

RCW 29A.92.070 Voter challenge of electoral system—Good faith effort to remedy—Court approval—Safe harbor—Reimbursement of costs.

(1) The political subdivision shall work in good faith with the person, organization, or tribe providing the notice to implement a remedy that provides the protected class or classes identified in the notice an equal opportunity to elect candidates of their choice. Such work in good faith to implement a remedy may include, but is not limited to consideration of: (a) Relevant electoral data; (b) relevant demographic data, including the most recent census data available; and (c) any other information that would be relevant to implementing a remedy.

(2) If the political subdivision adopts a remedy that takes the notice into account, or adopts the notice's proposed remedy, the political subdivision shall seek a court order acknowledging that the political subdivision's remedy complies with RCW 29A.92.020 and was prompted by a plausible violation. The person who submitted the notice may support or oppose such an order, and may obtain public records to do so. The political subdivision must provide all political, census, and demographic data and any analysis of that data used to develop the remedy in its filings seeking the court order and with any documents made public. All facts and reasonable inferences shall be viewed in the light most favorable to those opposing the political subdivision's proposed remedy at this stage. There shall be a rebuttable presumption that the court will decline to approve the political subdivision's proposed remedy at this stage.

(3) If the court concludes that the political subdivision's remedy complies with RCW 29A.92.020, an action under this chapter may not be brought against that political subdivision for four years by any party so long as the political subdivision does not enact a change to or deviation from the remedy during this four-year period that would otherwise give rise to an action under this chapter.

(4) In agreeing to adopt the person's, organization's, or tribe's proposed remedy, the political subdivision may do so by stipulation, which shall become a public document.

(5) (a) If the court issues an order under subsection (2) of this section, the person, organization, or tribe who sent the notice may make a demand to the political subdivision for reimbursement of the costs incurred in conducting the research necessary to send the notice. A demand made under this subsection must:

(i) Be in writing;

(ii) Be received by the political subdivision within 30 days of the adoption of the new electoral system; and

(iii) Include financial documentation, such as a detailed invoice for demographic services, that supports the demand. The political subdivision may request additional documentation if the documentation provided is insufficient for the political subdivision to corroborate the claimed costs.

(b) The political subdivision shall, within 60 days of receiving the demand, reimburse the reasonable costs of the person, organization, or tribe who sent the notice, not to exceed \$50,000. [2023 c 56 s 8; 2019 c 64 s 10; 2018 c 113 s 303.]

Effective date—2023 c 56: See note following RCW 29A.92.720.

Explanatory statement—2019 c 64: See note following RCW 1.20.110.