

Procedures for the Special Caucus to fill the Democratic Senate Vacancy in Washington's 40th Legislative District

Saturday, February 2nd, 2019, 2:30-4:30pm
The Firehouse Arts & Events Center
1314 Harris Ave Bellingham, WA 98225

PROCEDURES FOR THE NOMINATION OF CANDIDATES

1. The State Democratic Chair shall call a special caucus of the district precinct committee officers (PCOs) for the purpose of filling legislative district vacancies. The State Democratic Chair, or the Chair's designee, shall preside over all such meetings.
2. Notice of the special caucus shall be mailed ten days in advance. The call shall include the purpose of the caucus, the vacancy to be filled, time, place, and date of the meeting, and a copy of these procedures. The call shall be mailed by the State Democratic Central Committee, no later than Wednesday, January 23rd, 2019.
3. **Only duly elected and appointed PCOs are eligible to vote.** To be eligible to vote, the duly elected or appointed 40th Legislative District PCO must have been in office at the time of the vacancy or subsequently appointed by the County Chair prior to the Senate vacancy which occurred on January 11th.
4. To be eligible to vote, appointed PCOs must have been appointed under the normal procedures used by the relevant county organization:
 - a. In counties that appoint PCOs by vote of the county central committee, only PCOs appointed by the county chair January 11, 2019, shall be eligible.
 - b. In counties that allow the county chair to appoint PCOs that are recommended to them by an LD Party organization, only PCOs recommended by an LD Party organization as of January 11, 2019 shall be eligible.
5. No proxies or absentee ballots are allowed.
6. Candidates for Nomination must be registered voters residing in the district or area where the vacancy exists and must be otherwise qualified for office. ***Note advisory below from the State Party Parliamentarian regarding the candidacy of sitting County Council Members or County Commissioners in Whatcom, Skagit or San Juan County.*** In order to be eligible to be considered

for nomination, they must resign their County Office prior to the February 2nd nominating meeting.

7. A declaration of candidacy, not to exceed five minutes, shall be made from the floor by the candidate and/or someone speaking on his/her behalf. No person ineligible to be appointed may be nominated. When there are no further declarations of candidacy the issue shall come to a vote.
8. Each PCO shall cast one vote on the provided ballot. By a vote of the caucus, balloting shall proceed by one of the following methods:

METHOD ONE:

Nominees shall be selected in three independent elections for the first, second, and third ranked positions. The list of candidates shall stand for all three elections. The first election shall be for the first ranked position with each PCO casting one recorded vote on the ballot provided. After the balloting, the votes shall be tabulated and the totals shall be announced. If no candidate receives a majority of the votes cast, there shall be a recorded vote between the two candidates receiving the greatest number of votes. The candidate receiving the majority of votes cast in this balloting shall be the number one ranked nominee in the caucus election and shall be stricken from the list of candidates.

The second election shall be for the second ranked position with each PCO casting one recorded vote on the ballot provided. After the balloting, the votes shall be tabulated and the totals shall be announced. If no candidate receives a majority of the votes cast, there shall be a recorded vote between the two candidates receiving the greatest number of votes. The candidate receiving the majority of votes cast in this balloting shall be the number two ranked nominee in the caucus election and shall be stricken from the list of candidates.

If there is only one candidate remaining after the second election, that candidate shall be the number three ranked nominee in the caucus election. If however, there are two or more remaining candidates, a third election shall be held for the third ranked position with each PCO casting one recorded vote on the ballot provided. After balloting, the votes shall be tabulated and the totals announced. If no candidate receives a majority of the votes cast, there shall be a recorded vote between the candidates receiving the greatest number of votes. The candidate receiving the majority of votes cast in this balloting shall be the number three ranked nominee in the caucus election.

METHOD TWO:

Nominees for the first, second, and third ranked positions shall be selected in a single election. After the first ballot, the votes shall be tabulated and the ranking of the candidates by vote totals shall be announced. If there are more than three candidates, the top three shall be retained and the others stricken from the ballot and another vote

taken. Again, each voter shall cast one vote for one of the remaining three candidates. Again votes shall be tabulated, totals announced and a ranking established by the number of votes each candidate receives. If no candidate receives a majority of the votes cast, there shall be a recorded vote between the candidates ranked one and two. The candidate receiving the majority of votes cast in this balloting shall be ranked one.

9. Voting on candidates shall be by signed ballot. Ballots not signed or having more than one vote cast will not be counted.
10. The State Democratic Chair shall retain custody of the ballots for three months.
11. The list of nominees shall consist of three names in rank order.
12. The State Democratic Chair shall transmit the candidates' names and their vote totals to the State Central Executive Committee for ratification, and subsequent to ratification, to the Chair of the San Juan, Whatcom and Skagit County Councils.
13. In all matters not specifically covered herein, Roberts Rules of Order, Newly Revised shall prevail.

Advisory to the WSDCC State Chair:

You have asked whether the list of three nominees to fill the current Senate vacancy in Legislative District 40 may include sitting members of the San Juan, Skagit and Whatcom County Councils.

For the reasons set out below the answer is no. A council member who unconditionally resigns their council position before being nominated by the Party may be included.

Background: On January 11, 2019 Kevin Ranker resigned his position as Senator from the 40th Legislative District. Pursuant to Article II, Section 15 of the Washington Constitution the resulting vacancy is to be filled “by appointment by the joint action of the boards of county legislative authorities of the counties composing” the 40th Legislative District.

The power of the county legislative authorities is limited by the Constitution to selecting one of three names submitted to them by the Washington State Democratic Central Committee. *Id.* The State Central Committee is limited by the Party’s Bylaws, Article VII.B, to selecting names from a list of three provided to it by the PCOs of the 40th LD.

Explanation: AGO 1987 No 21 requires the state central committee to submit the names of three individuals to the county legislative authorities who would be eligible to be hold the position if appointed. (“Although art. 2, § 15 does not explicitly cover the point, a necessary implication of the process established in the constitution is that the state central committee submit the names of three qualified candidates for a vacant position.”). The county legislative authorities are entitled to insist on received three names, not less. *Id.*

AGO 1985 No. 1 holds that “none of the members of any of the county legislative authorities participating in the appointment [are] eligible to fill the vacancy.” Because the state central committee, as noted, is effectively limited by its bylaws to forwarding the list created by the PCOs in the 40th district the AGOs cited require that the list created by the PCOs cannot include any members of the county legislative authorities in San Juan, Skagit and Whatcom counties.

Whether or not we agree with the logic of the AGOs, if the PCOs did include council members in their list to the state central committee, forcing the state central committee to include them as well or reject the PCO’s action as incomplete, the county legislative authorities could, and likely would, postpone filling the vacancy until they received a list that was, in the opinion of their county prosecutors, complete. It seems likely that the relevant county prosecutors would follow the AGOs cited rather than disagree.

Note: A former council member, however, is eligible to be included on the list and a council member who unconditionally resigns their position prior to the appointment process without any agreement or understanding that they will be appointed to the vacancy if they resign is

eligible for inclusion. Based on AGO 1987 No 21 the resignation must occur before the Party nominates the former council member.

Links to cited documents:

State Constitution: <http://leg.wa.gov/lawsandagencyrules/documents/12-2010-wastateconstitution.pdf>

Bylaws of the Washington State Democratic Party: <https://www.wa-democrats.org/sites/wadems/files/documents/Washington%20State%20Democrats%20-%20Bylaws.pdf>

AGO 1987 No 21: <https://www.atg.wa.gov/ago-opinions/nomination-county-commissioner-vacancy-multi-county-legislative-position>

AGO 1985 No 1: <https://www.atg.wa.gov/ago-opinions/appointment-county-commissioner-vacancy-multi-county-legislative-position>

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January 16, 2019**