

ESHB 1048 - S AMD 279

By Senator Fortunato

WITHDRAWN 04/05/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 29A.92.040 and 2018 c 113 s 201 are each amended to
4 read as follows:

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

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

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

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

17 (1) The court may order appropriate remedies including, but not
18 limited to, the imposition of a district-based election system. The
19 court may order the affected jurisdiction to draw or redraw district
20 boundaries or appoint an individual or panel to draw or redraw
21 district lines. The proposed districts must be approved by the court
22 prior to their implementation.

23 (2) Implementation of a district-based remedy is not precluded by
24 the fact that members of a protected class do not constitute a
25 numerical majority within a proposed district-based election
26 district. If, in tailoring a remedy, the court orders the
27 implementation of a district-based election district where the
28 members of the protected class are not a numerical majority, the
29 court shall do so in a manner that provides the protected class an
30 equal opportunity to elect candidates of their choice. The court may
31 also approve a district-based election system that provides the

1 protected class the opportunity to join in a coalition of two or more
2 protected classes to elect candidates of their choice if there is
3 demonstrated political cohesion among the protected classes.

4 (3) In tailoring a remedy after a finding of a violation of RCW
5 29A.92.020:

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

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

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

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

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

37 **Sec. 3.** RCW 35A.12.180 and 2019 c 454 s 7 are each amended to
38 read as follows:

1 At any time not within three months previous to a municipal
2 general election the council of a noncharter code city organized
3 under this chapter may divide the city into wards or change the
4 boundaries of existing wards. Unless the city is dividing into wards
5 or changing the boundaries of existing wards under RCW 29A.92.040 or
6 29A.92.110, no change in the boundaries of wards shall affect the
7 term of any councilmember, and councilmembers shall serve out their
8 terms in the wards of their residences at the time of their
9 elections: PROVIDED, That if this results in one ward being
10 represented by more councilmembers than the number to which it is
11 entitled those having the shortest unexpired terms shall be assigned
12 by the council to wards where there is a vacancy, and the
13 councilmembers so assigned shall be deemed to be residents of the
14 wards to which they are assigned for purposes of those positions
15 being vacant. The representation of each ward in the city council
16 shall be in proportion to the population as nearly as is practicable.

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

20 Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards
21 shall be used as follows: (1) Only a resident of the ward may be a
22 candidate for, or hold office as, a councilmember of the ward; and
23 (2) only voters of the ward may vote (~~(at a primary)~~) to nominate or
24 elect candidates for a councilmember of the ward. (~~(Voters of the~~
25 ~~entire city may vote at the general election to elect a councilmember~~
26 ~~of a ward, unless the city had prior to January 1, 1994, limited the~~
27 ~~voting in the general election for any or all council positions to~~
28 ~~only voters residing within the ward associated with the council~~
29 ~~positions. If a city had so limited the voting in the general~~
30 ~~election to only voters residing within the ward, then the city shall~~
31 ~~be authorized to continue to do so.))~~)

32 **Sec. 4.** RCW 35.23.051 and 2019 c 454 s 5 are each amended to
33 read as follows:

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

37 The terms of office of the mayor, city attorney, clerk, and
38 treasurer shall be four years and until their successors are elected
39 and qualified and assume office in accordance with RCW 29A.60.280:

1 PROVIDED, That if the offices of city attorney, clerk, and treasurer
2 are made appointive, the city attorney, clerk, and treasurer shall
3 not be appointed for a definite term: PROVIDED FURTHER, That the term
4 of the elected treasurer shall not commence in the same biennium in
5 which the term of the mayor commences, nor in which the terms of the
6 city attorney and clerk commence if they are elected.

7 Council positions shall be numbered in each second-class city so
8 that council position seven has a two-year term of office and council
9 positions one through six shall each have four-year terms of office.
10 Each councilmember shall remain in office until a successor is
11 elected and qualified and assumes office in accordance with RCW
12 29A.60.280.

13 In its discretion the council of a second-class city may divide
14 the city by ordinance, into a convenient number of wards, not
15 exceeding six, fix the boundaries of the wards, and change the ward
16 boundaries from time to time and as provided in RCW 29A.76.010. No
17 change in the boundaries of any ward shall be made within one hundred
18 twenty days next before the date of a general municipal election, nor
19 within twenty months after the wards have been established or altered
20 unless pursuant to RCW 29A.92.040 or 29A.92.110. However, if a
21 boundary change results in one ward being represented by more
22 councilmembers than the number to which it is entitled, those having
23 the shortest unexpired terms shall be assigned by the council to
24 wards where there is a vacancy, and the councilmembers so assigned
25 shall be deemed to be residents of the wards to which they are
26 assigned for purposes of determining whether those positions are
27 vacant.

28 Whenever such city is so divided into wards, the city council
29 shall designate by ordinance the number of councilmembers to be
30 elected from each ward, apportioning the same in proportion to the
31 population of the wards. Thereafter the councilmembers so designated
32 shall be elected by the voters resident in such ward(~~(, or by general
33 vote of the whole city as may be designated in such ordinance)~~).
34 Council position seven shall not be associated with a ward and the
35 person elected to that position may reside anywhere in the city and
36 voters throughout the city may vote at a primary to nominate
37 candidates for position seven, when a primary is necessary, and at a
38 general election to elect the person to council position seven.
39 Additional territory that is added to the city shall, by act of the
40 council, be annexed to contiguous wards without affecting the right

1 to redistrict at the expiration of twenty months after last previous
2 division. The removal of a councilmember from the ward for which he
3 or she was elected shall create a vacancy in such office.

4 Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards
5 shall be used as follows: (1) Only a resident of the ward may be a
6 candidate for, or hold office as, a councilmember of the ward; and
7 (2) only voters of the ward may vote (~~(at a primary)~~) to nominate or
8 elect candidates for a councilmember of the ward. (~~(Voters of the~~
9 ~~entire city may vote at the general election to elect a councilmember~~
10 ~~of a ward, unless the city had prior to January 1, 1994, limited the~~
11 ~~voting in the general election for any or all council positions to~~
12 ~~only voters residing within the ward associated with the council~~
13 ~~positions. If a city had so limited the voting in the general~~
14 ~~election to only voters residing within the ward, then the city shall~~
15 ~~be authorized to continue to do so.)~~) The elections for the remaining
16 council position or council positions that are not associated with a
17 ward shall be conducted as if the wards did not exist.

18 **Sec. 5.** RCW 36.32.050 and 2018 c 301 s 7 are each amended to
19 read as follows:

20 (~~(1) Except as provided otherwise in subsection (2) of this~~
21 ~~section or this chapter, county commissioners shall be elected by the~~
22 ~~qualified voters of the county and the person receiving the highest~~
23 ~~number of votes for the office of commissioner for the district in~~
24 ~~which he or she resides shall be declared duly elected from that~~
25 ~~district.~~

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

33 **Sec. 6.** RCW 52.14.013 and 2019 c 454 s 8 are each amended to
34 read as follows:

35 The board of fire commissioners of a fire protection district may
36 adopt a resolution by unanimous vote causing a ballot proposition to
37 be submitted to voters of the district authorizing the creation of
38 commissioner districts. The board of fire commissioners shall create

1 commissioner districts if the ballot proposition authorizing the
2 creation of commissioner districts is approved by a simple majority
3 vote of the voters of the fire protection district voting on the
4 proposition. Three commissioner districts shall be created for a fire
5 protection district with three commissioners, five commissioner
6 districts shall be created for a fire protection district with five
7 commissioners, and seven commissioner districts shall be created for
8 a fire protection district with seven commissioners. No two
9 commissioners may reside in the same commissioner district.

10 No change in the boundaries of any commissioner district shall be
11 made within one hundred twenty days next before the date of a general
12 district election, nor within twenty months after the commissioner
13 districts have been established or altered unless pursuant to RCW
14 29A.92.040 or 29A.92.110. However, if a boundary change results in
15 one commissioner district being represented by two or more
16 commissioners, those commissioners having the shortest unexpired
17 terms shall be assigned by the commission to commissioner districts
18 where there is a vacancy, and the commissioners so assigned shall be
19 deemed to be residents of the commissioner districts to which they
20 are assigned for purposes of determining whether those positions are
21 vacant.

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

32 When a board of fire commissioners that has commissioner
33 districts has been increased to five or seven members under RCW
34 52.14.015, the board of fire commissioners shall divide the fire
35 protection district into five or seven commissioner districts before
36 it appoints the two or four additional fire commissioners. The two or
37 four additional fire commissioners who are appointed shall reside in
38 separate commissioner districts in which no other fire commissioner
39 resides.

1 **Sec. 7.** RCW 53.12.010 and 2022 c 47 s 1 are each amended to read
2 as follows:

3 (1) The powers of the port district shall be exercised through a
4 port commission consisting of three or, when permitted by this title,
5 five members. Every port district that is not coextensive with a
6 county having a population of five hundred thousand or more shall be
7 divided into the same number of commissioner districts as there are
8 commissioner positions, each having approximately equal population,
9 unless provided otherwise under subsection (2) of this section. Where
10 a port district with three commissioner positions is coextensive with
11 the boundaries of a county that has a population of less than five
12 hundred thousand and the county has three county legislative
13 authority districts, the port commissioner districts shall be the
14 county legislative authority districts. In other instances where a
15 port district is divided into commissioner districts, the port
16 commission shall divide the port district into commissioner districts
17 unless the commissioner districts have been described pursuant to RCW
18 53.04.031. The commissioner districts shall be altered as provided in
19 chapter 53.16 RCW.

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

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

34 (b) In a port district with five commissioners, where two of the
35 commissioner districts include the entire port district, the port
36 district may be divided into five commissioner districts if proposed
37 pursuant to a resolution adopted by the board of commissioners or
38 pursuant to a petition by the voters and approved by the voters of
39 the district at the next general or special election occurring sixty
40 or more days after the adoption of the resolution. A petition

1 proposing such an increase must be submitted to the county auditor of
2 the county in which the port district is located and signed by voters
3 of the port district at least equal in number to ten percent of the
4 number of voters in the port district who voted at the last general
5 election.

6 Upon approval by the voters, the commissioner district boundaries
7 shall be redrawn into five districts prior to the first day of
8 January in the year in which the two additional commissioners shall
9 be elected and submitted to the county auditor pursuant to RCW
10 53.16.015. The new commissioner districts shall be numbered one
11 through five and the three incumbent commissioners representing the
12 three former districts shall represent commissioner districts one
13 through three. The two at large incumbent commissioners shall
14 represent commissioner districts four and five. If, as a result of
15 redrawing the district boundaries more than one of the incumbent
16 commissioners resides in one of the new commissioner districts, the
17 commissioners who reside in the same commissioner district shall
18 determine by lot which of the numbered commissioner districts they
19 shall represent for the remainder of their respective terms.

20 **Sec. 8.** RCW 54.12.010 and 2018 c 113 s 210 are each amended to
21 read as follows:

22 A public utility district that is created as provided in RCW
23 54.08.010 shall be a municipal corporation of the state of
24 Washington, and the name of such public utility district shall be
25 Public Utility District No. of County.

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

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

36 (2) If the public utility district comprises only a portion of
37 the county, with boundaries established in accordance with chapter
38 54.08 RCW, or if the public utility district is countywide and the
39 county does not have three county legislative authority districts,

1 three public utility district commissioner districts, numbered
2 consecutively, each with approximately equal population and following
3 precinct lines, as far as practicable, shall be described in the
4 petition for the formation of the public utility district, subject to
5 appropriate change by the county legislative authority if and when it
6 changes the boundaries of the proposed public utility district. One
7 commissioner shall be elected as a commissioner of each of the public
8 utility district commissioner districts.

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

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

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

30 (6) The boundaries of the public utility district commissioner
31 districts may be changed only by the public utility district
32 commission or by a court order issued pursuant to RCW 29A.92.110, and
33 shall be examined every ten years to determine substantial equality
34 of population in accordance with chapter 29A.76 RCW. Except as
35 provided in this section, RCW 29A.92.110, RCW 54.04.039, or in the
36 case of an intervening census, the boundaries shall not be changed
37 more often than once in four years. Boundaries may only be changed
38 when all members of the commission are present. Whenever territory is
39 added to a public utility district under RCW 54.04.035, or added or
40 withdrawn under RCW 54.04.039, the boundaries of the public utility

1 commissioner districts shall be changed to include the additional or
2 exclude the withdrawn territory. Unless the boundaries are changed
3 pursuant to RCW 54.04.039, the proposed change of the boundaries of
4 the public utility district commissioner district must be made by
5 resolution and after public hearing. Notice of the time of the public
6 hearing shall be published for two weeks before the hearing. Upon a
7 referendum petition signed by ten percent of the qualified voters of
8 the public utility district being filed with the county auditor, the
9 county legislative authority shall submit the proposed change of
10 boundaries to the voters of the public utility district for their
11 approval or rejection. The petition must be filed within ninety days
12 after the adoption of resolution of the proposed action. The validity
13 of the petition is governed by the provisions of chapter 54.08 RCW."

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WITHDRAWN 04/05/2023

14 On page 1, line 1 of the title, after "act;" strike the remainder
15 of the title and insert "and amending RCW 29A.92.040, 29A.92.110,
16 35A.12.180, 35.23.051, 36.32.050, 52.14.013, 53.12.010, and
17 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.

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