

# SENATE BILL REPORT

## SB 5025

---

As Reported By Senate Committee On:  
State & Local Government, February 8, 1999

**Title:** An act relating to ethics in public service.

**Brief Description:** Changing ethics in public service provisions.

**Sponsors:** Senators Spanel and Long; by request of Legislative Ethics Board.

**Brief History:**

**Committee Activity:** State & Local Government: 1/21/99, 2/8/99 [DPS].

---

### SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

**Majority Report:** That Substitute Senate Bill No. 5025 be substituted therefor, and the substitute bill do pass.

Signed by Senators Patterson, Chair; Gardner, Vice Chair; Haugen, Horn, Kline and McCaslin.

**Staff:** Diane Smith (786-7410)

**Background:** In 1994, following the recommendations of a special Governor's Commission on Ethics, the Legislature adopted a comprehensive revision of the laws establishing ethical standards and procedures for state officers and employees. This included the establishment of the Executive Ethics Board, the Legislative Ethics Board, and the Commission on Judicial Conduct. Subsequent to the approval of Initiative Measure Number 276 in 1972, the Legislature enacted the public disclosure statutes in 1973. This included the establishment of the Public Disclosure Commission (PDC).

Both chapters of law have enforcement provisions, including disciplinary action, assessment of damages, penalties and costs in the case of the ethics board, and civil remedies and sanctions in the case of the PDC. In both venues ethical matters are at issue and the two chapters have complimentary applications.

Over time, divergences between the two venues have indicated opportunities for enhancing the application of each. Unlike the PDC, the ethics boards do not have the ability to delegate to their staff the authority to dismiss petitions with de minimus impact.

Both chapters prohibit the use of state facilities and staff to further campaigns of candidates for elective office and ballot propositions. Neither chapter, however, specifically prohibits the use of state resources to further a campaign for the appointment of someone to fill a vacant elective office.

The ethics law prohibits a state officer or employee from receiving anything of economic value under any contract or grant outside his or her official duties. There is an exception

that allows a state officer or employee to have an employment contract with a governmental entity. In practice, the scope of this exception does not necessarily allow for its application to be as limited as circumstances may indicate to be prudent in the individual case.

There is no definition of a ballot proposition in the ethics law, while the definition in the PDC law lacks clear application to initiatives to the Legislature.

**Summary of Substitute Bill:** The investigation of a complaint made to the ethics board is limited to the allegation in the complaint. In the case of determining whether there is reasonable cause to believe that a violation of the ethics law has taken place, the role of the staff of the ethics board is clarified. After investigating, the staff makes a recommendation to the board on the issue of reasonable cause. The staff also makes a determination whether the complaint should be dismissed and has the authority to order dismissal under the following three circumstances: the board does not have jurisdiction over the alleged violation; the complaint is obviously unfounded or frivolous; or the alleged violation was inadvertent, minor, or already cured and proceeding with enforcement would not serve the purposes of the section. The boards are given the authority to tailor this dismissal procedure to their own unique needs by means of administrative rule.

State resources may not be used to further a campaign for the appointment of someone to a vacant elective office under both the ethics law and the public disclosure law.

Employment as an officer or employee by more than one governmental entity is allowed under the ethics law but the compensation or employment is subject to the statute prohibiting activities incompatible with public duties.

Initiatives to the Legislature are specifically included in the definition in the ethics statutes of ballot propositions except when the initiative becomes a bill for consideration before the Legislature. When that happens, the Legislature and legislative staff may treat it as any other bill is allowed to be treated. This is the case in both the public disclosure law and the ethics law. It is clarified that the PDC retains jurisdiction of local officers and employees while the ethics boards have jurisdiction over legislators, executive officers, and employees.

**Substitute Bill Compared to Original Bill:** The substitute bill clarifies the original bill's intent to clarify that the ethics boards have jurisdiction over state legislators and agency personnel in the use of public facilities to promote both a person to fill a vacant elective office and to promote an initiative to the Legislature when it is a ballot measure and not a bill before the Legislature.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The bill gives the ethics boards the authority that the PDC already has to authorize its staff to dismiss cases in limited circumstances. This is helpful in managing the high caseloads.

The Legislative Ethics Board and the Executive Ethics Board have diverged in their interpretations of the same or similar statutes. The bill establishes uniformity in the understanding that allegations are to be investigated and that the ethics law, not the PDC law, applies to legislators and executive officers when it is alleged that state facilities are used to promote the filling of a vacant elective office and to promote ballot measures when it is not an initiative to the Legislature.

**Testimony Against:** We do not need any more independent counsel– witch hunts. Too much power to the staff of the ethics boards can lead to backroom deals. The scope of the boards’ review of these dismissals is not clear. We want to be sure we do not unintentionally open up the time agencies could use public facilities to lobby for or against ballot measures.

**Testified:** CON: Shawn Newman, CLEAN (Citizens for Leaders with Ethics and Accountability Now); Paul Telford, Reform Party of Washington.