



SUMMARY OF INITIATIVE 872 TO THE PEOPLE (“The People’s Choice Initiative of 2004”)

This information has been prepared in response to various requests for a summary of the provisions of Initiative 872, which will be before the voters at the statewide general election on November 2, 2004. The material in this summary is provided for informational purposes only. It is provided for use by members of the Legislature and legislative staff. It is not provided as an expression for or against any of the provisions of Initiative 872. A copy of the initiative is available from the Secretary of State’s office directly or on the Web at <http://www.secstate.wa.gov/elections/initiatives/text/i872.pdf>.

BRIEF SUMMARY

Initiative 872 proposes a new system of conducting partisan primary elections throughout the state. Rather than using the primary process to select the single candidate from each political party for each office, the primary is used to winnow candidates for office to a final list of two for each office. Voters are free to cast votes for any candidate in the primary election without any limitation based on party preference or affiliation of either the voter or the candidate. The candidates’ self-declared party preference or affiliation, if any, will appear on the primary and general election ballots.

The names of the two candidates who receive the greatest number of votes in the primary election will appear on the general election ballot. This is the origin of the term “top two” as sometimes is used in general parlance.

BACKGROUND

The current law that governs the primary election of September 14, 2004, requires voters to choose among the candidates of only one of the three major political parties. To be counted, the voter’s ballot must indicate a choice for only one party’s candidates. The major parties are the Democratic, Republican and Libertarian Parties. No record will be made of the political party for which the voter chooses to vote.

Those voters not wishing to participate in the partisan primary may nevertheless vote for ballot measures and in races that are non-partisan. Independent and minor party candidates do not participate in the September 14 primary. They appear on the general election ballot after they qualify by means of petitions.

The September 14, 2004, primary will be the first primary conducted in this manner in the state’s history. From 1907 to 1934 major parties each had a separate primary ballot. Voters had to make a public declaration of their party affiliation in order to receive their primary ballot. From

1890 to 1907 there was no distinction between major and minor parties. Candidates were nominated by party conventions or by petition.

From 1935 to 2004, the “blanket primary” was the method of primary election. In this system, voters chose among all candidates on the ballot for each office, irrespective of the political party affiliation of each candidate. This resulted in “cross-over voting” which is the ability of each voter to vote for candidates of all parties on his or her ballot, that is, a mixture of Republican, Democrat, Libertarian, and minor party candidates for each partisan race.

The three major political parties brought a lawsuit against the state of Washington claiming that the “blanket primary” violated their right of free association. They prevailed in the federal courts to the extent that this “blanket” method of primary voting was held to be unconstitutional in 2004. The courts held that the blanket primary was unconstitutional because it both allowed cross-over voting and required the parties to accept the winner of the primary election as the party’s standard-bearer in the general election.

Because of this legal decision, the state primary law had to be changed. The legislature enacted a bill in 2004, that included a “top two” system similar to I-872 along with an alternative system that will be used in this September’s primary. By the terms of the bill, the alternative was not to take effect until and unless specific action by the courts were to occur. However, the governor’s veto of the “top two” primary resulted in the law now in effect which governs the method that will be used this September to conduct the 2004 primary election.

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I-872 provides the same primary election ballot and the same choices to all voters in the same jurisdiction without regard to the voter’s political party preference or affiliation. Voting for any candidate for each partisan race would be allowed, without regard to the candidates’ political party preference or affiliation, which will be indicated on the ballot. Only two candidates for each partisan office appear on the general election ballot in November, regardless of those candidates’ political party preference or affiliation.

PLEASE NOTE: Many of the specific mechanics of administering this type of primary election are not included in the language of the Initiative. In addition, due to the circumstances of the Initiative’s having been drafted during the evolution of the primary bill through the legislative process in conjunction with the judicial process, there could be unresolved issues concerning the current election statutes. In order to implement the Initiative, legislation might be required to conform the rest of the existing election laws to the intent of the Initiative. This legislation would probably address both technical and policy-based issues.

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