

**INITIATIVE 872**

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. 872 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to elections and primaries; amending RCW  
2 29A.04.127, 29A.36.170, 29A.04.310, 29A.24.030, 29A.24.210,  
3 29A.36.010, 29A.52.010, 29A.80.010, and 42.12.040; adding a new  
4 section to chapter 29A.04 RCW; adding a new section to chapter 29A.52  
5 RCW; adding a new section to chapter 29A.32 RCW; creating new  
6 sections; repealing RCW 29A.04.157, 29A.28.010, 29A.28.020, and  
7 29A.36.190; and providing for contingent effect.

8  
9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

10  
11 **TITLE**

12  
13 **1. NEW SECTION. Sec.** This act may be known and cited as the  
14 People's Choice Initiative of 2004.

15  
16 **LEGISLATIVE INTENT: PROTECTING VOTERS' RIGHTS AND CHOICE**

17  
18 **2. NEW SECTION. Sec.** The Washington Constitution and laws protect  
19 each voter's right to vote for any candidate for any office. The  
20 Washington State Supreme Court has upheld the blanket primary as  
21 protecting compelling state interests "allowing each voter to keep

1 party identification, if any, secret; allowing the broadest possible  
2 participation in the primary election; and giving each voter a free  
3 choice among all candidates in the primary." *Heavey v. Chapman*, 93  
4 Wn.2d 700, 705, 611 P.2d 1256 (1980). The Ninth Circuit Court of  
5 Appeals has threatened this system through a decision, that, if not  
6 overturned by the United States Supreme Court, may require change.  
7 In the event of a final court judgment invalidating the blanket  
8 primary, this People's Choice Initiative will become effective to  
9 implement a system that best protects the rights of voters to make  
10 such choices, increases voter participation, and advances compelling  
11 interests of the state of Washington.

### 12 13 **WASHINGTON VOTERS' RIGHTS**

14  
15 **3. NEW SECTION. Sec.** The rights of Washington voters are  
16 protected by its Constitution and laws and include the following  
17 fundamental rights:

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

### 24 25 **DEFINITIONS**

26  
27 **4. NEW SECTION. Sec.** A new section is added to chapter 29A.04 RCW  
28 to read as follows:

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

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

1  
2 **5. Sec.** RCW 29A.04.127 and 2003 c 111 s 122 are each amended to  
3 read as follows:

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

10  
11 **6. Sec.** RCW 29A.36.170 and 2003 c 111 s 917 are each amended to  
12 read as follows:

13 (1) (~~Except as provided in RCW 29A.36.180 and in subsection (2)~~  
14 ~~of this section, on the ballot at the general election for a~~  
15 ~~nonpartisan~~) For any office for which a primary was held, only the  
16 names of the top two candidates will appear on the general election  
17 ballot; the name(~~s~~) of the candidate who received the greatest  
18 number of votes will appear first and the candidate who received the  
19 next greatest number of votes (~~for that office shall appear under~~  
20 ~~the title of that office, and the names shall appear in that order.~~  
21 ~~If a primary was conducted,~~) will appear second. No candidate's  
22 name may be printed on the subsequent general election ballot unless  
23 he or she receives at least one percent of the total votes cast for  
24 that office at the preceding primary, if a primary was conducted. On  
25 the ballot at the general election for (~~any other nonpartisan~~) an  
26 office for which no primary was held, the names of the candidates  
27 shall be listed in the order determined under RCW 29A.36.130.

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

35  
36 **7. NEW SECTION. Sec.** A new section is added to chapter 29A.52 RCW  
37 to read as follows:

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

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

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

17  
18 **CONFORMING AMENDMENTS**

19  
20 **8. Sec.** RCW 29A.04.310 and 2003 c 111 s 143 are each amended to  
21 read as follows:

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

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

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

27  
28 **9. Sec.** RCW 29A.24.030 and 2003 c 111 s 603 are each amended to  
29 read as follows:

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

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

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

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

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

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

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

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

26  
27 **10. Sec.** RCW 29A.24.210 and 2003 c 111 s 621 are each amended to  
28 read as follows:

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

35 Any ~~((such))~~ special three-day filing period shall be fixed by  
36 the election officer with whom declarations of candidacy for that  
37 office are filed. The election officer shall give notice of the  
38 special three-day filing period by notifying the press, radio, and

1 television in the county or counties involved, and by (~~such~~) any  
2 other means as may be required by law.

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

6 The procedures for filings for partisan offices where a vacancy  
7 occurs under this section or a void in candidacy occurs under RCW  
8 29A.24.140 must be substantially similar to the procedures for  
9 nonpartisan offices under RCW 29A.24.150 through 29A.24.170.

10  
11 **11. NEW SECTION. Sec.** A new section is added to chapter 29A.32 RCW  
12 to read as follows:

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

17  
18 **12. Sec.** RCW 29A.36.010 and 2003 c 111 s 901 are each amended to  
19 read as follows:

20 On or before the day following the last day allowed for  
21 (~~political parties to fill vacancies in the ticket as provided by~~  
22 ~~RCW 29A.28.010~~) candidates to withdraw under RCW 29A.24.130, the  
23 secretary of state shall certify to each county auditor a list of the  
24 candidates who have filed declarations of candidacy in his or her  
25 office for the primary. For each office, the certificate shall  
26 include the name of each candidate, his or her address, and his or  
27 her party (~~designation, if any~~) preference or independent  
28 designation as shown on filed declarations.

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

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

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

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

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

12  
13 **14. Sec.** RCW 29A.80.010 and 2003 c 111 s 2001 are each amended to  
14 read as follows:

15 (~~(+1))~~ Each political party organization may(~~(+~~  
16 ~~— (a) Make its own))~~ adopt rules (~~(and regulations; and~~  
17 ~~— (b) Perform all functions inherent in such an organization.~~  
18 ~~— (2) Only major political parties may designate candidates to~~  
19 ~~appear on the state primary ballot as provided in RCW 29A.28.010))~~  
20 governing its own organization and the nonstatutory functions of that  
21 organization.

22  
23 **15. Sec.** RCW 42.12.040 and 2003 c 238 s 4 are each amended to read  
24 as follows:

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

1 (2) If a vacancy occurs in any legislative office or in any  
2 partisan county office after the general election in a year that the  
3 position appears on the ballot and before the start of the next term,  
4 the term of the successor who is of the same party as the incumbent  
5 may commence once he or she has qualified as defined in RCW  
6 ((29.01.135)) 29A.04.133 and shall continue through the term for  
7 which he or she was elected.  
8

9 **CODIFICATION AND REPEALS**

10  
11 **16. NEW SECTION. Sec.** The code reviser shall revise the caption of  
12 any section of Title 29A RCW as needed to reflect changes made  
13 through this Initiative.  
14

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

- 17 (1) RCW 29A.04.157 (September primary) and 2003 c 111 s 128;  
18 (2) RCW 29A.28.010 (Major party ticket) and 2003 c 111 s 701, 1990 c  
19 59 s 102, 1977 ex.s. c 329 s 12, & 1965 c 9 s 29.18.150;  
20 (3) RCW 29A.28.020 (Death or disqualification--Correcting ballots--  
21 Counting votes already cast) and 2003 c 111 s 702, 2001 c 46 s 4, &  
22 1977 ex.s. c 329 s 13; and  
23 (4) RCW 29A.36.190 (Partisan candidates qualified for general  
24 election) and 2003 c 111 s 919.  
25

26 **18. NEW SECTION. Sec.** This act takes effect only if the Ninth  
27 Circuit Court of Appeals' decision in *Democratic Party of Washington*  
28 *State v. Reed*, 343 F.3d 1198 (9th Cir. 2003) holding the blanket  
29 primary election system in Washington state invalid becomes final and  
30 a Final Judgment is entered to that effect.  
31

--- END ---