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## State Government Committee

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### ESB 5833

**Brief Description:** Permitting hearings on initiatives and referendums.

**Sponsors:** Senators Costa, Thibaudeau, Parlette, Deccio, Jacobsen, Kohl-Welles and Oke.

#### Brief Summary of Engrossed Bill

- Requires the Office of the Secretary of State to hold public hearings on initiative measures that have been certified for the general election ballot.

**Hearing Date:** 2/28/02

**Staff:** Bree Ramage (786-7617).

#### **Background:**

##### Generally

The Washington Constitution establishes the initiative in Article 2, Section 1 as a power reserved by the people. The Legislature implemented the initiative in statute, but the statutory process does not provide for hearings in a governmental forum on the issues raised by an initiative.

For each statewide ballot measure the voter's pamphlet must contain a statement explaining the current law, the effect of the proposed measure, and arguments for and against the measure. The arguments are prepared by committee members appointed for that purpose.

The ethics laws for state and local officials prohibit the use of public facilities to promote or oppose a ballot measure, except for the following activities:

- Action taken by a legislative body at an open public meeting so long as there is notice and there is an equal opportunity to express opposing views;
- A statement at an open press conference supporting or opposing a ballot measure or in response to a specific inquiry; and
- Activities in the normal and regular conduct of the office or agency.

##### Specifics to local officials

The Public Disclosure Commission (PDC) is charged with enforcing the ethics laws pertaining to local government officials. Rules adopted by the PDC allow a public officer or agency to make objective and fair presentations of facts relevant to a ballot proposition if the subject of the ballot proposition falls within the normal and regular conduct of the office or agency. Consequently, local officials may distribute fair and objective information on the impact of a ballot proposition as long as the measure will impact the government agency or entity, and the information does not advocate how to vote on the measure.

#### Specifics to state officials

Under Washington law state officials are also allowed:

- To make incidental remarks or otherwise comment on a ballot proposition in an official communication; and
- De minimis use of public facilities incidental to the preparation or delivery of permissible communications, including communications initiated by them, of their views on ballot propositions that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities.

The Legislative Ethics Board has ruled that initiatives to the people do not fall within the normal and regular conduct of the Legislature, nor do they fall within the constitutional or statutory responsibilities of legislators.

#### **Summary of Bill:**

The title of the bill is "an act relating to legislative hearings on initiatives and referendums," but the bill addresses hearings conducted by the Office of the Secretary of State on initiatives only.

The Office of the Secretary of State must hold public hearings between September 1 and October 15 on initiative measures that have been certified for the general election ballot

With some exceptions, public hearings must be held in each congressional district upon 30 days notice to cabinet level state agencies, county legislative authorities, and committee members appointed to prepare voter pamphlet statements. "Cabinet level state agencies" is not defined. Notice must be given through the media and other means, such as the Office of the Secretary of State's web site. The public hearings must include opportunities for the following persons to present arguments for and against each measure:

- Members of the committee appointed to prepare voter pamphlet statements;
- State, county, and municipal officers and agencies; and
- Registered voters in the congressional district.

Elected and appointed state and local officials may use public facilities to prepare or deliver written or verbal communications at the hearings, consisting of information on the impact of the ballot measure that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities. However, the constitutional and statutory responsibilities of the public officials are not broadened. Copies of written material may be provided to the public

at the hearing or any time thereafter upon request, but a public official may not provide any other unsolicited information on the ballot measure other than information placed in the voters' pamphlet. The information provided in the voters' pamphlet regarding initiatives is not expanded in the bill.

The Office of the Secretary of State must not distribute any printed information presented by participants of the public hearings. However, online access to any audio or video recording of a hearing may be provided on the Office of the Secretary of State's web site.

Public officials are entitled to travel expenses.

**Rulemaking Authority:** The Office of the Secretary of State may adopt rules to ensure that the public hearings are carried out in an organized, objective manner.

**Appropriation:** None.

**Fiscal Note:** Available.

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