

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE REPUBLICAN
PARTY, et al.,

Plaintiffs,

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE, et al.,

Plaintiff Intervenors,

and

LIBERTARIAN PARTY OF WASHINGTON
STATE, et al.,

Plaintiff Intervenors,

v.

STATE OF WASHINGTON, et al.,

Defendant Intervenors,

and

WASHINGTON STATE GRANGE,

Defendant Intervenor.

No. CV05-0927 JCC

DECLARATION OF DAVID T.
MCDONALD IN SUPPORT OF
WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S MOTION FOR
PARTIAL SUMMARY JUDGMENT

I, David T. McDonald, hereby declare as follows:

1. I am counsel for the Washington State Democratic Central Committee in this matter.

DECLARATION OF DAVID T. MCDONALD IN SUPPORT
OF MOTION FOR PARTIAL SUMMARY JUDGMENT- 1
CV05-0927 JCC

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CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2010, I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

s/ David T. McDonald
David T. McDonald, WSBA # 5260

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DECLARATION OF DAVID T. MCDONALD IN SUPPORT
OF MOTION FOR PARTIAL SUMMARY JUDGMENT- 3
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EXHIBIT 1

RCW 29A.60.170

Counting center, direction and observation of proceedings — Manual count of certain precincts.

(1) The counting center in a county using voting systems is under the direction of the county auditor and must be observed by one representative from each major political party, if representatives have been appointed by the respective major political parties and these representatives are present while the counting center is operating. The proceedings must be open to the public, but no persons except those employed and authorized by the county auditor may touch any ballot or ballot container or operate a vote tallying system.

(2) In counties in which ballots are not counted at the polling place, the official political party observers, upon mutual agreement, may request that a precinct be selected at random on receipt of the ballots from the polling place and that a manual count be made of the number of ballots and of the votes cast on any office or issue. The ballots for that precinct must then be counted by the vote tallying system, and this result will be compared to the results of the manual count. This may be done as many as three times during the tabulation of ballots on the day of the primary or election.

(3) In counties using poll-site ballot counting devices, the political party observers, upon mutual agreement, may choose as many as three precincts and request that a manual count be made of the number of ballots and the votes cast on any office or issue. The results of this count will be compared to the count of the precinct made by the poll-site ballot counting device. These selections must be made no later than thirty minutes after the close of the polls. The manual count must be completed within forty-eight hours after the close of the polls. The process must take place at a location designated by the county auditor for that purpose. The political party observers must receive timely notice of the time and location, and have the right to be present. However, the process must proceed as scheduled if the observers are unable to attend.

(4) In counties voting entirely by mail, a random check of the ballot counting equipment may be conducted upon mutual agreement of the political party observers or at the discretion of the county auditor. The random check procedures must be adopted by the county canvassing board prior to the processing of ballots. The random check process shall involve a comparison of a manual count to the machine count and may involve up to either three precincts or six batches depending on the ballot counting procedures in place in the county. The random check will be limited to one office or issue on the ballots in the precincts or batches that are selected for the check. The selection of the precincts or batches to be checked must be selected according to procedures established by the county canvassing board and the check must be completed no later than forty-eight hours after election day.

[2007 c 373 § 3; 2003 c 111 § 1517; 1999 c 158 § 9; 1990 c 59 § 30; 1977 ex.s. c 361 § 71. Formerly RCW 29.54.025, 29.34.153.]

Notes:

Intent -- Effective date -- 1990 c 59: See notes following RCW 29A.04.013.

Effective date -- Severability -- 1977 ex.s. c 361: See notes following RCW 29A.16.040.

RCW 29A.56.020
Date.

(1) On the fourth Tuesday in May of each year in which a president of the United States is to be nominated and elected, a presidential primary shall be held at which voters may vote for the nominee of a major political party for the office of president. The secretary of state may propose an alternative date for the primary no later than the first day of August of the year before the year in which a president is to be nominated and elected.

(2) No later than the first day of September of the year before the year in which a presidential nominee is selected, the state committee of any major political party that will use the primary results for candidates of that party may propose an alternative date for that primary.

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

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

[2003 c 111 § 1402; (2003 3rd sp.s. c 1 § 2 expired January 1, 2005); (2003 3rd sp.s. c 1 § 1 expired July 1, 2004). Prior: 1995 1st sp.s. c 20 § 1; 1989 c 4 § 2 (Initiative Measure No. 99). Formerly RCW 29.19.020.]

Notes:

Effective date -- 2003 3rd sp.s. c 1 § 2: "Section 2 of this act takes effect July 1, 2004." [2003 3rd sp.s. c 1 § 5.]

Expiration date -- 2003 3rd sp.s. c 1 § 2: "Section 2 of this act expires January 1, 2005." [2003 3rd sp.s. c 1 § 6.]

Expiration date -- 2003 3rd sp.s. c 1 § 1: "Section 1 of this act expires July 1, 2004." [2003 3rd sp.s. c 1 § 4.]

Effective date -- 2003 3rd sp.s. c 1 § 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [December 9, 2003]." [2003 3rd sp.s. c 1 § 3.]

Effective date -- 1995 1st sp.s. c 20: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 15, 1995]." [1995 1st sp.s. c 20 § 7.]

RCW 29A.56.050

Allocation of delegates — Party declarations.

(1) A major political party may, under national or state party rules, base the allocation of delegates from this state to the national nominating convention of that party in whole or in part on the participation in precinct caucuses and conventions conducted under the rules of that party.

(2) If requested by a major political party, the secretary of state shall adopt rules under RCW 29A.04.620 to provide for any declaration required by that party.

(3) Voters who subscribe to a specific political party declaration under this section must be given ballots that are readily distinguishable from those given to other voters. Votes cast by persons making these declarations must be tabulated and reported separately from other votes cast at the primary and may be used by a major political party in its allocation of delegates under the rules of that party.

(4) For a political party that requires a specific voter declaration under this section, the secretary of state shall prescribe rules for providing, to the state and county committees of that political party, a copy of the declarations or a list of the voters who participated in the presidential nominating process of that party.

[2003 c 111 § 1405. Prior: 1995 1st sp.s. c 20 § 3. Formerly RCW 29.19.055.]

Notes:

Effective date -- 1995 1st sp.s. c 20: See note following RCW 29A.56.020.

RCW 42.17.350

Public disclosure commission — Established — Membership — Prohibited activities — Compensation, travel expenses.
(Effective until January 1, 2012.)

(1) There is hereby established a "public disclosure commission" which shall be composed of five members who shall be appointed by the governor, with the consent of the senate. All appointees shall be persons of the highest integrity and qualifications. No more than three members shall have an identification with the same political party.

(2) The term of each member shall be five years. No member is eligible for appointment to more than one full term. Any member may be removed by the governor, but only upon grounds of neglect of duty or misconduct in office.

(3) During his or her tenure, a member of the commission is prohibited from engaging in any of the following activities, either within or outside the state of Washington:

- (a) Holding or campaigning for elective office;
- (b) Serving as an officer of any political party or political committee;
- (c) Permitting his or her name to be used in support of or in opposition to a candidate or proposition;
- (d) Soliciting or making contributions to a candidate or in support of or in opposition to any candidate or proposition;
- (e) Participating in any way in any election campaign; or

(f) Lobbying, employing, or assisting a lobbyist, except that a member or the staff of the commission may lobby to the limited extent permitted by RCW 42.17.190 on matters directly affecting this chapter.

(4) A vacancy on the commission shall be filled within thirty days of the vacancy by the governor, with the consent of the senate, and the appointee shall serve for the remaining term of his or her predecessor. A vacancy shall not impair the powers of the remaining members to exercise all of the powers of the commission.

(5) Three members of the commission shall constitute a quorum. The commission shall elect its own chair and adopt its own rules of procedure in the manner provided in chapter 34.05 RCW.

(6) Members shall be compensated in accordance with RCW 43.03.250 and in addition shall be reimbursed for travel expenses incurred while engaged in the business of the commission as provided in RCW 43.03.050 and 43.03.060. The compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created pursuant to the general laws of this state.

[1998 c 30 § 1; 1984 c 287 § 74; 1982 c 147 § 15; 1975-'76 2nd ex.s. c 112 § 8; 1975-'76 2nd ex.s. c 34 § 93; 1975 1st ex.s. c 294 § 23; 1973 c 1 § 35 (Initiative Measure No. 276, approved November 7, 1972).]

Notes:

Legislative findings -- Severability -- Effective date -- 1984 c 287: See notes following RCW 43.03.220.

Effective date -- Severability -- 1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 42.52.350
Executive ethics board.

- (1) The executive ethics board is created, composed of five members, appointed by the governor as follows:
 - (a) One member shall be a classified service employee as defined in chapter 41.06 RCW;
 - (b) One member shall be a state officer or state employee in an exempt position;
 - (c) One member shall be a citizen selected from a list of three names submitted by the attorney general;
 - (d) One member shall be a citizen selected from a list of three names submitted by the state auditor; and
 - (e) One member shall be a citizen selected at large by the governor.
- (2) Except for initial members and members completing partial terms, members shall serve a single five-year term.
- (3) No more than three members may be identified with the same political party.
- (4) Terms of initial board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a three-year term; one member shall be appointed to a four-year term; and one member shall be appointed to a five-year term.
- (5) A vacancy on the board shall be filled in the same manner as the original appointment.
- (6) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.
- (7) The members shall annually select a chair from among themselves.
- (8) Staff shall be provided by the office of the attorney general.

[1994 c 154 § 205.]

RCW 82.03.020
Members — Number — Qualifications — Appointment.

The board of tax appeals, hereinafter in chapter 26, Laws of 1967 ex. sess. referred to as the board, shall consist of three members qualified by experience and training in the field of state and local taxation, appointed by the governor with the advice and consent of the senate, and no more than two of whom at the time of appointment or during their terms shall be members of the same political party.

[1967 ex.s. c 26 § 31.]

RCW 29A.36.104
Partisan primary ballots — Formats.

Partisan primaries must be conducted using either:

(1) A consolidated ballot format that includes a check-off box for each major political party. The consolidated ballot must include all partisan races, nonpartisan races, and ballot measures to be voted on at that primary; or

(2) A physically separate ballot format that includes both party ballots and a nonpartisan ballot. A party ballot must be specific to a particular major political party and include the names of candidates for partisan offices who designated that same major political party in their declarations of candidacy, as well as all nonpartisan races and ballot measures to be voted on at that primary. The nonpartisan ballot must include only the nonpartisan races and ballot measures to be voted on at that primary.

[2007 c 38 § 2; 2004 c 271 § 126.]

RCW 29A.36.106

Partisan primary ballots — Required statements.

(1) If the consolidated ballot format is used, the major political party identification check-off box must appear on the primary ballot before all offices and ballot measures. Clear and concise instructions to the voter must be prominently displayed immediately before the list of major political parties, and must include:

(a) A statement that, for partisan offices, the voter may only vote for candidates of one political party;

(b) A question asking the voter to indicate the major political party with which the voter chooses to affiliate;

(c) A statement that, for a major political party candidate, only votes cast by voters who choose to affiliate with that same major political party will be tabulated and reported;

(d) A statement that votes cast for a major political party candidate by a voter who chooses to affiliate with a different major political party will not be tabulated or reported;

(e) A statement that votes cast for a major political party candidate by a voter who selects more than one major political party with which to affiliate will not be tabulated or reported; and

(f) A statement that party affiliation will not affect votes cast for candidates for nonpartisan offices, or for or against ballot measures.

(2) If the physically separate ballot format is used, clear and concise instructions to the voter must be prominently displayed, and must include:

(a) A statement that, for partisan offices, the voter may only vote for candidates of one political party;

(b) A statement explaining that only one ballot may be voted;

(c) A statement explaining that if more than one party ballot is voted, none of the partisan races will be tabulated or reported; and

(d) A statement explaining that the nonpartisan ballot only lists nonpartisan races and ballot measures and does not list partisan races.

[2007 c 38 § 3; 2004 c 271 § 127.]

RCW 29A.36.161

Arrangement of instructions, measures, offices — Order of candidates — Numbering of ballots.

(1) On the top of each ballot must be printed clear and concise instructions directing the voter how to mark the ballot, including write-in votes. On the top of each primary ballot must be printed the instructions required by this chapter.

(2) The ballot must have a clear delineation between the ballot instructions and the first ballot measure or office through the use of white space, illustration, shading, color, symbol, font size, or bold type. The secretary of state shall establish standards for ballot design and layout consistent with this section and RCW 29A.04.611.

(3) The questions of adopting constitutional amendments or any other state measure authorized by law to be submitted to the voters at that election must appear after the instructions and before any offices.

(4) In a year that president and vice president appear on the general election ballot, the names of candidates for president and vice president for each political party must be grouped together with a single response position for a voter to indicate his or her choice.

(5) On a general election ballot, the candidate or candidates of the major political party that received the highest number of votes from the electors of this state for the office of president of the United States at the last presidential election must appear first following the appropriate office heading. The candidate or candidates of the other major political parties will follow according to the votes cast for their nominees for president at the last presidential election, and independent candidates and the candidate or candidates of all other parties will follow in the order of their qualification with the secretary of state.

(6) All paper ballots and ballot cards used at a polling place must be sequentially numbered in such a way to permit removal of such numbers without leaving any identifying marks on the ballot.

[2010 c 32 § 1; 2004 c 271 § 132.]