

# HOUSE BILL REPORT

## HB 2682

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**As Reported by House Committee On:**  
State Government

**Title:** An act relating to information from public officials on the impact of ballot propositions.

**Brief Description:** Allowing public officials to provide information on the impact of ballot propositions.

**Sponsors:** Representatives Sommers, Kessler, Van Luven, Edwards, Chase, Kenney, Darneille, Ogden, Schual-Berke, Santos and Kagi.

**Brief History:**

**Committee Activity:**

State Government: 2/7/02, 2/8/02 [DPS].

**Brief Summary of Substitute Bill**

- State and local elected officials may use public facilities to prepare and deliver communications that provide information on the impact that ballot propositions may have on matters that fall within their responsibilities.

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### HOUSE COMMITTEE ON STATE GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Romero, Chair; Miloscia, Vice Chair; McDermott, Schindler, Schmidt and Upthegrove.

**Staff:** Catherine Blinn (786-7114).

**Background:**

State and local elected officials and their employees may not use, authorize the use of, or acquiesce in the use of public facilities to assist a campaign for elected office, or to support or oppose a ballot proposition. Facilities include, but are not limited to, stationery, postage, machines, equipment, employees, vehicles, office space, publications of the office or agency, and clientele lists. Exceptions to the prohibition include:

- Action taken at an open public meeting by members of an elected legislative body to

- express a collective decision, to actually vote on a motion, proposal, resolution, order or ordinance, or to support or oppose a ballot proposition. Notice of the meeting must include the title and number of the ballot proposition, and members of the public and the legislative body must be allowed an opportunity to express opposing views;
- a statement by an elected official supporting or opposing a ballot proposition made at an open press conference or made in response to an inquiry; and
  - activities that are part of the "normal and regular conduct" of the office or agency.

State legislators and statewide elected officials are afforded an additional exception of de minimis use of public facilities incidental to the preparation or delivery of permissible, self-initiated communications of their views on ballot propositions that foreseeably may affect a matter that falls within their responsibilities.

The Legislative Ethics Board has ruled that the "normal and regular conduct" of the Legislature does not include providing information or views regarding initiatives to the people or referendum measures. The only ballot measures considered part of the "normal and regular conduct" of the Legislature are measures that must go through the Legislature: initiatives to the Legislature, alternative legislative measures, and referendum bills. In addition, de minimis use of public facilities must not incur any appreciable cost.

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

A new exception to the ethics law is created allowing state and local elected officials to use public facilities to prepare and deliver self-initiated communications of information on the impact that any ballot proposition foreseeably may have on matters that fall within their responsibilities. The exception applies to all ballot measures, not just those that go through the Legislature. The use of public facilities is not limited to de minimis use, but is limited to communicating information, rather than views, on the ballot propositions. Portions of the exception allowing de minimis use of public facilities is removed to accurately reflect the interpretations of the law by the Legislative Ethics Board.

### **Substitute Bill Compared to Original Bill:**

The substitute bill applies the exception to all ballot measures, not just those that must go through the Legislature, such as initiatives to the Legislature. The substitute bill removes portions of the exception allowing de minimis use of public facilities to accurately reflect interpretations of the law by the Legislative Ethics Board.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

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

**Testimony For:** Fire districts want to give voters more information on statewide ballot measures and how they will impact local districts, not just statewide agencies. The Association of Washington Cities supports the bill because of the growing number and popularity of initiatives. The bill clarifies what local government officials can do to educate voters on the impact of ballot propositions on local governments. Even if a Public Disclosure Commission (PDC) rule does exist, allowing local governments to distribute an informational pamphlet, the rule should be clearly established in statute for both local and state officials. The Association of Washington Business supports the bill because voters expect elected officials to inform them of the impacts of the ballot measures. The campaigns supporting the measures want objective information on the measures to be limited; they want to control the information voters hear and read on the measures.

**Testimony Against:** The PDC is concerned about the intent of the bill. The PDC enforces the ethics law for local government officials and interprets the "normal and regular conduct" exception to allow elected and appointed local officials to distribute fair and objective information on the impact of ballot propositions, as long as the information does not advocate how to vote on the measure. Citizens for Responsible Government is opposed to the bill because it attempts to allow officials to use public facilities to support or oppose a ballot proposition. Elected officials should have to pay to express their views just like everyone else. The views of elected officials are no more important than the views of other citizens.

**Testified:** (In support) Sandy Swarthout, Washington Fire Commissioners Association; Jim Justin, Association of Washington Cities; Pat Thompson, Washington Association of County and City Employees; and Steve Gano, Association of Washington Business.

(With concerns) Vicki Rippie, Public Disclosure Commission; and Paul Telford, Citizens for Responsible Government.