

INITIATIVE 940

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 940 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to open ballot voting; amending RCW 29A.20.121,
2 29A.20.161, 29A.20.171, 29A.20.200, 29A.20.201, 29A.24.050, 29A.36.121,
3 29A.36.201, and 29A.60.200; adding a new section to chapter 29A.60 RCW;
4 and creating new sections.

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The people of Washington value their
7 tradition of independent voting and value the freedom to vote for the
8 candidate they prefer and the party they most closely identify with.
9 The people find that Washington law should allow more than one
10 political party to nominate the same candidate for the same office.
11 This measure is intended to allow a candidate to receive the nomination
12 of more than one political party. A candidate would still be able to
13 receive no more than one vote per ballot but any votes the candidate
14 receives would count toward the candidate's vote total.

15 **Sec. 2.** RCW 29A.20.121 and 2004 c 271 s 110 are each amended to
16 read as follows:

17 (1) Any nomination of a candidate for partisan public office by
18 other than a major political party may be made only: (a) In a

1 convention held not (~~earlier than the last Saturday in June and not~~
2 ~~later than the first Saturday in July or during any of the seven days~~
3 ~~immediately preceding the first day for filing declarations of~~
4 ~~candidacy as fixed in accordance with RCW 29A.28.041~~) later than
5 forty-five days prior to the general election; (b) as provided by RCW
6 29A.60.021; or (c) as otherwise provided in this section. Minor
7 political party and independent candidates may appear only on the
8 general election ballot.

9 (2) (~~Nominations of candidates for president and vice president of~~
10 ~~the United States other than by a major political party may be made~~
11 ~~either at a convention conducted under subsection (1) of this section,~~
12 ~~or at a similar convention taking place not earlier than the first~~
13 ~~Sunday in July and not later than seventy days before the general~~
14 ~~election. Conventions held during this time period may not nominate~~
15 ~~candidates for any public office other than president and vice~~
16 ~~president of the United States, except as provided in subsection (3) of~~
17 ~~this section.~~

18 ~~(3))~~ If a special filing period for a partisan office is opened
19 under RCW 29A.24.211, candidates of minor political parties and
20 independent candidates may file for office during that special filing
21 period. The names of those candidates may not appear on the general
22 election ballot unless they are nominated by convention held no later
23 than five days after the close of the special filing period and a
24 certificate of nomination is filed with the filing officer no later
25 than three days after the convention. The requirements of RCW
26 29A.20.131 do not apply to such a convention.

27 ~~((4))~~ (3) A minor political party may hold more than one
28 convention but in no case shall any such party nominate more than one
29 candidate for any one partisan public office or position. For the
30 purpose of nominating candidates for the offices of president and vice
31 president, United States senator, United States representative, or a
32 statewide office, a minor party or independent candidate holding
33 multiple conventions may add together the number of signatures of
34 different individuals from each convention obtained in support of the
35 candidate or candidates in order to obtain the number required by RCW
36 29A.20.141. For all other offices for which nominations are made,
37 signatures of the requisite number of registered voters must be
38 obtained at a single convention.

1 **Sec. 3.** RCW 29A.20.161 and 2004 c 271 s 154 are each amended to
2 read as follows:

3 A certificate evidencing nominations made at a convention must:

4 (1) Be in writing;

5 (2) Contain the name of each person nominated, his or her
6 residence, and the office for which he or she is named, and (~~(if the~~
7 ~~nomination is for the offices of president and vice president of the~~
8 ~~United States,~~) a sworn statement from (~~(both)~~) each nominee(~~(s)~~)
9 giving (~~(their)~~) his or her consent to the nomination;

10 (3) Identify the minor political party or the independent candidate
11 on whose behalf the convention was held;

12 (4) Be verified by the oath of the presiding officer and secretary;

13 (5) Be accompanied by a nominating petition or petitions bearing
14 the signatures and addresses of registered voters equal in number to
15 that required by RCW 29A.20.141;

16 (6) Contain proof of publication of the notice of calling the
17 convention; and

18 (7) Be submitted to the appropriate filing officer not later than
19 one (~~(week)~~) day following the adjournment of the convention at which
20 the nominations were made. If the nominations are made only for
21 offices whose jurisdiction is entirely within one county, the
22 certificate and nominating petitions must be filed with the county
23 auditor. If a minor party or independent candidate convention
24 nominates any candidates for offices whose jurisdiction encompasses
25 more than one county, all nominating petitions and the convention
26 certificates must be filed with the secretary of state.

27 **Sec. 4.** RCW 29A.20.171 and 2004 c 271 s 155 are each amended to
28 read as follows:

29 (1) If two or more valid certificates of nomination are filed
30 purporting to nominate different candidates for the same position using
31 the same party name, the filing officer must give effect to both
32 certificates. A minor political party may establish rules by which any
33 conflicting claims to the party name shall be resolved. If conflicting
34 claims to the party name are not resolved (~~(either)~~) under party rules,
35 by mutual agreement, or by a judicial determination of the right to the
36 name, the candidates must be treated as independent candidates.
37 Disputes over the right to the name must not be permitted to delay the
38 printing of either ballots or a voters' pamphlet. Other candidates

1 nominated by the same conventions may continue to use the partisan
2 affiliation unless a court of competent jurisdiction directs otherwise.

3 (2) A person affected may petition the superior court of the county
4 in which the filing officer is located for a judicial determination of
5 the right to the name of a minor political party, either before or
6 after documents are filed with the filing officer. Upon the filing of
7 the petition on appeal, the court shall immediately, or at a time
8 consented to by the appellants, examine the conflict between competing
9 claims and may hear arguments on it, and shall as soon as possible
10 render its decision. The court shall resolve the conflict between
11 competing claims to the use of the same party name according to the
12 following principles: (a) The prior established public use of the name
13 during previous elections by a party composed of or led by the same
14 individuals or individuals in documented succession; (b) prior
15 established public use of the name earlier in the same election cycle;
16 (c) the nomination of a more complete slate of candidates for a number
17 of offices or in a number of different regions of the state; (d)
18 documented affiliation with a national or statewide party organization
19 with an established use of the name; (e) the first date of filing of a
20 certificate of nomination; and (f) such other indicia of an established
21 right to use of the name as the court may deem relevant. If more than
22 one filing officer is involved, and one of them is the secretary of
23 state, the petition must be filed in the superior court for Thurston
24 county. Upon resolving the conflict between competing claims, the
25 court may also address any ballot designation for the candidate who
26 does not prevail.

27 **Sec. 5.** RCW 29A.20.200 and 2003 c 111 s 514 are each amended to
28 read as follows:

29 Not later than (~~the Friday immediately preceding the first day for~~
30 ~~candidates to file~~) forty days prior to the general election, the
31 secretary of state shall notify the county auditors of the names and
32 designations of all minor party and independent candidates who have
33 filed valid convention certificates and nominating petitions with that
34 office. Except for the offices of president and vice president,
35 persons nominated under this chapter shall file declarations of
36 candidacy as provided by RCW (~~(29A.24.030)~~) 29A.24.031 and 29A.24.070.
37 (~~The name of a candidate nominated at a convention shall not be~~
38 ~~printed upon the primary ballot unless he or she pays the fee required~~

1 ~~by law to be paid by candidates for the same office to be nominated at~~
2 ~~a primary.))~~

3 **Sec. 6.** RCW 29A.20.201 and 2004 c 271 s 113 are each amended to
4 read as follows:

5 Not later than (~~the Friday immediately preceding the first day for~~
6 ~~candidates to file~~) forty days prior to the general election, the
7 secretary of state shall notify the county auditors of the names and
8 designations of all minor party and independent candidates who have
9 filed valid convention certificates and nominating petitions with that
10 office. Except for the offices of president and vice president,
11 persons nominated under this chapter shall file declarations of
12 candidacy as provided by RCW 29A.24.031 and 29A.24.070. The name of a
13 candidate nominated at a convention shall not be printed upon the
14 general election ballot unless he or she pays the fee required by law
15 to be paid by candidates for the same office to be nominated at a
16 primary.

17 **Sec. 7.** RCW 29A.24.050 and 2003 c 111 s 605 are each amended to
18 read as follows:

19 Except where otherwise provided by this title or by minor party
20 nomination under chapter 29A.20 RCW, declarations of candidacy for the
21 following offices shall be filed during regular business hours with the
22 filing officer no earlier than the fourth Monday in July and no later
23 than the following Friday in the year in which the office is scheduled
24 to be voted upon:

25 (1) Offices that are scheduled to be voted upon for full terms or
26 both full terms and short terms at, or in conjunction with, a state
27 general election; and

28 (2) Offices where a vacancy, other than a short term, exists that
29 has not been filled by election and for which an election to fill the
30 vacancy is required in conjunction with the next state general
31 election.

32 This section supersedes all other statutes that provide for a
33 different filing period for these offices.

34 **Sec. 8.** RCW 29A.36.121 and 2004 c 271 s 129 are each amended to
35 read as follows:

1 (1)(a) The positions or offices on a primary consolidated ballot
2 shall be arranged in substantially the following order: United States
3 senator; United States representative; governor; lieutenant governor;
4 secretary of state; state treasurer; state auditor; attorney general;
5 commissioner of public lands; superintendent of public instruction;
6 insurance commissioner; state senator; state representative; county
7 officers; justices of the supreme court; judges of the court of
8 appeals; judges of the superior court; and judges of the district
9 court. For all other jurisdictions on the primary consolidated ballot,
10 the offices in each jurisdiction shall be grouped together and be in
11 the order of the position numbers assigned to those offices, if any.

12 (b)(i) The positions or offices on a primary party ballot must be
13 arranged in substantially the following order: United States senator;
14 United States representative; governor; lieutenant governor; secretary
15 of state; state treasurer; state auditor; attorney general;
16 commissioner of public lands; insurance commissioner; state senator;
17 state representative; and partisan county officers. For all other
18 jurisdictions on the primary party ballot, the offices in each
19 jurisdiction must be grouped together and be in the order of the
20 position numbers assigned to those offices, if any.

21 (ii) The positions or offices on a primary nonpartisan ballot must
22 be arranged in substantially the following order: Superintendent of
23 public instruction; justices of the supreme court; judges of the court
24 of appeals; judges of the superior court; and judges of the district
25 court. For all other jurisdictions on the primary nonpartisan ballot,
26 the offices in each jurisdiction must be grouped together and be in the
27 order of the position numbers assigned to those offices, if any.

28 (2) The order of the positions or offices on an election ballot
29 shall be substantially the same as on a primary consolidated ballot
30 except that state ballot issues must be placed before all offices. The
31 offices of president and vice president of the United States shall
32 precede all other offices on a presidential election ballot. The
33 positions on a ballot to be assigned to ballot measures regarding local
34 units of government shall be established by the secretary of state by
35 rule.

36 (3) The political party or independent candidacy of each candidate
37 for partisan office shall be indicated next to the name of the
38 candidate on the primary and election ballot. (~~A candidate shall file
39 a written notice with the filing officer within three business days~~

1 ~~after the close of the filing period designating the political party to~~
2 ~~be indicated next to the candidate's name on the ballot if either: (a)~~
3 ~~The candidate has been nominated by two or more minor political parties~~
4 ~~or independent conventions; or (b) the candidate has both filed a~~
5 ~~declaration of candidacy declaring an affiliation with a major~~
6 ~~political party and been nominated by a minor political party or~~
7 ~~independent convention. If no written notice is filed the filing~~
8 ~~officer shall give effect to the party designation shown upon the first~~
9 ~~document filed.)~~ If a candidate has: (a) Been nominated by two or
10 more minor political parties or independent conventions; or (b) has
11 filed a declaration of candidacy declaring an affiliation with a major
12 political party and has been nominated by one or more minor political
13 parties or independent conventions, the candidate's name and political
14 party or independent candidacy will appear separately for each
15 nomination or declaration. A candidate may be deemed nominated by a
16 minor party or independent convention only if all documentation
17 required by chapter 29A.20 RCW has been timely filed.

18 **Sec. 9.** RCW 29A.36.201 and 2004 c 271 s 171 are each amended to
19 read as follows:

20 The names of the persons certified as nominees by the secretary of
21 state or the county canvassing board shall be printed on the ballot at
22 the ensuing election.

23 No name of any candidate whose nomination at a primary is required
24 by law shall be placed upon the ballot at a general or special election
25 unless it appears upon the certificate of either (1) the secretary of
26 state, or (2) the county canvassing board, or (3) a minor party
27 convention or the state or county central committee of a major
28 political party to fill a vacancy on its ticket under RCW 29A.28.021.

29 If any person is nominated for the same office by two or more
30 parties, or is nominated for the same office by one or more parties in
31 addition to appearing on the certificate of the secretary of state or
32 the county canvassing board, the name of the candidate shall appear on
33 the ballot for each nomination and certificate. Excluding the office
34 of precinct committee officer or a temporary elected position such as
35 a charter review board member or freeholder, a candidate's name shall
36 not appear (~~more than once upon a ballot for a position regularly~~
37 ~~nominated or elected at the same election)) as a candidate for more
38 than one regularly nominated or elected office.~~

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 29A.60
2 RCW to read as follows:

3 The candidate receiving the highest total number of legal votes for
4 a specific office is the person elected to that office and shall be
5 issued a certificate of election. If a candidate is nominated by more
6 than one party for the same office, all votes for that candidate are
7 aggregated to determine the result of the election.

8 **Sec. 11.** RCW 29A.60.200 and 2003 c 111 s 1520 are each amended to
9 read as follows:

10 Before canvassing the returns of a primary or election, the chair
11 of the county legislative authority or the chair's designee shall
12 administer an oath to the county auditor or the auditor's designee
13 attesting to the authenticity of the information presented to the
14 canvassing board. This oath must be signed by the county auditor or
15 designee and filed with the returns of the primary or election.

16 The county canvassing board shall proceed to verify the results
17 from the precincts and the absentee ballots. The board shall execute
18 a certificate of the results of the primary or election signed by all
19 members of the board or their designees. Each statement shall set
20 forth, in words written out at length: All votes cast for all
21 candidates for each office; the name of each candidate; the number of
22 votes so cast for each, and in the case of a candidate who was
23 nominated by two or more parties or independent bodies, the number,
24 separately stated, of votes cast for him or her as the candidate of
25 each party or independent body by which he or she was nominated; and
26 all votes cast upon any ballot proposal, and all the votes cast in
27 favor of and against the same, respectively. The statements shall show
28 the total number of unrecorded or blank votes and the total number of
29 votes cast for each office and each ballot proposal. Failure to
30 certify the returns, if they can be ascertained with reasonable
31 certainty, is a crime under RCW 29A.84.720.

32 NEW SECTION. **Sec. 12.** The provisions of this act are to be
33 liberally construed to effectuate the intent, policies, and purposes of
34 this act.

35 NEW SECTION. **Sec. 13.** If any provision of this act or its
36 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 14.** This act may be known and cited as the open
4 ballot voting initiative.

--- END ---