

# HOUSE BILL REPORT

## 2SHB 1761

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### As Amended by the Senate

**Title:** An act relating to the ethical use of legislative web sites.

**Brief Description:** Addressing the ethical use of legislative web sites.

**Sponsors:** House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hasegawa, Appleton and Hurst).

**Brief History:**

**Committee Activity:**

State Government & Tribal Affairs: 2/3/09, 2/20/09 [DPS]; 1/21/10 [DP2S].

**Floor Activity:**

Passed House: 3/6/09, 54-42.

**Floor Activity:**

Passed House: 1/28/10, 97-0.

Senate Amended.

Passed Senate: 3/5/10, 41-7.

<p><b>Brief Summary of Second Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Authorizes the maintenance of official legislative websites without alteration throughout the year, regardless of pending elections.</li></ul>
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### HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 8 members: Representatives Hunt, Chair; Appleton, Vice Chair; Armstrong, Ranking Minority Member; Alexander, Flannigan, Hurst, Miloscia and Taylor.

**Staff:** Tracey O'Brien (786-7196).

**Background:**

State ethics laws and legislative ethics rules prohibit the use of any person, money, or property under a legislator's official control or direction or his or her official custody for the

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

private benefit or gain of the legislator. However, there are exceptions to this prohibition and the Legislative Ethics Board (Board) has general rules interpreting the exceptions. For example, if there is no actual cost to the state or the cost is de minimis, if there is a public benefit, and if the use does not interfere with the performance of official duties, then infrequent and incidental use of state resources for private benefit may be permissible.

In addition, a legislator may not use or authorize the use of state facilities, directly or indirectly, for the purpose of assisting a campaign for election of a person to office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a legislator with the authority to direct, control, or influence the actions of the state officer or state employee using the public resources constitutes a violation. Facilities of an agency can include stationery, office space, publications, and use of state employees. Among the exceptions to this prohibition: a legislator may use state facilities for activities that are part of the normal and regular conduct of the office; and he or she may have de minimis use of public facilities incidental to the preparation or delivery of communications.

Recent Board Complaint Opinions have held that a "legislator's use of legislative press releases, prepared with the facilities of the House of Representatives or of the Senate, through the posting of those releases on a legislator's campaign website constitutes a use of the facilities of an agency (public resources) in support of his or her campaign in violation of RCW 42.52.180."

#### **Summary of Second Substitute Bill:**

An exception to the prohibition against the use of public facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for the election of a person to an office or for the promotion of or opposition to a ballot proposition is added. Official legislative websites can be maintained, unaltered, throughout the year, regardless of pending elections. The websites can contain any discretionary material which was also specifically prepared for the legislator in the course of his or her duties as a legislator. This includes newsletters and press releases. These materials shall not be considered "campaign materials" and be subject to election year restrictions. However, the website shall not be used for campaign purposes. The websites cannot be altered after June 30 of an election year for legislators seeking re-election.

#### **EFFECT OF SENATE AMENDMENT(S):**

The amendment removes the language prohibiting the legislative websites from being used for campaign purposes and that materials posted shall not be considered campaign materials. Eliminates the exception that legislative websites maintained during an election season not be subject to election year restrictions.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

See House Bill Report in 2009.

**Persons Testifying:** None.

**Persons Signed In To Testify But Not Testifying:** None.