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SENATE BILL 5068

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State of Washington

65th Legislature

2017 Regular Session

By Senators Miloscia, Rivers, Schoesler, Honeyford, and Padden

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 in cities, towns, code cities,  
4 and counties; amending RCW 35.18.020, 35.23.850, 35A.12.180,  
5 36.32.050, and 36.32.0556; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that many local  
8 governments are presently considering the option of converting from  
9 at large elections to electoral systems that are oriented towards  
10 district-based voting. However, several types of jurisdictions are  
11 required to conduct their general elections on an at large basis, and  
12 are thus precluded from any change. This state law prohibition may  
13 put certain jurisdictions in the precarious position of facing  
14 liability under the federal voting rights act, while state law  
15 prevents them from adopting a legitimate, good faith solution.  
16 Further, noting the outcome of the recent lawsuit within the state of  
17 Washington, the legislature recognizes that the federal voting rights  
18 act provides an effective means to challenge what a plaintiff  
19 considers to be an unfair electoral system. Therefore, the  
20 legislature intends to provide local governments with the tools they

1 need to offer the most effective, inclusive, and fair electoral  
2 systems for their citizens.

3 **Sec. 2.** RCW 35.18.020 and 2015 c 53 s 32 are each amended to  
4 read as follows:

5 (1) The number of councilmembers in a city or town operating with  
6 a council-manager plan of government shall be based upon the latest  
7 population of the city or town that is determined by the office of  
8 financial management as follows:

9 (a) A city or town having not more than two thousand inhabitants,  
10 five councilmembers; and

11 (b) A city or town having more than two thousand, seven  
12 councilmembers.

13 (2) Except for the initial staggering of terms, councilmembers  
14 shall serve for four-year terms of office. All councilmembers shall  
15 serve until their successors are elected and qualified and assume  
16 office in accordance with RCW 29A.60.280. Councilmembers may be  
17 elected on a citywide or townwide basis, or from wards or districts,  
18 or any combination of these alternatives. Candidates shall run for  
19 specific positions. Wards or districts shall be redrawn as provided  
20 in chapter 29A.76 RCW. Wards or districts shall be used as follows:

21 (a) Only a resident of the ward or district may be a candidate for,  
22 or hold office as, a councilmember of the ward or district; and (b)  
23 only voters of the ward or district may vote at a primary to nominate  
24 candidates for a councilmember of the ward or district. Voters of the  
25 entire city or town may vote at the general election to elect a  
26 councilmember of a ward or district, unless the city or town (~~had~~  
27 ~~prior to January 1, 1994, limited~~) council has adopted an ordinance  
28 or the voters of the city or town have approved an initiative  
29 limiting the voting in the general election for any or all council  
30 positions to only voters residing within the ward or district  
31 associated with the council positions. If a city or town had so  
32 limited the voting in the general election to only voters residing  
33 within the ward or district, then the city or town shall be  
34 authorized to continue to do so.

35 (3) When a city or town has qualified for an increase in the  
36 number of councilmembers from five to seven by virtue of the next  
37 succeeding population determination made by the office of financial  
38 management, two additional council positions shall be filled at the  
39 next municipal general election (~~with~~). If the voting at the

1 election includes voters of the entire city, the person elected to  
2 one of the new council positions receiving the greatest number of  
3 votes (~~(being elected for)~~) shall serve a four-year term of office,  
4 and the person elected to the other additional council position  
5 (~~(being elected for)~~) shall serve a two-year term of office. The two  
6 additional councilmembers shall assume office immediately when  
7 qualified in accordance with RCW 29A.04.133, but the term of office  
8 shall be computed from the first day of January after the year in  
9 which they are elected. Their successors shall be elected to four-  
10 year terms of office. The city or town may redistrict and create  
11 seven wards by ordinance or, if authorized, voter initiative, and  
12 conduct the appointment and election of the new councilmembers within  
13 the wards.

14 Prior to the election of the two new councilmembers, the city or  
15 town council shall fill the additional positions by appointment not  
16 later than forty-five days following the release of the population  
17 determination, and each appointee shall hold office only until the  
18 new position is filled by election.

19 (4) When a city or town has qualified for a decrease in the  
20 number of councilmembers from seven to five by virtue of the next  
21 succeeding population determination made by the office of financial  
22 management, two council positions shall be eliminated at the next  
23 municipal general election if four council positions normally would  
24 be filled at that election, or one council position shall be  
25 eliminated at each of the next two succeeding municipal general  
26 elections if three council positions normally would be filled at the  
27 first municipal general election after the population determination.  
28 The council shall by ordinance indicate which, if any, of the  
29 remaining positions shall be elected at-large or from wards or  
30 districts.

31 (5) Vacancies on a council shall occur and shall be filled as  
32 provided in chapter 42.12 RCW.

33 **Sec. 3.** RCW 35.23.850 and 2015 c 53 s 41 are each amended to  
34 read as follows:

35 In any city initially classified as a second-class city prior to  
36 January 1, 1993, that retained its second-class city plan of  
37 government when the city reorganized as a noncharter code city, the  
38 city council may divide the city into wards, not exceeding six in  
39 all, or change the boundaries of existing wards at any time less than

1 one hundred twenty days before a municipal general election. No  
2 change in the boundaries of wards shall affect the term of any  
3 councilmember, and councilmembers shall serve out their terms in the  
4 wards of their residences at the time of their elections. However, if  
5 these boundary changes result in one ward being represented by more  
6 councilmembers than the number to which it is entitled, those having  
7 the shortest unexpired terms shall be assigned by the council to  
8 wards where there is a vacancy, and the councilmembers so assigned  
9 shall be deemed to be residents of the wards to which they are  
10 assigned for purposes of determining whether those positions are  
11 vacant and shall serve until a ward resident is elected.

12 The representation of each ward in the city council shall be in  
13 proportion to the population as nearly as is practicable.

14 Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards  
15 shall be used as follows: (1) Only a resident of the ward may be a  
16 candidate for, or hold office as, a councilmember of the ward; and  
17 (2) only voters of the ward may vote at a primary to nominate  
18 candidates for a councilmember of the ward. Voters of the entire city  
19 may vote at the general election to elect a councilmember of a ward,  
20 unless the city (~~had prior to January 1, 1994, limited~~) council has  
21 adopted an ordinance or, if authorized, the voters of the city have  
22 approved an initiative limiting the voting in the general election  
23 for any or all council positions to only voters residing within the  
24 ward associated with the council positions. If a city had so limited  
25 the voting in the general election to only voters residing within the  
26 ward, then the city shall be authorized to continue to do so. The  
27 elections for the remaining council position or council positions  
28 that are not associated with a ward shall be conducted as if the  
29 wards did not exist.

30 **Sec. 4.** RCW 35A.12.180 and 2015 c 53 s 53 are each amended to  
31 read as follows:

32 At any time not within three months previous to a municipal  
33 general election the council of a noncharter code city organized  
34 under this chapter may divide the city into wards or change the  
35 boundaries of existing wards. No change in the boundaries of wards  
36 shall affect the term of any councilmember, and councilmembers shall  
37 serve out their terms in the wards of their residences at the time of  
38 their elections: PROVIDED, That if this results in one ward being  
39 represented by more councilmembers than the number to which it is

1 entitled those having the shortest unexpired terms shall be assigned  
2 by the council to wards where there is a vacancy, and the  
3 councilmembers so assigned shall be deemed to be residents of the  
4 wards to which they are assigned for purposes of those positions  
5 being vacant and shall serve until a ward resident is elected. The  
6 representation of each ward in the city council shall be in  
7 proportion to the population as nearly as is practicable.

8 Wards shall be redrawn as provided in chapter 29A.76 RCW. Wards  
9 shall be used as follows: (1) Only a resident of the ward may be a  
10 candidate for, or hold office as, a councilmember of the ward; and  
11 (2) only voters of the ward may vote at a primary to nominate  
12 candidates for a councilmember of the ward. Voters of the entire city  
13 may vote at the general election to elect a councilmember of a ward,  
14 unless the city (~~had prior to January 1, 1994, limited~~) council has  
15 adopted an ordinance or, if authorized, the voters of the city have  
16 approved an initiative limiting the voting in the general election  
17 for any or all council positions to only voters residing within the  
18 ward associated with the council positions. (~~If a city had so~~  
19 ~~limited the voting in the general election to only voters residing~~  
20 ~~within the ward, then the city shall be authorized to continue to do~~  
21 ~~so.~~)

22 **Sec. 5.** RCW 36.32.050 and 2009 c 549 s 4063 are each amended to  
23 read as follows:

24 County commissioners shall be elected by the qualified voters of  
25 the county and the person receiving the highest number of votes for  
26 the office of commissioner for the district in which he or she  
27 resides shall be declared duly elected from that district, unless the  
28 commission has adopted an ordinance or, if authorized, the voters of  
29 the county have approved an initiative limiting voting in the general  
30 election to the voters of each district.

31 **Sec. 6.** RCW 36.32.0556 and 1990 c 252 s 5 are each amended to  
32 read as follows:

33 The commissioners in a five-member board of county commissioners  
34 shall be elected to four-year staggered terms. Each commissioner  
35 shall reside in a separate commissioner district. Each commissioner  
36 shall be nominated from a separate commissioner district by the  
37 voters of that district. Each shall be elected by the voters of the  
38 entire county, unless the commission has adopted an ordinance or, if

1 authorized, the voters of the county have approved an initiative  
2 limiting voting in the general election to the voters of each  
3 district. Three members of a five-member board of commissioners shall  
4 constitute a quorum to do business.

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