

SHB 2106 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/01/2017

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION." **Sec. 1.** The legislature finds that the
4 prohibition on the use of public resources for campaign purposes
5 serves an important purpose, but that the period prohibiting state
6 legislators from communicating with constituents at public expense is
7 unnecessary once the election, and the campaign itself, has ended.
8 Furthermore, the delay in constituent outreach after the election
9 only hinders a legislator's ability to quickly and effectively
10 respond to requests and keep the public informed about current state
11 issues, and the various deadlines relating to mailed, emailed, and
12 web site communications are confusing and need to be harmonized. For
13 these reasons, the legislature intends to change mailed, emailed, and
14 web site communication deadlines to the same time periods, in order
15 to allow legislators to actively engage with the public on official
16 legislative business in a timely and effective manner.

17 **Sec. 2.** RCW 42.52.180 and 2011 c 60 s 30 are each amended to
18 read as follows:

19 (1) No state officer or state employee may use or authorize the
20 use of facilities of an agency, directly or indirectly, for the
21 purpose of assisting a campaign for election of a person to an office
22 or for the promotion of or opposition to a ballot proposition.
23 Knowing acquiescence by a person with authority to direct, control,
24 or influence the actions of the state officer or state employee using
25 public resources in violation of this section constitutes a violation
26 of this section. Facilities of an agency include, but are not limited
27 to, use of stationery, postage, machines, and equipment, use of state
28 employees of the agency during working hours, vehicles, office space,
29 publications of the agency, and clientele lists of persons served by
30 the agency.

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

2 (a) Action taken at an open public meeting by members of an
3 elected legislative body to express a collective decision, or to
4 actually vote upon a motion, proposal, resolution, order, or
5 ordinance, or to support or oppose a ballot proposition as long as
6 (i) required notice of the meeting includes the title and number of
7 the ballot proposition, and (ii) members of the legislative body or
8 members of the public are afforded an approximately equal opportunity
9 for the expression of an opposing view;

10 (b) A statement by an elected official in support of or in
11 opposition to any ballot proposition at an open press conference or
12 in response to a specific inquiry. For the purposes of this
13 subsection, it is not a violation of this section for an elected
14 official to respond to an inquiry regarding a ballot proposition, to
15 make incidental remarks concerning a ballot proposition in an
16 official communication, or otherwise comment on a ballot proposition
17 without an actual, measurable expenditure of public funds. The ethics
18 boards shall adopt by rule a definition of measurable expenditure;

19 (c) The maintenance of official legislative web sites throughout
20 the year, regardless of pending elections. The web sites may contain
21 any discretionary material which was also specifically prepared for
22 the legislator in the course of his or her duties as a legislator,
23 including newsletters and press releases. The official legislative
24 web sites of legislators seeking reelection or election to any office
25 shall not be altered (~~((between June 30th and November 15th)), other~~
26 ~~than during a special legislative session, beginning on the first day~~
27 ~~of the declaration of candidacy filing period specified in RCW~~
28 ~~29A.24.050 through the date of certification of the general election~~
29 of the election year. The web site shall not be used for campaign
30 purposes;

31 (d) Activities that are part of the normal and regular conduct of
32 the office or agency; and

33 (e) De minimis use of public facilities by statewide elected
34 officials and legislators incidental to the preparation or delivery
35 of permissible communications, including written and verbal
36 communications initiated by them of their views on ballot
37 propositions that foreseeably may affect a matter that falls within
38 their constitutional or statutory responsibilities.

39 (3) As to state officers and employees, this section operates to
40 the exclusion of RCW 42.17A.555.

1 **Sec. 3.** RCW 42.52.185 and 2011 c 60 s 31 are each amended to
2 read as follows:

3 (1) During the ((twelve month)) period beginning on December 1st
4 of the year before a general election for a state legislator's
5 election to office and continuing through ((November 30th immediately
6 after)) the date of certification of the general election, the
7 legislator may not mail, either by regular mail or ((electronic
8 mail)) email, to a constituent at public expense a letter,
9 newsletter, brochure, or other piece of literature, except for
10 routine legislative correspondence, such as scheduling, and as
11 follows:

12 (a) The legislator may mail two mailings of newsletters to
13 constituents. All newsletters within each mailing of newsletters must
14 be identical as to their content but not as to the constituent name
15 or address. ((One such mailing may be mailed no later than thirty
16 days after the start of a regular legislative session, except that a
17 legislator appointed during a regular legislative session to fill a
18 vacant seat may have up to thirty days from the date of appointment
19 to send out the first mailing. The other)) Both mailings ((may)) must
20 be mailed ((no later than sixty days after the end of a regular
21 legislative session)) before the first day of the declaration of
22 candidacy filing period specified in RCW 29A.24.050.

23 (b) The legislator may mail an individual letter to (i) an
24 individual constituent who has contacted the legislator regarding the
25 subject matter of the letter during the legislator's current term of
26 office; (ii) an individual constituent who holds a governmental
27 office with jurisdiction over the subject matter of the letter; or
28 (iii) an individual constituent who has received an award or honor of
29 extraordinary distinction of a type that is sufficiently infrequent
30 to be noteworthy to a reasonable person, including, but not limited
31 to: (A) An international or national award such as the Nobel prize or
32 the Pulitzer prize; (B) a state award such as Washington scholar; (C)
33 an Eagle Scout award; and (D) a Medal of Honor.

34 (c) In those cases where constituents have specifically indicated
35 that they would like to be contacted to receive regular or periodic
36 updates on legislative matters or been added to a distribution list
37 and provided regular opportunities to unsubscribe from that mailing
38 list, legislators may provide such updates by ((electronic mail))
39 email throughout the legislative session and up until ((thirty days
40 from the conclusion of a legislative session)) the first day of the

1 declaration of candidacy filing period specified in RCW 29A.24.050.
2 Legislators may also provide these updates by email during any
3 special legislative session.

4 (2) ((For purposes of subsection (1) of this section,
5 "legislator" means a legislator who is a "candidate," as defined by
6 RCW 42.17A.005, for any public office.)

7 (3))) A violation of this section constitutes use of the
8 facilities of a public office for the purpose of assisting a campaign
9 under RCW 42.52.180.

10 (((4))) (3) The house of representatives and senate shall
11 specifically limit expenditures per member for the total cost of
12 mailings. Those costs include, but are not limited to, production
13 costs, printing costs, and postage costs. The limits imposed under
14 this subsection apply only to the total expenditures on mailings per
15 member and not to any categorical cost within the total.

16 (((5))) (4) For purposes of this section((7)):

17 (a) "Legislator" means a legislator who is a "candidate," as
18 defined in RCW 42.17A.005, for any public office; and

19 (b) Persons residing outside the legislative district represented
20 by the legislator are not considered to be constituents, but
21 students, military personnel, or others temporarily employed outside
22 of the district who normally reside in the district are considered to
23 be constituents.

24 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of
26 the state government and its existing public institutions, and takes
27 effect immediately."

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28 On page 1, line 2 of the title, after "legislators;" strike the
29 remainder of the title and insert "amending RCW 42.52.180 and
30 42.52.185; creating a new section; and declaring an emergency."

EFFECT: Makes the freeze on official legislative communications with constituents effective in all elections until certification of general election results.

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