

SENATE BILL REPORT

SHB 1129

As Reported By Senate Committee On:
Government Operations & Elections, April 4, 2003

Title: An act relating to information from public officials on the impact of ballot propositions.

Brief Description: Allowing public officials to provide information on the impact of ballot propositions.

Sponsors: House Committee on State Government (originally sponsored by Representatives Sommers, Haigh, Armstrong, McDermott, Benson, Wallace, Veloria, Hunt, Kenney, Schual-Berke, Fromhold, Wood, Rockefeller, Cody and O'Brien).

Brief History:

Committee Activity: Government Operations & Elections: 3/28/03, 4/4/03 [DP, DNP].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: Do pass.

Signed by Senators Roach, Chair; Stevens, Vice Chair; McCaslin and Reardon.

Minority Report: Do not pass.

Signed by Senator Kastama.

Staff: Diane Smith (786-7410)

Background: Local public officials and employees must comply with the ethics laws contained in RCW 42.17.130, which are enforced by the Public Disclosure Commission (PDC). State public officials and employees must comply with the ethics laws contained in RCW 42.52.180, which are enforced by the Legislative Ethics Board for the legislative branch and by the Executive Ethics Board for the executive branch.

Both statutes prohibit public officials and employees from using, authorizing the use of, or acquiescing in the use of public facilities to assist a candidate or ballot proposition campaign. Facilities include stationery, postage, machines, equipment, employees, vehicles, office space, publications, and clientele lists. Exceptions to the rule include:

- Action taken at an open public meeting by members of an elected legislative body to express a collective decision, to actually vote on a motion, proposal or ordinance, or to support or oppose a ballot proposition. Notice of the meeting must include the title and number of the ballot proposition, and members of the public and the legislative body must be allowed equal opportunity to express opposing views;
- a statement by an elected official supporting or opposing a ballot proposition made at an open press conference or made in response to an inquiry; and
- activities that are part of the "normal and regular conduct" of the office or agency.

In statute, state officials are afforded an additional exception of de minimis use of public facilities incidental to the preparation or delivery of self-initiated communications of their views on those ballot propositions that foreseeably may affect a matter that falls within their responsibilities. However, the Legislative Ethics Board has ruled that the "normal and regular conduct" of the Legislature does not include providing unsolicited information or views on initiatives to the people or referendum measures. The only permissible self-initiated comments on ballot measures considered part of the "normal and regular conduct" exception are measures that have gone through the Legislature, which are initiatives to the Legislature, alternative legislative measures, and referendum bills.

On the other hand, the PDC has adopted a rule that does allow local officials to make an objective and fair presentation of facts relevant to a ballot proposition if such action is part of the normal and regular conduct of the office or agency. The information from the local government cannot advocate how to vote on the measure.

Summary of Bill: For state officials and employees, a new exception to the ethics law is created allowing them to use public facilities to prepare and deliver objective and neutral self-initiated communications consisting of explanatory information on the impact of any ballot proposition that foreseeably may affect a matter that falls within their responsibilities. The exception applies to all ballot measures, not just those that go through the Legislature. The use of public facilities is not limited to de minimis use, but is limited to communicating information, rather than views. The portions of existing law allowing de minimis use of public facilities for expressing views are removed to more accurately reflect interpretations of the law by the Legislative Ethics Board.

For local officials and employees, the ethics exception currently provided in the PDC rule is provided in statute. It allows local officials to make an objective and fair presentation of facts relevant to the impact a ballot proposition may have on the office or agency if such activities are part of the normal and regular conduct of the office or agency.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This allows communication for state officials as is allowed by rule for local officials.

Testimony Against: None.

Testified: PRO: Brian Malaney, EEB.