

RESOLUTION NO. 2008-29

A RESOLUTION of the City Council of Bainbridge Island, Washington, requesting that the Washington State Legislature enact Emergency Legislation during the 2009 State Legislature Session that would amend RCW 35A.06.050 to restore to Washington noncharter code cities the right to choose their preferred election date for a change in form of government ballot, that includes special elections.

WHEREAS, on September 15, 2008, citizens of the City of Bainbridge Island submitted to the City Council a petition to change the form of government from a mayor-council plan of government to a council- manager plan of government; and

WHEREAS, the City Council has learned that, under RCW 35A.06.050, the only date that a vote on this petition can be held is in the general election in November 2009, when the City's mayoral position will also be on the ballot; and

WHEREAS, the City Council has determined that a vote on both at the same time is unfair to voters, unfair to mayoral candidates, unfair to taxpayers, and unfair to the community at large; and

WHEREAS, the City Council has learned that for over 35 years prior to 2004, through the prior version of RCW 35A.06.050, the Washington State Legislature intended to and did allow Washington noncharter code cities wide discretion in choosing their preferred election date for a change of government ballot, including special elections; and

WHEREAS, in 2004, in an effort to reduce election costs arising out of a circumstance involving the City of Ocean Shores, Grays Harbor County, the Washington State Legislature amended RCW 35A.06.050 to allow a change in form of government ballot to occur only at the next general election in accordance with RCW 29A.04.330 (HB2438, SB6493); and

WHEREAS, under RCW 29A.04.330(1), all municipal general elections are confined only to odd numbered years; and

WHEREAS, every other odd year, the mayoral election would be on the same ballot with a vote to change the form of government, which can result in two outcomes for one election, making it unfair to mayoral candidates and their supporters, and confusing to voters, and in effect, leaving the municipality vulnerable to costly legal challenge; and

WHEREAS, since the municipality is restricted from choosing its most preferred election date for a change in form of government vote, the current version of RCW 35A.06.050 may additionally disallow opportunities for cooperative ballot expense sharing between other government entities to reduce costs and other good planning efforts; and

WHEREAS, the City of Bainbridge Island wishes to respond to a certified citizen petition to place the change in form of government proposal on the ballot in a timely manner without confusion, conflict, and/or potential legal challenge in the event of two winning outcomes on one ballot; and

WHEREAS, this circumstance exists due to an unintentional consequence of the 2004 amendment of RCW 35A.06.050, and this circumstance exists as well for any other Washington noncharter code city that wishes to respond to such a citizen petition; now, therefore,

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND DOES RESOLVE AS FOLLOWS:


Section 1. To formally request the Washington State Legislature immediately rectify the unintended circumstances of the 2004 amendment to RCW 35A.06.050 described in the above recitals by enacting, no later than March 10, 2009, an Emergency Legislative Bill to amend RCW 35A.06.050 to again allow Washington noncharter code cities to choose their most preferred election date for a change in form of government ballot, including special elections.

Section 2. To recognize that having a change in form of government vote on the same ballot as a mayoral election may result in two outcomes for one election, and unnecessarily exposes the municipality to the risk of costly and time-consuming litigation, and that such votes should not be scheduled in the same election.


Section 3. To require that an election date be established within a set period after receiving a notice of sufficiency on the petition that is consistent with the applicable law and insures the will of the people is met in a timely manner.

PASSED by the City Council this 24th day of November 2008.

APPROVED by the Mayor this 28th day of November 2008.

By: 
Darlene Kordonowy, Mayor

ATTEST/AUTHENTICATE:

By: 
Rosalind D. Lassoff, CMC
City Clerk

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
RESOLUTION NO.

November 20, 2008
November 24, 2008
2008-29