
SENATE BILL 5473

State of Washington

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By Senators Nelson, Shin, Ranker, Mullet, Billig, Harper, Kline, Keiser, Hasegawa, Conway, Chase, Kohl-Welles, Cleveland, McAuliffe, Darneille, Rolfes, Schlicher, Murray, and Hobbs

Read first time 01/31/13. Referred to Committee on Governmental Operations.

1 AN ACT Relating to establishing a voting rights act to promote
2 equal voting opportunity in certain political subdivisions by
3 authorizing district-based elections, requiring redistricting and new
4 elections in certain circumstances, and establishing a cause of action
5 to redress lack of voter opportunity; adding a new section to chapter
6 28A.343 RCW; adding a new section to chapter 36.32 RCW; adding a new
7 section to chapter 35.21 RCW; adding a new section to chapter 35A.21
8 RCW; and adding a new chapter to Title 29A RCW.

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

10 NEW SECTION. **Sec. 1.** This act may be known and cited as the
11 Washington voting rights act of 2013.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

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

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

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

4 (c) One which combines the criteria in (a) and (b) of this
5 subsection.

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

11 (3) "Polarized voting" means voting in which there is a difference
12 in the choice of candidates or other electoral choices that are
13 preferred by voters in a protected class, and in the choice of
14 candidates and electoral choices that are preferred by voters in the
15 rest of the electorate. A plaintiff may establish and a court may find
16 that elections are characterized by polarized voting based on relevant
17 and admissible evidence.

18 (4) "Political subdivision" means any county, city, town, school
19 district, or other district, municipal, or quasi-municipal corporation
20 organized pursuant to state, county, or local law.

21 (5) "Protected class" means a class of voters who are members of a
22 race, color, or language minority group.

23 NEW SECTION. **Sec. 3.** (1) At-large elections and district-based
24 elections may not be imposed or applied in a manner that denies a
25 protected class an equal opportunity to elect candidates of its choice
26 or an equal opportunity to influence the outcome of an election.

27 (2) An at-large election district or a district-based election
28 district is in violation of this section, when it is shown that:

29 (a) The elections in the political subdivision exhibit polarized
30 voting; and

31 (b) Members of a protected class do not have an equal opportunity
32 to elect candidates of their choice or an equal opportunity to
33 influence the outcome of an election.

34 (3) The fact that members of a protected class are not
35 geographically compact or concentrated to constitute a majority in a
36 proposed or existing district-based election district shall not

1 preclude a finding of polarized voting that results in an unequal
2 opportunity for a protected class to elect candidates of their choice
3 or influence the outcome of an election.

4 (4) In determining whether there is polarized voting under this
5 section, the court shall analyze elections for members of the governing
6 body of the political subdivision or elections incorporating other
7 electoral choices by the voters of the political subdivision.

8 (5) The court shall determine whether polarized voting has occurred
9 by examining results of elections in which at least one candidate is a
10 member of a protected class or elections involving ballot measures, or
11 other electoral choices that affect the rights and privileges of
12 members of a protected class who are voters of the political
13 subdivision that is the subject of an action filed pursuant to this
14 chapter. Only elections conducted prior to the filing of an action
15 pursuant to this chapter shall be used to establish or rebut the
16 existence of polarized voting that results in an unequal opportunity
17 for a protected class to elect candidates of their choice or influence
18 the outcome of an election.

19 (6) The election of candidates who are members of a protected class
20 and who are preferred by voters of the protected class and who were
21 elected prior to the filing of this action pursuant to this chapter, as
22 determined by an analysis of voting behavior, shall not preclude a
23 finding of polarized voting that results in an unequal opportunity for
24 a protected class to elect candidates of their choice or influence the
25 outcome of an election.

26 (7) Members of different protected classes may file an action
27 jointly pursuant to this chapter if they demonstrate that their
28 combined voting preferences as a group are different from the rest of
29 the electorate and demonstrate that there is polarized voting that
30 results in an unequal opportunity for these protected classes to elect
31 candidates of their choice or influence the outcome of an election.

32 (8) In an action filed pursuant to this section, the trial court
33 shall set a trial to be held no later than one hundred eighty days
34 after the filing of a complaint, and shall set a discovery and motions
35 calendar accordingly.

36 (9) Proof of intent on the part of the voters or elected officials
37 to discriminate against a protected class is not required.

1 (10) For purposes of any applicable statute of limitations, a cause
2 of action under this section arises every time there is an election
3 pursuant to an at-large method of election or a district-based election
4 district that is the subject of an action pursuant to this section.

5 (11) The plaintiff's constitutional right to the secrecy of the
6 plaintiff's vote is preserved and is not waived by the filing of an
7 action pursuant to this section, and is not subject to discovery.

8 (12) In seeking a temporary restraining order or a preliminary
9 injunction, a plaintiff shall not be required to post a bond or any
10 other security in order to secure such equitable relief.

11 NEW SECTION. **Sec. 4.** A political subdivision that conducts an at-
12 large method of election pursuant to state, county, or local law, is
13 hereby empowered to change its electoral system to a district-based
14 method of election. The districts shall be drawn in a manner
15 consistent with section 5 of this act.

16 (1) It is the responsibility of each political subdivision to
17 district its governmental unit forty-five days after invoking its
18 authority under this section. Thereafter, it is the responsibility of
19 each political subdivision with a governing body comprised of single-
20 member districts to periodically redistrict its governmental unit,
21 based on population information from the most recent federal decennial
22 census.

23 (2) Within forty-five days after receipt of federal decennial
24 census information applicable to a specific local area, the commission
25 established in RCW 44.05.030 shall forward the census information to
26 each political subdivision charged with redistricting under this act.

27 (3) No later than eight months after its receipt of federal
28 decennial census data, the governing body of the political subdivision
29 shall prepare a plan for redistricting its districts.

30 (4) The plan shall be consistent with the following criteria:

31 (a) Each district shall be as nearly equal in population as
32 possible to each and every other such district comprising the political
33 subdivision.

34 (b) Each district shall be as compact as possible.

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

36 (d) To the extent feasible, the district boundaries shall coincide

1 with existing recognized natural boundaries and shall, to the extent
2 possible, preserve existing communities of related and mutual interest.

3 (e) During the adoption of its plan, the political subdivision
4 shall ensure that full and reasonable public notice of its actions is
5 provided. The political subdivision shall hold at least one public
6 hearing on the redistricting plan at least one week before adoption of
7 the plan.

8 (f) District boundaries may not be drawn or maintained in a manner
9 that denies an equal opportunity of a protected class to elect
10 candidates of its choice or an equal opportunity to influence the
11 outcome of an election.

12 (5) After invoking its authority under this section, the political
13 subdivision shall order new elections to be scheduled at the next date
14 authorized by state law for conducting elections. All of the positions
15 that were elected pursuant to the previous electoral system and have at
16 least two years remaining in their terms of office shall be subject to
17 new elections in order to continue their term of office.

18 NEW SECTION. **Sec. 5.** (1) Upon a finding of a violation of section
19 3 of this act, the court shall implement appropriate remedies,
20 including the imposition of a district-based election district that is
21 tailored to remedy the violation. The court may direct the affected
22 jurisdiction to draw or redraw district boundaries or appoint an
23 individual or panel to draw or redraw district lines. The proposed
24 districts must be approved by the court prior to their implementation.

25 (2) In tailoring a remedy consisting of district-based elections,
26 the court shall implement a district-based election district that is
27 geographically compact. The fact that members of a protected class do
28 not constitute a numerical majority within a proposed district-based
29 election district shall not preclude the implementation of such a
30 district-based election district. If, in tailoring a remedy, the court
31 orders the implementation of a district-based election district where
32 the members of the protected class are not a numerical majority, the
33 court shall do so in a manner that provides the protected class an
34 equal opportunity to elect candidates of their choice or an equal
35 opportunity to influence the outcome of an election.

36 (3) In tailoring a remedy after a finding of a violation of section
37 3 of this act:

1 (a) If the next date authorized by state law for conducting
2 elections occurs ninety days or more after the court's ruling, the
3 court shall order new elections, conducted pursuant to the remedy, to
4 be scheduled at the next date authorized by state law for conducting
5 elections. If a special filing period is required, the county auditor
6 shall establish a five-day filing period at the earliest possible date.

7 (b) If the next election date occurs less than ninety days after
8 the court's ruling, the next election will occur as scheduled and
9 organized.

10 (c) All of the positions that were elected pursuant to the at-large
11 or district-based election district that was the subject of the action
12 filed pursuant to this chapter and have at least two years remaining in
13 their terms of office, including those elected pursuant to (b) of this
14 subsection, shall be subject to new elections, pursuant to the remedy
15 implemented under subsection (1) of this section.

16 (4) State laws or local ordinances requiring cities, towns,
17 counties, school districts, and other jurisdictions to conduct
18 district-based elections in a primary and at-large elections in the
19 general election do not apply in jurisdictions that implement district-
20 based elections pursuant to Section 4 of this act, or are required to
21 implement district-based elections, pursuant to subsection (1) of this
22 section, where district-based elections is defined in section 2(2) of
23 this act.

24 NEW SECTION. **Sec. 6.** (1) In any action to enforce this chapter,
25 the court shall allow the prevailing plaintiff or plaintiffs, other
26 than the state or political subdivision thereof, reasonable attorneys'
27 fees, all nonattorney fee costs as defined by RCW 4.84.010, and all
28 reasonable expert witness fees.

29 (2) Prevailing defendants shall not recover an award of fees or
30 costs except pursuant to RCW 4.84.185.

31 (3) A plaintiff shall be deemed to be a prevailing party for
32 purposes of this section if the political subdivision that is the
33 subject of an action filed pursuant to this chapter adopts or
34 implements a district-based election system after the action is filed
35 that is different from the at-large or district-based election system
36 that is the subject of the action filed.

1 drawn in a manner consistent with section 5 of this act. The county
2 commissioner shall order new elections to be scheduled at the next date
3 authorized by state law for conducting elections. All of the positions
4 that were elected pursuant to the previous method of election and have
5 at least two years remaining in their terms of office shall be subject
6 to new elections in order to continue their terms of office.

7 NEW SECTION. **Sec. 12.** A new section is added to chapter 35.21 RCW
8 to read as follows:

9 The legislative authority of a city or town may authorize a change
10 to a district-based election as defined in section 2(2) of this act,
11 such districts to be drawn in a manner consistent with section 5 of
12 this act. The legislative authority of a city or town shall order new
13 elections to be scheduled at the next date authorized by state law for
14 conducting elections. All of the positions that were elected pursuant
15 to the previous method of election and have at least two years
16 remaining in their terms of office shall be subject to new elections in
17 order to continue their terms of office.

18 NEW SECTION. **Sec. 13.** A new section is added to chapter 35A.21
19 RCW to read as follows:

20 The legislative authority of a code city or town may authorize a
21 change to a district-based election as defined in section 2(2) of this
22 act, such districts to be drawn in a manner consistent with section 5
23 of this act. The legislative authority of a code city or town shall
24 order new elections to be scheduled at the next date authorized by
25 state law for conducting elections. All of the positions that were
26 elected pursuant to the previous method of election and have at least
27 two years remaining in their terms of office shall be subject to new
28 elections in order to continue their terms of office.

29 NEW SECTION. **Sec. 14.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 15.** Sections 1 through 9 of this act constitute
2 a new chapter in Title 29A RCW.

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