SENATE BILL 5266

State of Washington   **66th Legislature**   **2019 Regular Session**

By Senators Saldaña, Hunt, Hasegawa, McCoy, and Keiser

1   AN ACT Relating to ensuring timely elections for governing body
2 members in jurisdictions modifying districting plans under the
3 Washington voting rights act; amending RCW 29A.92.050, 29A.92.110,
4 28A.343.670, 35.22.370, 35.23.051, 35.23.850, 35A.12.180, 52.14.013,
5 and 53.16.015; and creating a new section.

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

7   **Sec. 1.** RCW 29A.92.050 and 2018 c 113 s 202 are each amended to
8 read as follows:
9   (1)(a) Prior to the adoption of its proposed plan, the political
10 subdivision must provide public notice to residents of the
11 subdivision about the proposed remedy to a potential violation of RCW
12 29A.92.020. If a significant segment of the residents of the
13 subdivision have limited English proficiency and speaks a language
14 other than English, the political subdivision must:
15   (i) Provide accurate written and verbal notice of the proposed
16 remedy in languages that diverse residents of the political
17 subdivision can understand, as indicated by demographic data; and
18   (ii) Air radio or television public service announcements
19 describing the proposed remedy broadcast in the languages that
20 diverse residents of the political subdivision can understand, as
21 indicated by demographic data.

1 (b) The political subdivision shall hold at least one public
2 hearing on the proposed plan at least one week before adoption.
3 (c) For purposes of this section, "significant segment of the
4 community" means five percent or more of residents, or five hundred
5 or more residents, whichever is fewer, residing in the political
6 subdivision.
7 (2)(a) If the political subdivision invokes its authority under
8 RCW 29A.92.040 and the plan is adopted during the period of time
9 between the first Tuesday after the first Monday of November and on
10 or before January 15th of the following year, the political
11 subdivision shall order new elections to occur at the next succeeding
12 general election.
13 (b) If the political subdivision invokes its authority under RCW
14 29A.92.040 and the plan is adopted during the period of time between
15 January 16th and on or before the first Monday of November, the next
16 election will occur as scheduled and organized under the current
17 electoral system, but the political subdivision shall order new
18 elections to occur pursuant to the remedy at the general election the
19 following calendar year.
20 (3) If a political subdivision implements a district-based
21 election system under RCW 29A.92.040(2), the plan shall be consistent
22 with the following criteria:
23 (a) Each district shall be as reasonably equal in population as
24 possible to each and every other such district comprising the
25 political subdivision.
26 (b) Each district shall be reasonably compact.
27 (c) Each district shall consist of geographically contiguous
28 area.
29 (d) To the extent feasible, the district boundaries shall
30 coincide with existing recognized natural boundaries and shall, to
31 the extent possible, preserve existing communities of related and
32 mutual interest.
33 (e) District boundaries may not be drawn or maintained in a
34 manner that creates or perpetuates the dilution of the votes of the
35 members of a protected class or classes.
36 (f) All positions on the governing body must stand for election
37 at the next election for the governing body scheduled pursuant to
38 subsection (2) of this section.
39 (4) Within forty-five days after receipt of federal decennial
40 census information applicable to a specific local area, the

commission established in RCW 44.05.030 shall forward the census
information to each political subdivision.

(5) No later than eight months after its receipt of federal
decennial census data, the governing body of the political
subdivision that had previously invoked its authority under RCW
29A.92.040 to implement a district-based election system, or that was
previously charged with redistricting under RCW 29A.92.110, shall
prepare a plan for redistricting its districts, pursuant to RCW
29A.76.010, and in a manner consistent with this chapter ((113, Laws
of 2018)).

Sec. 2. RCW 29A.92.110 and 2018 c 113 s 403 are each amended to
read as follows:

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

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

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

(a) If the court's order providing a remedy or approving proposed
districts, whichever is later, is issued during the period of time
between the first Tuesday after the first Monday of November and on
or before January 15th of the following year, the court shall order
new elections, conducted pursuant to the remedy, to occur at the next
succeeding general election. If a special filing period is required,
filings for that office shall be reopened for a period of three

business days, such three-day period to be fixed by the filing officer.

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

(c) The remedy may provide for the political subdivision to hold elections for the members of its governing body at the same time as regularly scheduled elections for statewide or federal offices. All positions on the governing body must stand for election at the next election for the governing body scheduled pursuant to this subsection (3).

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

Sec. 3. RCW 28A.343.670 and 2015 c 53 s 15 are each amended to read as follows:

The school boards of any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more shall establish the director district boundaries. Appointment of a board member to fill any vacancy existing for a new director district prior to the next regular school election shall be by the school board. Prior to the next regular election in the school district and the filing of declarations of candidacy therefor, the incumbent school board shall designate said director districts by number. Directors appointed to fill vacancies as above provided shall be subject to election, one for a six-year term, and one for a two-year term and thereafter the term of their respective successors shall be for four years. The term of office of incumbent members of the board of such district shall not be affected by RCW 28A.343.300, 28A.343.600, 28A.343.610, 28A.343.660, and ((28A.343.670)) this section. If the district is changing its director district boundaries under RCW 29A.92.040 or 29A.92.110, all

1 director positions are subject to election at the next regular
2 election.

3   **Sec. 4.** RCW 35.22.370 and 1965 c 7 s 35.22.370 are each amended
4 to read as follows:
5   Notwithstanding that the charter of a city of the first class may
6 forbid the city council from redividing the city into wards except at
7 stated periods, if the city has failed to redivide the city into
8 wards during any such period, the city council by ordinance may do so
9 at any time thereafter: PROVIDED, That there shall not be more than
10 one redivision into wards during any one period specified in the
11 charter unless pursuant to RCW 29A.92.040 or 29A.92.110.

12   **Sec. 5.** RCW 35.23.051 and 2015 c 53 s 39 are each amended to
13 read as follows:
14   General municipal elections in second-class cities shall be held
15 biennially in the odd-numbered years and shall be subject to general
16 election law.
17   The terms of office of the mayor, city attorney, clerk, and
18 treasurer shall be four years and until their successors are elected
19 and qualified and assume office in accordance with RCW 29A.60.280:
20 PROVIDED, That if the offices of city attorney, clerk, and treasurer
21 are made appointive, the city attorney, clerk, and treasurer shall
22 not be appointed for a definite term: PROVIDED FURTHER, That the term
23 of the elected treasurer shall not commence in the same biennium in
24 which the term of the mayor commences, nor in which the terms of the
25 city attorney and clerk commence if they are elected.
26   Council positions shall be numbered in each second-class city so
27 that council position seven has a two-year term of office and council
28 positions one through six shall each have four-year terms of office.
29 Each councilmember shall remain in office until a successor is
30 elected and qualified and assumes office in accordance with RCW
31 29A.60.280.
32   In its discretion the council of a second-class city may divide
33 the city by ordinance, into a convenient number of wards, not
34 exceeding six, fix the boundaries of the wards, and change the ward
35 boundaries from time to time and as provided in RCW 29A.76.010. No
36 change in the boundaries of any ward shall be made within one hundred
37 twenty days next before the date of a general municipal election, nor
38 within twenty months after the wards have been established or altered

unless pursuant to RCW 29A.92.040 or 29A.92.110. However, if a boundary change results in one ward being represented by more councilmembers than the number to which it is entitled, those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of determining whether those positions are vacant.

Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmembers to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmembers so designated shall be elected by the voters resident in such ward, or by general vote of the whole city as may be designated in such ordinance. Council position seven shall not be associated with a ward and the person elected to that position may reside anywhere in the city and voters throughout the city may vote at a primary to nominate candidates for position seven, when a primary is necessary, and at a general election to elect the person to council position seven. Additional territory that is added to the city shall, by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilmember from the ward for which he or she was elected shall create a vacancy in such office.

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

1   **Sec. 6.**   RCW 35.23.850 and 2015 c 53 s 41 are each amended to
2   read as follows:
3   In any city initially classified as a second-class city prior to
4   January 1, 1993, that retained its second-class city plan of
5   government when the city reorganized as a noncharter code city, the
6   city council may divide the city into wards, not exceeding six in
7   all, or change the boundaries of existing wards at any time less than
8   one hundred twenty days before a municipal general election. Unless
9   the city is dividing into wards or changing the boundaries of
10 existing wards under RCW 29A.92.040 or 29A.92.110, no change in the
11 boundaries of wards shall affect the term of any councilmember, and
12 councilmembers shall serve out their terms in the wards of their
13 residences at the time of their elections. However, if these boundary
14 changes result in one ward being represented by more councilmembers
15 than the number to which it is entitled, those having the shortest
16 unexpired terms shall be assigned by the council to wards where there
17 is a vacancy, and the councilmembers so assigned shall be deemed to
18 be residents of the wards to which they are assigned for purposes of
19 determining whether those positions are vacant.
20   If the city is dividing into wards or changing the boundaries of
21 existing wards under RCW 29A.92.040 or 29A.92.110, all council
22 positions are subject to election at the next regular election.
23   The representation of each ward in the city council shall be in
24 proportion to the population as nearly as is practicable.
25   Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards
26 shall be used as follows: (1) Only a resident of the ward may be a
27 candidate for, or hold office as, a councilmember of the ward; and
28 (2) only voters of the ward may vote at a primary to nominate
29 candidates for a councilmember of the ward. Voters of the entire city
30 may vote at the general election to elect a councilmember of a ward,
31 unless the city had prior to January 1, 1994, limited the voting in
32 the general election for any or all council positions to only voters
33 residing within the ward associated with the council positions. If a
34 city had so limited the voting in the general election to only voters
35 residing within the ward, then the city shall be authorized to
36 continue to do so. The elections for the remaining council position
37 or council positions that are not associated with a ward shall be
38 conducted as if the wards did not exist.

1   **Sec. 7.** RCW 35A.12.180 and 2015 c 53 s 53 are each amended to
2 read as follows:
3   At any time not within three months previous to a municipal
4 general election the council of a noncharter code city organized
5 under this chapter may divide the city into wards or change the
6 boundaries of existing wards. Unless the city is dividing into wards
7 or changing the boundaries of existing wards under RCW 29A.92.040 or
8 29A.92.110, no change in the boundaries of wards shall affect the
9 term of any councilmember, and councilmembers shall serve out their
10 terms in the wards of their residences at the time of their
11 elections: PROVIDED, That if this results in one ward being
12 represented by more councilmembers than the number to which it is
13 entitled those having the shortest unexpired terms shall be assigned
14 by the council to wards where there is a vacancy, and the
15 councilmembers so assigned shall be deemed to be residents of the
16 wards to which they are assigned for purposes of those positions
17 being vacant. The representation of each ward in the city council
18 shall be in proportion to the population as nearly as is practicable.
19   If the city is dividing into wards or changing the boundaries of
20 existing wards under RCW 29A.92.040 or 29A.92.110, all council
21 positions are subject to election at the next regular election.
22   Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards
23 shall be used as follows: (1) Only a resident of the ward may be a
24 candidate for, or hold office as, a councilmember of the ward; and
25 (2) only voters of the ward may vote at a primary to nominate
26 candidates for a councilmember of the ward. Voters of the entire city
27 may vote at the general election to elect a councilmember of a ward,
28 unless the city had prior to January 1, 1994, limited the voting in
29 the general election for any or all council positions to only voters
30 residing within the ward associated with the council positions. If a
31 city had so limited the voting in the general election to only voters
32 residing within the ward, then the city shall be authorized to
33 continue to do so.

34   **Sec. 8.** RCW 52.14.013 and 2012 c 174 s 3 are each amended to
35 read as follows:
36   The board of fire commissioners of a fire protection district may
37 adopt a resolution by unanimous vote causing a ballot proposition to
38 be submitted to voters of the district authorizing the creation of
39 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 candidates
29 for a commissioner of the commissioner district. Voters of the entire
30 fire protection district may vote at a general election to elect a
31 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. 9.** RCW 53.16.015 and 2015 c 53 s 82 are each amended to
2   read as follows:
3   The port commission of a port district that uses commissioner
4   districts may redraw the commissioner district boundaries as provided
5   in chapter 29A.76 RCW or RCW 29A.92.040 or 29A.92.110 at any time and
6   submit the redrawn boundaries to the county auditor if the port
7   district is not coterminous with a county that has the same number of
8   county legislative authority districts as the port has port
9   commissioners. The new commissioner districts shall be used at the
10   next election at which a port commissioner is regularly elected that
11   occurs at least one hundred eighty days after the redrawn boundaries
12   have been submitted. If the port commission is redrawing the
13   commissioner district boundaries pursuant to RCW 29A.92.040 or
14   29A.92.110, each commissioner position is subject to election at the
15   next general election. Each commissioner district shall encompass as
16   nearly as possible the same population.

17   NEW SECTION. **Sec. 10.** This act applies retroactively to January
18   16, 2019.

19   NEW SECTION. **Sec. 11.** If any provision of this act or its
20   application to any person or circumstance is held invalid, the
21   remainder of the act or the application of the provision to other
22   persons or circumstances is not affected.

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