

RCW 29A.92.030 Violations—Factors. (Effective until January 1, 2024.) (1) A political subdivision is in violation of this chapter when it is shown that:

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

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

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

(3) In determining whether there is polarized voting under this chapter, the court shall analyze elections of the governing body of the political subdivision, ballot measure elections, elections in which at least one candidate is a member of a protected class, and other electoral choices that affect the rights and privileges of members of a protected class. Elections conducted prior to the filing of an action pursuant to this chapter are more probative to establish the existence of racially polarized voting than elections conducted after the filing of an action.

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

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

(6) Other factors such as the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns are probative, but not necessary factors, to establish a violation of this chapter. [2019 c 64 § 7; 2018 c 113 § 302.]

Explanatory statement—2019 c 64: See note following RCW 1.20.110.

RCW 29A.92.030 Violations—Factors. (Effective January 1, 2024.)

(1) A political subdivision is in violation of this chapter when it is shown that:

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

(b) Members of a protected class or classes do not have an equal opportunity to elect candidates of their choice as a result of the

dilution or abridgment of the rights of members of that protected class or classes.

(2) In determining whether there is polarized voting under this chapter, the court shall analyze election results including, but not limited to, elections of the governing body of the political subdivision, ballot measure elections, elections in which at least one candidate is a member of a protected class, and other electoral choices that affect the rights and privileges of members of a protected class. The court is not required to consider explanations, including partisanship, for why polarized voting under this chapter exists in the political subdivision to determine whether polarized voting under this chapter exists in the political subdivision. Elections conducted prior to the filing of an action pursuant to this chapter are more probative to establish the existence of polarized voting than elections conducted after the filing of an action.

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

(4) The equal opportunity to elect shall be assessed pragmatically, based on local election conditions, and may include crossover districts. No single factor is dispositive or necessary to establish a violation of this section.

(5) The fact that members of a protected class are not geographically compact or concentrated to constitute a majority in a proposed or existing district-based election district shall not preclude a finding of a violation under this chapter, but may be a factor in determining a remedy.

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

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

(8) A class of people protected by this section may include a coalition of members of different racial, color, or language minority groups. A coalition of members of different protected classes is not required to demonstrate that each individual racial, color, or language minority group which comprises the coalition is cohesive, only that the coalition as a whole is cohesive. [2023 c 56 § 3; 2019 c 64 § 7; 2018 c 113 § 302.]

Effective date—2023 c 56: See note following RCW 29A.92.720.

Explanatory statement—2019 c 64: See note following RCW 1.20.110.