

May 24, 2006

To: Snohomish County Charter Review Commission
From: Evelyn Spencer, Official Elections Observer
Subject: Changing Charter Section 4.20 – Independent Candidates

I want to thank the Commission for their diligent work on the Charter Revisions and I welcome the opportunity to speak this evening.

I have prepared a packet for your review in requesting a change to Section 4.20 of the Charter. This section change was first presented to the Commission by Auditor, Bob Terwilliger, in the first paragraph of his remarks under the heading of Miscellaneous Election Provisions. A copy of that page is attached.

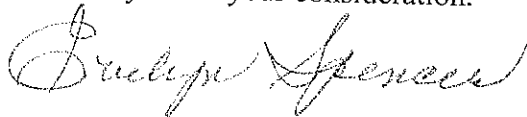
Since Mr. Terwilliger's presentation, the 2006 State Legislature made several changes to the RCW's addressing this issue. I have attached copies of our current Charter Section 4.20 and the applicable RCW's.

Based on the RCW changes, it appears our charter does not conform to new election law on "Independent Candidates" as set forth this year. I would like to read a portion of RCW 29A.20.110 referencing "election jurisdiction".

It is important to note that this change only effects partisan elections and has no impact on non-partisan candidates.

After appropriate legal counsel review, I urge the Commission to adopt the state language as Section 4.20 of the Charter.

Thank you for your consideration.



Evelyn Spencer

Commission, that it meet every two years and that its recommendations be subject to acceptance or rejection by the County Council by not subject to change.

MISCELLANEOUS ELECTION PROVISIONS:

The current Charter provision in Article 4, Section 4.10 should be changed to reflect that the nominating and election process, except as provided in the Charter, shall be governed by election law as it applies to nonpartisan and partisan county officials.

The current Charter has a provision in Article 4, Section 4.20 for Independent Candidates. I would ask that the Charter Review Commission consider renaming this process as Minor Party Candidates and set up a procedure similar to that set forth in state election law for minor party candidates. (See RCW 29A.20.110 – RCW 29A.20.171) Under the current partisan primary process in place in Washington minor party candidates go directly to the General Election ballot as long as they meet the nomination requirements. Right now our Charter lumps all candidates that are not filing as Democrats or Republicans into the category of Independent Candidate and that may not be the desire of the particular candidate. This issue does not apply to nonpartisan offices as filing for those offices does not require a party indication.

The Charter Review Commission might want to consider changing the requirements to hold county elected office as set forth in Article 4, Section 4.30 which currently requires that all candidates for county elected positions be a citizen of the United States (ok), over the age of 21 (many offices including state legislative offices and state wide offices only require being over 18), and a three year resident of Snohomish County at the time of filing for office (many offices only require that you be a resident of the jurisdiction at the time of filing for office and non-charter code cities have a one year residency requirement to run for office).

If the proposal to change Article 4, Section 4.30 is submitted to the voters then Article 4, Section 4.80 Vacancies would have to reflect the term Minor Party candidate rather than Independent candidate.

PERFORMANCE AUDITING:

The 1996 Charter Review Commission submitted a proposal for consideration by the voters at the November 1996 General Election for the creation of a Performance Audit function to be located in the County Auditor's office. This provision was adopted and now exists in Article 3, Section 3.130. However, there is a similar provision providing for this same authority by the County Council which is set forth in Article 2, Section 2.90. The Charter Review Commission may want to consider whether these two provisions are in conflict and if so how to clarify the two provisions so it is clear as to differences between the two provisions.

I am available for any follow up questions or information.

Respectfully submitted,

Bob Terwilliger

Except as provided in this article, the nominating primaries and elections shall be conducted in accordance with general law governing the election of partisan county officials.

Section 4.15 Non-Partisan Offices

The offices of county treasurer, county auditor, county assessor, county sheriff, and county clerk shall be non-partisan offices.

(Added during General Election, Nov. 5, 1996, Eff date Nov. 30, 1996).

Section 4.20 Independent Candidates

On or before the last day for filing a declaration of candidacy as a candidate in a major political party primary, anyone qualified to assume office, if elected, may file a declaration of candidacy as an "Independent".

Any candidate who files a declaration of candidacy as an independent shall be placed on the primary ballot under the title "Independent".

Anyone who files a declaration of candidacy for a county office as an independent shall not be a candidate for any political party in that primary or in the succeeding general election and shall pay the filing fee required for a declaration of candidacy for a major political party primary.

The candidate who receives a plurality of the votes cast for independent candidates for an office shall be placed on the ballot at the ensuing general election under the heading "Independent"; provided, however, the candidate receives at least the percentage required by state law of the total vote cast for that office.

Section 4.30 Qualifications — Limitations

Each county official holding an elective office shall be, at the time of appointment or election and at all times while holding office, a citizen of the United States over the age of twenty-one and a three year resident and registered voter of Snohomish County at the time of filing for office. No person shall be eligible to be elected to more than three consecutive full terms for any office. For the purposes of this section, different positions on the county council shall not be considered different offices.

Section 4.40 Conflict of Interest

No county elected officer shall hold any other office or employment within county government during his term of office.

Section 4.50 District Boundaries

The boundaries of each council district shall be established as nearly as practical in accordance with the criteria promulgated by state law.

Section 4.60 Districting Committee

Within sixty days after each federal decennial census data is received from the state redistricting

RCW 29A.20.110

Definitions — "Convention" and "election jurisdiction."

*** CHANGE IN 2006 *** (SEE 2477.SL) ***

A "convention" for the purposes of this chapter, is an organized assemblage of registered voters representing an independent candidate or candidates or a new or minor political party, organization, or principle. As used in this chapter, the term "election jurisdiction" shall mean the state or any political subdivision or jurisdiction of the state from which partisan officials are elected. This term shall include county commissioner districts or council districts for members of a county legislative authority, counties for county officials who are nominated and elected on a county-wide basis, legislative districts for members of the legislature, congressional districts for members of Congress, and the state for president and vice president, members of the United States senate, and state officials who are elected on a statewide basis.

[2003 c 111 § 505; 1977 ex.s. c 329 § 1; 1965 c 9 § 29.24.010. Prior: 1955 c 102 § 2; prior: 1937 c 94 § 2, part; RRS § 5168, part. Formerly RCW 29.24.010.]

Notes:

Minor political party defined: RCW 29A.04.097.

Voter registration: Chapter 29A.08 RCW.

RCW 29A.20.111

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[2004 c 271 § 188.]

RCW 29A.20.121

Nomination by convention or write-in — Dates — Special filing period.

*** CHANGE IN 2006 *** (SEE 6236.SL) ***

(1) Any nomination of a candidate for partisan public office by other than a major political party may be made only: (a) in a convention held not earlier than the last Saturday in June and not later than the first Saturday in July or during any of the seven days immediately preceding the first day for filing declarations of candidacy as fixed in accordance with RCW 29A.28.041; (b) as provided by RCW 29A.60.021; or (c) as otherwise provided in this section. Minor political party and independent candidates may appear only on the general election ballot.

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

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

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

[2004 c 271 § 110.]

RCW 29A.20.130
Convention — Notice.

*** CHANGE IN 2006 *** (SEE 2477.SL) ***

Each minor party or independent candidate must publish a notice in a newspaper of general circulation within the county in which the party or the candidate intends to hold a convention. The notice must appear at least ten days before the convention is to be held, and shall state the date, time, and place of the convention. Additionally, it shall include the mailing address of the person or organization sponsoring the convention.

[2003 c 111 § 507. Prior: 1989 c 215 § 1. Formerly RCW 29.24.025.]

RCW 29A.20.131
Convention — Notice.

Each minor party or independent candidate must publish a notice in a newspaper of general circulation within the county in which the party or the candidate intends to hold a convention. The notice must appear at least ten days before the convention is to be held, and shall state the date, time, and place of the convention. Additionally, it shall include the mailing address of the person or organization sponsoring the convention.

[2004 c 271 § 189.]

RCW 29A.20.141

Convention — Requirements for validity.

(1) To be valid, a convention must be attended by at least one hundred registered voters.

(2) In order to nominate candidates for the offices of president and vice president of the United States, United States senator, United States representative, or any statewide office, a nominating convention shall obtain and submit to the filing officer the signatures of at least one thousand registered voters of the state of Washington. In order to nominate candidates for any other office, a nominating convention shall obtain and submit to the filing officer the signatures of one hundred persons who are registered to vote in the jurisdiction of the office for which the nominations are made.

[2004 c 271 § 111.]

RCW 29A.20.151

Nominating petition — Requirements.

A nominating petition submitted under this chapter shall clearly identify the name of the minor party or independent candidate convention as it appears on the certificate of nomination as required by RCW 29A.20.161(3). The petition shall also contain a statement that the person signing the petition is a registered voter of the state of Washington and shall have a space for the voter to sign his or her name and to print his or her name and address. No person may sign more than one nominating petition under this chapter for an office for an election.

[2004 c 271 § 112.]

RCW 29A.20.161

Certificate of nomination — Requisites.

A certificate evidencing nominations made at a convention must:

- (1) Be in writing;
- (2) Contain the name of each person nominated, his or her residence, and the office for which he or she is named, and if the nomination is for the offices of president and vice president of the United States, a sworn statement from both nominees giving their consent to the nomination;
- (3) Identify the minor political party or the independent candidate on whose behalf the convention was held;
- (4) Be verified by the oath of the presiding officer and secretary;
- (5) Be accompanied by a nominating petition or petitions bearing the signatures and addresses of registered voters equal in number to that required by RCW 29A.20.141;
- (6) Contain proof of publication of the notice of calling the convention; and
- (7) Be submitted to the appropriate filing officer not later than one week following the adjournment of the convention at which the nominations were made. If the nominations are made only for offices whose jurisdiction is entirely within one county, the certificate and nominating petitions must be filed with the county auditor. If a minor party or independent candidate convention nominates any candidates for offices whose jurisdiction encompasses more than one county, all nominating petitions and the convention certificates must be filed with the secretary of state.

[2004 c 271 § 154.]

RCW 29A.20.171

Multiple certificates of nomination.

(1) If two or more valid certificates of nomination are filed purporting to nominate different candidates for the same position using the same party name, the filing officer must give effect to both certificates. If conflicting claims to the party name are not resolved either by mutual agreement or by a judicial determination of the right to the name, the candidates must be treated as independent candidates. Disputes over the right to the name must not be permitted to delay the printing of either ballots or a voters' pamphlet. Other candidates nominated by the same conventions may continue to use the partisan affiliation unless a court of competent jurisdiction directs otherwise.

(2) A person affected may petition the superior court of the county in which the filing officer is located for a judicial determination of the right to the name of a minor political party, either before or after documents are filed with the filing officer. The court shall resolve the conflict between competing claims to the use of the same party name according to the following principles: (a) The prior established public use of the name during previous elections by a party composed of or led by the same individuals or individuals in documented succession; (b) prior established public use of the name earlier in the same election cycle; (c) the nomination of a more complete state of candidates for a number of offices or in a number of different regions of the state; (d) documented affiliation with a national or statewide party organization with an established use of the name; (e) the first date of filing of a certificate of nomination; and (f) such other indicia of an established right to use of the name as the court may deem relevant. If more than one filing officer is involved, and one of them is the secretary of state, the petition must be filed in the superior court for Thurston county. Upon resolving the conflict between competing claims, the court may also address any ballot designation for the candidate who does not prevail.

[2004 c 271 § 155.]

RCW 29A.20.191

Certificate of nomination — Checking signatures — Appeal of determination.

Upon the receipt of the certificate of nomination, the officer with whom it is filed shall check the certificate and canvass the signatures on the accompanying nominating petitions to determine if the requirements of RCW 29A.20.141 have been met. Once the determination has been made, the filing officer shall notify the presiding officer of the convention and any other persons requesting the notification, of his or her decision regarding the sufficiency of the certificate or the nominating petitions. Any appeal regarding the filing officer's determination must be filed with the superior court of the county in which the certificate or petitions were filed not later than five days from the date the determination is made, and shall be heard and finally disposed of by the court within five days of the filing. Nominating petitions shall not be available for public inspection or copying.

[2004 c 271 § 157.]

RCW 29A.20.200

Declarations of candidacy required, exceptions — Payment of fees.

***** CHANGE IN 2006 *** (SEE 2477.SL) *****

Not later than the Friday immediately preceding the first day for candidates to file, the secretary of state shall notify the county auditors of the names and designations of all minor party and independent candidates who have filed valid convention certificates and nominating petitions with that office. Except for the offices of president and vice president, persons nominated under this chapter shall file declarations of candidacy as provided by RCW *29A.24.030 and 29A.24.070. The name of a candidate nominated at a convention shall not be printed upon the primary ballot unless he or she pays the fee required by law to be paid by candidates for the same office to be nominated at a primary.

[2003 c 111 § 514; 1990 c 59 § 103; 1989 c 215 § 8; 1977 ex.s. c 329 § 7; 1965 c 9 § 29.24.070 . Prior: 1955 c 102 § 7; prior: (i) 1937 c 94 § 7, part; RRS § 5170-3, part. (ii) 1907 c 209 § 26, part; RRS § 5203, part. Formerly RCW 29.24.070.]

Notes:

*Reviser's note: RCW 29A.24.030 was repealed by 2004 c 271 § 193. Later enactment, see RCW 29A.24.031.

Intent -- Effective date -- 1990 c 59: See notes following RCW 29A.04.013.

RCW 29A.20.200

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Intent -- Effective date -- 1990 c 59: See notes following RCW 29A.04.013.

RCW 29A.20.201

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[2004 c 271 § 113.]