

(3) Civil actions under this section may be brought in superior court of Thurston county or of the county in which the release or threatened release of a hazardous substance occurs, or where mixed wastes that are the subject of the action may be transported, stored, treated, or disposed.

(4) Any violation of this chapter shall be considered a violation of chapter 70.105 RCW, and subject to all enforcement actions by the department or attorney general for violations of that chapter, including imposition of civil or criminal penalties.

**NEW SECTION. Sec. 11. CONSTRUCTION.** The provisions of this act are to be liberally construed to effectuate the policies and purposes of this act. In the event of conflict between the provisions of this act and any other act, the provisions of this act shall govern.

**NEW SECTION. Sec. 12. SHORT TITLE.** This act shall be known as the Cleanup Priority Act.

**NEW SECTION. Sec. 13. CAPTIONS NOT PART OF LAW.** Captions used in this act are not any part of the law.

**NEW SECTION. Sec. 14.** Sections 1 through 13 of this act constitute a new chapter in Title 70 RCW.

Originally filed in Office of Secretary of State January 8, 2004.

Approved by the People of the State of Washington in the General Election on November 2, 2004.

## CHAPTER 2

[Initiative 872]

### THE PEOPLE'S CHOICE INITIATIVE

AN ACT Relating to elections and primaries; amending RCW 29A.04.127, 29A.36.170, 29A.04.310, 29A.24.030, 29A.24.210, 29A.36.010, 29A.52.010, 29A.80.010, and 42.12.040; adding a new section to chapter 29A.04 RCW; adding a new section to chapter 29A.52 RCW; adding a new section to chapter 29A.32 RCW; creating new sections; repealing RCW 29A.04.157, 29A.28.010, 29A.28.020, and 29A.36.190; and providing for contingent effect.

Be it enacted by the People of the State of Washington:

### TITLE

**NEW SECTION. Sec. 1.** This act may be known and cited as the People's Choice Initiative of 2004.

### LEGISLATIVE INTENT: PROTECTING VOTERS' RIGHTS AND CHOICE

**NEW SECTION. Sec. 2.** The Washington Constitution and laws protect each voter's right to vote for any candidate for any office. The Washington State Supreme Court has upheld the blanket primary as protecting compelling state interests "allowing each voter to keep party identification, if any, secret; allowing the broadest possible participation in the primary election; and giving each voter a free choice among all candidates in the primary." *Heavey v. Chapman*, 93 Wn.2d 700, 705, 611 P.2d 1256 (1980). The Ninth Circuit Court of Appeals has threatened this system through a decision, that, if not overturned

by the United States Supreme Court, may require change. In the event of a final court judgment invalidating the blanket primary, this People's Choice Initiative will become effective to implement a system that best protects the rights of voters to make such choices, increases voter participation, and advances compelling interests of the state of Washington.

### WASHINGTON VOTERS' RIGHTS

**NEW SECTION. Sec. 3.** The rights of Washington voters are protected by its Constitution and laws and include the following fundamental rights:

- (1) The right of qualified voters to vote at all elections;
- (2) The right of absolute secrecy of the vote. No voter may be required to disclose political faith or adherence in order to vote;
- (3) The right to cast a vote for any candidate for each office without any limitation based on party preference or affiliation, of either the voter or the candidate.

### DEFINITIONS

**NEW SECTION. Sec. 4.** A new section is added to chapter 29A.04 RCW to read as follows:

"Partisan office" means a public office for which a candidate may indicate a political party preference on his or her declaration of candidacy and have that preference appear on the primary and general election ballot in conjunction with his or her name. The following are partisan offices:

- (1) United States senator and United States representative;
- (2) All state offices, including legislative, except (a) judicial offices and (b) the office of superintendent of public instruction;
- (3) All county offices except (a) judicial offices and (b) those offices for which a county home rule charter provides otherwise.

**Sec. 5.** RCW 29A.04.127 and 2003 c 111 s 122 are each amended to read as follows:

"Primary" or "primary election" means a ~~((statutory))~~ procedure for ~~((nominating))~~ winning candidates ~~((to))~~ for public office ~~((at the polls))~~ to a final list of two as part of a special or general election. Each voter has the right to cast a vote for any candidate for each office without any limitation based on party preference or affiliation, of either the voter or the candidate.

**Sec. 6.** RCW 29A.36.170 and 2003 c 111 s 917 are each amended to read as follows:

(1) ~~((Except as provided in RCW 29A.36.180 and in subsection (2) of this section, on the ballot at the general election for a nonpartisan))~~ For any office for which a primary was held, only the names of the top two candidates will appear on the general election ballot; the name(s) of the candidate who received the greatest number of votes will appear first and the candidate who received the next greatest number of votes ((for that office shall appear under the title of that office, and the names shall appear in that order. If a primary was conducted,)) will appear second. No candidate's name may be printed on the subsequent general election ballot unless he or she receives at least one percent of the total votes cast for that office at the preceding primary, if a primary was

conducted. On the ballot at the general election for ~~((any other nonpartisan))~~ an office for which no primary was held, the names of the candidates shall be listed in the order determined under RCW 29A.36.130.

(2) ~~((On the ballot at the general election))~~ For the office of justice of the supreme court, judge of the court of appeals, judge of the superior court, or state superintendent of public instruction, if a candidate in a contested primary receives a majority of all the votes cast for that office or position, only the name of that candidate may be printed ~~((under the title of the office))~~ for that position on the ballot at the general election.

NEW SECTION. Sec. 7. A new section is added to chapter 29A.52 RCW to read as follows:

(1) A primary is a first stage in the public process by which voters elect candidates to public office.

(2) Whenever candidates for a partisan office are to be elected, the general election must be preceded by a primary conducted under this chapter. Based upon votes cast at the primary, the top two candidates will be certified as qualified to appear on the general election ballot, unless only one candidate qualifies as provided in RCW 29A.36.170.

(3) For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, then that preference will be shown after the name of the candidate on the primary and general election ballots by appropriate abbreviation as set forth in rules of the secretary of state. A candidate may express no party or independent preference. Any party or independent preferences are shown for the information of voters only and may in no way limit the options available to voters.

## CONFORMING AMENDMENTS

**Sec. 8.** RCW 29A.04.310 and 2003 c 111 s 143 are each amended to read as follows:

~~((Nominating))~~ Primaries for general elections to be held in November must be held on:

(1) The third Tuesday of the preceding September; or ~~((on))~~

(2) The seventh Tuesday immediately preceding ~~((such))~~ that general election, whichever occurs first.

**Sec. 9.** RCW 29A.24.030 and 2003 c 111 s 603 are each amended to read as follows:

A candidate who desires to have his or her name printed on the ballot for election to an office other than president of the United States, vice president of the United States, or an office for which ownership of property is a prerequisite to voting shall complete and file a declaration of candidacy. The secretary of state shall adopt, by rule, a declaration of candidacy form for the office of precinct committee officer and a separate standard form for candidates for all other offices filing under this chapter. Included on the standard form shall be:

(1) A place for the candidate to declare that he or she is a registered voter within the jurisdiction of the office for which he or she is filing, and the address at which he or she is registered;

(2) A place for the candidate to indicate the position for which he or she is filing;

(3) For partisan offices only, a place for the candidate to indicate ((a)) his or her major or minor party ((designation, if applicable)) preference, or independent status;

(4) A place for the candidate to indicate the amount of the filing fee accompanying the declaration of candidacy or for the candidate to indicate that he or she is filing a nominating petition in lieu of the filing fee under RCW 29A.24.090;

(5) A place for the candidate to sign the declaration of candidacy, stating that the information provided on the form is true and swearing or affirming that he or she will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

In the case of a declaration of candidacy filed electronically, submission of the form constitutes agreement that the information provided with the filing is true, that he or she will support the Constitutions and laws of the United States and the state of Washington, and that he or she agrees to electronic payment of the filing fee established in RCW 29A.24.090.

The secretary of state may require any other information on the form he or she deems appropriate to facilitate the filing process.

**Sec. 10.** RCW 29A.24.210 and 2003 c 111 s 621 are each amended to read as follows:

Filings for a partisan elective office shall be opened for a period of three normal business days whenever, on or after the first day of the regular filing period and before the sixth Tuesday prior to ~~((a primary))~~ an election, a vacancy occurs in that office, leaving an unexpired term to be filled by an election for which filings have not been held.

Any ~~((such))~~ special three-day filing period shall be fixed by the election officer with whom declarations of candidacy for that office are filed. The election officer shall give notice of the special three-day filing period by notifying the press, radio, and television in the county or counties involved, and by ~~((such))~~ any other means as may be required by law.

Candidacies validly filed within the special three-day filing period shall appear on the primary or general election ballot as if filed during the regular filing period.

The procedures for filings for partisan offices where a vacancy occurs under this section or a void in candidacy occurs under RCW 29A.24.140 must be substantially similar to the procedures for nonpartisan offices under RCW 29A.24.150 through 29A.24.170.

**NEW SECTION. Sec. 11.** A new section is added to chapter 29A.32 RCW to read as follows:

The voters' pamphlet must also contain the political party preference or independent status where a candidate appearing on the ballot has expressed such a preference on his or her declaration of candidacy.

**Sec. 12.** RCW 29A.36.010 and 2003 c 111 s 901 are each amended to read as follows:

On or before the day following the last day allowed for ~~((political parties to fill vacancies in the ticket as provided by RCW 29A.28.010))~~ candidates to withdraw under RCW 29A.24.130, the secretary of state shall certify to each county auditor a list of the candidates who have filed declarations of candidacy

in his or her office for the primary. For each office, the certificate shall include the name of each candidate, his or her address, and his or her party (~~designation, if any~~) preference or independent designation as shown on filed declarations.

**Sec. 13.** RCW 29A.52.010 and 2003 c 111 s 1301 are each amended to read as follows:

Whenever it shall be necessary to hold a special election in an odd-numbered year to fill an unexpired term of any office which is scheduled to be voted upon for a full term in an even-numbered year, no (~~September~~) primary election shall be held in the odd-numbered year if, after the last day allowed for candidates to withdraw, (~~either of the following circumstances exist:~~

(1) ~~No more than one candidate of each qualified political party has filed a declaration of candidacy for the same partisan office to be filled; or~~

(2) ~~no more than two candidates have filed a declaration of candidacy for a single (~~nonpartisan~~) office to be filled.~~

In (~~either~~) this event, the officer with whom the declarations of candidacy were filed shall immediately notify all candidates concerned and the names of the candidates that would have been printed upon the (~~September~~) primary ballot, but for the provisions of this section, shall be printed as (~~nominees~~) candidates for the positions sought upon the (~~November~~) general election ballot.

**Sec. 14.** RCW 29A.80.010 and 2003 c 111 s 2001 are each amended to read as follows:

~~((1))~~ Each political party organization may(:

~~(a) Make its own~~) adopt rules (~~and regulations; and~~

~~(b) Perform all functions inherent in such an organization.~~

~~(2) Only major political parties may designate candidates to appear on the state primary ballot as provided in RCW 29A.28.010)~~ governing its own organization and the nonstatutory functions of that organization.

**Sec. 15.** RCW 42.12.040 and 2003 c 238 s 4 are each amended to read as follows:

(1) If a vacancy occurs in any partisan elective office in the executive or legislative branches of state government or in any partisan county elective office before the sixth Tuesday prior to the (~~primary for the~~) next general election following the occurrence of the vacancy, a successor shall be elected to that office at that general election. Except during the last year of the term of office, if such a vacancy occurs on or after the sixth Tuesday prior to the (~~primary for that~~) general election, the election of the successor shall occur at the next succeeding general election. The elected successor shall hold office for the remainder of the unexpired term. This section shall not apply to any vacancy occurring in a charter county (~~which~~) that has charter provisions inconsistent with this section.

(2) If a vacancy occurs in any legislative office or in any partisan county office after the general election in a year that the position appears on the ballot and before the start of the next term, the term of the successor who is of the same party as the incumbent may commence once he or she has qualified as defined in RCW (~~(29.01.135)~~) 29A.04.133 and shall continue through the term for which he or she was elected.

**CODIFICATION AND REPEALS**

NEW SECTION. Sec. 16. The code reviser shall revise the caption of any section of Title 29A RCW as needed to reflect changes made through this Initiative.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

- (1) RCW 29A.04.157 (September primary) and 2003 c 111 s 128;
- (2) RCW 29A.28.010 (Major party ticket) and 2003 c 111 s 701, 1990 c 59 s 102, 1977 ex.s. c 329 s 12, & 1965 c 9 s 29.18.150;
- (3) RCW 29A.28.020 (Death or disqualification—Correcting ballots—Counting votes already cast) and 2003 c 111 s 702, 2001 c 46 s 4, & 1977 ex.s. c 329 s 13; and
- (4) RCW 29A.36.190 (Partisan candidates qualified for general election) and 2003 c 111 s 919.

NEW SECTION. Sec. 18. This act takes effect only if the Ninth Circuit Court of Appeals' decision in *Democratic Party of Washington State v. Reed*, 343 F.3d 1198 (9th Cir. 2003) holding the blanket primary election system in Washington state invalid becomes final and a Final Judgment is entered to that effect.

Originally filed in Office of Secretary of State January 26, 2004.

Approved by the People of the State of Washington in the General Election on November 2, 2004.

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**CHAPTER 3**

[Substitute Senate Bill 5097]

**APPRENTICESHIP—PUBLIC WORKS**

AN ACT Relating to apprenticeship utilization requirements on public works projects; adding new sections to chapter 39.04 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. A well-trained construction trades work force is critical to the ability of the state of Washington to construct public works. Studies of the state's work force highlight population trends that, without a concerted effort to offset them, will lead to an inadequate supply of skilled workers in the construction industry. State government regularly constructs public works. The efficient and economical construction of public works projects will be harmed if there is not an ample supply of trained construction workers. Apprenticeship training programs are particularly effective in providing training and experience to individuals seeking to enter or advance in the work force. By providing for apprenticeship utilization on public works projects, state government can create opportunities for training and experience that will help assure that a trained work force will be available in sufficient numbers in the future for the construction of public works.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this section and sections 1 and 3 of this act unless the context clearly requires otherwise.