
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-4265.3/02 3rd draft

ATTY/TYPIST: GR:ads

BRIEF DESCRIPTION:

2 **SB 5833** - S AMD
3 By Senator

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5 Strike everything after the enacting clause and insert the
6 following:

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

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

25 The secretary of state shall:

26 (1) Keep a register of and attest the official acts of the
27 governor;

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

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

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

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

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

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

10 ((+7))) (8) Furnish, on demand, to any person paying the fees
11 therefor, a certified copy of all or any part of any law, record, or
12 other instrument filed, deposited, or recorded in the secretary of
13 state's office;

14 ((+8))) (9) Present to the speaker of the house of representatives,
15 at the beginning of each regular session of the legislature during an
16 odd-numbered year, a full account of all purchases made and expenses
17 incurred by the secretary of state on account of the state;

18 ((+9))) (10) File in his office an impression of each and every
19 seal in use by any state officer;

20 ((+(10)))) (11) Keep a record of all fees charged or received by
21 the secretary of state.

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

24 (1) After the secretary of state certifies an initiative measure as
25 qualified for the general election ballot, the secretary of state, or
26 the secretary's designee, shall hold a public hearing on the measure in
27 each congressional district in the state. When two or more
28 congressional districts are in a compact geographical area, the
29 secretary of state may hold one hearing to serve these multiple
30 congressional districts. The secretary or a designee shall preside
31 over the hearings. The secretary may combine two or more initiative
32 measures in a single hearing.

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

37 (3) The public hearings must include opportunity for the following
38 persons, or their designees, to present to attendees arguments for and

1 against each initiative measure, including fiscal and policy impacts of
2 the measure:

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

5 (b) State, county, and municipal officers and agencies thereof who
6 determine that the measure affects their constitutional or statutory
7 responsibilities;

8 (c) Registered voters in the congressional district.

9 (4) The hearings must be held between September 1st and October
10 15th, and the secretary of state shall give notice of them by notifying
11 press, radio, and television in the congressional districts, and by
12 other means such as the secretary of state's web site. The secretary
13 may publish information in the state voter's pamphlet regarding the
14 availability of unedited audio or audio/video from the hearings.

15 (5) Elected and appointed state and local officials, with the
16 assistance of the employees of the official's office or agency, and
17 under the supervision of the official, may use public facilities to
18 prepare or deliver written or verbal communications at the hearings,
19 consisting of information on the impact of the ballot measure that
20 foreseeably may affect a matter that falls within their constitutional
21 or statutory responsibilities. Copies of any written material may be
22 provided to the public at the time of the hearing and at any time
23 thereafter upon request. Other than the official voters' pamphlet, a
24 public official may not send, by mail or other form of communication,
25 any unsolicited information on the ballot measure. The secretary shall
26 not distribute any printed information presented by participants under
27 subsections (2) and (3) of this section, but may supply online access
28 to an unedited audio or audio/video file of any hearing by means of the
29 office's web site. Public officials attending the hearings are
30 entitled to travel expenses as otherwise provided by law.

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

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

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

1 No elective official nor any employee of his office nor any person
2 appointed to or employed by any public office or agency may use or
3 authorize the use of any of the facilities of a public office or
4 agency, directly or indirectly, for the purpose of assisting a campaign
5 for election of any person to any office or for the promotion of or
6 opposition to any ballot proposition. Facilities of public office or
7 agency include, but are not limited to, use of stationery, postage,
8 machines, and equipment, use of employees of the office or agency
9 during working hours, vehicles, office space, publications of the
10 office or agency, and clientele lists of persons served by the office
11 or agency: PROVIDED, That the foregoing provisions of this section
12 shall not apply to the following activities:

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

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

24 (3) Activities ((which)) that are part of the normal and regular
25 conduct of the office or agency;

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

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

31 (1) No state officer or state employee may use or authorize the use
32 of facilities of an agency, directly or indirectly, for the purpose of
33 assisting a campaign for election of a person to an office or for the
34 promotion of or opposition to a ballot proposition. Knowing
35 acquiescence by a person with authority to direct, control, or
36 influence the actions of the state officer or state employee using
37 public resources in violation of this section constitutes a violation
38 of this section. Facilities of an agency include, but are not limited

1 to, use of stationery, postage, machines, and equipment, use of state
2 employees of the agency during working hours, vehicles, office space,
3 publications of the agency, and clientele lists of persons served by
4 the agency.

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

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

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

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

25 (d) De minimis use of public facilities by statewide elected
26 officials and legislators incidental to the preparation or delivery of
27 permissible communications, including written and verbal communications
28 initiated by them of their views on ballot propositions that
29 foreseeably may affect a matter that falls within their constitutional
30 or statutory responsibilities; and

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

33 (3) As to state officers and employees, this section operates to
34 the exclusion of RCW 42.17.130."

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4 In line 2 of the title, after "referendums;" strike the remainder
5 of the title and insert "amending RCW 43.07.030, 42.17.130, and
6 42.52.180; adding a new section to chapter 43.07 RCW; and creating a
7 new section."

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