

HOUSE BILL REPORT

SB 5643

As Reported By House Committee On:
State Government

Title: An act relating to the state voters' pamphlet.

Brief Description: Revising laws on the state voters' pamphlet.

Sponsors: Senators Gardner, Horn, McDonald and Oke; by request of Secretary of State.

Brief History:

Committee Activity:

State Government: 3/23/99, 4/2/99 [DPA].

Brief Summary of Bill
(As Amended by House Committee)

- Consolidates separate requirements for state voters' pamphlets and state candidates' pamphlets into a single set of requirements for state voters' pamphlets.
- Eliminates the requirement for candidates for certain offices to pay a fee to be included in the voters' pamphlet.
- Establishes a process for the Thurston County Superior Court to determine whether obscene or defamatory statements should be removed from the voters' pamphlet rather than having the Secretary of State make these determinations.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass as amended. Signed by 8 members: Representatives McMorris, Republican Co-Chair; Romero, Democratic Co-Chair; Campbell, Republican Vice Chair; Miloscia, Democratic Vice Chair; Dunshee; Haigh; Lambert and D. Schmidt.

Staff: Steve Lundin (786-7127).

Background:

Separate chapters of law require the Secretary of State to prepare state candidates' pamphlets and voters' pamphlets and distribute a copy of the pamphlets to each place of residence in the state. Whenever possible, the state candidates' pamphlet is combined with the state voters' pamphlet. Taped transcripts and Braille transcripts of the pamphlets are distributed at no cost.

The Secretary of State is authorized to adopt rules relating to candidates' pamphlets and voters' pamphlets. The Secretary of State is authorized to delete material from a pamphlet that is obscene, profane, libelous, or defamatory, as well as any language that may not be circulated through the mails.

1. Candidates' pamphlets.

Candidates' pamphlets are prepared with information on each federal and state office included on the ballot at each general election held in an even-numbered year. Information of the nominees for the following offices are included in a candidates' pamphlet: President and Vice President, United States Senator, United States Representative, Governor, Lieutenant Governor, Secretary of State, Attorney General, Commissioner of Public Lands, Superintendent of Public Instruction, Insurance Commissioner, State Treasurer, State Auditor, justice of the Supreme Court, judge of the court of appeals, and superior court judge. A state candidates' pamphlet in an even-numbered year also includes a description of the office of precinct committee officer of major political parties and a note that the office will appear on the upcoming general election ballot.

A state candidates' pamphlet is only prepared for a general election held in an odd-numbered year if a vacancy in statewide offices is filled at that election.

Statements made in the candidates' pamphlet by nominees for all offices that are included, other than for President and Vice President, must be accompanied by a fee ranging from \$200 for a candidate for Governor or for Congress to \$25 for a candidate for the House of Representatives.

2. Voters' pamphlets.

A voters' pamphlet is prepared for any election when a state ballot measure is placed before voters and includes information on each statewide ballot proposition, including the text of the measure, explanatory statements by the Attorney General, arguments for and against the measure that are composed by separate committees appointed to write these arguments. A voters' pamphlet in an odd-numbered year also includes a section explaining the precinct caucus system and convention process used by each

major political party to elect delegates to its national presidential candidate nominating convention.

Summary of Amended Bill:

Statutes relating to state voters' pamphlets and candidates' pamphlets are repealed and replaced with a single chapter of law providing for a voters' pamphlet containing information on statewide ballot propositions and nominees for state offices. The basic requirements of existing law are retained, except as follows:

- 1) Pamphlets must be available to the public in electronic form. The Secretary of State may provide the material in electronic form to computer networks and similar services at the cost of reproduction or transmission of the data.
- 2) Nominees are no longer required to pay fees when filing their statements.
- 3) The maximum number of persons who may be appointed to a committee that prepares arguments for, or against, a statewide ballot measure is increased from three to six persons.
- 4) More clear authority is granted to the Secretary of State to determine the format and layout of the pamphlets. Some statutory details about the layout of pamphlets are no longer included in statute.
- 5) Two different procedures are created to determine which matters may be revised in or deleted from the pamphlet that are obscene, profane, libelous, or defamatory, in lieu of the Secretary of State making these decisions.
 - (a) The Secretary of State may petition the Thurston County Superior Court to determine if material should be deleted or revised that is obscene or is otherwise prohibited from being distributed through the mails, and the court may order matter deleted or revised only if it concludes it is obscene or is prohibited from being distributed through the mails; and
 - (b) A person who feels he or she has been defamed may appeal to the Thurston County Superior Court and the court may order the matter deleted or revised only if it concludes it is untrue and the petitioner likely will prevail in a defamation action. The Secretary of State may notify a person about being identified in an argument or statement, but a duty is not established to make this notification, and the state and Secretary of State do not incur liability for matters included in the statement or argument unless the Secretary of State publishes a statement or argument in violation of a court order.

6) A photograph that is submitted by a nominee for inclusion in the pamphlet may not reveal clothing or insignia suggesting the holding of a public office.

Amended Bill Compared to Original Bill: It is clarified that damages could arise from a defamatory statement appearing in the argument portion of a voters' pamphlet, as well as the statement portion of a voters' pamphlet. It is clarified that a candidate could choose not to submit a statement for the state voters' pamphlet. It is clarified that the statewide offices appearing on the ballot in an odd year, causing the state voters' pamphlet to be published, arise when vacancies are being filled in these offices.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This is a good idea. This is easier and cost effective and allows the use of newer technologies.

Testimony Against: None.

Testified: Senator Gardner, prime sponsor; and Shawn Merchant, Office of the Secretary of State.