
SUBSTITUTE SENATE BILL 6706

State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on State & Local Government (originally sponsored by Senators Swecker, Carlson, Hewitt, McDonald, Gardner, Keiser, Costa, Winsley, Oke and Hale)

READ FIRST TIME 02/08/2002.

1 AN ACT Relating to public hearings on ballot measures; amending RCW
2 43.07.030, 42.17.130, and 42.52.180; adding a new section to chapter
3 43.07 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that an active,
6 informed electorate provides a strong foundation for a democratic
7 republic and as such, efforts to fully inform voters are critical to
8 sustain our democratic form of government. The initiative process, a
9 constitutional embodiment of an active electorate, is cherished by
10 Washington's independent-minded citizens. Recent initiative history
11 demonstrates the willingness of the public to exercise their
12 constitutional right to legislate by initiative. The legislature finds
13 that as the state officer with the responsibility of certifying
14 initiatives to the ballot, the secretary of state should provide a
15 formal opportunity for the general public to hear information about a
16 ballot measure in a public setting with an opportunity for both
17 proponents and opponents of the measure to present their arguments.
18 The legislature intends for the secretary to be a facilitator in this

1 process and as such should maintain a neutral or nonbiased course of
2 action throughout the public hearing process.

3 **Sec. 2.** RCW 43.07.030 and 1982 c 35 s 186 are each amended to read
4 as follows:

5 The secretary of state shall:

6 (1) Keep a register of and attest the official acts of the
7 governor;

8 (2) Affix the state seal, with his attestation, to commissions,
9 pardons, and other public instruments to which the signature of the
10 governor is required, and also attestations and authentications of
11 certificates and other documents properly issued by the secretary;

12 (3) Record all articles of incorporation, deeds, or other papers
13 filed in the secretary of state's office;

14 (4) Receive and file all the official bonds of officers required to
15 be filed with the secretary of state;

16 (5) Take and file in the secretary of state's office receipts for
17 all books distributed by him;

18 (6) Hold public hearings on initiative measures certified to the
19 general election ballot;

20 (7) Certify to the legislature the election returns for all
21 officers required by the Constitution to be so certified, and certify
22 to the governor the names of all other persons who have received at any
23 election the highest number of votes for any office the incumbent of
24 which is to be commissioned by the governor;

25 ~~((+7))~~ (8) Furnish, on demand, to any person paying the fees
26 therefor, a certified copy of all or any part of any law, record, or
27 other instrument filed, deposited, or recorded in the secretary of
28 state's office;

29 ~~((+8))~~ (9) Present to the speaker of the house of representatives,
30 at the beginning of each regular session of the legislature during an
31 odd-numbered year, a full account of all purchases made and expenses
32 incurred by the secretary of state on account of the state;

33 ~~((+9))~~ (10) File in his office an impression of each and every
34 seal in use by any state officer;

35 ~~((+10))~~ (11) Keep a record of all fees charged or received by
36 the secretary of state.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.07 RCW
2 to read as follows:

3 (1) After the secretary of state certifies an initiative measure as
4 qualified for the general election ballot, the secretary of state, or
5 the secretary's designee, shall hold a public hearing on the measure in
6 each congressional district in the state. When two or more
7 congressional districts are in a compact geographical area, the
8 secretary of state may hold one hearing to serve these multiple
9 congressional districts. The secretary or a designee shall preside
10 over the hearings. The secretary may combine two or more initiative
11 measures in a single hearing.

12 (2) The secretary of state shall give thirty days' notice of the
13 hearings to all cabinet level state agencies, county legislative
14 authorities, and persons designated in subsection (3)(a) of this
15 section.

16 (3) The public hearings must include opportunity for the following
17 persons, or their designees, to present to attendees arguments for and
18 against each initiative measure, including fiscal and policy impacts of
19 the measure:

20 (a) Members of the committees appointed under RCW 29.81.240 to
21 prepare statements for the voters' pamphlet;

22 (b) State, county, and municipal officers and agencies thereof who
23 determine that the measure affects their constitutional or statutory
24 responsibilities;

25 (c) Registered voters in the congressional district.

26 (4) The hearings must be held from forty-five to fifteen days
27 before the general election, and the secretary of state shall give
28 notice of them to the general public in the voters' pamphlet, on the
29 secretary's official web site, and, in the two weeks before the
30 meeting, at least twice by public service announcement through
31 broadcast media and newspapers of general circulation in the
32 congressional district.

33 (5) Public officials may use public facilities to prepare or
34 deliver written or verbal communications at the hearings, consisting of
35 information on the impact of the ballot measure that foreseeably may
36 affect a matter that falls within their constitutional or statutory
37 responsibilities. Copies of any written material may be provided to
38 the public at the time of the hearing and at any time thereafter upon
39 request. Other than the official voters' pamphlet, a public official

1 may not send, by mail or other form of communication, any unsolicited
2 information on the ballot measure. The secretary shall not distribute
3 any printed information presented by participants under subsections (2)
4 and (3) of this section, but may supply online access to an unedited
5 audio or audio/video file of any hearing by means of the office's web
6 site. Public officials attending the hearings are entitled to travel
7 expenses as otherwise provided by law.

8 (6) Nothing in this section diminishes a citizen's constitutional
9 rights nor may any part of this section or the hearings authorized in
10 it invalidate an initiative measure.

11 (7) The secretary may adopt rules in accordance with this section
12 to ensure that the public hearings are carried out in an organized,
13 objective manner.

14 **Sec. 4.** RCW 42.17.130 and 1979 ex.s. c 265 s 2 are each amended to
15 read as follows:

16 No elective official nor any employee of his office nor any person
17 appointed to or employed by any public office or agency may use or
18 authorize the use of any of the facilities of a public office or
19 agency, directly or indirectly, for the purpose of assisting a campaign
20 for election of any person to any office or for the promotion of or
21 opposition to any ballot proposition. Facilities of public office or
22 agency include, but are not limited to, use of stationery, postage,
23 machines, and equipment, use of employees of the office or agency
24 during working hours, vehicles, office space, publications of the
25 office or agency, and clientele lists of persons served by the office
26 or agency: PROVIDED, That the foregoing provisions of this section
27 shall not apply to the following activities:

28 (1) Action taken at an open public meeting by members of an elected
29 legislative body to express a collective decision, or to actually vote
30 upon a motion, proposal, resolution, order, or ordinance, or to support
31 or oppose a ballot proposition so long as (a) any required notice of
32 the meeting includes the title and number of the ballot proposition,
33 and (b) members of the legislative body or members of the public are
34 afforded an approximately equal opportunity for the expression of an
35 opposing view;

36 (2) A statement by an elected official in support of or in
37 opposition to any ballot proposition at an open press conference or in
38 response to a specific inquiry;

1 (3) Activities (~~which~~) that are part of the normal and regular
2 conduct of the office or agency;

3 (4) Activities in compliance with section 3 of this act of an
4 elected official or an employee of the official's office or a person
5 appointed to or employed by a public office or agency.

6 **Sec. 5.** RCW 42.52.180 and 1995 c 397 s 30 are each amended to read
7 as follows:

8 (1) No state officer or state employee may use or authorize the use
9 of facilities of an agency, directly or indirectly, for the purpose of
10 assisting a campaign for election of a person to an office or for the
11 promotion of or opposition to a ballot proposition. Knowing
12 acquiescence by a person with authority to direct, control, or
13 influence the actions of the state officer or state employee using
14 public resources in violation of this section constitutes a violation
15 of this section. Facilities of an agency include, but are not limited
16 to, use of stationery, postage, machines, and equipment, use of state
17 employees of the agency during working hours, vehicles, office space,
18 publications of the agency, and clientele lists of persons served by
19 the agency.

20 (2) This section shall not apply to the following activities:

21 (a) Action taken at an open public meeting by members of an elected
22 legislative body to express a collective decision, or to actually vote
23 upon a motion, proposal, resolution, order, or ordinance, or to support
24 or oppose a ballot proposition as long as (i) required notice of the
25 meeting includes the title and number of the ballot proposition, and
26 (ii) members of the legislative body or members of the public are
27 afforded an approximately equal opportunity for the expression of an
28 opposing view;

29 (b) A statement by an elected official in support of or in
30 opposition to any ballot proposition at an open press conference or in
31 response to a specific inquiry. For the purposes of this subsection,
32 it is not a violation of this section for an elected official to
33 respond to an inquiry regarding a ballot proposition, to make
34 incidental remarks concerning a ballot proposition in an official
35 communication, or otherwise comment on a ballot proposition without an
36 actual, measurable expenditure of public funds. The ethics boards
37 shall adopt by rule a definition of measurable expenditure;

1 (c) Activities that are part of the normal and regular conduct of
2 the office or agency; ((and))

3 (d) De minimis use of public facilities by statewide elected
4 officials and legislators incidental to the preparation or delivery of
5 permissible communications, including written and verbal communications
6 initiated by them of their views on ballot propositions that
7 foreseeably may affect a matter that falls within their constitutional
8 or statutory responsibilities; and

9 (e) Activities of an elected official or state employee in
10 compliance with section 3 of this act.

11 (3) As to state officers and employees, this section operates to
12 the exclusion of RCW 42.17.130.

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