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TOP-TWO PRIMARY CREATING RIPPLES

David Postman

*Excerpts from his blog,
Postman on Politics*

The next round of litigation over Washington's primary election may be only a few weeks away.

The Secretary of State's Office is working on draft rules setting out how the new top-two primary will be run in August — and the agency is bracing for lawsuits as soon as the rules are circulated, possibly by mid-April.

Under the system, candidates will declare their own party preference and the top two vote-getters will advance to the November ballot, regardless of party affiliation.

That means two candidates of the same party could compete in the general election.

The U.S. Supreme Court ruled last week that the top-two primary system can move forward. The Republican and Democratic parties argued that it violates their right to pick the candidates that run under their banners.

Secretary of State Sam Reed says he will allow candidates to list a party preference next to their names on the ballot. But the Democratic and Republican parties will not be allowed to show on the ballot which candidate is their officially endorsed choice.

Assistant Director of Elections Katie Blinn was on a teleconference with party attorneys this week to tell them what Reed planned on doing. She said it was not a very fruitful conversation, and the parties remain opposed

to the top-two primary.

And they're likely to sue to stop the primary.

"As soon as we put out that draft version, we'll be back in court," Blinn said.

Blinn sent an e-mail this week to legislative caucus staff outlining how the new primary might operate.

She said the state will have to adopt emergency rules to implement the new system, because the normal rule-making process takes six months, but candidates can start filing for office in seven weeks.

Her e-mail also said:

- Minor-party and independent candidates would not have to conduct conventions or gather signatures to get on the primary ballot. They simply file a declaration of candidacy.

- The ballot would list the political party that the candidate "prefers."

- The ballot and the voters pamphlet would explain that a candidate's preference for a particular party does not mean he or she is endorsed or nominated by that party, is a member of that party or represents that party.

- Even if a candidate is nominated or endorsed by a party, that would not be designated on the ballot. However, the candidate could mention any endorsement or nomination in the voters pamphlet and other political advertising.

- If no Democrat or Republican files for a particular race, the party would no longer fill the vacancy on the party ticket. There would only be a special filing period if no candidate files at all for an office.

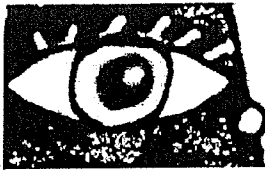
This material has been edited for print publication.

David Postman is The Seattle Times' chief political reporter. Reach him at 360-236-8267 or at dpostman@seattletimes.com

> To read Postman's blog:
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EXHIBIT N



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Last updated March 18, 2008 11:20 p.m. PT

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State's 'Top Two' primary upheld by U.S. justices

By ANGELA GALLOWAY
P-I REPORTER

Washington voters might again enjoy free-for-all primary election ballots, thanks to a Supreme Court decision that struck a blow to political parties' long-running battle to control the rules of such elections.

The high court voted 7-2 Tuesday to uphold the state's "Top Two" primary, which allows voters to select freely among political parties for various contests without pledging even temporary allegiance to a party.

While the political parties said their legal battle is far from over, Secretary of State Sam Reed said Washington will use the "Top Two" system for the first time in August.

"This is a great day for the voters of Washington state," Reed said. "We've had a history in our state of people believing that they have the right to control the election process that selects their public officials."

Still, the political parties might renew their legal challenge before voters cast a single such ballot, party officials said.

"The story is not over yet," said Republican Party Chairman Luke Esser. "This is just the end of Chapter 1."

David McDonald, attorney for state Democrats, said the ruling was "narrow" and the underlying lawsuit is still in play. "They haven't necessarily validated the (open primary) statute in all circumstances," McDonald said.

Under a "Top Two" system, whichever two candidates get the most votes advance to the general election, regardless of party affiliation or the preference of the state party organizations. Handily approved by voters in 2004, the system has never been tried here because of the parties' lawsuit.

Writing for the majority, Justice Clarence Thomas said overturning voters' decision now would have been an "extraordinary and precipitous nullification of the will of the people."



ADVERTISING

It was the second time the state's major political parties sued to block Washington's popular, populist primary election tradition.

The "Top Two" plan was meant to replace Washington's previous "blanket primary," one of the nation's oldest systems to allow voters to split their tickets. That system was tossed out by federal courts after the major parties sued, asserting a First Amendment right to select their own nominees without outside interference.

Seeking to similarly block the "Top Two" system, the parties said it was their prerogative to choose who represents their organizations in general elections, which is achieved in many states by allowing only registered party members to cast primary ballots.

By contrast, the "Top Two" rules allow candidates to self-identify party affiliations on ballots. In other words, they may describe themselves as Democrats or Republicans, even if they were not the chosen nominee of the party organizations.

In dissent, Justice Antonin Scalia indicated sympathy for the parties' argument Washington's system would force them to be associated with candidates who may not represent their views. Scalia was joined by Justice Anthony Kennedy.

Defending the system, state Attorney General Rob McKenna argued there was no evidence the parties would be harmed, since they can use advertising and other means to indicate which candidates they endorse.

McKenna said Tuesday: "Voters were entitled to approve a law that allows candidates to express their preferences and that's all they're doing here."

"The ballot is not the only source of information the voters have about the candidate."

Under the new system, ballots will probably include a statement clarifying to voters they are not selecting the parties' nominee, he added.

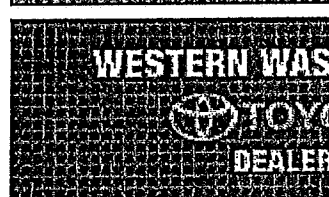
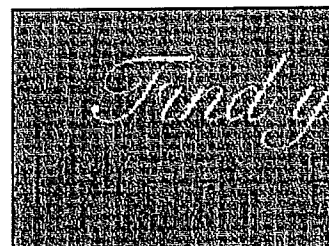
The fact the primary rules had never been implemented carried significant importance in Tuesday's ruling, both sides said. At question was the constitutionality of the untested system "on its face," rather than "as applied." That is generally a more difficult legal threshold to meet, they said.

In his majority opinion, Thomas wrote that "there is simply no basis to presume that a well-informed electorate will interpret a candidate's party-preference designation to mean that the candidate is the party's chosen nominee" or that the party approves of the candidate.

Thomas added that "we cannot strike down" Washington's plan "based on the mere possibility of voter confusion."

The next major phase in the legal wrangling might well ride on how those rules are applied -- starting with the ballots election officials issue this summer, McDonald said.

The Supreme Court has already been given a clear picture of what the



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ballots will look like in a sample ballot filed in the case, McKenna said.

"I am confident that this statute can be implemented in a way that is constitutional," he said, adding the political parties will have to reimburse the state several hundred thousand dollars in legal fees awarded by a lower court. McKenna said he did not know how much the state spent defending its open primary.

Still, McDonald said the majority justices did not "bless" the statute or that design. Rather, their ruling "simply says they're unwilling to assume that all conceivable ballot designs would be a problem."

The struggle over the primary began in 2000 when the U.S. Supreme Court tossed out California's relatively short-lived blanket primary. That system had been modeled after Washington's, enacted here in 1934 through a statewide initiative sponsored by the Washington State Grange and other groups.

In the California ruling, this state's political parties saw an opportunity to exert more control over who chooses general election contenders and whether the state keeps a party-coveted list of registered party members. Shortly after that ruling, the Washington party organizations successfully sued.

In early 2004, the Legislature enacted a "Top Two" system. But then Gov. Gary Locke largely vetoed the measure, leaving intact an unpopular fall-back "pick a party" format that limited each voter to choosing from among only one party's candidates, but kept secret which party's ballot the voter selected.

Meanwhile, 60 percent of Washington voters approved Grange-sponsored Initiative 872 in November 2004, again establishing a "Top Two" system as state law. Before it was enacted, the state Democratic, Republican and Libertarian parties sued. They won in both U.S. District Court and the 9th U.S. Circuit Court of Appeals.

The state appealed late last year to the U.S. Supreme Court, leading to Tuesday's ruling.

"We have proven once again that the voice of the people speaks loudly and clearly," said Terry Hunt, head of government affairs of the state Grange. "The courts have upheld their right to do so and given the voters their pick of the best person there is available."

TIMELINE

1935-2003: Except for presidential primaries, all registered voters could vote their choice in any primary for any candidate. Citizens could vote for a candidate from one party for one office, then choose another candidate from a different party for the next office.

June 2000: The U.S. Supreme Court rules California's blanket primary unconstitutional because it violates the parties' freedom of association.

March 2002: A federal district court in Tacoma upholds Washington's blanket primary as constitutional. The state's political parties appeal.

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Sept. 2003: The 9th U.S. Circuit Court of Appeals rules that Washington's blanket primary system is unconstitutional.

April 2004: The state's "pick a party" primary takes effect. A voter can choose candidates from only one political party.


Nov. 2004: Voters approve Initiative 872, which proposes a "Top Two" primary system. The candidates with the most votes advance to the general election, regardless of political preference.

March 18, 2008: U.S. Supreme Court upholds the state's "Top Two" primary system.

Source: Washington Secretary of State

The Associated Press contributed to this report. P-I reporter Angela Galloway can be reached at 206-448-8333 or angelagalloway@seattlepi.com. Follow politics on the P-I's blog at blog.seattlepi.com/seattlepolitics.

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7/7/2008

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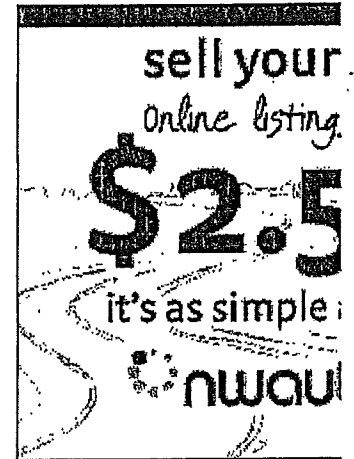


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Seattle Post-Intelligencer

http://seattlepi.nwsourc.com/local/358118_primary08.html

Democrats plan to reject primaries

Party says it will use conventions; GOP leaders still undecided

Last updated April 7, 2008 10:26 p.m. PT

By GREGORY ROBERTS
P-I REPORTER

With the elimination of partisan primaries for choosing political party nominees in Washington state, Democrats say they'll anoint their 2008 candidates in conventions this spring.

But it's unclear how important those endorsements will be.

Under the "top two" system taking effect this year, all candidates for a given office will be listed together on the August primary ballot. The top two vote-getters will advance to the November general election.

Candidates may choose to label themselves as "Democrat," "Republican," "Green" or otherwise on the ballot. No candidate may claim on the ballot to be the official nominee of a party.

"The top-two system is not a true primary," state Democratic Party Chairman Dwight Pelz said in a news release Monday. "It is not an election at which Democrats will nominate a chosen candidate to represent the Democratic Party in the general election."

Some Democrats will convene their precinct committee officers by May 23 in conventions for legislative districts, counties and congressional districts to endorse candidates. Those candidates may cite the endorsement in campaign advertising, and the parties, too, may support their nominees with publicity and money.

The Republicans will decide soon how to handle their nominations, state GOP Chairman Luke Esser said Monday.

Under the primary system in effect since 2004, Democratic and GOP candidates have been listed on separate ballots. Voters picked a ballot to fill out, sending the top vote-getters from each party to the general election.

That system was put in place after federal courts tossed out the top-two primary, which was enacted by voter initiative in 2004. Last month, the U.S. Supreme Court reversed those rulings and approved the top-two primary.

But the issue may end up back in court. One factor in the March ruling against the Democratic and Republican parties, which sued to overturn the top-two setup, was that no top-two primary had been held, so there was no evidence of harm to the parties. Once the primary is conducted in August, the parties may renew their legal assault.

The Democrats and Republicans challenged the top-two primary on the grounds that it denied them their rights of free association by allowing voters without the appropriate partisan affiliation to choose the party nominees. That was the argument applied to overturn the system used in Washington from 1935 to 2003: the blanket primary, in which a voter could hopscotch from one party's list of candidates to the other's, with the top vote-getter in each party for each office advancing to the general election.

P-I reporter Gregory Roberts can be reached at 206-448-8022 or gregoryroberts@seattlepi.com.

<http://seattlepi.nwsourc.com/printer2/index.asp?ploc=t&refer=http://seattlepi.nwsourc.com/local/358118...> 7/3/2008

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Postman on Politics

Chief political reporter David Postman explores state, regional and national politics.

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May 2, 2008 1:44 PM

Rules issued for state primary

Posted by David Postman

Secretary of State Sam Reed today the final rules for the state's first top-two primary. As was clear from the proposed rules, Reed said candidates can state their preferred party identification on the ballot. But the Democratic and Republican parties, which have been hoping to thwart the primary, will not be able to show on that ballot which candidates have received their official endorsement of nomination.

After the jump is a summary of the rules. [You can read the full document here.](#)

Candidates running for public office will have an opportunity to state their political party preferences on the ballot. They may also opt to state no political party preference. State law does not allow nominations or endorsements by interest groups, political action committees, political parties, labor unions, editorial boards, or other private organizations to be printed on the ballot.

Candidate Filing:

• Initiative 872 changes the primary election for partisan congressional, state, and county office.

• Each candidate for partisan office may state a political party that he or she prefers.

• A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate.

http://blog.seattletimes.nwsources.com/davidpostman/2008/05/rules_issued_for_state_primar... 7/7/2008

WSRP v. Reed
D-I_07402

â€¢ A candidate states his or her party preference on the Declaration of Candidacy.

o Each candidate is allowed up to 16 characters for the name of the political party.

o A candidate may also choose to not state a preference for a political party.

â€¢ A candidate is not required to obtain approval from a party in order to state a preference for that party.

â€¢ Political parties can no longer fill a vacancy on the major party ticket because there is no "party ticket."

o There is a void in candidacy only if no candidate files. In this case, a special three-day filing period is opened.

â€¢ The filing process is the same for all candidates; convention and petition requirements now only apply to minor party and independent candidates for President.

Primary Election Ballot:

â€¢ If a candidate states a preference for a political party on the declaration of candidacy, it will be listed on the ballot as:

John Smith
(Prefers Example Party)

â€¢ If a candidate does not state a preference, the following will be listed on the ballot:

John Smith
(States No Party Preference)

â€¢ A candidate's party preference will be the same on both Primary and General Election ballots.

â€¢ Each ballot that includes a partisan race must include the following notice in bold:

READ: Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate.

â€¢ Political parties are free to nominate or endorse candidates through their own mechanism.

o The law does not allow nominations or endorsements by interest groups, political action committees, political parties, labor unions, editorial boards, or other private organizations to be printed on the ballot.

o The Primary plays no role in political party nominations, and political party nominations are not displayed on the ballot.

5/2/08 1 of 2

o Candidates may mention nominations and endorsements in a voters' pamphlet statement.

â€¢ For the Primary, the order in which the candidates are listed is determined by lot.

â€¢ Even if only one or two candidates file, partisan offices will still appear in the Primary. The rules for nonpartisan office have not changed.

â€¢ The following notice will be provided at the Primary either on a separate insert with the absentee ballot, or on a sign in the poll site:

Washington has a new primary. You do not have to pick a party. In each race, you may vote for any candidate listed. The two candidates who receive the most votes in the August primary will advance to the November general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate.

Voters:

â€¢ Voters are not required to affiliate with a political party in order to vote.

â€¢ For each race, voters may vote for any candidate.

â€¢ The purpose of the Primary is to winnow the number of candidates to two.

â€¢ Voters in the Primary are voting for candidates, not choosing a political party's nominees.

General Election Ballot

â€¢ The two candidates who receive the most votes advance to the General Election ballot.

o Candidates must also receive at least 1% of all votes cast for that office.

â€¢ A candidate's party preference is immaterial to whether the candidate qualifies for the General Election.

â€¢ In each race on the General Election ballot, the candidate who received the most votes in the Primary is listed first and the candidate who received the second most votes in the Primary is listed second.

â€¢ The party preference information printed on the Primary Election ballot is printed the same on the General Election ballot.

â€¢ On a General Election ballot that includes the race for President and Vice President, the candidates are listed as:

John Smith / Jane Doe

Example Party Nominees



â€¢ On a General Election ballot that includes the race for President and Vice President, the following notice must be provided after the race for President and Vice President but before the other offices:

READ: Each candidate for President and Vice President is the official nominee of a political party. For other partisan offices, each candidate may state a political party that he or she prefers. A candidate's

preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate.

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Posted by
evergreen_representative

9:35 PM, May 02, 2008

Thanks to the leadership of C. Mark Greene, chairman of the Party of Commons, chairman of the Committee of Commons & Political Affairs, and candidate for Congress in the 8th Congressional District, and to the leadership of the Washington Grange and Sam Reed, the Top 2 Primary is now being implemented and voters will once again be able to vote for any candidate of their choice without choosing or declaring a party.

The Committee of Commons & Political Affairs (CCPA) gathered hundreds of signatures for the Top 2 Initiative that was voted into law in 2004.

The Corporate Mainstream News Media has virtually ignored the campaign of C. Mark Greene for the 8th District congressional office, but many voters have expressed their gratitude to the CCPA for their role in being a part of gathering signatures for the Top 2 Initiative.

www.PartyofCommons.com

Posted by Methow
Ken

11:02 PM, May 03, 2008

A minor but not IMO trivial addendum to this whole mess: What about precinct PCOs, who are the foundation of local PARTISAN political parties ??

I predict I-872 will not be the last word on this subject.

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Updated 4:02 PM

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Last updated May 4, 2008 11:43 p.m. PT

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It's official: Words for 'top two' ballot set

P-I STAFF

Secretary of State Sam Reed has released the official language that will be used on the ballot in Washington's new "top two primary," which is bitterly opposed by both the Democratic and Republican parties.

In March the U.S. Supreme Court upheld the state's "top two" primary, which allows voters to select freely among political parties for various contests.

Approved by voters in 2004, the system has never been tried here because of the parties' lawsuit that the Supreme Court rejected. Now, Washington's first primary under the new rules is slated for Aug. 19.

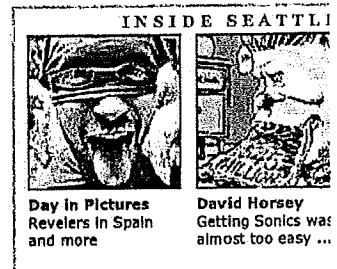
Voters will not be required to affiliate with any party to cast a ballot and for each race will be able to vote for any candidate.

Reed said the order in which candidates appear on the primary ballot will be determined by lot. He also said:

- Candidates will be able to state their political party preferences on the ballot but can also opt to state no political party preference.
- A candidate's party preference will be the same for both the primary and general election ballots.
- A candidate's preference doesn't imply that the candidate is nominated or endorsed by the party or that the party approves of or associates with that candidate.
- And state law does not allow nominations or endorsements by interest groups, political action committees, political parties, labor unions, editorial boards or other private organizations to be printed on the ballot.

The two candidates who receive the most primary votes will advance to the November election. On the general election ballot, the candidate who receives the most votes in the primary will be listed first and the one who receives the second most votes will be listed second.

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The struggle over the primary began in 2000 when the U.S. Supreme Court tossed out California's relatively short-lived blanket primary. That system had been modeled after Washington's, enacted here in 1934 through a statewide initiative sponsored by the Washington State Grange and other groups.


In the California ruling, this state's political parties saw an opportunity to exert more control over who chooses general election contenders and whether the state keeps a party-coveted list of registered party members. Shortly after that ruling, the Washington party organizations successfully sued.

In early 2004, the Legislature enacted a "top two" system. But then-Gov. Gary Locke largely vetoed the measure, leaving intact an unpopular fall-back "pick a party" format that limited each voter to choosing from among only one party's candidates but kept secret which party's ballot the voter selected. Later that year voters approved the "top two" system.





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
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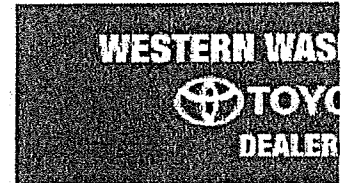
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An overview of the top two system

JIM CAMDEN • STAFF WRITER

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Have your own question about the primary or the top two system? Post it at Spin Control 2.0 by clicking here and Jim Camden will sleuth it out.

The Spokesman-Review's election-answer person responds to some of the frequently asked questions about the upcoming Washington state primary:

Q: So, with all these campaign yard signs I'm seeing everywhere, do we have an election or something coming up?

A: Yes, the state primary, also known as the top two primary, is Aug. 19.

Q: Isn't that a bit early?

A: It might seem that way, particularly for longtime Washington voters who got used to the primary being in September. But last year the Legislature moved the primary to the third Tuesday in August to put more time between the primary and the general election in November.

Q: And they did this to ...?

A: To allow more time to print up and mail out the general election ballots. Most of the state votes by mail now, and there were concerns that military members serving overseas wouldn't get their ballots in time to mark them and get them back if a primary race was so close it needed a recount.

Q: So this year's primary is like last year's primary?

A: Only as far as scheduling is concerned. This year the state will debut the top two primary, in which voters get a single ballot with all the candidates' names on it. A voter can choose a candidate from any party for any race, but only one candidate per office. Last year's election was primarily for municipal offices, which are nonpartisan, but two years ago, the partisan primary was limited by party and voters had to pick one party's ballot and select only among that party's



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candidates.

Q: That doesn't sound right. Weren't we able to pick a Democrat for one office, a Republican for another and even a communist for a third if we wanted in primaries?

A: Once upon a time, but not in 2006. What you're thinking of is the old blanket primary, which Washington had for about 70 years.

Q: Yeah, I remember that system. Why'd we get rid of that?

Because the federal courts said it was unconstitutional. It infringed on the political parties' ability to make sure that Democratic nominees were selected by Democrats, Republican nominees by Republicans, and so forth, the 9th U.S. Circuit Court of Appeals said in 2003. So the voters opted for the top two primary in an initiative in 2004.

Q: But if it passed in 2004, how come we're just doing this for the first time in 2008?

A: Because the major political parties, who successfully sued the state to get rid of the blanket primary, also sued over the top two primary. While the suit was pending, the state used an alternate system it cobbled together after the federal court ruling, which required separate party ballots or at least divisions for the parties on a single ballot. The U.S. Supreme Court didn't rule that the top two primary could pass constitutional muster until this March.

Q: So now everyone's happy with this top two system?

A: The major political parties think the way it has been set up for this election is unconstitutional and sent letters to Secretary of State Sam Reed last week to that effect. They'll probably be back in federal court at some point, but Reed says the election will go on as planned.

Q: How will it work?

A: You'll get one ballot with all the races on it, partisan offices as well as the nonpartisan races like the judges. Most counties vote completely by mail, so those ballots will arrive around the end of July, and must be postmarked no later than Election Day, which is Aug. 19. It's a fairly busy election year, so all the statewide executive offices, from governor on down, are on the ballot, as are the U.S. House races (there's no U.S. Senate race this year in Washington), legislative races and county commissioner posts in many counties.

On the partisan races, candidates will list their party preference, but you can vote for any candidate in any race.

Q: So I can vote for Barack Obama for president but Dino Rossi for governor?

A: No. The presidential primary was in February, so Obama and John McCain won't be on the Washington ballot again until November. But you could vote for Rossi, who lists his party preference as GOP, for governor; Brad Owen, who lists his party preference as a Democrat, for lieutenant governor; Marilyn Montgomery, who lists the Constitution Party, for secretary of state;

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and Curt Fackler, who lists no party preference, for insurance commissioner. In the old system, the Democrat who got the most votes and the Republican who got the most votes automatically went to the general election. So did any third party candidate or independent candidate who got a minimum vote threshold. Under this system, the top two vote recipients, regardless of party preference, go on to the general.

Q: Why do you keep saying "party preference" instead of just "party"?

A: Because the candidates are only asked which party they would prefer to have listed. The parties still have no say in determining who gets to call themselves a Democrat or a Republican and can endorse a candidate or not as they see fit. The winner isn't the party's nominee.

Q: So in some races, we could have two Democrats or two Republicans in the general election?

A: That's possible. It will happen in a state House race in the 7th Legislative District, because only Republicans are running. It could happen in a race with candidates of several different party preferences listed, although it's mathematically unlikely in a race with several candidates from one major party and a single candidate from the other major party.

Q: What about the Greens, the Libertarians, the other minor parties and the independents?

A: In theory, they've got the same chance as any candidate listing Democratic or Republican preference. In reality, it could be difficult for them to get to the general election if there's a Democrat and a Republican in that race.

Q: So this is the way the primary is going to be from now on?

A: Hard to say. We've had three different systems since 2004, so it would be a bit of a surprise if something didn't change between now and 2010. In the meantime, don't forget: any candidate for any race, but only one candidate per race, and the ballots must be postmarked by Aug. 19.

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The Columbian

IN OUR VIEW: Welcome, top two

Tuesday, July 15, 2008


By The Columbian editorial board

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Three weekends from now, more than 200,000 Clark County residents will have been mailed a ballot for the Aug. 19 state primary. It will be their chance to help make history in two ways: By selecting the two candidates in each race who will advance to the November general election, and by voting at all in this, Washington's first top-two primary.

There are two basic facts to keep in mind about this new primary. They are enumerated below. But first, this:

Those not yet registered to vote have until Saturday to get signed up. Do it online at www.clarkvotes.org or visit the county elections office during business hours this week at West 15th and Franklin streets in Vancouver, two blocks north of the courthouse. Phone: 360-397-2345. Registration forms also can be picked up at any public school or public library, filled out and mailed.

Now, two key points about the upcoming primary:

- Despite the whining and legal maneuvers by the political parties, Washington voters will once again be able to vote for any candidate of any party for each office. Voters might favor a Republican in one race, a Democrat in another and a Libertarian in still another.
- Voters will vote for just one person per office. The "two" in top two refers to the two candidates for each position who get the most votes. Those two will advance to the November general election ballot, even if they turn out to be candidates of the same party.

Many voters fondly remember the blanket primary, in which they had the same privilege of crossing back and forth from party to party. But in the blanket primary, the top Republican and the top Democrat in each race advanced to the November ballot. Two Republicans might each have had more votes than the top Democrat, but the Democrat still advanced, and not the second-place Republican.

In the top-two primary, the voters' two favorites advance to the November ballot, rather than, for example, their first and third choices.

All primary candidates will be allowed to indicate on the ballot which party they prefer. But the parties want voters to understand that there is no way to tell by studying the ballot which candidate the parties might have endorsed for an office.

The most striking local example of that dynamic is in the 17th Legislative District, where the state Republican Party prefers challenger Joseph James over incumbent Jim Dunn for the state House of Representatives, position No. 1. In fact, the state party is so down on Dunn (for good reason) that it doesn't even list him as a candidate. You won't know that by studying the ballot itself, which will list voters' choices this way:

- Tim Probst (Prefers Democratic Party).
- Joseph James (Prefers Republican Party).
- Jim Dunn (Prefers Republican Party).
- Write-in.

That's part of the reason the parties don't like the top-two system. They prefer voters be able to discern from the ballot which candidates, if any, they favor. But in our view, that's a small matter. Voters can watch news stories or check voters pamphlets, party Web pages or campaign advertisements and fliers to learn whom the parties prefer for a given office.

For our money, Washington's new primary is even better than the old blanket primary because the top two contenders —the people's choices — advance to the general election.

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What you need to know about Washington's top-two primary

By Susan Gilmore
Seattle Times staff reporter

Washington state's first top-two primary election will be held Tuesday. We solicited questions from readers about the new primary, and added a few of our own. Here are the answers:

Q: Why are we having a primary in August? Isn't that early?

A: The state used to have its primary in mid-September. But elections officials said they need more time between the primary and the November general election. That's especially true because mail-in ballots only have to be postmarked, not delivered, by election day. So workers were tabulating the primary votes long after election day, and then needed to quickly start getting out the general-election ballots, particularly to military personnel overseas. The state Legislature voted in 2006 to move the primary back to August.

Q: What happened to the primary we used to have?

A: For the past few years, the state has used a "pick-a-party" primary style. Under that system, voters had to choose one party's ballot and could vote only for that party's candidates in partisan races. The system was supported by the political parties, but was unpopular with voters.

Q: How did we end up with the top-two primary?

A: For decades, Washington had what's called a blanket primary, which allowed voters to vote for any candidate in the primary election, and the top Democrat and top Republican moved onto the general election ballot, along with some independent party candidates. However, the political parties didn't like this system because they said it violated their right to decide who runs for office under their labels. So they sued.

In 2000, the U.S. Supreme Court ruled a similar primary system in California was unconstitutional and, in 2003, the 9th Circuit U.S. Court of Appeals ruled the blanket primary was unconstitutional. In 2004, the Washington State Grange put Initiative 872 on the ballot, calling for a top-two primary. It passed overwhelmingly.

Q: If the initiative passed in 2004, why is this the first year it is being implemented?

A: The political parties, which sued to get rid of the blanket primary, also sued to block the top-two primary. In 2005 and 2006 federal courts ruled the top two violated the parties' First Amendment right of free association by allowing candidates to specify which political parties they "prefer" without necessarily being party members. That's when the start started using the "pick-a-party" primary system, which required separate party ballots for voters.

The U.S. Supreme Court in March upheld the top-two primary, which opened the door to the state to use it for the first time this month.

Q: What do the parties think about this?

A: They're not happy and have vowed to keep fighting it.

Q: Does this mean I can vote for Republican John McCain for president, but Democrat Christine Gregoire for governor?

A: No. The presidential race will not be on the primary ballot. We had a presidential-primary election and Democratic and Republican caucuses last February.

Q: With the new primary, could we see two Democrats or two Republicans running against each other in November?

A: That's very likely, particularly in areas such as Seattle, which votes heavily for Democrats, and some Eastern Washington districts that strongly favor Republicans.

Q: How will third-party candidates fare under the new primary?

A: In theory, third-party candidates have the same chance as anyone else to make the November ballot. But in practice, it will be difficult for those candidates to advance. In legislative races, only one Libertarian and one Green Party candidate are expected to make it to the general election because they're in two-person primary races. The top-two primary doesn't affect the presidential race. Six minor-party presidential candidates have qualified to appear on the November ballot by submitting 1,000 voter signatures.

Q: Which offices are affected by the new primary?

A: All partisan offices are affected. It doesn't affect nonpartisan positions, such as the superintendent of public instruction and judicial races. In the primary, if a candidate in a nonpartisan race gets more than 50 percent of the vote, the race is over.

Q: Can I still write in a candidate?

A: Yes. There will still be a line on the ballot for write-in candidates.

Q: Why does the ballot say "prefers" Democrat or "prefers" Republican?

A: The top-two primary allows a candidate to self-describe his or her party preference. But those descriptions aren't meant to suggest the candidate has the party's blessing.

Parties are free to nominate or endorse their favored candidates, but that information isn't included on the ballot. It may, however, be used in campaigns and in voters pamphlets.

Q: What is the difference between Dino Rossi's "prefers G.O.P. Party" and John W. Aiken Jr.'s "prefers Republican Party"? Can candidates use any party description they want?

A: Candidates have up to 16 characters to say which party they prefer. Some Republicans, such as gubernatorial candidate Rossi, have chosen to use "GOP" instead of "Republican." Others are more creative. One candidate said he prefers "Salmon Yoga Party." Candidates also may list no party preference.

Q: Does any other state use a top-two primary?

A: Our new system is similar to Louisiana's primary. But there are two big differences: Louisiana requires party registration, which Washington doesn't; and in Louisiana, if a candidate gets more than 50 percent of the vote in the primary — even in partisan races — he or she wins the seat and there is no general-election runoff.

Q: In races where only one or two candidates file, will those candidates skip the primary and appear only on the general-election ballot?

A: No. Even in races where only one or two candidates file for a partisan office, the race will still appear in the primary election.

Q: What happens if a candidate for partisan office is one of the top two vote-getters in the primary but dies or is disqualified before the general election? Will the party be allowed to name a replacement?

A: No. In the top-two primary, a candidate's party preference is purely for informational purposes and a party is not allowed to name a replacement candidate. The law that previously allowed the political parties to replace deceased or disqualified candidates was repealed by the initiative that established the new primary.

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