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HOUSE BILL 1860

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State of Washington

62nd Legislature

2011 Regular Session

By Representative Hurst

Read first time 02/07/11. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to partisan elections; amending RCW 29A.04.216,  
2 29A.20.021, 29A.24.031, 29A.24.091, 29A.24.131, 29A.28.071, 29A.36.151,  
3 29A.56.020, 29A.80.041, and 29A.80.051; reenacting and amending RCW  
4 29A.40.061; adding a new section to chapter 29A.80 RCW; creating a new  
5 section; and recodifying RCW 29A.28.071.

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

7 NEW SECTION. **Sec. 1.** The United States district court, western  
8 district of Washington, ruled that Washington's method of electing  
9 political party precinct committee officers is unconstitutional based  
10 on the associational rights of political parties. Washington has  
11 included the election of precinct committee officers on the primary  
12 ballot that allows voters to select those precinct committee officers  
13 regardless of the party affiliation of the voter. The court concluded  
14 that this method of electing precinct committee officers is  
15 unconstitutional because it allows nonparty members to vote for  
16 officers of the political parties. Therefore, it is the intent of the  
17 legislature to remedy the unconstitutional method of selecting precinct  
18 committee officers by moving the election of those officers to the

1 presidential primary, a partisan election where voters choose to  
2 affiliate with the party of their choice.

3 **Sec. 2.** RCW 29A.04.216 and 2004 c 271 s 104 are each amended to  
4 read as follows:

5 The county auditor of each county shall be ex officio the  
6 supervisor of all primaries and elections, general or special, and it  
7 shall be the county auditor's duty to provide places for holding such  
8 primaries and elections; to appoint the precinct election officers and  
9 to provide for their compensation; to provide the supplies and  
10 materials necessary for the conduct of elections to the precinct  
11 election officers; and to publish and post notices of calling such  
12 primaries and elections in the manner provided by law. (~~The notice of  
13 a primary held in an even-numbered year must indicate that the office  
14 of precinct committee officer will be on the ballot.~~) The auditor  
15 shall also apportion to each city, town, or district, and to the state  
16 of Washington in the odd-numbered year, its share of the expense of  
17 such primaries and elections. This section does not apply to general  
18 or special elections for any city, town, or district that is not  
19 subject to RCW 29A.04.321 and 29A.04.330, but all such elections must  
20 be held and conducted at the time, in the manner, and by the officials  
21 (with such notice, requirements for filing for office, and  
22 certifications by local officers) as provided and required by the laws  
23 governing such elections.

24 **Sec. 3.** RCW 29A.20.021 and 2004 c 271 s 153 are each amended to  
25 read as follows:

26 (1) A person filing a declaration of candidacy for an office shall,  
27 at the time of filing, be a registered voter and possess the  
28 qualifications specified by law for persons who may be elected to the  
29 office.

30 (2) Excluding (~~the office of precinct committee officer or~~) a  
31 temporary elected position such as a charter review board member or  
32 freeholder, no person may file for more than one office.

33 (3) The name of a candidate for an office shall not appear on a  
34 ballot for that office unless, except as provided in RCW (~~3.46.067  
35 and~~) 3.50.057, the candidate is, at the time the candidate's  
36 declaration of candidacy is filed, properly registered to vote in the

1 geographic area represented by the office. For the purposes of this  
2 section, each geographic area in which registered voters may cast  
3 ballots for an office is represented by that office. If a person  
4 elected to an office must be nominated from a district or similar  
5 division of the geographic area represented by the office, the name of  
6 a candidate for the office shall not appear on a primary ballot for  
7 that office unless the candidate is, at the time the candidate's  
8 declaration of candidacy is filed, properly registered to vote in that  
9 district or division. The officer with whom declarations of candidacy  
10 must be filed under this title shall review each such declaration filed  
11 regarding compliance with this subsection.

12 (4) The requirements of voter registration and residence within the  
13 geographic area of a district do not apply to candidates for  
14 congressional office. Qualifications for the United States congress  
15 are specified in the United States Constitution.

16 **Sec. 4.** RCW 29A.24.031 and 2004 c 271 s 158 are each amended to  
17 read as follows:

18 A candidate who desires to have his or her name printed on the  
19 ballot for election to an office other than president of the United  
20 States, vice president of the United States, or an office for which  
21 ownership of property is a prerequisite to voting shall complete and  
22 file a declaration of candidacy. The secretary of state shall adopt,  
23 by rule, a declaration of candidacy form (~~((for the office of precinct  
24 committee officer and a separate standard form))~~) for candidates for all  
25 (~~(other)~~) offices filing under this chapter. Included on the standard  
26 form shall be:

27 (1) A place for the candidate to declare that he or she is a  
28 registered voter within the jurisdiction of the office for which he or  
29 she is filing, and the address at which he or she is registered;

30 (2) A place for the candidate to indicate the position for which he  
31 or she is filing;

32 (3) A place for the candidate to indicate a party designation, if  
33 applicable;

34 (4) A place for the candidate to indicate the amount of the filing  
35 fee accompanying the declaration of candidacy or for the candidate to  
36 indicate that he or she is filing a nominating petition in lieu of the  
37 filing fee under RCW 29A.24.091;

1 (5) A place for the candidate to sign the declaration of candidacy,  
2 stating that the information provided on the form is true and swearing  
3 or affirming that he or she will support the Constitution and laws of  
4 the United States and the Constitution and laws of the state of  
5 Washington.

6 In the case of a declaration of candidacy filed electronically,  
7 submission of the form constitutes agreement that the information  
8 provided with the filing is true, that he or she will support the  
9 Constitutions and laws of the United States and the state of  
10 Washington, and that he or she agrees to electronic payment of the  
11 filing fee established in RCW 29A.24.091.

12 The secretary of state may require any other information on the  
13 form he or she deems appropriate to facilitate the filing process.

14 **Sec. 5.** RCW 29A.24.091 and 2009 c 106 s 2 are each amended to read  
15 as follows:

16 A filing fee of ten dollars shall accompany the declaration of  
17 candidacy for any office with a fixed annual salary of one thousand  
18 dollars or less; a filing fee equal to one percent of the annual salary  
19 of the office at the time of filing shall accompany the declaration of  
20 candidacy for any office with a fixed annual salary of more than one  
21 thousand dollars per annum. No filing fee need accompany a declaration  
22 of candidacy for (~~(precinct committee officer or)~~) any office for which  
23 compensation is on a per diem or per meeting attended basis.

24 A candidate who lacks sufficient assets or income at the time of  
25 filing to pay the filing fee required by this section shall submit with  
26 his or her declaration of candidacy a filing fee petition. The  
27 petition shall contain not less than a number of signatures of  
28 registered voters equal to the number of dollars of the filing fee.  
29 The signatures shall be of voters registered to vote within the  
30 jurisdiction of the office for which the candidate is filing.

31 When the candidacy is for:

32 (1) A statewide office, the United States senate, or the United  
33 States house of representatives, the fee shall be paid to the secretary  
34 of state;

35 (2) A legislative or judicial office that includes territory from  
36 more than one county, the fee shall be paid to the secretary of state

1 for equal division between the treasuries of the counties comprising  
2 the district;

3 (3) A legislative or judicial office that includes territory from  
4 only one county, the fee shall be paid to the county auditor;

5 (4) A city or town office, the fee shall be paid to the county  
6 auditor who shall transmit it to the city or town clerk for deposit in  
7 the city or town treasury.

8 **Sec. 6.** RCW 29A.24.131 and 2004 c 271 s 115 are each amended to  
9 read as follows:

10 A candidate may withdraw his or her declaration of candidacy at any  
11 time before the close of business on the Thursday following the last  
12 day for candidates to file under RCW 29A.24.050 by filing, with the  
13 officer with whom the declaration of candidacy was filed, a signed  
14 request that his or her name not be printed on the ballot. There shall  
15 be no withdrawal period for declarations of candidacy filed during  
16 special filing periods held under this title. ~~((The filing officer may  
17 permit the withdrawal of a filing for the office of precinct committee  
18 officer at the request of the candidate at any time if no absentee  
19 ballots have been issued for that office and the ballots for that  
20 precinct have not been printed.))~~ The filing officer may permit the  
21 withdrawal of a filing for any elected office of a city, town, or  
22 special district at the request of the candidate at any time before a  
23 primary if the primary ballots for that city, town, or special district  
24 have not been ordered. No filing fee may be refunded to any candidate  
25 who withdraws under this section. Notice of the deadline for  
26 withdrawal of candidacy and that the filing fee is not refundable shall  
27 be given to each candidate at the time he or she files.

28 **Sec. 7.** RCW 29A.28.071 and 2004 c 271 s 120 are each amended to  
29 read as follows:

30 If a vacancy occurs in the office of precinct committee officer by  
31 reason of death, resignation, or disqualification of the incumbent, or  
32 because of failure to elect, the respective county chair of the county  
33 central committee shall fill the vacancy by appointment. However, in  
34 a legislative district having a majority of its precincts in a county  
35 with a population of one million or more, the appointment may be made  
36 only upon the recommendation of the legislative district chair. The

1 person so appointed must have the same qualifications as candidates  
2 when filing for election to the office for that precinct. When a  
3 vacancy in the office of precinct committee officer exists because of  
4 failure to elect at a ((state)) presidential primary, the vacancy may  
5 not be filled until after the organization meeting of the county  
6 central committee and the new county chair has been selected as  
7 provided by RCW 29A.80.030. Precinct committee officers appointed  
8 after the election but before the central committee organization  
9 meeting may participate as a precinct committee officer except for  
10 those duties specifically outlined in Article II, section 15 of the  
11 state Constitution.

12 **Sec. 8.** RCW 29A.36.151 and 2004 c 271 s 131 are each amended to  
13 read as follows:

14 Except in each county with a population of one million or more, on  
15 or before the fifteenth day before a primary or election, the county  
16 auditor shall prepare a sample ballot which shall be made readily  
17 available to members of the public. The secretary of state shall adopt  
18 rules governing the preparation of sample ballots in counties with a  
19 population of one million or more. The rules shall permit, among other  
20 alternatives, the preparation of more than one sample ballot by a  
21 county with a population of one million or more for a primary or  
22 election, each of which lists a portion of the offices and issues to be  
23 voted on in that county. (~~The position of precinct committee officer~~  
24 ~~shall be shown on the sample ballot for the primary, but the names of~~  
25 ~~candidates for the individual positions need not be shown.))~~

26 **Sec. 9.** RCW 29A.40.061 and 2009 c 415 s 6 and 2009 c 369 s 38 are  
27 each reenacted and amended to read as follows:

28 (1) The county auditor shall issue an absentee ballot for the  
29 primary or election for which it was requested, or for the next  
30 occurring primary or election when ongoing absentee status has been  
31 requested if the information contained in a request for an absentee  
32 ballot or ongoing absentee status received by the county auditor is  
33 complete and correct and the applicant is qualified to vote under  
34 federal or state law. Otherwise, the county auditor shall notify the  
35 applicant of the reason or reasons why the request cannot be accepted.  
36 (~~Whenever two or more candidates have filed for the position of~~

1 ~~precinct committee officer for the same party in the same precinct, the~~  
2 ~~contest for that position must be presented to absentee voters from~~  
3 ~~that precinct by either including the contest on the regular absentee~~  
4 ~~ballot or a separate absentee ballot. The ballot must provide space~~  
5 ~~designated for writing in the name of additional candidates.))~~

6 (2) A registered voter may obtain a replacement ballot if the  
7 ballot is destroyed, spoiled, lost, or not received by the voter. The  
8 voter may obtain the ballot by telephone request, by mail,  
9 electronically, or in person. The county auditor shall keep a record  
10 of each replacement ballot provided under this subsection.

11 (3) The county auditor shall mail all ((absentee)) ballots and  
12 related material to overseas and service voters under 39 U.S.C. 3406.  
13 If candidate and ballot measure information is available on the web  
14 site of the county auditor or secretary of state, the county auditor  
15 shall provide the appropriate web site information with the ballot  
16 materials.

17 **Sec. 10.** RCW 29A.56.020 and 2003 c 111 s 1402 are each amended to  
18 read as follows:

19 (1) On the fourth Tuesday in May of each year in which a president  
20 of the United States is to be nominated and elected, a presidential  
21 primary shall be held, subject to the provisions of subsection (2) of  
22 this section, at which voters may vote for the nominee of a major  
23 political party for the office of president. The secretary of state  
24 may propose an alternative date for the primary no later than the first  
25 day of August of the year before the year in which a president is to be  
26 nominated and elected.

27 (2) No later than the first day of September of the year before the  
28 year in which a presidential nominee is selected, the major political  
29 parties must notify the secretary of state of the parties' decisions  
30 regarding allocation of their delegates to the national nominating  
31 convention. A presidential primary may only be held if both parties  
32 agree to use only the results of the presidential primary election for  
33 allocation of their delegates. If a presidential primary is not held,  
34 the parties must elect their precinct committee officers by means other  
35 than the presidential primary. If a presidential primary is held under  
36 the conditions of this subsection, the state committees of ((any)) the

1 major political (~~party that will use the primary results for~~  
2 ~~candidates of that party~~) parties may propose an alternative date for  
3 that primary.

4 (3) If an alternative date is proposed under subsection (1) or (2)  
5 of this section, a committee consisting of the chair and the vice chair  
6 of the state committee of each major political party, the secretary of  
7 state, the majority leader and minority leader of the senate, and the  
8 speaker and the minority leader of the house of representatives shall  
9 meet and, if affirmed by a two-thirds vote of the members of the  
10 committee, the date of the primary shall be changed. The committee  
11 shall meet and decide on the proposed alternate date not later than the  
12 first day of October of the year before the year in which a  
13 presidential nominee is selected. The secretary of state shall convene  
14 and preside over the meeting of the committee. A committee member  
15 other than a legislator may appoint, in writing, a designee to serve on  
16 his or her behalf. A legislator who is a member of the committee may  
17 appoint, in writing, another legislator to serve on his or her behalf.

18 (4) If an alternate date is approved under this section, the  
19 secretary of state shall adopt rules under RCW 29A.04.620 to adjust the  
20 deadlines in RCW 29A.56.030 and related provisions of this chapter to  
21 correspond with the date that has been approved.

22 **Sec. 11.** RCW 29A.80.041 and 2009 c 106 s 3 are each amended to  
23 read as follows:

24 Any member of a major political party who is a registered voter in  
25 the precinct may file his or her declaration of candidacy as prescribed  
26 under RCW (~~29A.24.031~~) 29A.80.051 with the county auditor for the  
27 office of precinct committee officer of his or her party in that  
28 precinct. When elected at the presidential primary, the precinct  
29 committee officer shall serve so long as the committee officer remains  
30 an eligible voter in that precinct.

31 **Sec. 12.** RCW 29A.80.051 and 2004 c 271 s 149 are each amended to  
32 read as follows:

33 (~~The statutory requirements for filing as a candidate at the~~  
34 ~~primaries apply to candidates for precinct committee officer. The~~  
35 ~~office must be voted upon at the primaries, and the names of all~~  
36 ~~candidates must appear under the proper party and office designations~~



1 on the ballot for the primary for each even-numbered year, and the one  
2 receiving the highest number of votes will be declared elected.  
3 However, to be declared elected, a candidate must receive at least ten  
4 percent of the number of votes cast for the candidate of the  
5 candidate's party receiving the greatest number of votes in the  
6 precinct. The term of office of precinct committee officer is two  
7 years, commencing the first day of December following the primary.))

8 (1) Subject to the provisions of RCW 29A.56.020, the office of  
9 precinct committee officer must be voted upon at the presidential  
10 primary.

11 (2) Candidates for precinct committee officer must file a  
12 declaration of candidacy, as provided by the secretary of state, with  
13 the appropriate county auditor. The filing period for the office  
14 begins on the Monday ten weeks before the primary and ends on Friday at  
15 5 p.m. of that same week. There is no filing fee for this office. The  
16 county auditor must provide daily, by precinct, an online list of  
17 candidates who have filed for the office.

18 (3) The filing officer may permit the withdrawal of a filing at the  
19 request of the candidate at any time if the ballots for that precinct  
20 have not been printed.

21 (4) The names of all candidates must appear under the proper party  
22 and office designations on the ballot for the appropriate precinct.  
23 The candidate receiving the highest number of votes shall be declared  
24 elected.

25 (5) If only one candidate files for a position, that candidate  
26 shall be deemed elected and his or her name will not appear on the  
27 presidential primary ballot. No write-in candidacies may be allowed in  
28 cases where only one candidate has filed for a position.

29 (6) If no one has filed for the office after the filing period for  
30 the office has ended, any person who meets the qualifications for the  
31 office may file as a write-in candidate by submitting a write-in  
32 candidate's form in person at the county election official's office at  
33 least one week before the election.

34 (7) The term of office for precinct committee officer is four  
35 years, commencing the first day of December following the presidential  
36 primary. However, the elected candidate shall take office immediately  
37 if a vacancy exists in the office.

1        NEW SECTION.   **Sec. 13.**   RCW 29A.28.071 is recodified as a section  
2   in chapter 29A.80 RCW.

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