

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

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

1. I am the lead attorney for Plaintiff in Intervention the Washington State

DECLARATION OF DAVID T. MCDONALD IN SUPPORT OF
PLAINTIFF-INTERVENOR WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE'S MOTION FOR SUMMARY
JUDGMENT- 1
Case No. CV05-0927Z

PRESTON GATES & ELLIS LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

1 Democratic Central Committee in the above-entitled action. I am over the age of eighteen
2 years and I am competent to make this declaration. I make this declaration based on my own
3 personal knowledge.

4 2. Attached as Exhibit A is a true and accurate copy of the Bylaws of the
5 Democratic Party of the State of Washington ("Bylaws").

6 3. Attached as Exhibit B is a true and accurate copy of "Yes on 872," which is
7 available at www.blanketprimary.org/faq.php. This document was printed from that website
8 on June 17, 2005.

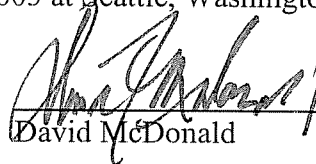
9 3. Attached as Exhibit C is a true and accurate copy of Washington Secretary of
10 State Emergency Rule Making Order CR-103, dated May 18, 2005.

11 4. Attached as Exhibit D is a true and accurate copy of "State GOP picks
12 Hammond – Dunn will still run in primary for 9th District," The King County Journal,
13 reprinted at msnbc.msn.com. This document was printed from that website on June 17, 2005.

14 5. Attached as Exhibit E is a true and accurate copy of a December, 2004 PDC
15 ("Public Disclosure Commission") brochure entitled "Political Advertising."

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

17 EXECUTED this 7th day of June, 2005 at Seattle, Washington.

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19 David McDonald

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DECLARATION OF DAVID T. MCDONALD IN SUPPORT OF
PLAINTIFF-INTERVENOR WASHINGTON STATE DEMOCRATIC
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SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

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

Jay Carlson, WSBA # 30411

PRESTON GATES & ELLIS LLP

925 Fourth Avenue, Suite 2900

Seattle, WA 98104

Tel: (206) 623-7580

Fax: (206) 623-7022

davidm@prestongates.com

Attorneys for Plaintiffs in Intervention,
Washington State Democratic Party and
Paul R. Berendt, Chair

DECLARATION OF DAVID T. MCDONALD IN SUPPORT OF
PLAINTIFF-INTERVENOR WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE'S MOTION FOR SUMMARY
JUDGMENT- 3
Case No. CV05-0927Z

PRESTON GATES & ELLIS LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

EXHIBIT A

Bylaws of the Democratic Party of State of Washington (As amended by WSDCC 1/24/04)

These bylaws are adopted pursuant to the Charter of the Democratic Party of the State of Washington.

Article I State Democratic Convention

The State Convention of the Democratic Party is the highest authority of the Democratic Party of the State of Washington, subject to the provisions of the Charter of the Democratic Party of the State of Washington. The Convention shall be called by the Washington State Democratic Central Committee pursuant to Articles V and VI of the State Charter.

Article II Washington State Democratic Central Committee

A. Purpose and Powers

1. The Washington State Democratic Central Committee, also known as the State Central Committee ("SCC"), is the governing body of the Democratic Party of the State of Washington as authorized by the Democratic State Convention and the Charter of the Democratic Party of the State of Washington.
2. The SCC shall have all powers and carry out all duties delegated to it by the Convention under the Charter. The SCC is the sole party organization authorized to collect and disburse funds in the name of the Democratic Party of the State of Washington. The SCC provides the funds, staff and other assistance necessary for the operations of its committees.

B. Membership

1. The SCC shall consist of the state committeewoman and the state committeeman elected from each legislative district and from each county of the State of Washington, without regard to whether each is a precinct committee officer, in compliance with Article III B of the Charter.
2. Members shall be elected for two-year terms and shall serve until their successors have been elected.
3. All Members of the SCC shall have equal voice and vote in the affairs of the SCC unless these Bylaws or the Charter expressly direct to the contrary.
4. The following shall be Special Members of the SCC. They shall be entitled to equal voice and vote in affairs of the SCC when in personal attendance. Special Members have no proxy. Except where expressly limited in the Charter or in these Bylaws, Special Members shall have all rights and privileges granted to Members under these Bylaws.

- a. The elected officers of the State Central Committee.
- b. National Committeemen and National Committeewomen elected from the State of Washington.
- c. The Governor of the State of Washington when that office is held by a Democrat.
- d. United States Senators from the State of Washington if such offices are held by Democrats.
- e. Members of the United States House of Representatives from the State of Washington if such Members are Democrats.
- f. The Leader of the Washington State Senate Democratic Caucus.
- g. The Leader of the Washington State House of Representatives Democratic Caucus.
- h. A representative of the Young Democrats of Washington.
- i. A representative of the Federation of Democratic Women's Clubs.
- j. The Chair of the Organization of County and District Chairs; provided that in the absence of the Chair, the Vice-Chair of the Organization of County and District Chairs may serve in the Chair's stead, with vote, as an alternate.
- k. The SCC may from time to time extend Special Membership privileges, provided that any such Extension must be adopted by the SCC by unanimous vote and shall be submitted to the next convention for ratification.

C. Officers and Their Duties

1. The officers of the SCC shall be the Chair, Vice-Chair, Secretary, Treasurer and such other officers as the SCC shall from time to time authorize and elect.
2. The officers of the SCC shall be elected for two-year terms at the first meeting of the SCC in odd-numbered years or in the case of officers added by the SCC, in the manner and at the time specified by the SCC in the resolution establishing such office.
3. In the event of a vacancy in an office, the office may be filled by election at any regular or special meeting of the SCC, provided the written notice of the proposed election has been deposited in the mail, postage prepaid, to each member of the SCC at least 15 days in advance of the meeting.
4. Vice-Chair. The Vice-Chair shall:
 - a. In the absence of the Chair, or in the event of a vacancy in that office or the disability of the incumbent, perform the duties of the Chair.
 - b. Develop and maintain personnel policies and committee chair job descriptions and perform such other responsibilities as the SCC or its Executive Committee or the Chair may from time to time delegate.
5. Secretary. The Secretary shall:
 - a. Prepare the minutes of all meetings of the SCC or its Executive Committee and the State Convention.
 - b. Keep all records of the SCC.
 - c. Perform such other duties as the SCC or its Executive Committee or the Chair may from time to time delegate.
6. Treasurer. The Treasurer shall:

- a. Maintain the financial records of the SCC and all committees, and be responsible for the accurate and timely filing of all reports required by public disclosure or taxing authorities.
 - b. Be the custodian of all funds and securities of the SCC, and all committees.
 - c. Deposit and disburse funds of the SCC pursuant to the current budget and policies and procedures established by the SCC or its Executive Committee.
 - d. Prepare and distribute a written financial report to each meeting of the SCC.
 - e. Serve as a voting member of the Finance Committee.
 - f. Perform such other duties as the SCC or its Executive Committee or the Chair may from time to time delegate.
7. National Committee Members
- a. The offices of National Committee members apportioned to the State of Washington by the Democratic National Committee shall be filled by election at large by the SCC during each Presidential election year.
 - b. National Committee members shall serve for four year terms and until their successors are elected.
 - c. In the event of a vacancy in the post of National Committee member, the SCC shall elect a replacement to serve the balance of the term. The replacement shall be selected in the manner provided for filling vacancies in officer positions.
8. Removal of Officers. Any officer may be removed upon two-thirds vote of the SCC provided at least 15 days prior notice of the meeting and the grounds for removal are given to the members and the officer whose removal is sought.

D. Meetings

1. Regular Meetings
 - a. The SCC shall meet at least once a calendar quarter, at a time and place selected by the Chair, pursuant to guidelines established by the SCC or its Executive Committee; provided, however, that the Chair shall rotate the meetings among Congressional Districts.
 - b. A call for each such meeting shall be mailed to all SCC Members at least 30 days in advance of the meeting.
 - c. In the absence of a call for a regular meeting, any twenty-five Members of the SCC may call such a meeting by issuing a proper call and proposed agenda.
2. Organizational Meeting.
 - a. The first regular meeting of the SCC in odd-numbered years shall be its organizational meeting. This meeting shall be held after legislative district and county organizational meetings, provided such meetings are held in the months of December and January immediately proceeding.
 - b. As its first orders of business at the organizational meeting, the SCC shall adopt temporary rules for the meeting, elect a chair and vice-chair and the other officers of the SCC.
 - c. In the absence of a call for an organizational meeting, any ten members of the SCC may call such a meeting by issuing a proper call and proposed agenda.
3. Special Meetings. A special meeting of the SCC may be called for any purpose by:

- a. The Chair,
 - b. A majority of the Executive Committee,
 - c. Any 25 members of the SCC, provided that a proper call must be issued by the convening authority at least 15 days in advance of the meeting.
4. Voting and Proxies
 - a. All Members of the SCC shall have equal vote. In the event that any member shall be an officer or hold any additional position with the SCC which position carries a vote, the member shall nevertheless have only one vote in all affairs of the SCC.
 - b. A division of the house may be called upon any point by 10%, and a roll call vote may be called by 20%, of those present and entitled to vote, including proxies.
 - c. Voting by proxy shall be permitted in accordance with the following rules:
 - (1) All proxies must be in writing, signed by the member. They may be specific or general, instructed or uninstructed, transferable or non-transferable, as specified by the maker. In the absence of specification, a proxy shall be deemed to be general, uninstructed and non-transferable.
 - (2) No person shall hold more than one proxy.
 - (3) In order to vote a proxy, the holder must register the proxy with the Secretary of the SCC before a vote is taken. Only the individual currently registered with the Secretary may vote the proxy.
 - (4) The holder of a proxy must reside in the county or legislative district in which the member giving the proxy resides.
5. Quorum
 - a. A quorum of the SCC shall be 40% of those eligible to vote. For purposes of determining a quorum, valid proxies shall be counted.
 - b. Once a quorum is established, the Chair need not entertain a quorum call until all business included in the adopted agenda for the meeting has been transacted.
6. Robert's Rules. In all matters not covered expressly by these Bylaws, Robert's Rules of Order, newly revised, shall prevail.
7. Open Meetings. All meetings of the SCC shall be open to all Democrats, except when called into Executive Session by majority vote.

E. Committees

1. The SCC shall have the following Standing Committees: Resolutions Committee, Rules and Bylaws Committee, Affirmative Action Committee; Finance Committee; Elections Committee.
2. The Standing Committees shall:
 - a. each meet at the call of its chair.
 - b. each report fully on its activities and proposed activities to the SCC Chair, at such times and in such form as the SCC Chair shall deem appropriate.
 - c. and each submit annually to the SCC a proposed budget for SCC approval.
3. The Resolutions Committee shall review proposed resolutions to the SCC and recommend their adoption or rejection; and propose rules and procedures to the SCC for the handling of resolutions.
4. The Rules and Bylaws Committee shall recommend rules of procedure for the conduct of meetings or the handling of special matters to the SCC and recommend amendments to existing rules or these Bylaws; and review proposed bylaw amendments submitted to the SCC and recommend adoption or rejection.
5. The Affirmative Action Committee shall propose and coordinate an affirmative action plan, and with the approval of the Executive Committee implement the plan, to discharge the SCC's affirmative action responsibilities under the charter of the Democratic Party of the United States and the Charter of the Democratic Party of Washington.
6. The Finance Committee shall propose methods of raising funds for the SCC and, with the approval of the Executive Committee, implement and coordinate fundraising plans. The Treasurer of the SCC shall be a member of the Finance Committee.
7. The Elections Committee shall propose policies and procedures to the SCC on candidate recruitment and endorsements, fair campaign practices, political ethics, and other party policy areas as determined by the SCC or the SCC Chair.
8. Other Committees.
 - a. The SCC may from time to time establish other committees to carry out such duties and have such powers as the SCC may establish. Members of such committees need not be members of the SCC.
 - b. The Chair may from time to time appoint such committees to report to the Chair as the Chair may deem necessary or prudent. Such committees shall have such powers as are granted by the Chair, provided, however, that the Chair may not grant greater powers to a committee than the SCC has given the Chair.
9. Committee membership. Unless the enabling resolution shall specify a method of selection of members of a committee and its composition, the chair shall appoint the members of the committee.
10. Committee Rules. Any Committee may adopt rules of procedure for the conduct of its affairs. In the absence of specific rules, Robert's Rules of Order, newly revised, shall govern the conduct of committee affairs.
11. Minority Reports. Minority Reports may be issued from any Committee on concurrence of at least 20% of the Committee's membership.

12. Additional Duties. Committees shall perform such additional duties as the SCC shall propose.
 13. Limitations on Committee Activities. The following limitations shall govern the activities of all Committees except the Executive Committee. The Committees shall not be authorized to:
 - a. incur expenses or enter contracts on behalf of the Democratic Party, except as specifically authorized by the SCC.
 - b. issue press releases or make public statements in the name of the Democratic Party of the State of Washington except as specifically authorized by the SCC Chair.
- F. Availability of Members' List - In order that Members of the SCC shall be able to freely communicate with other Members for the purpose of proposing resolutions, bylaws, amendments or other business requiring notice to the SCC under these Bylaws, the Chair shall make available to Members a mailing list of the members of the Committee at cost.

Article III

Executive Committee

- A. The Executive Committee shall consist of the Chair, Vice-Chair, Treasurer, Secretary, National Committeemen and Committeewomen, the chairs of the Finance, Statutory State and Affirmative Action Committees, and a representative of the Washington State Federated Democratic Women's Clubs, together with the SCC member elected by and from the SCC membership in each Congressional District.
- B. The Executive Committee shall meet at the call of the Chair and have such powers and duties as are delegated to it by the SCC. All actions of the Executive Committee must be reported to the SCC at the next SCC meeting. The Executive Committee shall prepare an annual operating budget.

Article IV

Budget, Compensation and Reimbursement

- A. No later than the regular Second Quarter meeting, the SCC shall adopt a budget for the following year. Budgeted expenditures shall be divided into two parts as follows: Part A shall cover all expenses for the administration of the SCC; and Part B shall cover all funds disbursed to candidates or political committees or expended directly on their behalf. Rules for the disbursement of Part B funds shall be adopted annually by the SCC. No funds shall be disbursed or obligated by or on behalf of the SCC except in accordance with the adopted budget and any applicable rules. The budget shall be amendable.

- B. Officers or employees of the Washington State Democratic Party may be compensated and reimbursed for expenses in such amount and manner as determined by the SCC or its Executive Committee. In the absence of explicit authority to do so, no officer or employee shall receive compensation.
- C. The Executive Committee may require that the books be audited at any time. Subject to Executive Committee confirmation, the Chair shall establish an audit committee promptly after each reorganization meeting. The results of the audit shall be considered by the Executive Committee and then reported to the SCC no later than its regular second quarter meeting.

Article V

Chair of the Democratic Party of the State Of Washington

- A. The Chair of the Democratic Party of the State of Washington shall:
 - 1. Be the Chief Executive Officer of the SCC and preside at all meetings of the SCC or its Executive Committee.
 - 2. Be charged with the responsibility for implementing all policies of the SCC. 3. Provide for the call to all meetings of the SCC or its Executive Committee.
 - 4. Provide a provisional agenda for all meetings of the SCC or its Executive Committee.
 - 3. Perform such additional duties as the SCC or its Executive Committee shall delegate to the Chair.
 - 6. Except as otherwise provided in these bylaws, appoint the chairs of standing and special committees of the SCC.
 - 7. Appoint legal counsel for the Washington State Democratic Party and appoint such other professionals as may be required from time to time to act for the Party. Such appointments must be confirmed by a majority vote of the Executive Committee.
 - 8. Appoint a Parliamentarian, Sergeants-at-Arms, Pages, Tally Clerks and such other individuals as may be necessary for the efficient and fair administration of SCC meetings.
 - 9. Be the Authorized Spokesperson for the Democratic Party of the State of Washington.
 - 10. Be an ex-officio voting member of all committees of the SCC except the Statutory Committee.
 - 11. Appoint such deputy treasurers as may be needed to assist the Treasurer in filing reports.

Article VI

Statutory State Committee

- A. The Statutory State Committee shall be organized according to state law (RCW 29.42.020) and shall perform only those duties explicitly specified by RCW 29.42.020(1) through (4), to wit:
- “(1) Call conventions at such time and place and under such circumstances and for such purposes as the call to convention shall designate. The manner, number and procedure for selection of state convention delegates shall be subject to the committee's rules and regulations duly adopted;”
 - “(2) Provide for the election of delegates to national conventions;”
 - “(3) Fill vacancies on the ticket for any federal or state office to be voted on by the electors of more than one county;”
 - “(4) Provide for the nomination of presidential electors.”
- B. The statutory state committee shall adopt bylaws which shall delegate those duties to the State Central Committee and 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.

Article VII

Vacancies, Appointments

- A. The Statutory State Committee of the Washington State Democratic Central Committee is subject to a permanent injunction issued by the Federal District Court in *Cunningham v. Washington State Democratic Committee* (Civ. No. C75-901, W.D. Wash. 1977), enjoining the Statutory State Committee from filling vacancies on the ticket for any federal or state office voted upon by the electors of two or more counties, or filling vacancies on the ticket in legislative races, or making interim legislative appointments, in multi-county legislative districts by any method that contravenes the one person, one-vote rule. Pursuant to the delegation of authority of Article VI. B. above, the SCC shall be responsible for compliance with this injunction.
- B. In making interim legislative appointments in multi-county legislative districts, the SCC shall make its appointment from a list of three names submitted to the committee by a caucus of the elected and appointed Democratic precinct committee officers of the precincts within the legislative district. The chair of the SCC shall call this caucus.
- C. In making interim legislative appointments in single county legislative districts, the county central committee shall make its appointment from a list of three names submitted to the committee by a caucus of the elected and appointed Democratic

precinct committee officers of the precincts within the legislative district. The county chair shall call this caucus.

- D. The SCC shall develop rules for the conduct of legislative appointment caucuses.

Article VIII

County Central Committees

- A. 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.
- B. In any county central committee only elected precinct committee officers and precinct committee officers appointed after the organizational meeting shall vote for county chair, vice chair, state committeewoman, state committeeman, any representative the county central committee is authorized to send to other party organizations and on the adoption or amendment of bylaws. County central committees may allow other Democrats to participate in all other functions.
- C. 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 pursuant to the authority of the Charter. Its organizational meeting shall take place in December or January following each state general election held in even-numbered years. At the organizational meeting the committee shall elect a chair, a vice chair, a state committeewoman, a state committeeman and any representatives it is authorized to send to other party organizations.
- D. The county central committee shall have a minimum of four (4) regular meetings a year unless there are legislative district organizations within the county.
- E. In counties with legislative district organizations, the county central committee may establish a county executive board.

Article IX

Legislative District Organizations

- A. 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.
- B. In any legislative district organization only elected precinct committee officers and precinct committee officers appointed after the organizational meeting shall vote for district chair, vice chair, state committeewoman, state committeeman, any representative the legislative district organization is authorized to send to other party organizations, and on the adoption or amendment of bylaws. Legislative district organizations may allow other Democrats to participate in all other functions.
- C. 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 pursuant to the authority of the Charter. The legislative district organization shall be organized in accordance with rules passed by the county central committee in those counties in which there are two or more complete legislative districts. In legislative districts where counties have not provided for legislative district organization meetings, the state chairperson shall do so. Its organizational meeting shall take place in December or January following each state general election held in even-numbered years. At the organizational meeting, the legislative district organization shall elect a chair, a vice chair, a state committeewoman, a state committeeman and any representatives it is authorized to send to other party organizations. The legislative district organization shall have a minimum of four (4) regular meetings a year.

Article X

Organization of County and District Chairs

- A. The Organization of County and District Chairs shall be composed of the chair of each Democratic County Central Committee and the chair of each Democratic Legislative District organization in the State of Washington.
- B. The Organization shall elect from its ranks a chair, vice-chair and such other officers as the organization shall be deemed appropriate.
- C. The Organization shall recommend to the SCC for its consideration actions or expenditures to promote the grassroots structure of the Party and shall perform such additional duties and have such additional powers as the SCC may by resolution delegate.

Article XI

Selection of Nominees, Candidates and Delegates

- A. Delegates to Party conventions at all levels and Party officers (whether or not such delegates and officers are declared by the State to be public officials) shall be selected by voters who support the principles of the Democratic Party and wish to be publicly known as Democrats.
- B. Except as otherwise required by the Charter, By-laws and Rules of the Democratic Party of the United States or by the Delegate Selection Rules of the Democratic National Committee, candidates and nominees for public office who are or will be identified as Democrats or publicly associated with the Democratic Party to any extent in the general election for such office must be selected in accordance with Rules adopted by the State Central Committee. The Rules adopted by the State Central Committee shall permit participation, subject to guarantees of election fairness and accountability, by voters who wish to participate in the selection but do not wish to become publicly affiliated with the Democratic Party; provided the Rules may forbid the participation of any voter who has participated or will participate in the selection of candidates associated with another political party if such candidates seek to appear on the same primary or general election ballot as any Democratic candidate being selected by the process in which the voter seeks to participate.
- C. In connection with any selection process in which voters who are not members of the Democratic Party are permitted to participate, the State Central Committee may require that candidates demonstrate prior to filing for office reasonable support from Party members in order to be eligible to participate in the selection process; PROVIDED, that any such requirement shall have been adopted not less than ninety days prior to the filing period for the selection process, and further provided that any such requirement shall apply equally to all candidates for each particular office.

Article XII

Amendments, Rules

- A. No amendment to these Bylaws may be considered by the SCC unless notice of the proposed amendment shall have been mailed to the SCC members at least 15 days in advance.
- B. Bylaws may be amended by affirmative vote of a majority of the entire membership of the SCC.
- C. The SCC may from time to time adopt additional procedural rules consistent with these Bylaws for the conduct of meetings or the handling of special matters, or relating to the operation of other Party organizations. Such rules may be adopted by majority vote, but once adopted shall require a two-thirds vote to suspend.
- D. Each county central committee and legislative district organization shall adopt bylaws, which shall establish a quorum and provide for calling special meetings by executive action or by petition of members.

EXHIBIT B

YES ON 872

PROTECT OUR RIGHT TO VOTE FOR THE PERSON, NOT THE PARTY

[HOME](#) [CAMPAIGN HEADQUARTERS](#) [THE BLANKET PRIMARY](#) [PRESS ROOM](#) [F.A.Q.](#) [CONTACT](#)

Initiative 872 Frequently Asked Questions

Washington State Grange President Terry Hunt filed approximately 300,000 signatures with the Secretary of State on July 2, 2004 for Initiative 872 to establish a qualifying primary, or "top-two" system. This will allow voters the opportunity to have the final say over the Washington State's primary election system. These questions and answers relate to the initiative and the legal and legislative context in which it is being proposed.

Why do we need Initiative 872?

Last fall, the Ninth Circuit Court of Appeals ruled that Washington could no longer conduct "blanket primaries", as it has for nearly seventy years. When the U. S. Supreme Court declined to review the lower court decision, the Legislature adopted a new type of primary, called a "qualifying primary" or a "top-two primary". However, the Governor extensively vetoed that bill, eliminating the qualifying primary and creating instead a nominating primary, or "Montana-style" system in which voters will only be able to vote for the candidates of a single party in the primary. This is the system voters will face in September 2004, and they're effectively being forced to vote a straight party ticket. This is why we need to implement I-872.

Why did we have to change our primary system at all?

In the blanket primary, each political party was guaranteed one "nominee" on the general election ballot, and voters could vote for any candidate for any office. The court ruled that we cannot do both of these things at the same time. We can have a nominating primary (where each party is guaranteed a position on the general election ballot) or we can change to a qualifying primary (where voters can continue to choose from among all the candidates in each office). The Legislature was forced to change one or the other aspect of the current law.

What is the difference between a "nominating primary" and a "qualifying primary"?

In a nominating primary, assuming candidates for all major parties file for an office, one candidate from each party is "nominated" to appear on the general election ballot for that office. Washington currently has three major political parties - Democrat, Republican, and Libertarian.

In a qualifying primary, no matter how many parties or candidates there are for an office, the two candidates who receive the most votes for each office in the primary advance to the general election.

Does this mean that, in a qualifying primary, the candidates are nonpartisan?

No, the candidates will continue to express a political party preference when they file for office and that party designation will appear on the ballot. However, party preference would not be a factor in determining which candidates advance to the general election. The

two candidates who receive the most votes for each office, regardless of party preference, will appear on the ballot at the general election.

Would the primary ballot look any different to the voter?

No. At the primary, the candidates for each office will be listed under the title of that office, the party designations will appear after the candidates' names, and the voter will be able to vote for any candidate for that office (just as they did under the blanket primary).

Would the general election ballot look different to the voter?

Sometimes, but only rarely. Depending on the number of candidates on the primary ballot for a particular office and the amount of public support each candidate achieves, the voter might be presented with a choice in the general election between two candidates of the same political party. This would only happen if both of those candidates received more votes in the primary than any other candidates (in the same party or any other political party). A qualifying primary forces political parties to recruit the best possible candidates and to actively contest all of the offices on the ballot.

In a qualifying primary, would there be offices on the general election ballot where both candidates are from the same party?

This can happen, but it should be fairly rare. According to research conducted by the secretary of state's office, only 4 percent of the legislative races in the last 10 years would have sent candidates of the same party to the general election under the top-two system. In addition, only 3.3 percent of statewide and congressional races in the last 10 years would have advanced candidates of the same party under the top-two. In addition, the vast majority of these instances would have been in "safe" districts where one political party is very dominant and only one candidate from that party emerges from the primary. In that kind of a district, the general election voters would sometimes have a choice between both strong candidates, instead of having the race decided in the primary.

Unfortunately, we have seen recent races for Governor where one of the major parties nominated a candidate that received less than 40% of the vote in the general election. Under this initiative, parties should seek candidates with broad public support who can survive a competitive primary.

Why does the Grange think that a qualifying primary is better than a nominating primary?

There are three reasons:

1. Qualifying primaries are more competitive than nominating primaries. If a party is concerned about not being "included" in the general election, then that party will need to work harder to make sure they recruit quality candidates who can get the votes to move forward. This is a positive thing, because we not only have more choices, but we have better choices. Competition works, and it's served our country very well.

2. With qualifying primaries, the results are more representative of the political preferences and opinions of the voters. As a result, these officials are likely to be much more responsive to the interests of the people they represent, not just the interest of the political parties. Public officials should be selected by the voters, not by the political parties. Voters pay their salaries and for the elections that allow them to choose their public officials.

3. Most of the voters in Washington are independents who want to support candidates of any political party - they want to vote for the person, not the party.

Does this proposed initiative create a "Cajun" primary, like they have in Louisiana?

Absolutely not. In Louisiana, voters are required to register by political party, and if a candidate receives more than 50% of the vote for an office at the primary, he or she is elected (the office does not even appear on the general ballot). Under this proposed initiative, voters would never have to declare political party affiliation and every office would appear on the general election ballot.

Would this proposal eliminate minor party candidates from the primary or general election ballot?

No. Minor parties would continue to select candidates the same way they do under the blanket primary. Their candidates would appear on the primary ballot for each office (as they do now). Minor party candidates have had good success recently advancing candidates to the general election in districts where only one of the major political parties runs a candidate (about 15% of all legislative districts). Presumably they would continue to do well in these circumstances.

Is the qualifying primary (proposed in Initiative 872) constitutional?

Although the U. S. Supreme Court and the Ninth Circuit have ruled that this form of primary is different from the partisan blanket primary previously in use in Washington state and that nonpartisan blanket primaries are not subject to the kind of legal challenge presently being made by the political parties, the major political parties have repeatedly claimed - without foundation - that the kind of qualifying primary proposed in I-872 is unconstitutional. The majority opinion of the U. S. Supreme Court in the CAL DEMO case (in 2000) went out of its way to declare what kind of primary would meet its constitutional test. They said,

"Finally, we may observe that even if all these state interests were compelling ones, Proposition 198 is not a narrowly tailored means of furthering them. Respondents could protect them all by resorting to a nonpartisan blanket primary. Generally speaking, under such a system, the State determines what qualifications it requires for a candidate to have a place on the primary ballot -- which may include nomination by established parties and voter-petition requirements for independent candidates. Each voter, regardless of party affiliation, may then vote for any candidate, and the top two vote getters (or however many the State prescribes) then move on to the general election. This system has all the characteristics of the partisan blanket primary, save the constitutionally crucial one: Primary voters are not choosing a party's nominee. Under a nonpartisan blanket primary, a State may ensure more choice, greater participation, increased "privacy," and a sense of "fairness"--all without severely burdening a political party's First Amendment right of association." (emphasis provided).

The Washington State Grange believes that the qualifying primary satisfies this description provided by the Supreme Court. If I-872 is approved by the voters and the political parties challenge, we are convinced that it can be successfully defended by the Attorney General.

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EXHIBIT C



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Secretary of State

☐ Permanent Rule
☒ Emergency Rule

Effective date of rule:

Permanent Rules

☐ 31 days after filing
☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

☒ Immediately upon filing
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: Implementation of a new top-two primary election system pursuant to chapter 2, Laws of 2005.

Citation of existing rules affected by this order:

Repealed: 434-262-005 and 434-230-210
Amended: 434-208-060, 434-215-012, 434-215-070, 434-230-010, 434-230-040, 434-230-050, 434-230-060, 434-230-170, 434-261-020, 434-262-160, and 434-381-120
Suspended:

Statutory authority for adoption: chapter 2, Laws of 2005, RCW 29A.04.611

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR _____ on _____ (date)
Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest
☒ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Initiative 872 created a new primary election system, known as the top-two primary. Initiative 872 passed in November 2005 chapter 2, Laws of 2005. The top-two primary conflicts with the nominating primary still described in statute. Because the Secretary of State is legally obligated to implement the new law, and because implementing legislation did not pass during the 2005 legislative session, the Secretary of State must implement the new primary through emergency rule making. The standard rule making process will not allow the rules to take effect until September 2005, after the election cycle has begun.

Date adopted: May 18, 2005

NAME (TYPE OR PRINT)

Steve Excell

SIGNATURE

TITLE

Assistant Secretary of State

CODE REVISER USE ONLY
CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

MAY 18 2005

TIME 9:30 AM
WSR 05-11-101 PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>4</u>	Amended	<u>9</u>	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>2</u>	Repealed	<u>2</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-208-060 Filing of electronic facsimile documents. In addition to those documents specified by RCW 29A.04.255, the secretary of state or the county auditor shall accept and file in his or her office electronic facsimile transmissions of the following documents:

(1) The text of any proposed initiative, referendum, or recall measure and any accompanying documents required by law;

(2) Any minor party or independent candidate filing material for president and vice-president of the United States, except nominating petitions;

(3) Lists of presidential electors selected by political parties or independent candidates;

(4) Voted ballots, provided the voter agrees to waive the secrecy of his or her ballot;

(5) Resolutions from cities, towns, and other districts calling for a special election; and

(6) ~~((Filling of vacancies on the ticket by a major political party,~~

~~+7+))~~ Voter registration form.

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

WAC 434-215-012 Declaration of candidacy(~~((--Offices subject to a primary))~~). Declarations of candidacy (~~((for all partisan and nonpartisan offices))~~) filed either in person or by mail shall be in substantially the following form:

((STRICKEN GRAPHIC))

FILING DATA . . . FOR OFFICE USE ONLY			
Date _____	Fee Paid \$ _____	File No. _____	
Time _____	Paid By (Check one)	Clerk/Cashier Initials _____	
<input type="checkbox"/> AM	<input type="checkbox"/> Check	<input type="checkbox"/> Other	
<input type="checkbox"/> PM	<input type="checkbox"/> Cash	<input type="checkbox"/> Nom. Petition	

DECLARATION OF CANDIDACY

1. I, _____ am a registered voter residing at:

2. _____

(STREET ADDRESS OR RURAL ROUTE)

(TELEPHONE NUMBER)

(MAILING ADDRESS - IF DIFFERENT)

_____, Washington _____

(CITY)

(COUNTY)

(ZIP CODE)

and at the time of filing this declaration I am legally qualified to assume office if elected.

3. I declare myself as a candidate for nomination to the office of:

(NAME OF OFFICE)

(CONGRESSIONAL OR LEGISLATIVE DISTRICT, COUNTY, CITY, OR OTHER JURISDICTION)

(POSITION NUMBER IF APPLICABLE)

(JUDICIAL OR COMMISSIONER DISTRICT, IF ANY)

4. For the following term of office:

- ☐ a full term or a full term and a short term, or
☐ an unexpired term

5. This office is:

- ☐ Nonpartisan, or
☐ Partisan, and I am: ☐ a candidate of the _____ party, or
☐ an independent candidate nominated pursuant to chapter 29.24 RCW

6. Filing Fee (Check one):

- ☐ There is no filing fee because the office has no fixed annual salary, or
☐ I am submitting a filing fee of \$10 because the fixed annual salary of the office being sought is \$1,000 or less, or
☐ I am submitting a filing fee of \$_____, an amount equal to 1% of the annual salary, or
☐ I am without sufficient assets or income to pay the filing fee required by law and I have attached a nominating petition in lieu of this fee, pursuant to RCW 29.18.050.

7. Please print my name on the ballot exactly as follows: _____

(PLEASE PRINT)

I declare that this information is, to the best of my knowledge, true. I also swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

Note: Your signature must be personally attested to by either a notary public or by the officer with whom the declaration is filed.

8. Sign Here

X

(SIGNATURE OF CANDIDATE AS REGISTERED TO VOTE)

(SIGNATURE OF ACKNOWLEDGING OFFICIAL)

(TITLE OF ACKNOWLEDGING OFFICIAL)

Candidate: Return all copies of this declaration to your Elections Dept.
 Distribution by Elections Dept: White-County; Yellow-PDC; Pink-Candidate

STRICKEN GRAPHIC))

((STRICKEN GRAPHIC))

[

FILING DATA . . . FOR OFFICE USE ONLY

Date/Time _____	Fee Paid \$ _____	File No _____
Paid By (Check one)		
<input type="checkbox"/> Check	<input type="checkbox"/> Other	Office _____
<input type="checkbox"/> Cash	<input type="checkbox"/> Nom Petition	Code _____
Clerk/Cashier initials _____		

DECLARATION OF CANDIDACY

1. I, _____ am a registered voter residing at:
(PRINT NAME AS YOU ARE REGISTERED TO VOTE)

2. _____
(STREET ADDRESS OR RURAL ROUTE WHERE REGISTERED TO VOTE) (CITY) (COUNTY) (ZIP CODE)

(MAILING ADDRESS) (CITY) (COUNTY) (ZIP CODE)

(TELEPHONE NO.) (EMAIL ADDRESS)

and at the time of filing this declaration I am legally qualified to assume office if elected.

3. I declare myself as a candidate for nomination to the office of:

(NAME OF OFFICE)

(CONGRESSIONAL OR LEGISLATIVE DISTRICT, COUNTY, CITY, OR OTHER JURISDICTION)

(POSITION NUMBER IF APPLICABLE) (DIRECTOR OR COMMISSIONER DISTRICT IF ANY)

4. For the following term of office:
☐ A full term or a full term and a short term, or
☐ An unexpired term

5. This office is:
☐ Nonpartisan, or
☐ Partisan, and I am: ☐ a candidate of the _____ party, or
☐ an independent candidate nominated pursuant to chapter 29.24 RCW.

6. Filing Fee (Check one):
☐ There is no filing fee because the office has no fixed annual salary, or
☐ I am submitting a filing fee of \$10 because the fixed annual salary of the office being sought is \$1,000 or less, or
☐ I am submitting a filing fee of \$_____, an amount equal to 1% of the annual salary, or
☐ I am without sufficient assets or income to pay the filing fee required by law and I have attached a nominating petition in lieu of this fee, pursuant to RCW 29.15.050.

7. Please print my name on the ballot exactly as follows: _____
(PLEASE PRINT)

I declare that this information is, to the best of my knowledge, true. I also swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.	
Note: Your signature must be personally attested to either by a notary public or by the officer with whom the declaration is filed.	8. Sign Here X _____ (SIGNATURE OF CANDIDATE AS REGISTERED TO VOTE)
STATE OF WASHINGTON, COUNTY OF _____	SIGNED OR ATTESTED BEFORE ME ON _____ (DATE)
(SEAL OR STAMP)	by _____ (CANDIDATE)
	(SIGNATURE OF NOTARY)
	(TITLE)
	MY APPOINTMENT EXP RES _____

SSE 94-1 (2002)

Candidate: Return all copies of this declaration to your Elections Dept.
Distribution by Elections Dept: White—County; Yellow—PDC; Pink—Candidate

]

((STRICKEN GRAPHIC))

FILING DATA . . . FOR OFFICE USE ONLY

Date _____	Fee Paid \$ _____	File No _____	Office Code _____
<input type="checkbox"/> Check	<input type="checkbox"/> Debit/Credit		
<input type="checkbox"/> Cash	<input type="checkbox"/> Filing Fee Petition	Clerk Initials _____	

DECLARATION OF CANDIDACY

1. I, _____ am a registered voter residing at _____
(PRINT NAME AS YOU ARE REGISTERED TO VOTE)

2. _____
(STREET ADDRESS OR RURAL ROUTE WHERE REGISTERED TO VOTE) (CITY) (COUNTY) (ZIP CODE)

(MAILING ADDRESS) (CITY) (COUNTY) (ZIP CODE)

(TELEPHONE NO.) (EMAIL ADDRESS)

and at the time of filing this declaration I am legally qualified to assume office if elected.

3. I declare myself as a candidate for the office of:

(NAME OF OFFICE)

(CONGRESSIONAL OR LEGISLATIVE DISTRICT, COUNTY, CITY, OR OTHER JURISDICTION)

(POSITION NUMBER IF APPLICABLE) (DIRECTOR OR COMMISSIONER DISTRICT, IF ANY)

4. For the following term of office:

- ☐ A full term or a full term and a short term, or
☐ An unexpired term

5. This office is:

- ☐ Nonpartisan, or
☐ Partisan, and (check one). ☐ my party preference is _____ or
☐ I am an independent candidate.

The party preference will be listed on the ballot exactly as provided unless limited space necessitates abbreviation.

6. Filing Fee (check one).

- ☐ There is no filing fee because the office has no fixed annual salary, or
☐ I am submitting a filing fee of \$10 because the fixed annual salary of the office is \$1,000 or less, or
☐ I am submitting a filing fee of \$ _____, an amount equal to 1% of the annual salary, or
☐ I am without sufficient assets or income to pay the filing fee required by law and I have attached a filing fee petition in lieu of this fee, pursuant to WAC 434-215-013 and RCW 29A.24.091.

7. Please print my name on the ballot exactly as follows: _____

(PLEASE PRINT)

I declare that this information is, to the best of my knowledge, true. I also swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

Note: Your signature must be personally attested to either by a notary public or by the officer with whom the declaration is filed.

8. Sign Here X _____

(SIGNATURE OF CANDIDATE AS REGISTERED TO VOTE)

STATE OF WASHINGTON, COUNTY OF _____

SIGNED OR ATTESTED BEFORE ME ON _____
(DATE)

by _____
(CANDIDATE)

(SEAL OR STAMP)

(SIGNATURE OF NOTARY)

(TITLE)

MY APPOINTMENT EXPIRES _____

SSE84-1 (2005)

Candidate: Return all copies of this declaration to your Elections Dept.

Candidate: Return all copies of this declaration to the filing officer. Distribution by the filing officer: White--County; Yellow--PDC; Pink--Candidate
 The form shall measure eight and one-half inches by eleven inches

and be printed on paper stock of good quality. The form shall also contain space for recording the date and time of filing and a sequential filing and receipt number. One copy of the form or an electronic file, in a format approved by the secretary of state and acceptable to the public disclosure commission, containing the information on the form of each properly executed and filed declaration and affidavit of candidacy shall be forwarded to the public disclosure commission as required by RCW ((29.15.030)) 29A.24.070, and one copy of the form or an electronic file containing the information on the form of each properly executed and filed declaration and affidavit of candidacy shall be returned to the candidate.

NEW SECTION

WAC 434-215-013 Filing fee petition. A candidate who lacks sufficient assets or income to pay the filing fee may submit a filing fee petition with the declaration of candidacy. The filing fee petition must meet the requirements of RCW 29A.24.091 and 29A.24.111, must be printed on sheets of uniform color and size, must include a place for each person to sign and print his or her name and voter registration address, and must contain no more than twenty numbered lines. The filing fee petition must be in substantially the following form:

The warning prescribed by RCW 29A.72.140, followed by:

We, the undersigned registered voters of (the state of Washington or the political subdivision for which the filing is made) , hereby petition that the name of (candidate's name) be printed on the official primary ballot for the office of (name of office) .

NEW SECTION

WAC 434-215-015 Political party preference and independent status. A candidate for partisan office who files a declaration of candidacy properly must appear on the primary election ballot, regardless of the candidate's party preference or independent status, unless the office is not subject to a primary election. Except for the offices of President and Vice-President of the United States, neither endorsement by a political party nor a nominating convention are required in order to file a declaration of candidacy and appear on the primary election ballot. A candidate for partisan office who does not provide a political party preference is deemed to be an independent candidate. An

independent candidate or a candidate who lists on the declaration of candidacy a preference for a party that does not qualify as a major political party is not required to hold a convention, file a nominating petition, or file a certificate of nomination, as stated in RCW 29A.20.110 through 29A.20.201. The requirements of RCW 29A.20.110 through 29A.20.201 are limited to candidates for President and Vice-President of the United States.

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

WAC 434-215-070 Definition and standards for systems to file declarations of candidacy electronically. An electronic system to file declarations of candidacy shall be an online system accessible to candidates on the world wide web that records the information specified in RCW 29.15.010 (1) through (4) and WAC 434-215-090. At a minimum, the system shall perform the following functions:

- (1) Verify the candidate's voter registration status;
- (2) Check the candidate's name against the name returned by electronic transfer of funds process;
- (3) Allow the filing officer to verify filings before filing information is made public;
- (4) Accept electronic transfer of funds for the payment of filing fees required by RCW 29.15.050, except that a candidate submitting a ((~~nominating~~)) filing fee petition in the place of a filing fee may not file the declaration of candidacy electronically;
- (5) Inform, and require the candidate to acknowledge, that submission of the form constitutes agreement that the information provided with the filing is true, that he or she will support the Constitution and laws of the United States and the state of Washington, and that he or she agrees to electronic payment of the filing fee established in RCW 29.15.050; and
- (6) Inform the candidate that knowingly providing false information on a declaration of candidacy is a class C felony as provided by RCW 29.85.100.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-230-010 Official and sample ballots. Sample paper ballots shall be printed in substantially the same form as official ballots, but shall be a different color than the official ballot. Sample ballots for counties using electronic or mechanical voting systems shall be printed in a manner that makes them easily distinguishable from the official ballot. Sample ballots shall be available starting fifteen days prior to an election. Such sample ballots shall be made available through the office of the county auditor and at least one shall be available at all polling places on election day.

~~((Names of the candidates in each office to appear on the primary ballot shall be arranged on the sample ballot in the order provided by RCW 29A.36.120. The names of the candidates in each office to appear on the general election ballot shall be listed on the sample ballot in the order in which their names appear on the official ballot. State measures and local measures shall be in the same order as they appear on the official ballot:))~~ Positions or offices shall be arranged on all official and sample ballots in substantially the following order: State ballot measures, United States president and vice-president, United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of public lands, superintendent of public instruction, insurance commissioner, state senator, state representative, county officers, justices of the supreme court, judges of the court of appeals, judges of superior court, and judges of the district court. For all other jurisdictions, the offices in each jurisdiction shall be grouped together and be in the order of the position numbers assigned to those offices, if any.

The names of candidates and ballot measures shall appear on the sample ballot in the same order as they appear on the official ballot. The names of the candidates shall appear on the primary election ballot in the order determined by lot. The party preference of candidates for partisan office shall have no bearing on the order in which candidates appear on the ballot. The names of the candidates shall appear on the general election ballot according to the number of votes the candidates received in the primary election: The name of the candidate who received the greatest number of votes shall appear first and the name of the candidate who received the second greatest number of votes shall appear second. If no primary was conducted, the names of the candidates shall appear on the general election ballot in the order determined by lot.

At any primary or election when a local voters' pamphlet is

published which contains a full sample ballot, a separate sample ballot need not be printed.

Counties with populations of over five hundred thousand may produce more than one sample ballot for a primary or election, each of which lists a portion of the offices and issues to be voted on at that election. Sample ballots may be printed by region or area (e.g., legislative district, municipal, or other district boundary) of the county, provided that all offices and issues to be voted upon at the election appears on at least one of the various sample ballots printed for such county. Each regional sample ballot shall contain all offices and issues to be voted upon within that region.

A given office or issue may appear on more than one sample ballot, provided it is to be voted upon within that region. Sample ballots shall be made available and distributed to each polling place and to other locations within the appropriate region or area.

NEW SECTION

WAC 434-230-035 Special filing periods for voids in candidacy and vacancies in office. Voids in candidacy, as provided in RCW 29A.24.141 through 29A.24.181, may occur for partisan as well as nonpartisan office. A three day special filing period must be opened, as provided in RCW 29A.24.171 and 29A.24.181, whether the office is partisan or nonpartisan.

Vacancies in office, as provided in RCW 29A.24.171, 29A.24.181, and 42.12.040, may be filled through a special three day filing period as provided in RCW 29A.24.171 and 29A.24.181, whether the office is partisan or nonpartisan.

A scheduled election shall lapse when a void in candidacy remains after both a normal filing period and a special three day filing period, or when a vacancy in office occurs involving an unexpired term on or after the sixth Tuesday before the general election.

If the death or disqualification of a candidate for a partisan or nonpartisan office does not give rise to the opening of a new filing period, then the following occurs:

(1) If the candidate dies or becomes disqualified after filing a declaration of candidacy but before the close of the filing period, then the declaration of candidacy is void and his or her name will not appear on the ballot;

(2) If the candidate dies or becomes disqualified after the close of the filing period but before the day of the primary, then his or her name will appear on the primary ballot and all otherwise valid votes for that candidate will be tabulated. The candidate's name will not appear on the general election ballot even if he or she otherwise would have qualified to do so, but no other candidate will advance, or be substituted, in the place of that candidate. If the candidate was the only candidate to qualify to advance to

the general election, then the general election for that office lapses, and the office will be regarded as vacant as of the time the newly elected official would have otherwise taken office;

(3) If the candidate dies or becomes disqualified on or after the day of the primary, and he or she would have otherwise qualified to appear on the general election ballot, then his or her name will appear on the general election ballot and all otherwise valid votes for that candidate will be tabulated. If the candidate received a number of votes sufficient to be elected to office, but for his or her death or disqualification, then the office will be regarded as vacant as of the time the newly elected official would have otherwise taken office.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-230-040 Candidate's political party ((designation)) preference--Primary to general. ((No person who has offered himself or herself as a candidate for the nomination of one party at the primary, shall have his or her name printed on the ballot of the succeeding general election as the candidate of another political party.)) A candidate for partisan office who indicated a party preference on the declaration of candidacy may not change the party preference between the primary election and the general election.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-230-050 Candidate ((nominated by two or more political parties or)) eligible for two or more offices. ((In the event a candidate, as a result of write-in votes, is the nominee of two or more political parties for the same office, such candidate shall designate in writing, under which political party designation he or she desires to be listed on the ballot. Such written notice shall be submitted to the county auditor within three days of the certification of the primary.))

In the event a candidate, as a result of write-in votes in the primary, is ((a nominee)) eligible to advance to the general election for two or more offices, the candidate shall notify the county auditor within three days of the primary certification, in writing, of the single office for which he or she desires to appear on the general election ballot. Any void in candidacy for other positions thus created will be handled as provided by law.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-230-060 Primary votes required for appearance on general election ballot. Following any ~~((nonpartisan))~~ primary, no candidate's name shall be entitled to appear on the general election ballot unless he or she receives the greatest or the next greatest number of votes for the office and additionally receives at least one percent of the total votes cast for the office.

~~((Following any partisan primary, no political party candidate's name shall be entitled to appear on the general election ballot unless he or she receives a plurality of votes cast for the candidates of his or her party for that office and additionally at least one percent of the total votes cast for the office. An independent candidate must receive one percent of the total votes cast for the office in the primary in order for his or her name to appear on the general election ballot.))~~ The filing officer shall notify, in writing, all candidates who satisfy other requirements but who fail to meet the one percent requirement of the fact that their name will not appear on the general election ballot.

~~((In those charter counties where provision is made in the county charter for the qualification of minor party and independent candidates, the charter provisions shall apply if the candidates has chosen that method for ballot qualification.))~~

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-230-170 ~~((Electronic voting devices--))~~ Ballot form. Each office on the ballot shall be identified, along with a statement designating how many candidates are to be voted on for such office (e.g., vote for . . . , with the words, "one," "two," or a spelled number). The office term shall be included on the ballot if such term is other than a full term (e.g., short/full term, two-year unexpired term, etc.). Each office shall be listed on the ballot in the manner prescribed by law or administrative rule. Following the office designation the names of all candidates for that position shall be listed ~~((together with political party designation certified by the secretary of state as provided in RCW 29A.36.010 or the word "nonpartisan," or "NP" as applicable))~~. If the position is a partisan position, the party preference or independent status of each candidate shall be listed next to the

candidate. The party preference must be listed exactly as provided by the candidate on the declaration of candidacy unless limited space on the ballot necessitates abbreviation or the party description provided is, in the opinion of the county auditor, obscene. If the office encompasses more than one county, the county auditor must coordinate the appearance of the ballot with other affected counties to achieve consistency. If the position is a nonpartisan position, the word "nonpartisan" or "NP" shall be listed next to each candidate. Each office listed on the ballot shall be separated by a bold line. In a year in which a President of the United States is to be elected, the names of all candidates for President and Vice-President for each party shall be grouped together. Each group shall be enclosed in brackets with one vote response position for each party, where the voter may indicate ((their)) his or her choice.

Candidate names and party preferences shall be printed in a type style and point size which is easily read. If a candidate's name or party preference exceeds the space provided, the election official shall take whatever steps necessary to place the name on the ballot in a manner which is readable. These steps may include using a smaller point size, a different type style, or setting the name in upper/lower case letters, rather than upper case, if appropriate.

For paper ballots, there shall be a box at either the left or right of the name of each candidate where the voter may indicate his or her choice.

Each position, with the candidates running for that office, shall be clearly delineated from the following one by a bold line. Following each listing of candidates shall be a blank space for writing in the name of any candidate, if desired, on the ballot card, or a write-in space provided on the ballot envelope.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-230-210

Paper ballots--Ballot form.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-261-020 Counting center--Political party observers. Counting center operations shall be observed by at least one representative from each major political party, if representatives have been appointed by the respective political parties and those representatives are present while the counting center is in operation.

Prior to the primary or election, the county auditor shall determine the number of observers required in order to observe all aspects of the counting center proceedings, and shall request, in writing, that each major political party appoint representatives to fill the requirements. Where more than one observer is to be appointed, the political party shall designate one of their observers as supervisor. Counting center observers shall be provided training with respect to ballot processing procedures and the vote tallying system as required by RCW 29A.12.120.

Before final assignment as observers, major political party representatives so appointed shall be reviewed by the county auditor, who may refuse to approve any person so appointed. In the event the auditor rejects a person designated, he or she shall promptly notify the political party concerned and request that a substitute observer be appointed, and shall ensure that the substitute observer is trained (~~((as provided in subsection (2) of this section))~~).

Representatives of the major political parties appointed as observers shall be identified by roster, including assigned observer stations if more than one in the counting center, and by identification tags which will indicate the observer's name and the party represented.

NEW SECTION

WAC 434-262-012 Partisan Primaries. Pursuant to chapter 2, Laws of 2005, a partisan primary does not serve to determine the nominees of a political party but serves to winnow the number of candidates to a final list of two for the general election. The candidate who receives the highest number of votes and the candidate who receives the second highest number of votes at the primary election advance to the general election, regardless of the candidates' political party preference. The candidates also must receive at least one percent of the total votes cast for that office at the primary in order to advance to the general election.

Each voter may vote for any candidate listed on the ballot, regardless of the party preference of the candidates or the voter. Voters at the primary election are not choosing a political party's nominees.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-160 Write-in-voting--Voter intent. In all cases of write-in votes the canvassing board shall exercise all reasonable efforts to determine the voter's intent. ~~((Write-in votes are to be counted where abbreviations are used for office, position, or political party.))~~ In a general election, write-in votes are not to be counted for any person who filed for the same office as either a regular or write-in candidate at the preceding primary and failed to qualify for the general election. If a ~~((write-in))~~ declaration of candidacy has been filed pursuant to RCW 29A.24.311, the voter ~~((need only))~~ must write in ~~((that))~~ the candidate's name in order for the vote to be counted. If no declaration of ~~((write-in))~~ candidacy has been filed, the voter must write in the candidate's name ~~((of the candidate, the political party, if applicable,))~~ and, if the office and/or position number cannot be determined by the location of the write-in on the ballot, the office and position number, in order for the write-in vote to be counted.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-262-005 Authority and purpose.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-381-120 Deadlines. (1) Candidate statements and photographs shall be submitted to the secretary of state:

(a) For candidates who filed during the regular filing period, within three business days after filing their declaration of candidacy;

(b) For candidates who filed during a special filing period, ~~((or were selected by a political party pursuant to either RCW 29A.52.010 or 29A.24.140,))~~ within three business days after the close of the special filing period ~~((or selection by the party))~~.

(2) For ballot measures, including initiatives, referendums, alternatives to initiatives to the legislature, and constitutional amendments, the following documents shall be filed with the secretary of state on or before the following deadlines:

(a) Appointments of the initial two members of committees to prepare arguments for and against measures:

(i) For an initiative to the people or referendum measure: Within ten business days after the submission of signed petitions to the secretary of state;

(ii) For an initiative to the legislature, with or without an alternative, constitutional amendment or referendum bill, within ten business days after the adjournment of the regular or special session at which the legislature approved or referred the measure to the ballot:

(b) Appointment of additional members of committees to prepare arguments for and against ballot measures, not later than the date the committee submits its initial argument to the secretary of state;

(c) Arguments for or against a ballot measure, no later than twenty calendar days following appointment of the initial committee members;

(d) Rebuttals of arguments for or against a ballot measure, by no later than fourteen calendar days following the transmittal of the final statement to the committees by the secretary. The secretary shall not transmit arguments to opposing committees for the purpose of rebuttals until both arguments are complete.

(3) If a ballot measure is the product of a special session of the legislature and the secretary of state determines that the deadlines set forth in subsection (2) of this section are impractical due to the timing of that special session, then the secretary of state may establish a schedule of deadlines unique to that measure.

(4) The deadlines stated in this rule are intended to promote the timely publication of the voters pamphlet. Nothing in this rule shall preclude the secretary of state from accepting a late

filing when, in the secretary's judgment, it is reasonable to do so.

EXHIBIT D



State GOP picks Hammond - Dunn will still run in primary for 9th District

by **Dean A. Radford, Journal Reporter**
The King County Journal

BELLEVUE -- Steve Hammond of Enumclaw pulled off a minor upset Saturday, beating political newcomer Reagan Dunn for the Republican Party nomination in the County Council's 9th District.

The political power of the Dunn family name-- he's the son of former U.S. Rep. Jennifer Dunn -- and more than \$100,000 in contributions filled Dunn's campaign sails.

But Hammond succeeded where it counted the most -- he got his people to the polling place, the county party's nominating convention. It's the fourth time in just two years that his political future has been in the hands of others.

The 9th District was the council race everyone came to watch or to cast a ballot in, drawing about 60 percent of the convention's 721 delegates.

But don't count out Dunn yet, even though the convention was intended to pick the party's one nominee for county executive and each County Council district race.

Because of the closeness of the outcome, just 26 votes, Dunn, of Bellevue, plans to file as a candidate in the September election, which is designed to send the top two vote-getters to the general election.

"I think it's time to let the people decide," he said, saying he's not disrespectful of the party, which has now endorsed Hammond.

The question is whether his name will have an R for Republican after it. A decision on a federal lawsuit over the state's primary system could play a part in the answer. The chairman of the county Republican Party, Michael Young, said the state party would sue King County to remove Dunn's name from the ballot if he runs as a Republican.

It would put the party in the uncomfortable position of challenging the son of a former chairwoman of the state party, Jennifer Dunn.

If necessary, "I am going alone," said the lifelong Republican.

Dunn thinks the loser in a council race in Seattle pitting two Democratic incumbents, Bob Ferguson and Carolyn Edmonds, will make the same choice.

It's possible Dunn and Hammond could both advance to the general election, depending on the strength of the candidate the Democrats field in the race. Their nominating convention is later this month in Bellevue.

The final vote tally was 234 for Hammond to 209 for Dunn. In keeping with recent problems counting ballots in King County, there were eight more ballots cast than eligible voters.

But the difference wasn't enough to change the outcome of the election, so the results stood.

Had he lost, Hammond said he would have bowed to the wishes of the party and not challenged Dunn in the September election. He's not sure how to react to Dunn's decision, now.

But, he said, the challenges ``just keep coming," especially from within his own party. Some have said Dunn was the object of ``dirty politics" late in the race, but that allegation caught Hammond by surprise.

Dunn's hand shake and a hug after the vote, Hammond said, was a sign of party unity.

Hammond kept his cards -- his delegates -- close to his chest. Cautious optimism has become part of his election-day lexicon. Just before the convention, Dunn said the race for delegates had tightened considerably, but he felt he was pulling away.

Each candidate's name was placed into nomination; then they gave a five-minute speech. Speaking next to the podium with microphone in hand, Dunn said he is the stronger of the two candidates to beat a Democrat.

He pointed out that gubernatorial candidate Dino Rossi barely carried the 9th District. After his speech, Dunn sat in the back row to listen to Hammond. His mother walked over and placed her hand on his shoulder.

Both candidates whipped up the delegates with harsh criticisms of County Executive Ron Sims, especially the way his elections division handled the 2004 election, and of the much-maligned, at least in rural areas, Critical Areas Ordinance.

``We are in the middle of a war," Hammond said. ``I am asking that you not take me off the battlefield."

Saturday, it was Hammond's soldiers who won the battle. He seemed to enjoy the day, chatting easily with supporters.

A union member, Barbara Bogar of Enumclaw, admits she's a Democrat, but ``today, I am a Republican for him." Hammond's experience on the council matters to her.

``He's not new coming into it," she said. ``He's here for us."

Both candidates started their political careers as appointees, replacing council icons, now attorney general Rob McKenna in Dunn's case and the late Kent Pullen in Hammond's case.

Each bore the title incumbent, just from different districts. Redistricting threw them together in the council's new 9th District, which Hammond has represented.

Rossi nominates Irons for county executive post

By Dean A. Radford

Journal Reporter

BELLEVUE -- Republican officials admit Saturday's first-ever nominating convention was a bit chaotic, but Dino Rossi brightened everyone's day when he nominated David Irons for county executive.

EXHIBIT E

ID Size and Placement

According to state law, on written or printed political advertising, the sponsor's full name and address and the candidate's party affiliation must:

- appear on the first page of the communication in at least 10 point type, or
- for ads such as billboards or posters, appear in type at least 10% of the largest size type used in the ad, and
- not be screened or half-toned (i.e., not made lighter through some printing or photographic process), and
- be set apart from any other ad text.

In any radio or TV political ad, the sponsor's full name and candidate's party identification must be clearly spoken.

Abbreviations

The following abbreviations may be used in advertising. PDC believes they clearly identify political party affiliation.

Communist—Com

Democrat—D, Dem, Demo

Independent or unaffiliated—Ind, Indep

Libertarian—L, LP, LET, LBTN

Republican—R, GOP, Rep (Use the latter only when it could not erroneously imply the candidate is a State Representative.)

Socialist—Soc

Socialist Workers—Soc Workers, SWP

Official symbols or logos adopted by the state committee of the party may be used in lieu of other identification; a copy of the symbol or logo should be provided to PDC.

Independent Expenditure Advertising

Political advertising that meets **all** of the following criteria must include more details about the sponsor(s):

- 1) the ad supports or opposes a candidate for state or local office;
- 2) the ad is paid for by someone other than a candidate, a candidate's committee or agent;
- 3) the sponsor does the advertising completely independently of any candidate supported in the ad (or the opponent of the candidate opposed), or a candidate's committee or agent;
- 4) the sponsor did not receive the candidate's encouragement or approval to do the ad; and
- 5) the ad costs at least \$675, or the cost of this ad when combined with the cost of earlier ads supporting or opposing the candidate total \$675 or more.

If all 5 conditions are met and the sponsor is other than a political party, the ad must contain the following:

"NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate. It is paid for by (name, address, city, state)."

Further, if this type of ad is sponsored by a political committee or PAC, the following must also appear: "Top Five Contributors" followed by a list of the names of the five persons or entities making the largest contributions to the PAC during the 12 months before the ad runs. If a political committee keeps records necessary to track contributions according to the use intended by contributors, that committee may identify the top five contributors giving for that purpose.

Both the "Notice to Voters" and "Top Five Contributors" messages must comply with the ID Size and Placement standards noted above.

The "Notice to Voters" and "Top Five Contributors" provisions for radio and television independent expenditure political advertising must be clearly spoken.

If independent expenditure advertising is in the form of yard signs, bumper stickers, skywriting or other items exempt from sponsor ID (as discussed on the reverse), these ads are also exempt from the Notice to Voters and Top Five Contributors requirements.

MAILINGS: Any person or entity, except a political party or political committee, that in one calendar year mails 1,000 identical or nearly identical pieces of advertising supporting or opposing a candidate or ballot measure as an independent expenditure must provide the appropriate county auditor with a copy of the ad and written notice of the number of pieces mailed within two working days of the mailing. Contact PDC for more information.

REPORTING INDEPENDENT EXPENDITURES:

Anyone (except a committee already filing with PDC) that spends \$100 or more supporting or opposing a candidate or ballot measure—and the expenditures are not made in conjunction with a candidate or ballot issue committee—must file independent expenditure reports (Form C-6). Last minute independent expenditure political ads valued at \$1,000 or more presented to the public within 21 days of an election must be reported within 24 hours.

In addition, any business, union, association or other entity that during one calendar year makes independent expenditures totaling over \$675 supporting or opposing state office candidates and statewide ballot measures must also file Form C-7 (unless the entity reports the expenditures as a PAC or lobbyist employer).

Political Advertising



PUBLIC DISCLOSURE COMMISSION
PDC
711 CAPITOL WAY RM 206
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111
TOLL FREE 1-877-601-2828

"Political Advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

General Requirements

Sponsor ID: Written ads must identify the sponsor's name and address unless exempt.*

Exempt From Sponsor ID: Yard signs (8' x 4' or smaller) and some other items are exempt. See list at far right.

Broadcast Ads: Radio and TV ads must state the sponsor's full name, but not the address.*

Party Affiliation: All forms of advertising must clearly state a candidate's party affiliation if the candidate is seeking partisan office. This requirement applies regardless of whether the ad is sponsored by the candidate or someone else.

Size and Placement: See back side of brochure for size and placement criteria regarding sponsor and party ID.

Photographs: If candidate photos are used in any ad, at least one of them must have been taken within the last 5 years and be no smaller than the largest candidate photo in the ad.

Office Sought: State law does not require ads to include the office or position a candidate is seeking.

*Advertising that qualifies as an "independent expenditure" is subject to different sponsor ID requirements (unless the sponsor is a political party). See reverse side.

The Law Forbids:

- Using an assumed name when identifying the sponsor.
- Sponsoring an ad that contains a false statement of material fact about a candidate (unless a candidate is making statements about him or herself).
- Falsely claiming or implying a person or group supports or endorses a candidate when they do not.
- Falsely representing a candidate as the incumbent. (On letterhead, yard signs and other forms of advertising, **non-incumbents must actually state they're seeking the office:** e.g., Mary Smith for State Senate or Elect Mary Smith State Senator.)
- Distributing campaign material deceptively similar in design or appearance to the voters and candidate's pamphlets published by the Secretary of State.
- Using the state seal or its likeness to assist or defeat a candidate.

These definitions apply in political ads:

"Incumbent" means a person who now holds an elected office.

"Re-elect" represents that the candidate is presently holding the office being sought, was elected to it, and is seeking another term in that same office in the same district or political subdivision.

"Retain" represents that the candidate is the incumbent but does not imply that the candidate attained the office by election.

"Return" represents that the candidate now holds, or has previously held, the office being sought, but does not represent that the office was attained by election.

"Sponsor" means the candidate, committee or other person who pays for the advertisement. If a person acts as an agent for another or is reimbursed for payment, the original source of the payment is the sponsor.

To identify the sponsor, use the words "Paid for by" or "Sponsored by" followed by the name and address of the sponsor.*

What's Needed for Sponsor ID

State, Local & Judicial Candidates—show the candidate's name and address or the candidate's committee name and address.

Federal Candidates—only subject to federal law. (Contact FEC at 1-800-424-9530)

Political committees—show the committee's name and address. The treasurer's name is not required.*

Organizations or businesses—show the organization or business name and address. President or treasurer's name is not required.*

Multiple sponsors—show each sponsor's name and address. If one person pays for printing and another pays for mailing, list both as sponsors.*

Printed ads—show the sponsor's name, mailing address and, if applicable, the candidate's party affiliation in an area apart from the ad text. If the ad is more than one page, identify the sponsor (and party) on the first page. Identification on a mailing envelope is optional; it's the ad enclosed in the envelope that must be properly identified.*

Radio and TV ads—clearly say the sponsor's name. Address not required.*

*Advertising that qualifies as an "independent expenditure" is subject to different sponsor ID requirements (unless the sponsor is a political party). See reverse side.

Items Exempt from Sponsor ID

astar/s badges & badge holders balloons bingo chips brushes bumper stickers business cards buttons cigarette lighters clothes pins clothing coasters combs cups earrings emery boards envelopes erasers Frisbees glasses golf balls & tees hand-held signs hats horns ice scrapers inscriptions key rings knives labels letter openers magnifying glasses matchbooks nail clippers & files	newspaper ads (one col- umn inch or smaller) noisemakers official state or local voter pamphlets paper & plastic cups paper & plastic plates paperweights pencils pendants pens pinwheels plastic tableware pocket protectors pot holders reader boards with moveable letters ribbons rulers (12" or smaller) shoe horns skywriting staple removers stickers (2-3/4" x 1" or smaller) sun glasses sun visors swizzle sticks tickets to fund raisers water towers whistles yo-yos all similar items
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