

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2106**

Chapter 7, Laws of 2017

65th Legislature  
2017 Regular Session

LEGISLATORS--ETHICS--ELECTION YEAR RESTRICTIONS

EFFECTIVE DATE: 3/31/2017

Passed by the House March 15, 2017  
Yeas 95 Nays 1

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate March 1, 2017  
Yeas 49 Nays 0

TIM SHELDON

**President of the Senate**

Approved March 31, 2017 11:02 AM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2106** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

March 31, 2017

**Secretary of State  
State of Washington**

---

**SUBSTITUTE HOUSE BILL 2106**

---

AS AMENDED BY THE SENATE

Passed Legislature - 2017 Regular Session

**State of Washington                      65th Legislature                      2017 Regular Session**

**By** House State Government, Elections & Information Technology  
(originally sponsored by Representatives Koster, Hudgins, Taylor, and Shea)

READ FIRST TIME 02/17/17.

1            AN ACT Relating to election year restrictions on state  
2 legislators; amending RCW 42.52.180 and 42.52.185; creating a new  
3 section; and declaring an emergency.

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

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

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

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

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

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

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

31 (c) The maintenance of official legislative web sites throughout  
32 the year, regardless of pending elections. The web sites may contain  
33 any discretionary material which was also specifically prepared for  
34 the legislator in the course of his or her duties as a legislator,  
35 including newsletters and press releases. The official legislative  
36 web sites of legislators seeking reelection or election to any office  
37 shall not be altered ((between June 30th and November 15th)), other  
38 than during a special legislative session, beginning on the first day  
39 of the declaration of candidacy filing period specified in RCW  
40 29A.24.050 through the date of certification of the general election

1 of the election year. The web site shall not be used for campaign  
2 purposes;

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

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

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

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

15 (1) During the (~~twelve-month~~) period beginning on December 1st  
16 of the year before a general election for a state legislator's  
17 election to office and continuing through (~~November 30th immediately~~  
18 ~~after~~) the date of certification of the general election, the  
19 legislator may not mail, either by regular mail or (~~electronic~~  
20 ~~mail~~)email, to a constituent at public expense a letter, newsletter,  
21 brochure, or other piece of literature, except for routine  
22 legislative correspondence, such as scheduling, and as follows:

23 (a) The legislator may mail two mailings of newsletters to  
24 constituents. All newsletters within each mailing of newsletters must  
25 be identical as to their content but not as to the constituent name  
26 or address. (~~One such mailing may be mailed no later than thirty~~  
27 ~~days after the start of a regular legislative session, except that a~~  
28 ~~legislator appointed during a regular legislative session to fill a~~  
29 ~~vacant seat may have up to thirty days from the date of appointment~~  
30 ~~to send out the first mailing. The other~~)Both mailings(~~may~~)must be  
31 mailed (~~no later than sixty days after the end of a regular~~  
32 ~~legislative session~~)before the first day of the declaration of  
33 candidacy filing period specified in RCW 29A.24.050.

34 (b) The legislator may mail an individual letter to (i) an  
35 individual constituent who has contacted the legislator regarding the  
36 subject matter of the letter during the legislator's current term of  
37 office; (ii) an individual constituent who holds a governmental  
38 office with jurisdiction over the subject matter of the letter; or  
39 (iii) an individual constituent who has received an award or honor of

1 extraordinary distinction of a type that is sufficiently infrequent  
2 to be noteworthy to a reasonable person, including, but not limited  
3 to: (A) An international or national award such as the Nobel prize or  
4 the Pulitzer prize; (B) a state award such as Washington scholar; (C)  
5 an Eagle Scout award; and (D) a Medal of Honor.

6 (c) In those cases where constituents have specifically indicated  
7 that they would like to be contacted to receive regular or periodic  
8 updates on legislative matters or been added to a distribution list  
9 and provided regular opportunities to unsubscribe from that mailing  
10 list, legislators may provide such updates by ~~((electronic~~  
11 ~~mail))email throughout the legislative session and up until ~~((thirty~~  
12 ~~days from the conclusion of a legislative session))the first day of~~  
13 the declaration of candidacy filing period specified in RCW  
14 29A.24.050. Legislators may also provide these updates by email  
15 during any special legislative session.~~

16 ~~((For purposes of subsection (1) of this section,~~  
17 ~~"legislator" means a legislator who is a "candidate," as defined by~~  
18 ~~RCW 42.17A.005, for any public office.~~

19 ~~(3))~~ A violation of this section constitutes use of the  
20 facilities of a public office for the purpose of assisting a campaign  
21 under RCW 42.52.180.

22 ~~((4))~~(3) The house of representatives and senate shall  
23 specifically limit expenditures per member for the total cost of  
24 mailings. Those costs include, but are not limited to, production  
25 costs, printing costs, and postage costs. The limits imposed under  
26 this subsection apply only to the total expenditures on mailings per  
27 member and not to any categorical cost within the total.

28 ~~((5))~~(4) For purposes of this section~~((7))~~:

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

31 (b) Persons residing outside the legislative district represented  
32 by the legislator are not considered to be constituents, but  
33 students, military personnel, or others temporarily employed outside  
34 of the district who normally reside in the district are considered to  
35 be constituents.

36 NEW SECTION. Sec. 4. This act is necessary for the immediate  
37 preservation of the public peace, health, or safety, or support of  
38 the state government and its existing public institutions, and takes  
39 effect immediately.

Passed by the House March 15, 2017.  
Passed by the Senate March 1, 2017.  
Approved by the Governor March 31, 2017.  
Filed in Office of Secretary of State March 31, 2017.

--- END ---