

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

WASHINGTON STATE
REPUBLICAN PARTY, et al.,

Plaintiffs,

WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE, et al.,

Plaintiff Intervenors,

LIBERTARIAN PARTY OF
WASHINGTON STATE, et al.,

Plaintiff-Intervenors,

v.

STATE OF WASHINGTON, et al.,

Defendant-Intervenor,

WASHINGTON STATE GRANGE,

Defendant-Intervenor.

No. C05-0927 JCC

**DECLARATION OF ORRIN L.
GROVER IN OPPOSITION
TO MOTIONS FOR
SUMMARY JUDGMENT BY
STATE OF WASHINGTON &
WASHINGTON STATE
GRANGE**

Noted on motions calendar for
Friday, September 17, 2010

Oral argument requested

DECLARATION OF ORRIN GROVER
Page 1 of 3
NO. CV 05-0927-JCC

ORRIN L. GROVER
ORRIN L. GROVER, P.C.
416 Young Street, Woodburn, OR
97071 [503] 981-5836
IN PRO HAEC VICE

I declare under penalty of perjury as follows:

1. My name is Orrin Grover. I am one of the attorneys for the Plaintiff-Intervenor, Libertarian Party of Washington.

2. The State has designated as its expert for trial Dr. Todd Donovan, a professor at Western Washington State University. Dr. Donovan's deposition was taken on August 30, 2010 by the plaintiffs in this case. My office received an email copy of his deposition on the evening of September 11, 2010. An excerpt from this electronic copy is attached as Exhibit A to this declaration.

3. Attached to this Declaration as Exhibits B, C, D and E, as described below, are true and correct copies of documents produced by the State of Washington from their records during discovery in this case.

4. Exhibit B is four pages of newspaper or other media coverage of the Top Two primary.

5. Exhibit C is five pages. A press release from the Washington Secretary of State, and two emails.

6. Exhibit D is a one page email from Catherine Blinn, Esq. dated June 22, 2010 discussing the 2008 primary election.

DECLARATION OF ORRIN GROVER
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7. Exhibit E is an advice memorandum from Jeffrey Even, Esq. to the office of the Secretary of State regarding PCO's.

8. In Dr. Donovan's deposition, I read him the following quote: "The single most important factor in state politics is the political party." The quote was taken from his textbook: *State and Local Politics: Institutions and Reform* [2009 Ed.].

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated at San Woodburn, Oregon, this 13th day of September, 2010.

ORRIN L. GROVER, P.C.
/s/ Orrin L. Grover
ORRIN L. GROVER, OSB NO. 78010

EXHIBITS A-E

DECLARATION OF ORRIN GROVER

EXHIBIT A

EXCERPT FROM THE DEPOSITION OF TODD DONOVAN, Ph.D. AUGUST 30, 2010

0079

1 initially had them in was just not the raw data, but the
2 frequencies. I now have the raw data, but I haven't
3 done the cross-tabs.

4 Q. Then on page 4 of your report you say, "Many (perhaps
5 most) Americans lack basic factual knowledge about" the
6 "political process related to parties, candidates, and
7 nominations." You see where it says that? It's --

8 A. Yeah.

9 Q. -- the first sentence --

10 A. Yes.

11 Q. -- top of the page? Okay.

12 As to Americans lacking basic factual knowledge as
13 to parties, is that many or most Americans?

14 A. You -- it would probably depend on what specific item
15 we're asking them about. There may be some things that
16 are more visible to people than others. So what -- you
17 know, if you're asking them what is a party nominee,
18 what is a party endorsement, what is a precinct
19 committee officer, who is the Democratic nominee for
20 President, those will elicit more or less correct

21 answers depending on the item you're asking about.

22 But my assumption is, and I think I'm supporting it
23 with data, on a lot of these things, we measure very
24 high levels of error in response to factual questions.

25 Q. Well, specifically relating to parties, for example,

0080

1 would you expect that many Americans would not know that
2 the elephant is the symbol of the Republican Party?

3 A. I'm not sure about that one. That'd be interesting to
4 test.

5 Q. But you're not aware of any testing that's been done
6 with regard to that?

7 A. No. I'm -- I think that is maybe something that's much
8 more visible than the rules of the political process.
9 That's the sentence -- I'm sorry; that sentence refers
10 to factual knowledge about the process of politics.

11 Q. And what would you mean by the process of parties, then?

12 A. The internal workings of political parties, what a party
13 is and does. Those are just not things that most people
14 are going to have detailed knowledge of.

15 Q. And you -- the statement continues that many or most
16 Americans lack basic factual knowledge about candidates.

17 You -- that -- you stand by that conclusion?

18 A. About the political process related to parties'

19 candidates and nominations. So --

20 Q. Well, what is it that Americans lack knowledge about

21 with regard to the political process as to candidates?

22 A. This relates to the Manweller study, that if we're going

23 to be measuring confusion, we need to be aware of
most

24 people don't know what a nomination process probably
is.

25 Q. Well, I know.

0081

1 But nominations are separate -- you have three

2 things in the sentence --

3 A. Okay.

4 Q. -- parties, candidates, and nominations. I haven't

5 gotten to nominations yet. I'm just asking about

6 candidates.

7 A. Okay. Well, the sentence is meant to say, the relations

8 between parties, candidates, and nominations in terms of

9 the political process and how those three entities

10 interact is not something most Americans have detailed

11 factual knowledge about.

12 Q. So actually, the sentence should read, many, perhaps
13 most, Americans lack basic factual knowledge about how
14 the political process relates as between parties,
15 candidates, and nominations?

16 A. I like the sentence the way I wrote it, but --

17 Q. But I thought you just said it was that you meant
18 something a little bit different than what it says.

19 A. I -- it means what it says, that most Americans lack
20 basic factual knowledge about political process related
21 to parties, candidates, and nominations. I was trying
22 to --

23 Q. Well, let's focus on nominations, then. What factual
24 knowledge about political -- about the political process
25 related to nominations do most Americans lack?

0082

1 A. A lot of the concepts that we've been talking about here
2 today. We can't assume people know what it means to
3 call something a primary versus a general election.
4 These things that might seem straightforward to us might
5 not be straightforward to the average voter.

6 Q. Well, do you think that they are not straightforward to
7 the average voter?

8 A. That's the point of this report, is that on many items
9 where we're trying to measure factual information about
10 the political process, people just don't have basic
11 factual information.

12 Q. And so they -- does that mean -- I'm sorry; let me
13 rephrase it.

14 So does that mean they don't know what a nomination
15 is?

16 A. Yeah.

17 Q. So most Americans can't tell the difference between a
18 preference and a nomination.

19 A. I haven't tested that. I don't know. That -- but on
20 things relating to the process of candidate nominations,
21 I -- you're on any question probably going to measure a
22 lot of factual errors.

23 Q. And how is that -- how does that contradict
24 Dr. Manweller's conclusions?

25 A. It's -- the point is to show that there's a base-line

0083

1 level of confusion that needs to be recognized when
2 you're designing an experiment and then trying to make
3 claims about causality and how the ballot design may

4 increase or decrease confusion; that there's a high base
5 line to start with.

6 Q. And do you have an opinion as to what extent that base
7 line is reduced by the design of the Washington State
8 ballot for the 2008 election?

9 A. I didn't do work on that, no.

10 Q. So that means you don't have an opinion about that?

11 A. Not based on empirical research that I've done. I think
12 I've got a statement in my report where I can infer --
13 or try to infer from the data in Dr. Manweller's
14 experiments that show substantially less as he codes
15 voter confusion with the ballot statement, but I haven't
16 done my own independent work to come up with an estimate
17 of that.

18 Q. I don't understand.

19 First of all, you don't have any conclusion that's
20 based on your own empirical research; correct?

21 A. Right.

22 Q. With regard to that issue.

23 A. Correct.

24 Q. And you're taking Dr. Manweller's report, which finds
25 that there is confusion, and saying, based upon his

0084

1 report, which finds there is confusion, you believe
2 there is no confusion because you disagree with his
3 methodology.

4 A. No, I didn't say that. There's --

5 Q. What was wrong with what -- with my description of what
6 you said?

7 A. Can you -- the court reporter repeat it or --

8 Q. Sure, sure.

9 MR. GROVER: Could you read it back, please.

10 [Record read back as requested]

11 A. No, I would disagree with that statement. I was saying
12 there is substantial confusion. You start with
13 confusion. The Manweller report leaves unresolved the
14 issue of how the ballot relates to voter confusion.

15 Q. (by Mr. Grover) So you can't draw any conclusion about
16 voter confusion from Dr. Manweller's report.

17 A. I would be hesitant to. But the -- his own report --
18 your initial question was, you wanted me to venture a
19 guess on how much the ballot statement might reduce
20 voter confusion. I can't do that. But if you look in
21 the Manweller report, his experiments do show a notable

22 reduction in confusion as he measures it as a result of
23 the ballot disclaimer.

24 Q. And you -- I'm sorry; go back here. In -- sorry; got to
25 look one up -- one other thing up here.

0085

1 What courses are you teaching this semester?

2 A. I'm not teaching this semester. We haven't started our
3 term yet and I'm on leave this coming semester. This
4 summer session I taught a campaigns-and-elections
5 course.

6 Q. And in the winter term, you're teaching what courses?

7 A. I don't know. I usually teach an introduction-to-
8 American-politics class at some point, a state-and-
9 local-politics class at some point, research methods,
10 statistics. I have a senior seminar thrown in there
11 somewhere this winter. I really try not to think about
12 that in summer.

13 Q. Well, according to the Web site, you're -- in the winter
14 term you're teaching the senior seminar and parties,
15 campaigns, and elections?

16 A. I'll take your word --

17 Q. Well, I'm just looking at the Web site.

18 That's a 400-level course. Can you tell us what
19 that -- I assume 400-level course means it's a senior
20 course?

21 A. Yeah, it's usually juniors and seniors. It's upper-
22 division course.

23 Q. And is that a course you taught before?

24 A. Yes.

25 Q. And what's the content of the course?

0087

1 use anymore called Forming the Republic. I don't have a
2 campaigns-and-elections text. Practical Approaches
3 isn't ringing a bell. Usually -- be a shame if I forgot
4 a book I wrote.

5 Q. What is your view about the role of political parties in
6 the political process in the United States?

7 MR. AHEARNE: Objection; foundation.

8 A. That -- I'm sorry; that's like asking what is my view of
9 the role of the Constitution. I could -- that's a very
10 open-ended question, so open that I don't think I'd know
11 how to respond to it. I mean, the standard --

12 Q. (by Mr. Grover) We won't start with the Constitution,
13 then.

14 Would you agree that a -- one of the more important
15 roles of a political party in the political process is
16 to nominate candidates for voters to choose?

17 MR. AHEARNE: Same objection.

18 A. I'll give you my standard sort of introduction-lecture
19 tag line for political parties, which -- the most
20 important thing about political parties is, they allow
21 voters to figure out who to hold accountable. By having
22 candidates run under labels, that they can then figure
23 out who's in power, who's not in power. That's usually
24 where we start on the party stuff.

25 Q. (by Mr. Grover) How do they communicate their -- the
0088

1 fact that they support a particular candidate?

2 A. They the parties or the voters?

3 Q. The parties.

4 MR. AHEARNE: Same objection.

5 A. I mean, my introduction-lecture response to your
6 question about what -- you know, what do I think about
7 the role of political parties is, that's more a
8 votercentric perspective of parties, not a partycentric
9 vision of the parties.

10 Q. (by Mr. Grover) I'm not sure if you've answered my
11 question.

12 How do the parties communicate -- you said that the
13 voters look to the parties to -- as people to hold
14 responsible and for the communication of ideas.

15 A. No, I --

16 Q. How --

17 A. The parties provide labels or cues so that voters know
18 potentially who's in government, who's not in
19 government. So you're asking how does the -- how do the
20 parties as organizations communicate that to voters? I
21 think it'd be more the candidates can --

22 Q. Yes.

23 A. Okay. No, I think in that definition, I mean, with the
24 candidates and the voters, the voters are receiving that
25 information from the candidates, they'd be receiving
0089

1 information from the media. I think the parties as
2 organizations are rather invisible to voters.

3 Q. Then how do the voters look to them for cues if they're
4 invisible?

5 A. They're -- as I just said, the -- if you are listening

6 to the news right now, you would probably learn that
7 there is a Democratic majority in Congress and a
8 Democratic incumbent in the White House. And a simple
9 model of voting would be that's all that a voter needs
10 to know if they want to reward or punish the incumbent
11 government. They'd receive it from the media and from
12 the candidates. Most people don't know who the chair of
13 the national party committees are or much about the
14 parties themselves.

15 Q. The book that I was referring to before was State and
16 Local Politics: Institutions and Reform.

17 A. Yes.

18 Q. Is that your --

19 A. That is mine.

20 Q. And you use that as a textbook?

21 A. Yes.

22 Q. And it's -- you're still currently using it, the 2009
23 version?

24 A. Yeah.

25 Q. Is that one of the books that you might use in your

0090

1 upcoming winter course? And I know you probably haven't

2 decided on what -- exactly what your syllabus is.

3 A. No, I don't use it in a campaigns/elections class. I

4 use it in a state-and-local-politics class.

5 Q. Would you agree with the statement that the single most

6 important factor in state politics is the political

7 party?

8 MR. AHEARNE: Objection; lack of foundation.

9 A. No, I don't know if I -- I don't think I'd -- I don't

10 agree or disagree with it, but -- say it again.

11 Q. (by Mr. Grover) The single most important factor in

12 state politics is the political party.

13 MR. AHEARNE: Same objection.

14 A. You finding that in my book?

15 Q. (by Mr. Grover) Yes.

16 A. Yeah, my coauthor wrote the chapter on parties; sorry.

17 No, I don't dis -- I don't necessarily agree or

18 disagree with it. I could maybe think of other things

19 that we could say are quite important, but I don't deny

20 the importance of parties in state politics.

21 Q. So they would at least be an important factor even if

22 it's not the single most important factor.

23 A. Certainly, yeah. No, I mean, we -- and going back to

24 the introduction-to-American-politics lecture, we would
25 say that the political system would not work without
0091

1 political parties.

2 Q. And under the Washington top-two primary system, how do
3 political parties indicate to their -- or assure that
4 their preference for a particular candidate is
5 communicated to the voters?

6 A. How do the parties in the state communicate that
7 their -- how do they do that under any ballot?

8 Q. Well, in Oregon, they're entitled to put Republican
9 after their designation on the ballot, indicating that
10 they're the nominee of the Republican Party. In
11 Washington, they're not permitted to do that.

12 A. Yeah, I guess --

13 Q. The party's not able to register any communication
14 through the ballot or through the voters' pamphlet.

15 A. They're --

16 Q. Is that correct?

17 A. Yeah, I think the disconnect we're having in this is
18 that -- I'll get back. The voter's conception of the
19 party is largely independent of the party organization.

20 So the party -- you know, you can say that the party is
21 fundamentally important to state politics. That doesn't
22 necessarily mean voters have any sense of how candidates
23 have labels listed next to their name and how that
24 relates to a party organization.

25 Q. Well, that kind of dodges my question.
0092

1 My question was, how does the political party
2 communicate through the ballot and through the voters'
3 pamphlet or does it have any opportunity to communicate
4 its preference for a particular candidate?

5 A. I don't know how the parties do this. They can, I
6 assume, run ads. They -- I don't know what they're
7 allowed to put in the voters' pamphlet in Washington.

8 Q. So you don't know one way or the other whether they're
9 allowed to put anything in the voters' pamphlet with
10 regard to candidates.

11 A. No, I'm not familiar with that, with what the candidate
12 can put in the candidate statement. I don't know what
13 regulations there are on that. But candidates and
14 parties communicate through media, they communicate
15 through ads. I don't think of the ballot as the primary
16 medium for communication.

17 Q. Well, you're familiar with the Supreme Court decisions
18 that say that -- that talk about the importance of the
19 ballot because it's the last thing the voter looks at
20 before the voter votes.

21 A. I --

22 MR. PHARRIS: I'd object to foundation on that
23 question.

24 A. I'm not a lawyer. I work more in social science, so I
25 wouldn't be able to --

EXHIBIT B

NEWSPAPER COVERAGE OF "TOP TWO" PRIMARY

TOP TWO

▼ *Aug. primary will be first test for new system.*

CONTINUED FROM A1

Democrats would result in a more meaningful discussion of the issues and a better candidate prevailing.

For instance, a contest in heavily Democratic downtown Seattle between two Democrats, one liberal and one more moderate, would be more compelling than one between a Democrat and a conservative Republican who was all but certain to lose.

On the other hand, as former Washington State Democratic Chairman Paul Berendt said, some voters will "have ballots that do not reflect a diversity of ideas."

In addition to Wyman and Berendt, the panel featured Kitsap County Republican Chairman Jack Hamilton and Washington Secretary of State Sam Reed.

Reed outlined the recent history of the state primary, beginning with the open "blanket" system that allowed cross-party voting.

This was replaced by a system requiring a single party preference, which was in place in 2006.

This year, the system elevates the top two primary vote-getters to the general election, which theoretically could result in two members of the same party opposing each other in the general election.

This situation could occur locally, in the race for South Kitsap commissioner. With two Democrats, one Republican and an independent in contention, it is possible that the fall contest could pit Democrats Charlotte Garrido

and Monty Mahan against one another.

Even with the expected lawsuits, Reed predicts the system will hold fast for future elections. It was challenged in the U.S. Supreme Court, but supported by a 7 to 2 majority.

This margin, Reed said, will discourage any further challenges.

Wyman said the new system will change how elected officials are replaced once in office, a situation that is directly relevant to Kitsap County.

In the past year, two electors have left their posts before the end of their term, with the replacement selected by their party.

Under the new system officeholders are not elected as their party's nominees, so the party will not be entitled to pick the replacement.

Wyman would not predict how this would shake out, but that resulting court cases would set the necessary precedent.

A Republican, Wyman said she would not mind voting for two Democrats in the gubernatorial election if they were the prevailing candidates.

She noted that if the new system was in place in 2004 the election would have been more decisive.

Christine Grégoire and Dino Rossi, who became the nominees that year, were the top two vote-getters. And the omission of third party candidates in the general election would have provided a decisive result, one way or the other.

On the other hand, the 1996 election during which Kitsap Republican Ellen Craswell was her party's nominee would have turned out quite differently. Craswell earned that nomination with only 15 percent of the total vote due to a crowded Republican field.

The case may eventually return to the U.S. Supreme Court, but not until it is tested at least once.

"The losers are the independents," Hamilton said. "Many people want to vote for the candidate and not the party. As it stands, the best way to accomplish this is to join a party and get involved. You can't change things from the outside."

Berendt agrees the voters will face lots of unforeseen circumstances, but also predicts the new system will survive.

"Political parties always learn to play the cards they are dealt," he said.

See related Guest Opinion, page A4.

Port Orchard, WA
(Kitsap Co.)
Independent
(Cir. 2xW. 16,013)

JUN 21 2008

Allen's P.C.B. Est. 1888

Top-two system muddies state's politics

▼ *Visiting elections officials expecting another legal challenge.*

By CHARLIE BERMANT
Staff Writer

The newly enacted top-two primary will change how people vote and elect people who more closely represent the will of the people but will create some uncertain situations, according to information presented at a meeting of the Washington State Association of Counties in Bremerton on Thursday.

The system, which faces its first test

emerge after the election.

"This brings us into uncharted territory," said Thurston County Auditor Kim Wyman. "I fully expect that it won't be too long before the parties will sue us. But a lot of districts have already favored one party or another, and they are OK with having two candidates belonging to the same party."

Wyman said an election in a district that consistently polled 15 percent for a Republican candidate a race between two



Charlie Bermant/Staff Photo

Washington Secretary of State Sam Reed and Thurston County Auditor

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[Back](#)

Article published Jun 12, 2008

It's the top two, without the two

By [Tracy Warner](#)
Editorial Page editor

They call it the top-two primary, but what do you call it when there's only one candidate? The question is relevant this summer, as voters in North Central Washington face many runoff elections that feature either one party or one candidate.

Consider the absence of contests for the Legislature. Once again, in this swath of our the big blue state, Democrats just didn't show up. In the 12th Legislative District, Reps. Mike Armstrong and Cary Condotta, and Sen. Linda Evans-Parlette, R-Wenatchee, once again have no opposition. North in the 7th District, Rep. Joel Kretz, R-Wauconda, is lonesome. A crowd of candidates did file for the House seat vacated by Rep. Bob Sump, R-Republic — all Republicans: Sue Madsen of Edwall, Shelly Short of Addy, Kelly White of Kettle Falls and Mike Davis of Deer Park.

Down in the 13th, Reps. Judith Warnick, R-Moses Lake, and Bill Hinkle, R-Cle Elum, get a free pass.

This is not how it was supposed to be — a massive landscape, larger than many states, with Democrats in hiding. The top-two primary, which we will undergo for the first time Aug. 19, was supposed to shame the parties into fielding stronger candidates, lest they be embarrassed by their absence from the November ballot. Now we see they are perfectly satisfied with their absence. Nothing ventured, nothing lost.

Party officials will tell you they approached people about running for the Legislature but got no takers. It's too hard, too expensive, too mean and nasty. Democrats are supposed to be on the rise in Eastern Washington — demographic change, an influx of westsiders and westside attitudes, new money, new enthusiasm, etc. But for the Legislature, not even a decent sacrificial lamb.

It's only slightly better down ballot. In Chelan County, a slew of candidates is seeking the commissioner seat to be vacated by Buell Hawkins — all Republicans: Jay Witherbee, Stan Morse and Deanna Walter of Chelan, and Doug England of Manson.

Incumbent Commissioner Ron Walter does have a Democratic challenger in Wenatchee School Board member Chuck Largent. Democrats say Largent is "our hero." Those of us who are unattached may or may not consider him heroic, but we can thank him for giving us a choice.

In Douglas County, Democrat Russell Clark of Rock Island will challenge incumbent Commissioner Dane Keane. So will two more Republicans: Terry Barnes of East Wenatchee and Dale Snyder of Waterville. The top two vote-getters regardless of party will move the general election. Look for Republicans to split the vote and give us a traditional R-vs.-D race in November, an increasing rarity.

Elsewhere, all R's. Republican Douglas County Commissioner Ken Stanton is unopposed. In Grant County, it's R vs. R again: Incumbent Commissioner LeRoy Allison of Warden against Carolann Swartz of Moses Lake. Incumbent Richard Stevens of Soap Lake, no opposition. In Okanogan County, Commissioner Andy Lampe, R-Omak, meets challenger Larry Campbell, R-Okanogan. Commissioner Don "Bud" Hover is unopposed.

The tally: three counties, six commissioner seats, two Democrats; three legislative districts, seven seats, no Democrats.

From the standpoint of democracy, at least the top-two primary gives us a slight improvement. We in the one-party state will no longer have a relative handful of voters choose our leaders in September and give us one name and a blank in November. Instead, a relative handful of voters will sort out the Republicans in August, and let us choose from the survivors in November. It is better than no choice at all.

Tracy Warner's column appears Tuesday through Friday. He can be reached at warner@wenworld.com or 665-1163.

JUN 03 2008

Allen's P.C.B. Est. 1888

Office hopefuls jump on filing week

Dozens become candidates
on first day to enter primary

BY RICHARD ROESLER
Staff writer

OLYMPIA — In a small room in the state Capitol, Spokane retiree Barbara Lampert pulled out her checkbook, removed the rubber band around it, and carefully wrote out a check for \$1,652.

"If you don't have choices," she said, "you don't have democracy."

With that filing fee, Lampert launched her long-shot campaign to oust Congresswoman Cathy McMorris Rodgers. One of at least two Democrats vying for the seat, Lampert was among dozens of candidates who filed for office on Monday, the start of filing week.

The rules are a little different this year. The already-narrow window of time between filing week and the primary election is now even slimmer. After years of voting in a September primary, ballots this year will be due on Aug. 19th.

And under the state's first-ever "top two" primary, candidates are allowed to list a 16-character "party preference" on the ballot beside their name. Almost anything except obscenity is allowed.

But after an appeal for "no funny business" by the state's top election official last week, candidates seem to be playing it straight. Most stuck to variations of "Democratic" or "Republican." One candidate listed his own party, the Party of Commons. Some left the line blank.

Among Monday's surprises:

- Spokane Libertarian John Beck, an economics professor at Gonzaga University, also filed to challenge McMorris Rodgers.

- John Moyna, a night janitor running against Senate Majority Leader Lisa Brown, D-Spokane, was one of the few candidates who listed no party.

- Spokane Independent Marcos James Ruiz, Jr. filed to run for the state House seat of Rep. Don Barlow, D-Spokane. Among his campaign expenses so far: \$65.13 for "dog food for campaign mascot."

- Christopher Winter, a Green Party supporter from Clarkston, filed to run against Rep. Joe Schmick, R-Colfax. Among his planks: a 30-hour work week, hemp production and free college for undergraduates.

- Secretary of State Sam Reed, a Republican who until recently had no declared challengers, now has two: Seattle Democrat Jason Osgood and Bellevue's Mark Greene, chairman of the little-known Party of Commons.

With the primary looming, most candidates have been fundraising and campaigning for months.

At the state Capitol Monday morning, election officials were surprised at how slow registration was. In past years, candidates have lined up into the hallway.

"I'm amazed," said Reed, the state's top election official, looking at the largely empty office Monday morning. He was one of the first to file.

This year, Reed projects, about 70 percent of candidates will file over the Internet. And candidates' order on the ballot — a critical factor in lesser-known races — is no longer determined by who files first. These days, it's done with a lottery.

Filing fees are 1 percent of the position's salary. Running for governor, for example, costs \$1,636. For state lawmaker, it's about \$419. Candidates who can't afford that can gather signatures, with each valued at \$1.



At the Secretary of State's office in Olympia on Monday, Spokane retiree Barbara Lampert glances over her candidacy form declaring her long-shot run for Congress.

Candidates who filed Monday

**U.S. Representative,
5th Congressional District**
Barbara Lampert (Democratic)
John H. Beck (Libertarian)
Governor
Christine Gregoire (Democratic)
Lieutenant Governor
Brad Owen (Democratic)
Secretary of State
Sam Reed (Republican)
Mark Greene (Commons)
Jason Osgood (Democratic)
State Auditor
Brian Sonntag (Democratic)
Attorney General
John Ladenburg (Democratic)
**Superintendent of Public
Instruction**
Don Hansler
Randy Dorn
State Supreme Court
Pos. 3
Mary Fairhurst
Pos. 4
Charles W. Johnson

**3rd Legislative District
State Senate**
John Moyna (no party
preference)
**4th Legislative District
State Senate**
Judi Owens (Democratic)
State House Pos. 2
Matt Shea (Republican)
Ray Deonier (Republican)
**6th Legislative District
State House Pos. 1**
Marcos James Ruiz, Jr.
(Independent)
State House Pos. 2
John E. Ahern (Republican)
**9th Legislative District
State House Pos. 1**
Steve Hailey (GOP)
State House Pos. 2
Christopher Winter (Green)
Spokane County Superior Court
Pos. 1
Mark E. Vovos
Pos. 2

Neal Q. Rielly
Pos. 3
Tari S. Eitzen
Pos. 4
Kathleen M. O'Connor
Pos. 5
Michael P. Price
Pos. 6
Sam F. Cozza
Pos. 7
Maryann C. Moreno
Pos. 8
Harold D. Clarke III
Pos. 9
Jerome J. Leveque
Pos. 11
Greg Syppolt
Position 12
Ellen Kalama Clark
**Spokane County Commissioner
District 1**
Todd Mielke (Republican)
District 2
Brian Sayrs (Democratic)
**Public Utility District 1
Commissioner No. 2**
Ken (K.O.) Rosenberg

@ On the Web: To see updated candidate lists throughout the week and for more political news, go to eyeonolympia.com and spokesmanreview.com/elections/2008/blogs

am very much against uncontested races, and whether or not you're the last one standing, you do get your ideas out into the dialogue of the day."

Beck, running as a Libertarian for the same seat,

appear on the November ballot. And while Beck acknowledged that that's a high bar for minor-party candidates, he said voters who disagree with McMorris Rodgers should have a chance to show that in the primary.

Launching her 13th campaign Monday, Lampert said she tried unsuccessfully to recruit other like-minded candidates to run for the Congressional seat.

"I wish I got somebody that's willing to do it," Lam.

Port Angeles, WA
(Clallam Co.)
Peninsula Daily News
(Cir. D. 17,221)
(Cir. S. 18,560)

JUN 6 2008

Allen's P.C.B. Ed. 1988

Dicks facing most election foes in years

Fields for state, federal races fill; filing nears end

By BRIAN GAWLEY
PENINSULA DAILY NEWS

OLYMPIA — The North Olympic Peninsula's congressman, Norm Dicks, faces more opposition than he has in a decade as official filing comes to an end today.

Dicks, who first was elected to Congress in 1976 and a senior Democrat, could face a member of his own party.

Paul Richmond of Port Townsend officially filed for the August primary on Thursday, as did a Green

Elections 2008

■ Clinton plays down talk about her as Obama's running mate/A3

Party candidate, Gary Murrell of Hoquiam.

Earlier in the week, Doug Cloud of Gig Harbor filed as a Republican candidate in his third attempt to unseat Dicks.

Under the state's "top two" primary system in which the two leading vote-getters in the primary face

off in the November general election.

So Dicks could end up facing off against a member of his own party if Richmond outpolls the other two challengers.

A call to Dicks' campaign office for comment on possibly facing a member of his own party in November was not returned Thursday evening.

Today is the last day for candidates to formally file with the Clallam County Auditor's Office or Secretary of State's Office in the Aug. 19 all-mail primary.

Ballots will be mailed to overseas and military voters July 20, and to local addresses Aug. 1.

They must be returned or postmarked by Aug. 19.

TURN TO CONGRESS/A7

Dicks switches support to Obama

REP. NORM DICKS, a Democratic superdelegate thanks to his senior status in the party as well as in the House of Representatives, switched his support to Barack Obama on Thursday.

Dicks, D-Belfair, whose 6th Congressional District includes the North Olympic Peninsula, became a superdelegate for Hillary Rodham Clinton in February after he was convinced that his old friend, former Vice President Al Gore, wouldn't be running for president in 2008.

Dicks and Gore both entered the House of Representatives for the first time in 1976, and have remained close.

Dicks said he spoke to Clinton on Wednesday night and encouraged her to unify the party by publicly backing Obama.

Clinton told supporters in an e-mail Thursday that she will speak Saturday about how to rally the party behind Obama.

"I see no reason not to join in that effort and express my support for Obama," Dicks told The Associated Press.

Peninsula Daily News

Congress: District filings

CONTINUED FROM A1

The 6th Congressional District includes Clallam, Jefferson and Grays Harbor counties, most of the Kitsap Peninsula and most of the city of Tacoma.

24th District

In the state's 24th Legislative District, a second race developed Thursday as Robert Randall "Randy" Dutton, a retired naval officer who lives near Montesano, officially filed as a Republican for the Position 2 seat in the House of Representatives.

He will challenge House Majority Leader Rep. Lynn Kessler, D-Hoquiam, who filed her candidacy

on Monday.

Kessler, along with Rep. Kevin Van De Wege, D-Sequim, and Sen. Jim Hargrove, D-Hoquiam, represent the 24th District.

It includes Clallam and Jefferson counties and one third of Grays Harbor County, including Hoquiam.

Dutton originally announced he would run against Van De Wege, but switched opponents because Kessler, he said, is a bigger target and both live in the same county.

In the Position 1 race, Van De Wege is being challenged by Joyce Republican Thomas Thomas, owner of Strait Broadband.

Thomas filed on Wednesday and Van De Wege filed

on Monday.

Thomas has been endorsed by fellow Joyce resident Jim Buck, who served 12 years in the Legislature before losing the 2006 election to Van De Wege.

Van De Wege, a 33-year-old Sequim firefighter and paramedic, is seeking his second term.

No one has publicly announced or officially filed against Hargrove, who is seeking a fifth term.

He first won election to the House in November 1984, then ran successfully for the Senate in November 1992.

Reporter Brian Gawley can be reached at 360-417-3532 or brian.gawley@peninsuladailynews.com.

EXHIBIT C

SECRETARY OF STATE DOCUMENTS

Washington

Secretary of State
SAM REED

News Release

FOR IMMEDIATE RELEASE
June 6, 2008

Contact: Brian Zylstra
Deputy Communications Director
(360) 902-4173

Election '08: Filing Week sees 180 candidates use e-filing

OLYMPIA – As candidates concluded filing for office late Friday afternoon, the option of filing online with the Secretary of State proved to be popular.

When the filing period ended, 180 candidates had filed electronically, 54.2 percent of the 332 candidates who filed with the Secretary of State.

"The online method proved to be a popular and convenient way for many candidates to file with our office, especially those who live far from Olympia," said Secretary of State Sam Reed.

Filing Week began Monday morning. Candidates for Congress, statewide office such as governor, and legislative and judicial districts that cross county lines had to file with the Secretary of State. Candidates for offices wholly within one county could file with their County Auditor or the Secretary of State.

State Sen. Dan Swecker, R-Rochester, who was released from the hospital on Sunday following open-heart surgery last week, e-filed for his 20th District Senate seat from the comfort of his home Monday.

"E-filing proved to be a very helpful tool for me considering my recent surgery," Swecker said. "It's important that I rest and recuperate, so I really appreciate this new filing option for candidates."

State Rep. Jim McIntire, D-Seattle, who is running for state treasurer, also filed online. McIntire said electronic filing saved him time and money.

"I didn't have to drive to the bank for a notary or stand in line to send my filing papers by certified mail," McIntire said. "Or alternatively, spend more than \$4 a gallon to drive to Olympia."

Other candidates who used e-filing this week include 8th Congressional District Democratic candidate Darcy Burner and Republican gubernatorial candidate Dino Rossi.

This secure option offers candidates a way to submit their filing at any hour of the day or night.

The filing period is about a month earlier than usual, following the Legislature's decision to accept a plan by Reed and County Auditors to move the primary forward about a month in order to allow more time between the primary and general elections. That will give auditors more time to deal with any recounts and to have adequate turnaround time to prepare general election ballots, including military and overseas ballots that must go out early.

The primary is Aug. 19. All but Pierce and King counties are voting entirely by mail and ballots must be postmarked by Aug. 19. The general election is Nov. 4.

For more information, please visit http://www.secstate.wa.gov/elections/filing_for_elective_office.aspx. For more information, including FAQ and background on the Top 2 Primary, click on the top-two icon.

###

Blinn, Katie

From: Blinn, Katie
Sent: Tuesday, April 22, 2008 2:55 PM
To: 'Mila Jury'
Subject: RE: Top Two

Yes, or just:

"To vote for a write-in candidate, completely fill in the box provided to the left of the words "Write-In" and write in the name of the candidate on the line provided."

The candidate's party preference is irrelevant to whether the candidate will advance to the General Election so the voter does not need to provide any party information.

From: Mila Jury [mailto:mjury@co.okanogan.wa.us]
Sent: Monday, April 21, 2008 4:59 PM
To: Blinn, Katie
Subject: RE: Top Two

Our "instructions" are on the pink security envelope with a couple of instructions on the ballot itself.

So I have to add an insert to the ballot as well as what goes on the ballot itself for the Primary. The General will have an insert also about who goes on the ballot.

I assume this will be a forever thing.

I do have another question about write-ins. Our instructions to the voters say to write-in a candidate and party. Current instructions on ballot: To vote for a write-in candidate, completely fill in the box provided to the left of the words "Write-In" and write in the name AND party of the candidate on the line provided.

So how do we change it now?

To vote for a write-in candidate, completely fill in the box provided to the left of the words "Write-In" and write in the name and preferred party, if known, of the candidate on the line provided?

From: Blinn, Katie [mailto:kblinn@secstate.wa.gov]
Sent: Monday, April 21, 2008 4:30 PM
To: Mila Jury
Subject: RE: Top Two

I am not sure that I understand the question. Do you already do an insert for your regular instructions? The intent for this new message for the Top Two Primary is to provide a separate insert explaining this new system. So if you already provide an insert for your regular instructions, you will have to provide two for the Primary. For the General Election, the message explaining the Top Two does not have to be on a separate insert but can accompany your regular instructions.

From: Mila Jury [mailto:mjury@co.okanogan.wa.us]
Sent: Monday, April 21, 2008 2:44 PM
To: Blinn, Katie
Subject: RE: Top Two

I'm sorry, but I have another question. We have to put inserts/instruction in both the Primary & General election ballots. Can we 1) put both on one insert (same side) 2) both on one insert but one on back and one on the front and send the same insert in both election ballots or do we have to have two separate ones.

4/22/2008

From: Blinn, Katie [mailto:kblinn@secstate.wa.gov]
Sent: Monday, April 21, 2008 9:19 AM
To: Mila Jury
Cc: Elections - Cert & Training
Subject: RE: Top Two

Yes. This is because we have to emphasize that candidates for congressional, state and county partisan office are not nominees of a political party, and do not represent a party. However, for President and Vice President, those candidates are the official nominees of their party. This is a way to distinguish the two different scenarios.

Keep in mind that we are administering this new system in a courtroom, not just on the ballot.

From: Mila Jury [mailto:mjury@co.okanogan.wa.us]
Sent: Monday, April 21, 2008 9:04 AM
To: Blinn, Katie
Subject: Top Two

I have another question regarding President/Vice President. We can not just put the party. We have to put Democratic Party Nominees, Republican Party Nominees, Socialist Workers Party Nominees, etc.

Mila M Jury
Chief Deputy
Certified Election Administrator
(509) 422-7244
mjury@co.okanogan.wa.us



4/22/2008

Blinn, Katie

From: DavidECunningham [davidec@co.skagit.wa.us]
Sent: Wednesday, April 16, 2008 1:45 PM
To: Blinn, Katie
Subject: RE: Draft Rules to Implement the Top Two Primary
Attachments: davidec@co.skagit.wa.us.vcf

Katie,

A few thoughts:

FILE "DRAFT DECLARATION OF CANDIDACY.PDF"

1. I thought I saw an earlier draft of this form (though I don't know if it was produced by OSOS) which included a section on name pronunciation. This is very helpful in this age in which we must produce audio files for the DAUs. I believe this section came right after the "Please print my name on the ballot exactly as shown" section.

FILE "PCO DECLARATION OF CANDIDACY.PDF"

1. My main comment on PCOs—and I know this is not doable at this time—is that they may kill the Top-Two all by themselves, so, at the least, move them to the General. At best:
 1. Make the parties conduct these elections! These are special elections we conduct for private entities, and we should get out of that business. If that's not possible...
 2. Make it so that if only one person files for a given precinct, there is no election.
 3. Move them to the General so they don't kill the Top-Two.

Thanks,

David

*David Cunningham
Elections Supervisor
Skagit County Auditor's Office
700 S. Second Street, Room 201
P.O. Box 1306
Mount Vernon, WA 98273
Phone: (360) 336-9426
Fax: (360) 336-9429*

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From: Blinn, Katie [mailto:kblinn@secstate.wa.gov]
Sent: Wednesday, April 16, 2008 10:41 AM
To: ADAMS - Nancy McBroom ; ASOTIN - Elaine Johnston; BENTON - Bobbie Gagner; CHELAN - Evelyn Arnold ; CLALLAM - Patty Rosand; CLARK - Greg Kimsey; COLUMBIA - Sharon Richter ; COWLITZ - Kristina Swanson ; DOUGLAS - Thad Duvall ; FERRY - Dianna Galvan; FRANKLIN - Zona Lenhart ; GARFIELD - Donna Deal ; GRANT - Bill Varney; GRAYS HARBOR - Vern Spatz ; ISLAND - Shellah Crider; JEFFERSON - Donna Eldridge; KING - Sherril Huff; KITSAP - Walter E. Washington; KITTITAS - Jerry

7/2/2008

**WSRP v. Reed
D-I_07274**

Pettit; KLIKITAT - Brenda Sorensen; LEWIS - Gary Zandell; LINCOLN - Shelly Johnston; MASON - Karen Herr; OKANOGAN - Laurie Thomas; PACIFIC - Pat Gardner; PEND OREILLE - Marianne Nichols; PIERCE - Pat McCarthy; SAN JUAN - Milene Henley; Jeanne Youngquist; SKAMANIA - J. Michael Garvison; SNOHOMISH - Carolyn Diepenbrock; SPOKANE - Vicky Dalton; STEVENS - Tim Gray; THURSTON - Kim Wyman; WAHIAKUM - Diane Tischer; WALLA WALLA - Karen Martin; WHATCOM - Shirley Forslof; WHITMAN - Eunice Coker; YAKIMA - Corky Mattingly; ADAMS - Heidi Hunt; BENTON - Brenda Chilton; BENTON - Stuart Holmes; BENTON - Susie Christopher; CHELAN - Nissa Burger; CHELAN - Skip Moore; CHELAN - Stephanie Wilder; CLALLAM - Julie Ridgway; CLALLAM - Shannon Cosgrove; CLALLAM - Shoon Radon; CLARK - Tim Likness; CLARK - Tom Godkin; COLUMBIA - Naedene Shearer; COWLITZ - Amee Paxton; COWLITZ - Carolyn Myers; DOUGLAS - Marty Whitehall; DOUGLAS - Pat Pennington; DOUGLAS - Priscilla Navares; FERRY - Liz Stinson; FRANKLIN - Diana Killian; GARFIELD - Peggy Laughery; GRANT - Faith Anderson; GRANT - Sally Andrews; GRAYS HARBOR - Helen Bensigner; GRAYS HARBOR - Julie Murphy; ISLAND - Anne LaCour; ISLAND - LoAnn Gulick; ISLAND - Michele Reagan; JEFFERSON - Betty Johnson; JEFFERSON - Karen Cartmel; KING - Bill Huennekens; KING - Bobbie Egan; KING - Christine Rudolph; KING - Harry Sanders; KING - Jacqueline Timmons; KING - Janice Case; KING - Laird Hall; KING - Rene LeBeau; KING - Sandy McConnell; KITSAP - Dolores Gilmore; KITTITAS - Sue Higginbotham; KLIKITAT - Brandie Sullivan; KLIKITAT - Connie Kayser; KLIKITAT - Pam Pimley; LEWIS - Beth Rosbach; LEWIS - Heather Borts; LEWIS - Mariann Zumbuhl; LINCOLN - Dale Vaughan; LINCOLN - Tina Brown; MASON - Amber Cervantes; OKANOGAN - Mila Jury; PACIFIC - Chris Stephens; PEND OREILLE - Liz Krezinsky; PEND OREILLE - Tina Olson; PIERCE - Lori Augino; PIERCE - Mike Rooney; SAN JUAN - Carlys Allen; SAN JUAN - Doris Schaller; Casey Earles; DavidECunningham; MargaretEnders; SKAMANIA - David O'Brien; SKAMANIA - Heidi Penner; SNOHOMISH - Carolyn Ableman; SNOHOMISH - Cindy Gobel; SNOHOMISH - Garth Fell; SNOHOMISH - Joe Smith; SNOHOMISH - Michelle Smith; SNOHOMISH - Wendy Mauch; SPOKANE - Kit Anderson; SPOKANE - Kris Forgey-Haynie; SPOKANE - Mike McLaughlin; SPOKANE - Paul Brandt; STEVENS - Beverly Lamm; THURSTON - Carrie Wack; THURSTON - Lynnette Thornton; THURSTON - Steve Homan; THURSTON - Tillie Naputi-Pullar; THURSTON (VR) - Keith Mullen; WAHIAKUM - Karen Fleming; WALLA WALLA - Debbie Benavides; WALLA WALLA - Katrina Manning; WALLA WALLA - Pam Hamilton; WHATCOM - Carolyn Duim; WHATCOM - Debbie Adelstein; WHATCOM - Ethel Heyrend; WHATCOM - Pete Griffin; WHATCOM - Travis Butcher; WHITMAN - Debbie Hooper; YAKIMA - Diana Soules; YAKIMA - Kathy Fisher

Cc: Elections - All; Heffernan, Trova

Subject: Draft Rules to Implement the Top Two Primary

Dear Election Partners,

We are very excited to be conducting a Top Two Primary this year! This is a great opportunity for Washington!

Our office will be adopting emergency rules to implement this new system. We are distributing a draft of the rules for public comment. Attached, please find:

- A Summary of the Draft Rules
- The Draft Rules
- The Declaration of Candidacy for public office
- The PCO Declaration of Candidacy

Because of the broad interest in this topic from the press, the political parties and prospective candidates, we will be issuing a press release later this morning to describe these proposed rules.

You can also find this information posted on our website at: <http://www.secstate.wa.gov/elections/rulemaking.aspx> Comments on the draft rules may be submitted to kblinn@secstate.wa.gov by Tuesday, April 22, 2008. These rules do not address the election of Precinct Committee Officer because that position is not subject to I-872.

More information about the Top Two Primary will be forthcoming. I have also attached an email announcing training sessions in DuPont on May 6 and Cheney on May 9.

I want to thank all of you for your continued patience with this new process. We are breaking new ground with this election system because this type of primary is not used anywhere else in the country. So it is natural that this will be a learning process for all of us.

Feel free to contact me with questions and have a good day!

Katie Blinn
Assistant Director of Elections
Office of the Secretary of State
kblinn@secstate.wa.gov

7/2/2008

EXHIBIT D

**CATHERINE BLINN, ESQ.
JUNE 22, 2010 EMAIL
RE: 2008 ELECTION**

Blinn, Katie

From: Blinn, Katie
Sent: Tuesday, June 22, 2010 11:33 AM
To: Zylstra, Brian
Subject: 2008 candidates preferring the same party

In the 2008 election cycle:

There were many races in which only one candidate filed, usually the incumbent.

There were 5 races in which all candidates who filed preferred the same party. Under a nominating primary, the competition would have ended at the Primary and voters would have had no choice in the General. Under a Top Two, the competition continued to the General:

- 7th Legislative District: 5 candidates filed and all 5 preferred the Republican (or G.O.P.) Party
- 8th Legislative District: 2 candidates filed and both preferred the Republican (or G.O.P.) Party
- 11th Legislative District: 3 candidates filed and all 3 preferred the Democratic Party
- 12th Legislative District: 2 candidates filed and both preferred the Republican Party
- 22nd Legislative District: 2 candidates filed and both preferred the Democratic Party

There were 3 races in which the candidates preferred a variety of parties, but the top two candidates who advanced to the General Election preferred the same party.

- 27th Legislative District: 4 candidates filed. 2 preferred the Republican Party and 2 preferred the Democratic Party. The top two vote-getters who advanced to the General Election both preferred the Democratic Party.
- 36th Legislative District: 3 candidates filed. 1 preferred the G.O.P. and 2 preferred the Democratic Party. The top two vote-getters who advanced to the General Election both preferred the Democratic Party.
- 46th Legislative District: 3 candidates filed. 1 preferred the G.O.P. and 2 preferred the Democratic Party. The top two vote-getters who advanced to the General Election both preferred the Democratic Party.

Map:

<http://vote.wa.gov/Elections/WEI/Results.aspx?RaceTypeCode=O&JurisdictionTypeID=5&ElectionID=25&ViewMode=Map>

List of results: <http://vote.wa.gov/Elections/WEI/Results.aspx?ElectionID=25&JurisdictionTypeID=5&ViewMode=All>

Katie Blinn
Assistant Director of Elections
Office of the Secretary of State
(360) 902-4168
katie.blinn@sos.wa.gov

EXHIBIT E

**JEFFREY EVEN, ESQ.
MEMO RE: PCO'S**



Rob McKenna
ATTORNEY GENERAL OF WASHINGTON

Administration Division
PO Box 40100 • Olympia, WA 98504-0100 • (360) 753-6200

CLIENT ADVICE MEMORANDUM

DATE: November 25, 2008

TO: Nick Handy
Director of Elections
Office of the Secretary of State

FROM: Jeffrey T. Even *JTE*
Deputy Solicitor General

SUBJECT: Election of Precinct Committee Officers

Your office has received communications concerning the election and seating of precinct committee officers (PCO's) for political parties. At issue is the way that state law relates to party rules.

PCO's are officers of the major political parties. They compose the county central committees of each major political party. RCW 29A.80.030. The county central committees in turn elect the statutory state central committees of the political parties. RCW 29A.80.020.

State law provides for the election of PCO's on the primary ballot. RCW 29A.80.051. The applicable statute provides that, among other requirements, "to be declared elected, a candidate must receive at least ten percent of the number of votes cast for the candidate of the candidate's party receiving the greatest number of votes in the precinct." *Id.* As explained by administrative rule, however, this requirement "is not in effect because candidates for public office do not represent a political party." WAC 434-262-075. As a result, counties certify the PCO candidate who receives the most votes as elected, and are not in a position to compare the number of votes that candidate receives with the number received by a candidate of that party. *Id.*

State law also recognizes that as private organizations, a political party "may adopt rules governing its own organization and the nonstatutory functions of that organization." RCW 29A.80.010. State law governs the manner in which the election is conducted and determines which candidates are certified as the winners. State law also reserves to political party rule, however, the manner in which the party is organized internally. Accordingly, state law addresses the certification of election results, but not the seating of PCO's.