

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE REPUBLICAN
PARTY, et al.,

Plaintiffs,

v.

DEAN LOGAN, King County Records &
Elections Division Manager, et al.,

Defendants,

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE, et al.,

Plaintiff-Intervenors,

LIBERTARIAN PARTY OF
WASHINGTON STATE, et al.,

Plaintiff-Intervenors,

STATE OF WASHINGTON, et al.,

Defendant-Intervenors,

WASHINGTON STATE GRANGE,

Defendant-Intervenors.

No. C05-0927Z

DECLARATION OF PAUL J.
BERENDT IN SUPPORT OF
PLAINTIFF-INTERVENOR
WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S MOTION FOR
SUMMARY JUDGMENT

**Noted for Oral Argument:
July 13, 2005**

DECLARATION OF PAUL J. BERENDT IN SUPPORT OF
PLAINTIFF-INTERVENOR WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE'S MOTION FOR SUMMARY
JUDGMENT - I
Case No. CV05-0927Z

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1 1. I am over the age of 18 years, a U.S. citizen, resident of the State of
2 Washington, and the elected Chair of the Washington State Democratic Central Committee,
3 the governing body of the Washington State Democratic Party ("Party"), and the political and
4 administrative head of the Party pursuant to its Charter and Bylaws. I am also the elected
5 Chair of the Washington State Democratic Committee as defined in RCW 29A.80.020. I have
6 firsthand knowledge of the matters stated herein and if called to testify, could and would
7 competently do so.

8 2. I have been directly involved in Party affairs and partisan elections in
9 Washington State for over twenty years. In that time I have participated in the planning and
10 execution of many campaigns and observed many more. I am well aware of the practical
11 effects of Washington's primary statutes upon campaigns and upon the Party.

12 3. From 1980-1982, I worked in the office of the State Chair. My duties included
13 assisting in all aspects of party-building and in the recruitment and support of candidates for
14 public office who would be affiliated with the Party. From 1983-1988, I worked as a
15 legislative policy analyst in the State House of Representatives. From 1989-1992, I worked
16 for the Senate Democratic Caucus in Olympia providing policy analysis and legislative
17 support. During 1993 and 1994, I was a self-employed political consultant specializing in
18 State Legislative campaigns. Since January 1995, I have been the head of the Party in
19 Washington and have been directly involved in all aspects of the Party's organization and its
20 attempts to achieve its goals.

21 4. Based upon my experience and observation, it is my opinion that the primary
22 system imposed upon the Party by Initiative 872 will materially interfere with the Party's
23 achievement of its goals and will place substantial burdens upon the Party.

24 5. The Party has several fundamental goals, including rallying its members
25 around common issues, articulating to the general populace through its standard bearers the
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1 merits of those issues in order to expand support for those issues and to expand the Party's
2 base, electing candidates who support the Party's issues and working with those candidates
3 after election to translate the Party's issues into government policy. The Party is organized
4 according to its Charter and in conformance with the Charter of the Democratic Party of the
5 United States. The goals of the Democratic Party are set forth in its Charter. The Charter was
6 adopted by the Party at its Convention in 1976 and was last amended in 2004. The Charter
7 defines the reasons the Party exists, the membership of the Party, its basic organization and
8 the basic principles for which it stands and which are fundamental to its character. A copy of
9 the Charter in its current form is attached to my declaration as Exhibit A.

10 6. The Party is composed of "... All residents of the State of Washington who are
11 willing to support the principles and goals of the Democratic Party as expressed in the Charter
12 and wish to be known as Democrats." Charter, Article I.B. The goals of the Party include
13 adopting statements of policy to serve as standards for Democratic elected officials and goals
14 for the people of the state, nominating and assisting in the election of Democratic candidates
15 at all levels who support the goals of the Party, and working with elected Democratic public
16 officials at all levels to achieve the goals of the Democratic Party. The close relationship
17 contemplated by the Charter is fostered by requiring that the selection of candidates using the
18 party name be done by voters who affiliate with the Democratic Party. Charter, Article
19 VII.(C) (as amended). The Democratic Party, through its state and local conventions,
20 develops and publishes its positions on various issues in advance of the candidate filing
21 period for primary and general elections.

22 7. In furtherance of its political strategies and Charter goals, the Party has
23 adopted Nominating Rules. A copy of the Nominating Rules in their current form is attached
24 as Exhibit B. Under Initiative 872, our general election candidates are chosen in a public
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1 primary but the election officials charged with administering the primary are barred from
2 limiting participation in our primary to those who affiliate with the Democratic Party.

3 8. The primary system contemplated under Initiative 872, with its open voting
4 and ability for multiple candidates to run under the Democratic label without consent from the
5 Party or selection in accordance with its Charter substantially interferes with the Party's
6 pursuit of its political strategies and Charter-defined goals. . . n all fundamental ways that are
7 important to the Party, Initiative 872 is indistinguishable from Washington's previous
8 "blanket" primary that was invalidated by the Ninth Circuit Court of Appeals in 2003. Like
9 the previous blanket primary, Initiative 872: (1) allows candidates to self-select their party
10 identification when filing for office, without the participation of the political parties; (2)
11 identifies candidates on the primary ballot with their party affiliation; (3) allows primary
12 voters to select the candidates who will advance to the general election for any office without
13 regard to party affiliation of the voter; (4) allows the use of an open, consolidated primary
14 ballot that is not limited by political party and that facilitates crossover voting; and (5)
15 advances major party candidates from the primary to the general election based on open,
16 "blanket" voting.

17 9. In addition, by allowing only the "top two" vote getters to advance to the
18 general election ballot, Initiative 872 further dilutes and weakens the Party's ability to
19 effectively communicate its message and maintain Party loyalty. This scheme may well
20 restrict the choices legitimately available to voters on their general election ballots. For
21 example, when multiple Democratic candidates appear on a primary ballot, in some cases this
22 will "split" the overall Democratic vote sufficiently to allow no Democratic candidate to
23 advance to the general election, even when the Party as a whole receives majority support in
24 the primary. If four Democratic candidates split 60% of the primary vote, and two
25 Republican candidates split the remaining 40%, the two Republicans would advance. As a
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1 result, Initiative 872 strongly discourages the Party from putting forth multiple candidates to
 2 compete in a primary election on the one hand but on the other makes it impossible for the
 3 Party to avoid having multiple candidates under its banner by forcing the Party to accept self-
 4 starters and mischief making partisans from other parties who file under false colors.. This
 5 limiting effect will dilute or restrict voter exposure to Party candidates and will impede intra-
 6 Party debate on the issues. Given that electoral politics is one of the primary ways that the
 7 political parties advocate for and advance their goals and ideals, the restriction on general
 8 election ballot access further burdens the Party in the exercise of its First Amendment
 9 prerogatives.

10 10. Allowing political candidates to self-select Democratic Party identification for
 11 the primary ballot will harm the Party in other ways. The Party has expended considerable
 12 time and expense to develop a coherent set of goals and principles that guide the Party, and to
 13 create a corresponding "brand awareness" among the electorate for candidates identified as
 14 Democrats. Allowing any candidate, even those that are hostile to the Party, to
 15 misappropriate the Party name and appear on the ballot as a Democratic candidate will
 16 undermine this name association that has built up in loyal Party voters' mind. I am aware of
 17 at least one prior candidate for public office, long time Republican activist Thomas Lowry,
 18 who had sought the Democratic nomination for the State Legislature because of the difficulty
 19 he perceived in challenging the Republic incumbent in the blanket primary. He ran for and
 20 won the Democratic nomination twice, without ever speaking to a Democratic Party group or
 21 obtaining Democratic endorsements. Initiative 872, by allowing such "raider"
 22 candidacies to continue, will dilute the Party's ability to maintain a coherent message using
 23 the valuable Democratic Party name.

24 11. The requirement that Democratic candidates be selected by voters who affiliate
 25 with the Democratic Party, at least for primary day, is fundamental to the Party's ability to
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1 achieve its goals. It allows the Party to mobilize its voters and stronger supporters while
2 avoiding the damaging effects of allowing supporters of other parties to influence, perhaps
3 even determine, the selection of our candidates. Because it prohibits implementation of this
4 basic policy, Initiative 872 greatly obstructs the Party's furtherance of its goals.

5 12. The damage that will be done to the Party by the Initiative 872 primary system
6 is not limited to permitting ticket-splitters to select the Party's candidates. In many cases the
7 selection of our candidates will be affected by voters from opposition parties, and our voters
8 will likely affect the selection of the other party's candidates. I am told by my own Party
9 members that this has happened under the old blanket primary system in jurisdictions which
10 are perceived as being extremely difficult for my Party's candidates to win. Because my
11 Party's voters have the option to vote in the other party's primary, and perceive that that
12 party's primary is "where the choice will be made," they opt to vote in the other party's
13 primary, depriving their own candidates of support. The Party's candidates, having been
14 deserted, do even worse in the primary than the Party's base of support and it soon becomes
15 much more difficult, if not impossible, to recruit strong candidates who might build the
16 minority party into a competitive party. I do not doubt that my counterpart Chair experiences
17 similar difficulties in mobilizing support in his party.

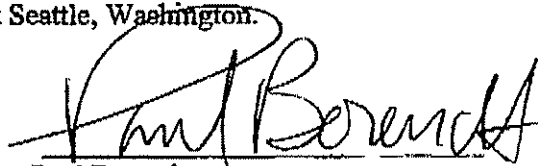
18 13. On June 26, 2000, the United States Supreme Court ruled that the California
19 blanket primary was unconstitutional. In support of its decision, the opinion stated that as
20 many as 25 percent of voters in Washington cross-over to participate in another party's
21 primary. These cross-over voting figures are consistent with my experience as a Party official
22 and with demographic analyses of past primary returns that I have seen used by candidates in
23 targeting their efforts. If the Initiative 872 primary is allowed to proceed there is every reason
24 to expect that the same level of cross-over voting will occur since the primary is, for all
25 intents and purposes, the same as the blanket primary from the voter's point of view.

14. It is not only the Party that suffers as a result of the current primary system: The public as a whole suffers because the primary will result in less choices for the voter. Rather than a general election devoted to choosing between candidates representing competing philosophies, the public will often find itself presented with a general election in which it cannot tell the difference between the philosophies of the candidates, no matter what party label they carry. A major cause of this, in my opinion, is that the candidates of both parties will be required to spend most of their time campaigning to the same small group of ticket-splitters rather than to their respective philosophical bases.

15. The burdens placed upon our party building by the Initiative 872 primary system are cumulative. Each passing year will be worse than the one before as candidates will increasingly focus their efforts on ticket-splitters and non-members of our party. Consequently, candidates selected through Initiative 872 to be Democratic standard bearers will sometimes vary from or contradict the positions officially taken by the Party to a far greater extent than would occur if those candidates selected in primaries in which participation is limited to voters who support the Democratic Party. This will result in a misapprehension of the Party's position on various issues. Over time, the Party's message will become further blurred and it is more difficult for voters to perceive a benefit from electing a Democrat as opposed to a member of another party.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 17th day of June, 2005 at Seattle, Washington.



Paul Berendt
Chair, Washington State Democratic
Party

DECLARATION OF PAUL J. BERENDT IN SUPPORT OF
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CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2005, 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 the following:

James K. Pharris

Richard D. Shepard

John J. White, Jr.

Thomas Ahearne

s/David T. McDonald
David T. McDonald, WSBA #5260
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Attorneys for Plaintiffs in Intervention,
Washington State Democratic Party and
Paul Berendt, Chair

DECLARATION OF PAUL J. BERENDT IN SUPPORT OF
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EXHIBIT A

Charter of the Democratic Party of the State of Washington (As Amended by State Convention 6/5/2004)

Preamble

We, the Democrats of the State of Washington, believe in the concepts expressed in the Declaration of Independence and the Constitution of the United States – that all power to govern resides with the people. In accordance with the National Charter of the Democratic Party of the United States, we organized and pledge ourselves to promote a truly representative Party open to all who support its principles.

We further pledge to make every effort to encourage maximum participation in the political process and to protect individuals' rights, civil liberties, our environment and social and economic justice for all.

Upon these basic principles we do hereby adopt this Charter of the Democratic Party of the State of Washington.

Article I Democratic Party of the State of Washington

A. The Democratic Party of the State of Washington exists to:

1. Adopt and promote statements of policy to serve as standards for Democratic elected officials and goals for the people of the state.
2. Nominate and assist in the election of Democratic candidates at all levels who support the goals of the Party.
3. Administer the Party organization in accordance with rules and standards which will facilitate achieving the goals of the Party.
4. Establish standards and rules of procedure to afford all members of the Democratic Party full, timely and equal opportunities to participate in decisions concerning the selection of candidates, the formulation of policy, and the conduct of other Party affairs without discrimination on the basis of sex, race, age (except where state and federal law precludes participation), religion, sexual orientation, economic status or ethnic origin.
5. Promote fair campaign practices and fair adjudication of disputes.
6. Raise and disburse monies needed for the continuing operation of the Party.
7. Work with the elected Democratic public officials at all levels to achieve the goals of the Democratic Party.
8. Encourage and support codes of political ethics governing all public officials in the conduct of their offices.
9. Encourage voter registration and voting.

- B. The Democratic Party of the State of Washington shall be composed of:
1. Democratic precinct committee officers.
 2. Elected Democratic officials.
 3. Members of Democratic county, legislative district, congressional district and state Party organizations.
 4. All residents of the State of Washington who are willing to support the principles and goals of the Democratic Party as expressed in the Charter and wish to be known as Democrats.
 5. Members of those Democratic organizations that are recognized or chartered by the state central committee.

Article II

State Democratic Convention

- A. The State Convention is the highest authority of the Democratic Party of the State of Washington, subject to the provisions of this Charter.
- B. The purpose of the convention shall be to adopt a state Party platform and to perform such functions as are inherent to such an organization.
- C. The State Democratic Convention shall be called by the state central committee once every two (2) years.
- D. The state convention shall adopt its own rules.

Article III

Washington State Democratic Central Committee

- A. The Washington State Democratic Central Committee, also called "state central committee" shall be the governing body of the Democratic Party of the State of Washington.
- B. Members. The state central committee members shall be the state committeewoman and state committeeman elected by each county central committee and by each legislative district organization. Members shall be elected to terms of two (2) years. They shall have an equal voice and vote. In the event that a county central committee or a legislative district organization fails to elect such a representative, the chair (or the chair's designee) shall be the representative on the state central committee.
- C. Special Members. In addition, the state central committee shall have Special Members. Except in the election of officers and on the adoption or amendment of charter or bylaws, special members shall have equal voice and vote as other members in affairs of the state

central committee when in personal attendance. Special Members have no proxy. The Special Members of the state central committee shall be:

1. The National Committee members elected from the State of Washington;
2. The Governor of the State of Washington if the Governor is a Democrat;
3. United States Senators from the State of Washington if Democrats;
4. United States Representatives from the State of Washington if Democrats;
5. The Leader of the Washington State Democratic Caucus;
6. The Leader of the Washington State House of Representatives Democratic Caucus;
7. A representative of the Young Democrats of Washington;
8. A representative of the Federated Democratic Women's Clubs;
9. Elected officers of the state central committee; and
10. The Chair of the Organization of County and District Chairs. In the case of the Chair of the Organization of County and District Chairs, the vice Chair of that organization may serve as the Chair's alternate with vote.

D. Organizational meeting. The state central committee shall hold its organization meeting in the first quarter of each odd-numbered year, following legislative district and county organizational meetings. The outgoing Chair of the Democratic Party of the State of Washington shall issue the call to the organizational meeting. In the absence of such a call, any ten (10) members of the state central committee may call and convene the organizational meeting. Timely notice shall be sent to all members. At its organizational meeting, the state central committee shall elect a chair who shall be known as the Chair of the Democratic Party of the State of Washington (and also called the "state chair"). At this meeting, the state central committee shall also elect a vice chair and such other officers specified in the bylaws, or in the rules of the state central committee.

E. Meetings, officers, finances.

1. The state central committee shall meet at least four (4) times per year.
2. The officers of the state central need not be members of the committee. Officers of the outgoing state central committee, unless otherwise qualified, shall not vote in the election of new officers.
3. The National Committeemen and Committeewomen shall be elected by the state central committee for terms of four (4) years during each Presidential election year.
4. The state central committee shall be the sole Party organization authorized to collect and disburse funds in behalf of the Democratic Party of the State of Washington, except as otherwise authorized by the state convention. It shall report the financial conditions of the Party at each state convention as well as the political activities of the state Party since the previous state convention.

Article IV

Statutory State Committee

- A. The statutory state committee shall be organized according to state law (RCW 29.42.020).
- B. It shall perform only those duties explicitly specified by RCW 29.42.020 (1) through (4).
The statutory state committee shall adopt bylaws which shall delegate those duties to the state central committee which shall provide that the Chair of the Democratic Party of the State of Washington shall be the chair of the statutory state committee and that the Vice Chair elected by the state central committee shall be the vice chair of the statutory state committee.
- C. The statutory state committee shall be subject to the overriding Party authority of this Charter, the state convention, and of the Washington State Democratic Central Committee.

Article V

Other Organizations or Elected Officials Authorized to Function Continuously

- A. General: These organizations and officials, along with the state central committee, are authorized by, state statute, charter, or custom to function continuously to govern Party affairs and to make Party policy; they are not directly involved in selecting delegates. All such organizations shall be constituted and shall conduct business according to this Charter and other provisions adopted pursuant to the authority of this Charter. State laws relating to Party operations shall be observed unless in conflict with this Charter and other provisions adopted pursuant to this Charter.
- B. Precinct committee officers
 - 1. Precinct committee officers shall be elected, appointed, or recalled according to state law, this Charter and other provisions adopted pursuant to the authority of this Charter.
 - 2. Vacancies in the office of precinct committee officer that exist because of failure to elect at state general election shall not be filled until after the reorganization of the county central committee and/or legislative district organization.
 - 3. Vacancies that occur in this office by reason of death, resignation, permanent change of residence, change of voter registration from the precinct, by recall of the incumbent, or because of failure to elect, shall be filled by appointment according to a procedure that affords every Democrat registered to vote in the precinct fair and equal opportunity.

C. Legislative District Organizations

1. The legislative district organization shall be the governing body of the legislative district Democratic Party and shall have the responsibility for conducting Party affairs at the legislative district level. It shall be composed of all elected and appointed precinct committee officers.
2. Each legislative district organization shall be organized according to state law, the Charter and Bylaws of the Democratic Party of the State of Washington, and other provisions adopted pursuant to the authority of the Charter.

D. County Central Committee

1. The county central committee shall be the governing body of the county Democratic Party and shall have the responsibility for conducting Party affairs at the county level. It shall be composed of all elected and appointed precinct committee officers.
2. Each county central committee shall be organized according to state law, the Charter and Bylaws of the Democratic Party of the State of Washington, and other provisions adopted pursuant to the authority of the Charter.
3. In counties with legislative district organizations, the county central committee may establish a county executive board. Such a board shall be fairly apportioned.

E. Congressional District Organizations

1. Any congressional district may organize for purposes consistent with this Charter.

F. Judicial Review Board

1. A Judicial Review Board shall be established.
2. It shall consist of two (2) members elected by each congressional district caucus during each state convention. State committee members, county chairs, and district chairs shall not be eligible to serve.
3. Members of the board shall take office the following January 1st and shall serve for two (2) years.
4. A quorum shall be 60% of the members and no proxies or alternates shall be allowed.
5. Vacancies shall be filled by election by a caucus of the state central committee members from the congressional district having a vacancy.
6. This board shall consider questions of interpretation of the Charter, bylaws, delegate selection rules, affirmative action plans, and other adopted rules of the Democratic Party of the State of Washington and its component organizations. It shall make its recommendations in writing to each state convention before the convention votes on any of its recommendations and before new members are elected to the board.
7. The board shall not function as a credentials or rules committee, although its findings and recommendations shall be considered relevant evidence in a credentials challenge.

Article VI

Party Organization Convened Periodically

A. General

1. All periodic organizations are part of the delegate selection process.
2. In addition to the selection of delegates, caucuses and conventions, except congressional district caucuses, may adopt platforms and resolutions as desired, and perform other functions inherent in such an organization.
3. The national and state platforms and resolutions shall serve as the policy standards for the state Democratic Party. The national, state, county and legislative district platforms and resolutions shall serve as policy standards for the county and legislative district Democratic Party organizations.
4. Caucuses and conventions shall meet in even-numbered years.

B. Delegate Selection Rules

1. Delegate selection rules adopted by the state central committee shall govern the precinct, legislative district and congressional district caucuses, and county and state conventions.
2. Delegate selection rules adopted by any Democratic Party organizations shall conform to this Charter and the Charter, By-Laws and Delegate Selection Rules of the Democratic Party of the United States. State laws relating to the selection of delegates to the National Convention shall be observed unless in conflict with the National or State Charters or other provisions adopted pursuant to those Charters.
3. Any Democrat has the right to challenge any delegate or alternate to the county and state conventions or to the legislative and congressional district caucuses in accordance with the rules. No challenged delegate may vote on any matter pertaining to his or her own challenge.

C. Precinct Caucuses

1. Precinct caucuses shall elect delegates to the county convention and/or legislative district caucuses.
2. Precinct caucuses shall be held in accordance with pertinent rules; the state chairperson shall issue the call to the caucus.
3. There shall be no registration fee nor collection of money before or during a caucus, except that voluntary contributions may be solicited or collected.

D. Legislative District Caucuses

1. The legislative district caucus shall elect delegates to the state convention. The same delegates shall also attend the appropriate congressional district caucus, if applicable.
2. The legislative district caucuses shall be composed of delegates elected at the precinct caucuses.

E. County Conventions

1. The county convention shall be composed of delegates elected at the precinct caucuses.

2. The county convention shall adopt a county platform and elect delegates to the congressional district caucus and state convention if delegates are to be elected at the county convention.

F. Congressional District Caucus

1. The congressional district caucus shall elect the maximum number of National Convention delegates permitted by National Delegate Selection Rules.
2. Congressional district caucuses shall be composed of delegates to the state convention.

Article VII

Basic Principles

A. Open Party

1. The Democratic Party of the State of Washington shall be open to all who support the Party and wish to be known as Democrats.
2. All members of the Party shall enjoy equal rights, protections, and opportunities in all governing documents and in all proceedings of the Party at all levels.
3. Discrimination on the basis of sex, race, age (except state and federal law precludes participation), religion, sexual orientation, economic status or ethnic origin is prohibited in the conduct of Party affairs at all levels.
4. To the greatest extent possible all representatives shall be chosen from elected members.
5. The time, the place, and a description of the legal and practical procedures of all delegate selection and policy making or governance meetings shall be publicized fully and in a manner to assure timely notice to all interested persons.

B. Full Participation

1. The Democratic Party of the State of Washington reaches out and seeks to bring all people and ideas into its affairs.
2. In order to encourage full participation by all Democrats of the State of Washington with particular concern for minority groups, in the delegate selection process and in all Party affairs, the state and county Democratic Party organizations shall adopt and implement affirmative action programs.
3. Affirmative Action: Performance under an approved Washington State affirmative action program shall be considered relevant evidence in the challenge of any county delegation. If a county has adopted and implemented an approved and monitored state affirmative action program, the county and legislative district shall not be subject to challenges based solely on delegate composition. This goal shall not be accomplished either directly or indirectly by the imposition of mandatory quotas at any level of the selection process or in any Party affairs, as defined in the bylaws.

C. Fair Representation

1. In elections at all levels of the Party in which Party policy is determined or in which delegates, officers other Party officials, and nominees for public office are to be selected, procedures shall:
 - a. Provide full, equal, timely participation;
 - b. Assure fair, proportional representation of preference;
 - c. Prohibit the unit rule; not require delegates to vote as a majority determines;
 - d. Prohibit winner-take-all selections until the highest possible level of selection;
 - e. Not deny participation for failure to pay a cost, fee or poll tax;
 - f. Provide whenever possible for direct and not secondary elections.
2. The Democratic Party organization which is closest to the electorate and which encompasses the constituency of a public office shall select the nominees to fill a vacancy in that Party office.
3. Democratic nominees, candidates and delegates shall be selected by Democrats; provided that in furtherance of the Party's goal bringing people and ideas into its affairs, the bylaws of the Party may authorize the participation in the selection of nominees and candidates for public office of voters who do not wish to publicly become members of the Party."

D. Majority Rule

1. Majority vote shall prevail in proceedings of this Party except when otherwise specified by statute, this Charter, bylaws or rules of order.
2. Majority vote shall permit those in the majority to organize a body, but those in the majority shall respect rights of those in the minority and take care not to exclude them from the organization.
3. Minority reports shall be considered and published whenever they are supported by a substantial minority, as defined by the bylaws or other rules.

E. Accountability

1. Those elected as Democrats have the obligation to support the principles of the Democratic Party.
2. The decisions and votes of a person holding a position of public trust should be a matter of public record.

F. Election and Campaigns

Each state, county and district Democratic Party organization is encouraged to:

1. Conduct candidate campaign workshops which the state central committee will arrange and start in March of every year to instruct candidates on effective campaign procedures and organization; campaigning as Democrats in that organization's jurisdiction'
2. Adopt and publish a code of fair campaign practices to be recommended to all candidates campaigning as Democrats in that organization's jurisdiction;
3. Monitor campaign funding within that organization's jurisdiction;
4. Adopt written guidelines for endorsement of candidates and issues;

5. Take positive, provable steps to ensure that Democratic candidates campaigning within those organizations' jurisdictions endorse Democratic Party objectives as expressed in the platforms of those organizations and in this Charter.

G. Ballot Procedures

1. When individuals vote in public elections, secret ballots shall be used.
2. When a person votes as an elected representative, open ballots shall be used. This provision does not apply to the election by precinct committee officers of organizational officers (e.g. chair, vice-chair, secretary, treasurer, state committeepersons), provided that there is a mechanism to ensure the eligibility of those who cast ballots (e.g. a check-off list, sign-in-sheet, ballot receipts).
3. Proxies may be used in accordance with the National Charter.

Article VIII General Provisions

- A. This Charter is intended to conform to the Charter, By-Laws and Rules of the Democratic Party of the United States. If parts of this Charter are found to be in conflict with the National Charter or other provisions pursuant to the authority of the National Charter, the applicable National provision shall govern. State laws relating to Party operations shall be observed unless in conflict with this Charter or the National Charter or provisions adopted pursuant to the authority of either Charter. In the event of such conflict with state laws, the Democratic Party of the State of Washington shall take provable positive steps to bring such laws into conformity with such Party provisions.
- B. The state central committee shall publish and maintain current copies of this Charter and make them available on request.

Article IX Amendments, Bylaws and Rules

A. Charter Amendments

1. This Charter may be amended by affirmative vote of a majority of all the delegates to the state convention. An amendment must be presented in writing to the state chair by an elected delegate to the state convention at least 30 days before the convention. The state chair shall then publish the full text of the proposed amendment in the call to the state convention or in a mailing sent to all convention delegates no later than ten days prior to the convention.
2. This Charter may also be amended by affirmative vote of two-thirds of the entire membership of the state central committee. An amendment must be proposed in writing by a member of the state central committee and be published in full in the notice of the meeting of the state central committee sent to each member of the committee. An amendment adopted by the state central committee shall be

subject to ratification by the next state convention if a written request for ratification is presented in writing to the state chair by an elected delegate to the state convention at least 30 days before the convention.

3. Newly adopted or amended provisions of this Charter shall take effect on the January 1st after they are adopted or ratified by the state convention, except that the adopting resolution may specify that an amendment shall take effect immediately.

B. Bylaws of the Democratic Party of the State of Washington

1. The Democratic Party of the State of Washington shall adopt bylaws to govern its affairs in those matters not fully specified by this Charter. The bylaws should be consistent with and subject to this Charter, the Charter of the Democratic Party of the United States and provisions adopted pursuant to the authority of either Charter.
2. Bylaws may be adopted or amended by affirmative vote of a majority of delegates at the state convention.
3. Bylaws may also be adopted or amended by affirmative vote of a majority of the entire membership of the state central committee.
4. The state central committee shall maintain copies of the current bylaws of the Democratic Party of the State of Washington and shall make them available on request.

C. Rules

1. Each official body of the Democratic Party of the State of Washington shall adopt its own written rules (including bylaws, if applicable) for the conduct of its affairs. These rules shall be consistent with this Charter, the Charter of the Democratic Party of the United States and provisions adopted pursuant to the authority of either Charter, and the bylaws of the Democratic Party of the State of Washington.
2. Each official body of the Democratic Party of the State of Washington shall maintain copies of its own current rules and make them available on request.
3. The state central committee shall maintain copies of current rules of each official body of the Democratic Party of the State of Washington and make them available upon request.

EXHIBIT B

Passed by the WSDCC Rules Committee on April 2, 2005 for consideration by the WSDCC

Rules for the Selection of Candidates and Nominees for Public Office

- I. Applicability.** These Rules shall apply to the selection of any candidate or nominee for public office who intends to be, or is, associated with the Democratic Party, directly or indirectly, on any ballot used in a publicly financed election or candidate selection process.
- II. Exclusive Means of Selection.** Candidates and nominees for public office must be selected by one of the means specified in these Rules.
- III. Democratic Primary.** Where State law provides for a public primary that complies with these Rules (hereinafter a "Democratic Primary"), candidates and nominees shall be selected by means of that Democratic Primary; provided that in the event of a vacancy on the Democratic ticket, the State Chair may fill the vacancy as specified in State law and applicable Party rules.
- IV. Rules governing Democratic primaries.** A public primary must comply with the following rules in order to qualify as a Democratic Primary where candidates or nominees will be selected by means of the primary:
 - A. Separate Democratic ballot required.** All Democratic Primaries occurring on a single date shall appear on the same ballot. The ballot provided to voters in the Democratic Primaries may not contain the names of any candidate for office who is affiliated with any other political party, or of no political party, except that the State may provide to voters a ballot that may be simultaneously used in the Democratic Primaries and in primaries for offices in which no candidate's name is associated with any political party or persuasion, and in such case the ballot may contain the names of all candidates for such offices.
 - B. Opportunity to join or confirm membership in the Party must be provided.** Voters participating in the Democratic Primary must be offered the opportunity to publicly affiliate with the Democratic Party but public affiliation with the Party shall not be a requirement of participation in the Democratic Primary unless such public affiliation is required by law.
 - C. Affiliates of other political parties forbidden to participate.** As a condition of participating in the Democratic Primary, voters must either publicly affiliate with the Democratic Party or publicly indicate that they are not affiliated with any political party.
 - D. Voter participation is public record.** The participation of any voter in the Democratic Primary shall be a public record to the extent necessary to verify that only voters eligible under party rules receive a Democratic ballot and, in addition, the choice by any voter whether to voluntarily affiliate with the Democratic Party at the Democratic Primary or to declare a lack of affiliation with any political party shall be a public record.
 - E. List of Democratic affiliates provided to Party.** The law governing the conduct of the Democratic Primary must provide that election officials shall provide to the Democratic Party no later than the date of certification of the results of the Democratic Primary, a list containing the name of every voter participated in the primary and who voluntarily chose to publicly affiliate with the Democratic Party.

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- F. A statewide system of voluntary voter registration by party which allows voters to publicly affiliate with the Democratic Party shall satisfy the requirements of subparagraphs B and E, of this paragraph.
- V. **Alternative means of selection.** Where State law does not provide for a Democratic Primary that complies with these Rules, candidates and nominees shall be selected in accordance with the following rules, provided that in the event of a vacancy on the Democratic ticket, the State Chair may fill the vacancy as provided by State law and other applicable Party rules; and further provided that in 2005 implementation of this Alternative Means of Selection must be affirmatively approved by the Executive Board. The Central Committee specifically intends that the Executive Board may consider issues including but not limited to litigation, citizen initiatives, and the current state of the law in reaching its decision on implementation.
- A. **Authorization required.** No candidate for public office may campaign as a Democratic candidate except as authorized pursuant to this Rule. No candidate for public office may be designated, nor permit him or herself to be designated, as the Democratic nominee for any public office unless such candidate has been designated by the Washington State Democratic Party as a Democratic nominee pursuant to this Rule.
- B. In the event a primary process is suspended by a qualifying referendum or otherwise is inconsistent with these rules, and upon an affirmative vote of the Executive Board, party candidates shall be selected by the following process.
1. **County Partisan Office Nominees.** The nominees for county partisan office shall be chosen at a county nominating convention, or optionally at county council district nominating conventions, consisting of elected and appointed precinct committee officers representing precincts in that county or council district as of the last central committee meeting or executive board meeting held prior to the county nominating convention. Such nominating conventions or caucuses shall be called by the Chair of the Washington State Democratic Party not later than 14 days prior to the date filing for office commences. The results from each nominating convention shall be reported to the Chair of the Washington State Democratic Party within 24 hours after the convention has adjourned.
 2. **Legislative Nominees.** The nominees for Washington State Senate and Washington State House of Representatives shall be chosen at a legislative district nominating convention consisting of elected and appointed precinct committee officers representing precincts in that legislative district as of the last legislative district meeting held prior to the legislative district nominating convention. Such nominating conventions shall be called by the Chair of the Washington State Democratic Party not later than 14 days prior to the date filing for office commences. The results from each nominating convention shall be reported to the Chair of the Washington State Democratic Party within 24 hours after the convention has adjourned.
 3. **Congressional Nominees.** The nominees for United States Congress shall be chosen through nominating conventions of elected and appointed precinct committee officers representing precincts in that Congressional District as of the

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last legislative district meeting or county central committee meeting held prior to the Congressional District nominating convention. Such nominating conventions shall be called by the Chair of the Washington State Democratic Party not later than 14 days prior to the date filing for office commences. The results from each nominating convention shall be reported to the Chair of the Washington State Democratic Party within 24 hours after the convention has adjourned.

4. Statewide Nominees. The nominees for all statewide partisan elected offices (US Senator, Governor, Lt. Governor, Secretary of State, Treasurer, Auditor, Attorney General, Insurance Commissioner, and Public Lands Commissioner) shall be selected at the Democratic State Convention. Such nominating conventions shall be called by the Chair of the Washington State Democratic Party not later than 14 days prior to the date filing for office commences. The results from each nominating convention shall be reported to the Chair of the Washington State Democratic Party within 24 hours after the convention has adjourned.
 5. The procedures set forth in subparagraphs 3 and 4 may be delegated in whole or in part by a vote of those entitled to vote to the Washington State Democratic Central Committee.
 6. Rules for Balloting. Each candidate or the candidate's representative shall be entitled to address the convention for not less than two minutes, or longer if provided for under rules adopted to govern the convention. Each delegate shall vote by ballot for no more than one candidate for each office for which nominations are sought. The results shall be tallied and reported to the chairman of the convention. The convention may dispense with balloting and nominate by acclamation for any office in which a single candidate is seeking nomination.
- C. Vacancy on ticket. A vacancy caused by the death or disqualification of nominee of the Democratic Party may be filled at any time up to and including the day prior to the election for that position. For state partisan offices in any political subdivision voted on solely by electors of a single county, an individual shall be appointed to fill such vacancy by the relevant Democratic County Central Committee. For all other partisan offices, including federal or statewide offices, an individual shall be appointed to fill such vacancy by the Washington State Democratic Central Committee. The authority granted under this section may be delegated by the County or State Democratic Central Committee to its Executive Board or Chair.
1. Weighted Voting. The number of votes at each nominating convention other than the state convention shall be equal to the sum of the number of precinct level delegates that were allocated to the precincts that are represented at the convention during the most recent National Delegate Selection process. Each elected or appointed PCO voting at the caucus or convention shall be apportioned the number of votes equal to the number of precinct level delegates his or her precinct was allotted during the most recent National Delegate Selection process. In the case of newly formulated precincts the calculation would be based on the allocation formula used in the most recent delegate selection plan.

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2. Majority Vote Required. The candidate of the Democratic Party shall be the candidate who receives a majority vote of weighted ballots. If no candidate receives a majority of the first ballot, the candidate receiving the least number of votes shall be dropped from each successive ballot until a candidate receives a majority. In the event of a tie in determining which candidate shall be dropped, the candidate shall be chosen by lot.
3. Nominations in Cases Where No Convention Action Occurs. In any case where the appropriate convention has failed to designate a nominee, the nominee will be designated by Democratic State Central Committee acting through its Chair.
4. These rules are mandatory and are not amendable by any party organization other than the Washington State Democratic Central Committee or the State Convention.
5. State Chair to Notify Election Officials. To the extent required by law or appropriate, the State Chair shall submit to state and local election officials the names of those candidates authorized to campaign as Democratic candidates and those candidates designated as Democratic nominees.

VI. Threshold demonstration of Party support required. Any registered voter in the State of Washington is eligible for selection as a candidate or nominee of the Democratic Party for any public office provided:

- A. The voter must publicly attest his or her support of the Democratic Party and his or her desire to be publicly known as a Democrat; and
- B. The voter must be otherwise eligible under state law for election to the office sought; and
- C. The voter must not have been registered as a member of any political party other than the Democratic Party for at least one (1) year immediately preceding filing for office; and
- D. Beginning January 1, 2005 the voter must have either (1) received a vote of approval of 25% of those present and voting at a meeting of the Democratic Party organization under the charter for the jurisdiction represented by the office sought or (2) at the time of filing the declaration of candidacy required by law submitted a nominating petition signed by at least 5% of those voters who at the time of signing are voters in the jurisdiction and registered with the Democratic Party or (3) at the time of filing the declaration of candidacy required by law submitted a nominating petition signed by at least 25% of the elected and appointed Democratic Precinct Committee Officers representing precincts within the jurisdiction represented by the office sought and who held such office as of the last meeting of the Democratic party organization for the jurisdiction.

VII. Decision of Executive Board Final. The decision of the executive board with respect to any question of interpretation of these rules is final.

VIII. All nominating conventions held under this rule shall submit their results to the state party no later than July 12, 2005.