeeding
23 general election.

24 (b) If the political subdivision invokes its authority under this
25 section and the plan is adopted during the period of time between
26 January 16th and on or before the first Monday of November, the next
27 election will occur as scheduled and organized under the current
28 electoral system, but the political subdivision shall order new
29 elections to occur pursuant to the remedy at the general election the
30 following calendar year.

31 (3) If a political subdivision implements a district-based
32 election system, the plan shall be consistent with the following
33 criteria:

34 (a) Each district shall be as reasonably equal in population as
35 possible to each and every other such district comprising the
36 political subdivision.

37 (b) Each district shall be reasonably compact.

38 (c) Each district shall consist of geographically contiguous
39 area.

1 (d) To the extent feasible, the district boundaries shall
2 coincide with existing recognized natural boundaries and shall, to
3 the extent possible, preserve existing communities of related and
4 mutual interest.

5 (e) District boundaries may not be drawn or maintained in a
6 manner that creates or perpetuates the dilution of the votes of the
7 members of a protected class or classes.

8 (4) Within forty-five days after receipt of federal decennial
9 census information applicable to a specific local area, the
10 commission established in RCW 44.05.030 shall forward the census
11 information to each political subdivision.

12 (5) No later than eight months after its receipt of federal
13 decennial census data, the governing body of the political
14 subdivision that had previously invoked its authority under this
15 section to implement a district-based election system, or that was
16 previously charged with redistricting under section 403 of this act,
17 shall prepare a plan for redistricting its districts, pursuant to RCW
18 29A.76.010, and in a manner consistent with this act.

19 NEW SECTION. **Sec. 203.** A new section is added to chapter
20 28A.343 RCW to read as follows:

21 The school board of directors may authorize a change to its
22 electoral system pursuant to section 201 of this act. Any staggering
23 of directors' terms shall be accomplished as provided in RCW
24 28A.343.030 and 28A.343.600 through 28A.343.650.

25 **Sec. 204.** RCW 36.32.020 and 1982 c 226 s 4 are each amended to
26 read as follows:

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

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

1 The commissioners of any county may authorize a change to their
2 electoral system pursuant to section 201 of this act. Except where
3 necessary to comply with a court order issued pursuant to section 403
4 of this act, and except in the case of an intervening census, the
5 lines of the districts shall not be changed ((oftener)) more often
6 than once in four years and only when a full board of commissioners
7 is present. The districts shall be designated as districts numbered
8 one, two and three.

9 **Sec. 205.** RCW 36.32.040 and 1982 c 226 s 5 are each amended to
10 read as follows:

11 (1) Except as provided in subsection (2) of this section, the
12 qualified electors of each county commissioner district, and they
13 only, shall nominate from among their own number, candidates for the
14 office of county commissioner of such commissioner district to be
15 voted for at the following general election. Such candidates shall be
16 nominated in the same manner as candidates for other county and
17 district offices are nominated in all other respects.

18 (2) Where the commissioners of a county composed entirely of
19 islands with a population of less than thirty-five thousand have
20 chosen to divide the county into unequal-sized commissioner districts
21 pursuant to the exception provided in RCW 36.32.020, the qualified
22 electors of the entire county shall nominate from among their own
23 number who reside within a commissioner district, candidates for the
24 office of county commissioner of such commissioner district to be
25 voted for at the following general election. Such candidates shall be
26 nominated in the same manner as candidates for other county offices
27 are nominated in all other respects.

28 (3) The commissioners of any county may authorize a change to
29 their electoral system pursuant to section 201 of this act.

30 NEW SECTION. **Sec. 206.** A new section is added to chapter 35.21
31 RCW to read as follows:

32 The legislative authority of a city or town may authorize a
33 change to its electoral system pursuant to section 201 of this act.

34 NEW SECTION. **Sec. 207.** A new section is added to chapter 35A.21
35 RCW to read as follows:

36 The legislative authority of a code city or town may authorize a
37 change to its electoral system pursuant to section 201 of this act.

1 NEW SECTION. **Sec. 208.** A new section is added to chapter 52.14
2 RCW to read as follows:

3 The board of fire commissioners of a fire protection district may
4 authorize a change to its electoral system pursuant to section 201 of
5 this act by majority vote.

6 NEW SECTION. **Sec. 209.** A new section is added to chapter 53.12
7 RCW to read as follows:

8 The port commission may authorize a change to its electoral
9 system pursuant to section 201 of this act.

10 **Sec. 210.** RCW 54.12.010 and 2004 c 113 s 1 are each amended to
11 read as follows:

12 A public utility district that is created as provided in RCW
13 54.08.010 shall be a municipal corporation of the state of
14 Washington, and the name of such public utility district shall be
15 Public Utility District No. of County.

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

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

26 (2) If the public utility district comprises only a portion of
27 the county, with boundaries established in accordance with chapter
28 54.08 RCW, or if the public utility district is countywide and the
29 county does not have three county legislative authority districts,
30 three public utility district commissioner districts, numbered
31 consecutively, each with approximately equal population and following
32 precinct lines, as far as practicable, shall be described in the
33 petition for the formation of the public utility district, subject to
34 appropriate change by the county legislative authority if and when it
35 changes the boundaries of the proposed public utility district. One
36 commissioner shall be elected as a commissioner of each of the public
37 utility district commissioner districts.

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

8 (4) The term of office of each public utility district
9 commissioner other than the commissioners at large shall be six
10 years, and the term of each commissioner at large shall be four
11 years. Each term shall be computed in accordance with RCW
12 (~~(29A.20.040)~~) 29A.60.280 following the commissioner's election. All
13 public utility district commissioners shall hold office until their
14 successors shall have been elected and have qualified and assume
15 office in accordance with RCW (~~(29A.20.040)~~) 29A.60.280.

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

22 (6) The boundaries of the public utility district commissioner
23 districts may be changed only by the public utility district
24 commission or by a court order issued pursuant to section 403 of this
25 act, and shall be examined every ten years to determine substantial
26 equality of population in accordance with chapter 29A.76 RCW. Except
27 as provided in this section (~~(e)~~), section 403 of this act, RCW
28 54.04.039, or in the case of an intervening census, the boundaries
29 shall not be changed (~~(often)~~) more often than once in four years.
30 Boundaries may only be changed when all members of the commission are
31 present. Whenever territory is added to a public utility district
32 under RCW 54.04.035, or added or withdrawn under RCW 54.04.039, the
33 boundaries of the public utility commissioner districts shall be
34 changed to include the additional or exclude the withdrawn territory.
35 Unless the boundaries are changed pursuant to RCW 54.04.039, the
36 proposed change of the boundaries of the public utility district
37 commissioner district must be made by resolution and after public
38 hearing. Notice of the time of the public hearing shall be published
39 for two weeks before the hearing. Upon a referendum petition signed
40 by ten percent of the qualified voters of the public utility district

1 being filed with the county auditor, the county legislative authority
2 shall submit the proposed change of boundaries to the voters of the
3 public utility district for their approval or rejection. The petition
4 must be filed within ninety days after the adoption of resolution of
5 the proposed action. The validity of the petition is governed by the
6 provisions of chapter 54.08 RCW.

7 **PART III - CITIZEN-INITIATED CHANGES TO ELECTORAL PROCESSES**

8 NEW SECTION. **Sec. 301.** (1) A person who intends to challenge a
9 political subdivision's electoral system under this act shall first
10 notify the political subdivision. The political subdivision shall
11 promptly make such notice public.

12 (2) The notice provided shall identify the person or persons who
13 intend to file an action, and the protected class or classes whose
14 members do not have an equal opportunity to elect candidates of their
15 choice because of alleged vote dilution and polarized voting. The
16 notice shall also include a type of remedy the person believes may
17 address the alleged violation of section 302 of this act.

18 NEW SECTION. **Sec. 302.** (1) A political subdivision is in
19 violation of this act when it is shown that:

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

22 (b) There is a significant risk that members of a protected class
23 or classes do not have an equal opportunity to elect candidates of
24 their choice as a result of the dilution or abridgment of the rights
25 of members of that protected class or classes.

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

33 (3) In determining whether there is polarized voting under this
34 act, the court shall analyze elections of the governing body of the
35 political subdivision, ballot measure elections, elections in which
36 at least one candidate is a member of a protected class, and other
37 electoral choices that affect the rights and privileges of members of

1 a protected class. Only elections conducted prior to the filing of an
2 action pursuant to this act shall be used to establish or rebut the
3 existence of polarized voting.

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

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

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

23 NEW SECTION. **Sec. 303.** (1) The political subdivision shall work
24 in good faith with the person providing the notice to implement a
25 remedy that provides the protected class or classes identified in the
26 notice an equal opportunity to elect candidates of their choice.

27 (2) If the political subdivision adopts a remedy that takes the
28 notice into account, or adopts the notice's proposed remedy, the
29 political subdivision shall seek a court order, which shall be
30 subject to mandatory direct appeal to the supreme court,
31 acknowledging that the political subdivision's remedy complies with
32 section 104 of this act and was prompted by a plausible violation.
33 The person who submitted the notice may support or oppose such an
34 order, and may obtain public records to do so. The political
35 subdivision must provide all political, census, and demographic data
36 and any analysis of that data used to develop the remedy in its
37 filings seeking the court order and with any documents made public.

38 (3) If the court concludes that the political subdivision's
39 remedy complies with section 104 of this act, an action under this

1 act may not be brought against that political subdivision for four
2 years by any party so long as the political subdivision does not
3 enact a change to or deviation from the remedy during this four-year
4 period that would otherwise give rise to an action under this act.

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

8 NEW SECTION. **Sec. 304.** (1) Any person may file an action under
9 this act if, one hundred eighty days after a political subdivision
10 receives notice of a challenge to its electoral system under section
11 301 of this act, the political subdivision has not obtained a court
12 order stating that it has adopted a remedy in compliance with section
13 104 of this act.

14 (2) If a political subdivision has received two or more notices
15 containing materially different proposed remedies, the political
16 subdivision shall work in good faith with the persons to implement a
17 remedy that provides the protected class or classes identified in the
18 notices an equal opportunity to elect candidates of their choice. If
19 the political subdivision adopts one of the remedies offered, or a
20 different remedy that takes multiple notices into account, the
21 political subdivision shall seek a court order, which is subject to
22 mandatory direct appeal to the supreme court, acknowledging that the
23 political subdivision's remedy complies with section 104 of this act
24 and was prompted by a plausible violation. The persons who submitted
25 notices may support or oppose such an order. The political
26 subdivision must provide all political, census, and demographic data
27 and any analysis of that data used to develop the remedy in its
28 filings seeking the court order.

29 (3) If the court concludes that the political subdivision's
30 remedy complies with section 104 of this act, an action under this
31 act may not be brought against that political subdivision for four
32 years by any party so long as the political subdivision does not
33 enact a change to or deviation from the remedy during this four-year
34 period that would otherwise give rise to an action under this act.

35 **Sec. 305.** RCW 2.06.030 and 1980 c 76 s 3 are each amended to
36 read as follows:

37 The administration and procedures of the court shall be as
38 provided by rules of the supreme court. The court shall be vested

1 with all power and authority, not inconsistent with said rules,
2 necessary to carry into complete execution all of its judgments,
3 decrees and determinations in all matters within its jurisdiction,
4 according to the rules and principles of the common law and the
5 Constitution and laws of this state.

6 For the prompt and orderly administration of justice, the supreme
7 court may (1) transfer to the appropriate division of the court for
8 decision a case or appeal pending before the supreme court; or (2)
9 transfer to the supreme court for decision a case or appeal pending
10 in a division of the court.

11 Subject to the provisions of this section, the court shall have
12 exclusive appellate jurisdiction in all cases except:

13 (a) cases of quo warranto, prohibition, injunction or mandamus
14 directed to state officials;

15 (b) criminal cases where the death penalty has been decreed;

16 (c) cases where the validity of all or any portion of a statute,
17 ordinance, tax, impost, assessment or toll is drawn into question on
18 the grounds of repugnancy to the Constitution of the United States or
19 of the state of Washington, or to a statute or treaty of the United
20 States, and the superior court has held against its validity;

21 (d) cases involving fundamental and urgent issues of broad public
22 import requiring prompt and ultimate determination; and

23 (e) cases involving substantive issues on which there is a direct
24 conflict among prevailing decisions of panels of the court or between
25 decisions of the supreme court;

26 all of which shall be appealed directly to the supreme court:
27 PROVIDED, That whenever a majority of the court before which an
28 appeal is pending, but before a hearing thereon, is in doubt as to
29 whether such appeal is within the categories set forth in subsection
30 (d) or (e) of this section, the cause shall be certified to the
31 supreme court for such determination.

32 The appellate jurisdiction of the court of appeals does not
33 extend to civil actions at law for the recovery of money or personal
34 property when the original amount in controversy, or the value of the
35 property does not exceed the sum of two hundred dollars.

36 The court shall have appellate jurisdiction over review of final
37 decisions of administrative agencies certified by the superior court
38 pursuant to RCW 34.05.518.

1 The court has mandatory appellate jurisdiction over superior
2 court orders regarding remedies sought by political subdivisions
3 pursuant to sections 303 and 304 of this act.

4 Appeals from the court to the supreme court shall be only at the
5 discretion of the supreme court upon the filing of a petition for
6 review. No case, appeal or petition for a writ filed in the supreme
7 court or the court shall be dismissed for the reason that it was not
8 filed in the proper court, but it shall be transferred to the proper
9 court.

10 **PART IV - SAFE HARBOR AND LEGAL ACTION UNDER THIS ACT**

11 NEW SECTION. Sec. 401. (1) After exhaustion of the time period
12 in section 304 of this act, any voter who resides in a political
13 subdivision where a violation of section 104 of this act is alleged
14 may file an action in the superior court of the county in which the
15 political subdivision is located. If the action is against a county,
16 the action may be filed in the superior court of such county, or in
17 the superior court of either of the two nearest judicial districts as
18 determined pursuant to RCW 36.01.050(2). An action filed pursuant to
19 this chapter does not need to be filed as a class action.

20 (2) Members of different protected classes may file an action
21 jointly pursuant to this act if they demonstrate that the combined
22 voting preferences of the multiple protected classes are polarized
23 against the rest of the electorate.

24 NEW SECTION. Sec. 402. (1) In an action filed pursuant to this
25 act, the trial court shall set a trial to be held no later than one
26 year after the filing of a complaint, and shall set a discovery and
27 motions calendar accordingly.

28 (2) For purposes of any applicable statute of limitations, a
29 cause of action under this act arises every time there is an election
30 for any members of the governing body of the political subdivision.

31 (3) The plaintiff's constitutional right to the secrecy of the
32 plaintiff's vote is preserved and is not waived by the filing of an
33 action pursuant to this act, and the filing is not subject to
34 discovery or disclosure.

35 (4) In seeking a temporary restraining order or a preliminary
36 injunction, a plaintiff shall not be required to post a bond or any
37 other security in order to secure such equitable relief.

1 (5) No notice may be submitted to any political subdivision
2 pursuant to this act before July 19, 2018.

3 NEW SECTION. **Sec. 403.** (1) The court may order appropriate
4 remedies including, but not limited to, the imposition of a district-
5 based election system. The court may order the affected jurisdiction
6 to draw or redraw district boundaries or appoint an individual or
7 panel to draw or redraw district lines. The proposed districts must
8 be approved by the court prior to their implementation.

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

21 (3) In tailoring a remedy after a finding of a violation of
22 section 104 of this act:

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

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

1 (c) The remedy may provide for the political subdivision to hold
2 elections for the members of its governing body at the same time as
3 regularly scheduled elections for statewide or federal offices.

4 NEW SECTION. **Sec. 404.** (1) No action under this act may be
5 brought by any person against a political subdivision that has
6 adopted a remedy to its electoral system after an action is filed
7 that is approved by a court pursuant to section 303 of this act or
8 implemented a court-ordered remedy pursuant to section 403 of this
9 act for four years after adoption of the remedy if the political
10 subdivision does not enact a change to or deviation from the remedy
11 during this four-year period that would otherwise give rise to an
12 action under this act.

13 (2) No action under this act may be brought by any person against
14 a political subdivision that has adopted a remedy to its electoral
15 system in the previous decade before the effective date of this
16 section as a result of a claim under the federal voting rights act
17 until after the political subdivision completes redistricting
18 pursuant to RCW 29A.76.010 for the 2020 decennial census.

19 NEW SECTION. **Sec. 405.** (1) In any action to enforce this
20 chapter, the court may allow the prevailing plaintiff or plaintiffs,
21 other than the state or political subdivision thereof, reasonable
22 attorneys' fees, all nonattorney fee costs as defined by RCW
23 4.84.010, and all reasonable expert witness fees. No fees or costs
24 may be awarded if no action is filed.

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

27 **PART V - MISCELLANEOUS PROVISIONS**

28 NEW SECTION. **Sec. 501.** The provisions of parts I, III, and IV
29 of this act are not applicable to cities and towns with populations
30 under one thousand or to school districts with K-12 full-time
31 equivalent enrollments of less than two hundred fifty.

32 NEW SECTION. **Sec. 502.** A new section is added to chapter 29A.76
33 RCW to read as follows:

34 In any change to its electoral system under section 201 of this
35 act or preparation of a subsequent redistricting plan, political

1 subdivisions may use population data regarding political parties only
2 to the extent necessary to ensure compliance with this act or federal
3 law.

4 NEW SECTION. **Sec. 503.** This act supersedes other state laws and
5 local ordinances to the extent that those state laws or ordinances
6 would otherwise restrict a jurisdiction's ability to comply with this
7 act.

8 NEW SECTION. **Sec. 504.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 505.** Sections 101 through 202, 301 through
13 501, and 503 of this act constitute a new chapter in Title 29A RCW.

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