
SENATE BILL 5597

State of Washington

67th Legislature

2022 Regular Session

By Senators Saldaña, Hunt, Conway, Das, Dhingra, Frockt, Hasegawa, Kuderer, Lias, Lovelett, Nguyen, Nobles, Pedersen, Stanford, and C. Wilson

Prefiled 12/27/21. Read first time 01/10/22. Referred to Committee on State Government & Elections.

1 AN ACT Relating to the Washington voting rights act; amending RCW
2 29A.92.020, 29A.92.030, 29A.92.060, 29A.92.090, 29A.92.110,
3 29A.92.070, 29A.92.080, 29A.92.130, and 29A.92.010; and adding new
4 sections to chapter 29A.92 RCW.

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

6 **PART I**

7 **VOTE DILUTION PROHIBITION AND COST RECOVERY MECHANISM**

8 **Sec. 1.** RCW 29A.92.020 and 2018 c 113 s 104 are each amended to
9 read as follows:

10 ((As)) It is a violation of this chapter for a political
11 subdivision to impose a method of electing its governing body that
12 constitutes vote dilution as provided in RCW 29A.92.030~~((, no method~~
13 ~~of electing the governing body of a political subdivision may be~~
14 ~~imposed or applied in a manner that impairs the ability of members of~~
15 ~~a protected class or classes to have an equal opportunity to elect~~
16 ~~candidates of their choice as a result of the dilution or abridgment~~
17 ~~of the rights of voters who are members of a protected class or~~
18 ~~classes)) .~~

1 **Sec. 2.** RCW 29A.92.030 and 2019 c 64 s 7 are each amended to
2 read as follows:

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

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

7 (b) Members of a protected class or classes do not have an equal
8 opportunity to elect candidates of their choice as a result of the
9 dilution or abridgment of the rights of members of that protected
10 class or classes.

11 (2) A violation is presumptively established if:

12 (a) It is shown that the political subdivision used race,
13 ethnicity, or language-minority group status, or another
14 characteristic that serves as a proxy for race, ethnicity, or
15 language-minority group status, for the purpose of apportionment. A
16 political subdivision may only rebut this presumption by showing that
17 race, ethnicity, or language-minority group status, or another
18 characteristic that serves as a proxy for race, ethnicity, or
19 language-minority group status, was used to the extent necessary to
20 comply with this chapter, the federal voting rights act, the state
21 Constitution, or the United States Constitution; or

22 (b) The electoral district boundaries of the political
23 subdivision "crack" or "pack" minority communities of interest,
24 regardless of intent, and that such "cracking" or "packing" was not
25 necessary to comply with this title, the federal voting rights act,
26 the state Constitution, or the United States Constitution.

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

35 (a) That members of a protected class are not geographically
36 compact or concentrated to constitute a majority in a proposed or
37 existing district-based election district; and

38 (b) Evidence concerning projected changes in population or
39 demographics. (~~The equal opportunity to elect shall be assessed~~

1 pragmatically, based on local election conditions, and may include
2 crossover districts.

3 ~~(3))~~ (4) In determining whether there is polarized voting under
4 this chapter, the court shall analyze elections of the governing body
5 of the political subdivision, ballot measure elections, elections in
6 which at least one candidate is a member of a protected class, and
7 other electoral choices that affect the rights and privileges of
8 members of a protected class. Elections conducted prior to the filing
9 of an action pursuant to this chapter are more probative to establish
10 the existence of (~~racially~~) polarized voting than elections
11 conducted after the filing of an action. Evidence concerning
12 elections of the governing body of the political subdivision is more
13 probative than evidence concerning other elections. Statistical
14 evidence is more probative to establish the existence of polarized
15 voting than nonstatistical evidence.

16 ~~((4))~~ (5) The election of candidates who are members of a
17 protected class and who were elected prior to the filing of an action
18 pursuant to this chapter shall not preclude a finding of polarized
19 voting that results in an unequal opportunity for a protected class
20 to elect candidates of their choice.

21 ~~((5))~~ (6) Proof of intent on the part of the voters or elected
22 officials to discriminate against a protected class is not required
23 for a cause of action to be sustained.

24 ~~((6))~~ (7) Other factors (~~such as the~~) which are probative to
25 establish a violation of this chapter include, but are not limited
26 to:

27 (a) The extent of the history of official voting
28 discrimination(~~, the use of electoral devices or other~~) in the
29 political subdivision;

30 (b) The extent to which the political subdivision has used voting
31 practices or procedures that may enhance the dilutive effects of at
32 large elections(~~, denial~~) or tend to enhance the opportunity for
33 discrimination against the members of the protected class;

34 (c) Denial of access to those processes determining which groups
35 of candidates will receive financial or other support in a given
36 election(~~, the~~);

37 (d) The extent to which members of the protected class contribute
38 to political campaigns at lower rates;

39 (e) The extent to which members of the protected class vote at
40 lower rates than other members of the electorate;

1 (f) The extent to which members of a protected class bear the
2 effects of past discrimination in areas such as education,
3 employment, (~~and~~) health, criminal justice, housing, land use, and
4 environmental protection, which hinder their ability to participate
5 effectively in the political process(~~(, and the)~~);

6 (g) The extent to which members of the protected class are
7 otherwise disadvantaged in ways which may hinder their ability to
8 participate in the political process;

9 (h) The use of overt or subtle racial appeals in political
10 campaigns (~~are probative, but not necessary factors, to establish a~~
11 violation of this chapter);

12 (i) A significant lack of responsiveness on the part of elected
13 officials to the particularized needs of the protected class; and

14 (j) Whether the political subdivision lacks a compelling policy
15 justification for adopting or maintaining the method of election
16 narrowly tailored to the political subdivision's interests or whether
17 a less biased law would not significantly impair the compelling
18 policy justification.

19 (8) Evidence of the factors listed in subsection (7) of this
20 section concerning the state, private actors, or other political
21 subdivisions in the geographic region may be considered but is less
22 probative than evidence concerning the political subdivision itself.

23 (9) The use of partisanship or characteristics associated with
24 partisanship cannot be used as a defense to a claim under this
25 chapter.

26 (10) Evidence of the following is not probative in terms of
27 establishing a defense to a claim under this chapter:

28 (a) The size of the burden on members of the protected class;

29 (b) That the political jurisdiction's voting rules were adopted
30 prior to this chapter's enactment or the level of deviation from
31 standard practice when this chapter was enacted;

32 (c) The size of any disparities in a rule's impact on members of
33 different racial or ethnic groups;

34 (d) Additional avenues available to the protected class to vote;
35 and

36 (e) That the voting rules are facially neutral in time, place, or
37 manner.

38 (11) A class of citizens protected by this subsection may include
39 a cohesive coalition of members of different racial, ethnic, or
40 language minority groups.

1 **Sec. 3.** RCW 29A.92.060 and 2019 c 64 s 9 are each amended to
2 read as follows:

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

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

18 **Sec. 4.** RCW 29A.92.090 and 2019 c 64 s 12 are each amended to
19 read as follows:

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

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

36 **Sec. 5.** RCW 29A.92.110 and 2019 c 454 s 2 are each amended to
37 read as follows:

1 (1) The court may order appropriate remedies including, but not
2 limited to, the imposition of a district-based election system. The
3 court may order the affected jurisdiction to draw or redraw district
4 boundaries or appoint an individual or panel to draw or redraw
5 district lines. The proposed districts must be approved by the court
6 prior to their implementation. The court may not approve a remedy
7 that has a dilutive effect on the protected class.

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

20 (3) In tailoring a remedy after a finding of a violation of RCW
21 29A.92.020:

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

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

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

1 positions on the governing body must stand for election at the next
2 election for the governing body, scheduled pursuant to this
3 subsection (3). The governing body may subsequently choose to stagger
4 the terms of its positions.

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

11 **Sec. 6.** RCW 29A.92.070 and 2019 c 64 s 10 are each amended to
12 read as follows:

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

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

36 (3) If the court concludes that the political subdivision's
37 remedy complies with RCW 29A.92.020, an action under this chapter may
38 not be brought against that political subdivision for four years by
39 any party so long as the political subdivision does not enact a

1 change to or deviation from the remedy during this four-year period
2 that would otherwise give rise to an action under this chapter.

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

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

11 (i) Be in writing;

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

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

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

22 **Sec. 7.** RCW 29A.92.080 and 2019 c 64 s 11 are each amended to
23 read as follows:

24 (1) Any voter who resides in the political subdivision or
25 organization whose membership includes or is likely to include a
26 voter in the jurisdiction and who resides in the political
27 subdivision may file an action under this chapter if, (~~one hundred~~
28 ~~eighty~~) 50 days after a political subdivision receives notice of a
29 challenge to its electoral system under RCW 29A.92.060, the political
30 subdivision has not obtained a court order stating that it has
31 adopted a remedy in compliance with RCW 29A.92.020. (~~However, if~~
32 ~~notice is received after July 1, 2021, then the political subdivision~~
33 ~~shall have ninety days to obtain a court order before an action may~~
34 ~~be filed.~~)

35 (2) If a political subdivision has received two or more notices
36 containing materially different proposed remedies, the political
37 subdivision shall work in good faith with the persons to implement a
38 remedy that provides the protected class or classes identified in the
39 notices an equal opportunity to elect candidates of their choice. If

1 the political subdivision adopts one of the remedies offered, or a
2 different remedy that takes multiple notices into account, the
3 political subdivision shall seek a court order acknowledging that the
4 political subdivision's remedy is reasonably necessary to avoid a
5 violation of RCW 29A.92.020. The persons or organizations who
6 submitted the notice may support or oppose such an order, and may
7 obtain public records to do so. The political subdivision must
8 provide all political, census, and demographic data and any analysis
9 of that data used to develop the remedy in its filings seeking the
10 court order and with any documents made public. All facts and
11 reasonable inferences shall be viewed in the light most favorable to
12 those opposing the political subdivision's proposed remedy at this
13 stage. There shall be a rebuttable presumption that the court will
14 decline to approve the political subdivision's proposed remedy at
15 this stage.

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

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

27 (i) Be in writing;

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

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

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

38 **Sec. 8.** RCW 29A.92.130 and 2018 c 113 s 405 are each amended to
39 read as follows:

1 (1) In any action to enforce this chapter, the court may allow
2 the prevailing plaintiff or plaintiffs, other than the state or
3 political subdivision thereof, reasonable attorneys' fees, all
4 nonattorney fee costs as defined by RCW 4.84.010, and all reasonable
5 expert witness fees. ~~((No))~~ Except as provided in RCW 29A.92.070(5)
6 and 29A.92.080(4), no fees or costs may be awarded if no action is
7 filed.

8 (2) (a) A prevailing plaintiff does not need to achieve relief or
9 favorable judgment if the plaintiff demonstrates that they succeeded
10 in altering the political subdivision's behavior to correct a claimed
11 harm at the time the suit for interim attorneys' fees is filed.

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

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

18 **PART II**
19 **PRECLEARANCE**

20 NEW SECTION. **Sec. 9.** A new section is added to chapter 29A.92
21 RCW to read as follows:

22 (1) For purposes of this section:

23 (a) "Covered jurisdiction" means:

24 (i) A political subdivision that is determined pursuant to
25 subsection (7) of this section to contain at least one racial,
26 ethnic, or language minority group which constitutes at least 10
27 percent of the subdivision's voting age population;

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

34 (iii) A political subdivision which, within the previous five
35 years, has failed to comply with its obligations to provide data or
36 information to the statewide database, as stated in section 10 of
37 this act; or

1 (iv) A political subdivision which, within the previous 25 years,
2 has become subject to at least three court orders or government
3 enforcement actions based upon a finding of any violation of state or
4 federal civil rights law or the Fourteenth Amendment to the United
5 States Constitution concerning discrimination against members of a
6 protected class.

7 (b) "Covered practice" means:

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

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

18 (iii) Any change to the boundaries of election districts or wards
19 in the covered jurisdiction or to the boundary lines of the covered
20 jurisdiction;

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

25 (v) Any change that reduces the number of or consolidates or
26 relocates voting centers or ballot drop boxes in the covered
27 jurisdiction or on an Indian reservation where a single language-
28 minority group represents 20 percent or more of the voting age
29 population, except where permitted by law in the event of an
30 emergency; or

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

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

37 (i) Institute an action in superior court for a declaratory
38 judgment; or

39 (ii) Submit such covered practice to the attorney general for
40 issuance of a certification that no objection exists to the enactment

1 or administration by the covered jurisdiction of the covered
2 practice.

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

6 (i) Does not have the purpose or the effect of denying or
7 abridging the right to vote on account of race, color, or membership
8 in a language-minority group; and

9 (ii) Will not result in the retrogression in the position of
10 persons based on race, color, or membership in a language-minority
11 group with respect to their effective exercise of the electoral
12 franchise.

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

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

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

25 (i) The attorney general does not issue an objection within:

26 (A) Thirty days of submission of any covered policy concerning
27 designation of a site as a voting center or removal of a ballot drop
28 box; or

29 (B) Within 60 days of the governing body's submission of any
30 other covered policy; or

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

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

39 (d) If the attorney general affirmatively indicates that no
40 objection will be made within the 60-day period following the receipt

1 of the governing body's submission, the attorney general may reserve
2 the right to reexamine the submission if additional information that
3 would otherwise require objection in accordance with this section
4 comes to his or her attention during the remainder of the 60-day
5 period.

6 (e) For any covered policy concerning the establishment of a
7 district-based election system, apportionment plans, or a change to
8 the form of government of a political subdivision, the attorney
9 general may invoke up to two extensions of 90 days each.

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

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

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

26 (7) As early as practicable each calendar year, the secretary of
27 state shall, in consultation with the attorney general, the office of
28 financial management, and other relevant agencies, notify those
29 counties, cities, and towns that contain at least one racial, ethnic,
30 or language-minority group which constitutes at least 10 percent of
31 the subdivision's voting age population, based on the most recent
32 American community survey data. The attorney general shall publish
33 the list of these counties, cities, and towns on a website
34 established and maintained for this purpose. A determination made
35 pursuant to this subsection is effective upon publication.

36 **PART III**

37 **DATA COLLECTION AND REQUIRED REPORTING**

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 29A.92

2 RCW to read as follows:

3 (1) There shall be established within the University of
4 Washington a repository of the data necessary to assist the state and
5 all political subdivisions with evaluating whether and to what extent
6 existing laws and practices with respect to voting and elections are
7 consistent with the public policy expressed in this title,
8 implementing best practices in voting and elections to achieve the
9 purposes of this title, and to investigate potential infringements
10 upon the right to vote. This repository shall be referred to as the
11 "statewide database" in this section.

12 (2) The operation of the statewide database shall be the
13 responsibility of the director of the statewide database, hereinafter
14 referred to in this title as the "director," who shall be a member of
15 the faculty of the University of Washington with doctoral level
16 expertise in demography, statistical analysis, and electoral systems.
17 The director shall be appointed by the governor.

18 (3) The director shall appoint such staff as are necessary to
19 implement and maintain the statewide database.

20 (4) The statewide database shall maintain in electronic format at
21 least the following data and records for at least the previous 12-
22 year period:

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

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

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

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

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

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

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

5 (5) The director shall update the data in the database no later
6 than seven days after certification of each election by the secretary
7 of state.

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

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

15 (8) On or before January 1, 2023, and every third year
16 thereafter, the statewide database shall publish on its website and
17 transmit to the state board of elections for dissemination to county
18 auditors and for the office of the superintendent of public
19 instruction a list of political subdivisions required pursuant to
20 this section to provide assistance to members of language-minority
21 groups and each language in which those political subdivisions are
22 required to provide assistance. Each county auditor shall transmit
23 the list described herein to all political subdivisions within their
24 jurisdiction.

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

28 (a) Election results at the election district level;

29 (b) Contemporaneous voter registration lists;

30 (c) Voter history files;

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

32 and

33 (e) Lists of election day poll site and early voting sites and
34 lists, shapefiles, or descriptions of the election districts assigned
35 to each election day poll site or early voting site.

36 (10) Staff at the statewide database may provide nonpartisan
37 technical assistance to political subdivisions, scholars, and the
38 general public seeking to use the resources of the statewide
39 database.

1 (11) The data, information, and estimates maintained by the
2 statewide database shall be granted a rebuttable presumption of
3 validity by any court concerning any claim brought pursuant to this
4 title.

5 **PART IV**
6 **GENERAL PROVISIONS**

7 **Sec. 11.** RCW 29A.92.010 and 2018 c 113 s 103 are each amended to
8 read as follows:

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

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

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

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

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

24 (2) "Cracking" and "packing" both refer to specific ways of
25 drawing district boundaries.

26 (a) "Cracking" means the drawing of districts in a manner that
27 divides the concentration of minority communities of interest voters
28 across several districts such that they constitute minority in each.

29 (b) "Packing" means the practice of drawing political subdivision
30 boundaries in a manner that ensures a particular candidate wins or
31 that majority communities of interest retain a strong majority.

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

37 (4) "District-based elections" means a method of electing members
38 to the governing body of a political subdivision in which the

1 candidate must reside within an election district that is a divisible
2 part of the political subdivision and is elected only by voters
3 residing within that election district.

4 ~~((3))~~ (5) "Federal voting rights act" means the federal voting
5 rights act of 1965, 52 U.S.C. 10301 et seq.

6 (6) "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(~~(7-52 U.S.C. 10301 et seq.)~~) in the choice
9 of candidates or other electoral choices that are preferred by voters
10 in 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))~~ (7) "Political subdivision" means any county, city, town,
13 school district, fire protection district, port district, or public
14 utility district, but does not include the state.

15 ~~((5))~~ (8) "Protected class" means a class of voters who are
16 members of a race, color, or language minority group, as this class
17 is referenced and defined in the federal voting rights act(~~(7-52~~
18 U.S.C. 10301 et seq)).

19 (9) "Vote dilution" means a method of election, including at-
20 large or district-based, that impairs the ability of members of a
21 protected class to equally affect the composition of a legislative
22 body by electing candidates of their choice or otherwise influencing
23 the outcomes of election unless necessary to serve a compelling state
24 interest.

--- END ---