

SENATE BILL REPORT

SB 5661

As of January 29, 2015

Title: An act relating to the legislature holding a public hearing on a ballot proposition.

Brief Description: Allowing the legislature to hold public hearings on ballot propositions.

Sponsors: Senators Roach, Liias, Mullet, Keiser and Benton.

Brief History:

Committee Activity: Government Operations & Security: 2/16/15.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Staff: Karen Epps (786-7424)

Background: Initiatives to the People and Initiatives to the Legislature. The Legislature adopted processes for initiative measures in 1912. These processes are preserved in the state Constitution and allow the following:

- initiatives to the people, where the issue is submitted for a vote of the people at the next state general election; and
- initiatives to the Legislature, where the issue is submitted to the Legislature at its next regular session.

The Constitution provides that initiatives to the Legislature, whether certified or provisionally certified, must take precedence over all other measures in the Legislature except appropriation bills and must be either enacted or rejected without change or amendment by the Legislature before the end of the regular session. If an initiative to the Legislature is enacted by the Legislature it is subject to the referendum petition, or it may be enacted and referred by the Legislature to the people for approval or rejection at the next regular election. If it is rejected or if no action is taken on it by the Legislature before the end of the regular session, the Secretary of State must submit it to the people for approval or rejection at the next regular general election.

Ethics Act. All state employees are bound by the state Ethics in Public Service Act (Ethics Act), which generally addresses conflicts of interest, improper use of state resources, compensation for outside activities, and gifts. The Ethics Act establishes a single code that applies to all state employees in the executive, legislative, and judicial branches of state government. In the legislative branch, the Legislative Ethics Board (Board) enforces the

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Ethics Act with respect to legislative employees, promulgates interpretive rules, and provides advisory opinions.

The Ethics Act prohibits use of legislative facilities to support or oppose a ballot measure with four exceptions:

- action taken by a legislative body at an open meeting;
- a statement at an open press conference or in response to a specific inquiry;
- activities that are part of the normal and regular conduct of the office or agency; and
- de minimis use of public facilities incidental to the preparation or delivery of permissible communications.

Legislative Ethics Board Advisory Opinion 1997 – No. 9 – Ballot Measure Hearings. In 1997 the Board issued an advisory opinion on the use of legislative facilities to support or oppose a ballot measure. The opinion states that “while the stated intention of the hearing may not be the assistance of a ballot measure campaign, by providing an opportunity for a publicized and televised event, the committee is at least indirectly assisting the campaigns. Therefore, such a hearing would be prohibited by the general provision of RCW 42.52.180 (1), unless it is covered by one of the exceptions.”

The Board found that "legislative hearings on ballot measures could fit within the ‘normal and regular conduct’ exception" to the prohibition on the use of legislative facilities to support or oppose a ballot measure, "but only if they meet certain conditions to ensure that legislators can obtain needed objective policy information, without providing an opportunity for the mis-use, or appearance of mis-use, of the legislative hearing process." These conditions include the following:

- that ballot measure committee hearings have a clearly stated legislative purpose;
- that ballot measure committee hearings present a public policy issue within the committee’s jurisdiction; and
- that ballot measure committee hearings are limited to objective information gathering about the measure and its legal and policy implications.

The opinion also states that an additional factor for consideration would be proximity to the election and that “the Board will apply increasingly rigorous scrutiny to the stated legislative purpose for ballot measure hearings as the election date approaches.”

Summary of Bill: The Legislature may hold public hearings on ballot measures.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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