
SENATE BILL 5322

State of Washington

58th Legislature

2003 Regular Session

By Senators Swecker, Fraser, Jacobsen, Fairley, Spanel, Oke, Doumit, Kastama, Horn, Kline, Schmidt, Winsley and Kohl-Welles

Read first time 01/22/2003. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to legislative hearings on initiatives and
2 referendums; amending RCW 43.07.030, 42.17.130, and 42.52.180; adding
3 new sections to chapter 43.07 RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that an
6 active, informed electorate provides a strong foundation for a
7 democratic republic and, as such, efforts to fully inform voters are
8 critical to sustain our democratic form of government. The initiative
9 and referendum process, a constitutional embodiment of an active
10 electorate, is cherished by Washington's independent-minded citizens.
11 Recent election history demonstrates the willingness of the public to
12 exercise their constitutional right to legislate by ballot measure.
13 The legislature finds that as the state officer with the responsibility
14 of certifying measures to the ballot, the secretary of state should
15 provide a formal opportunity for the general public to hear information
16 about the impact of a ballot measure in a public setting with an
17 opportunity for both proponents and opponents of a measure to present

1 their arguments. The legislature intends for the secretary to be a
2 facilitator in this process and as such should maintain a neutral or
3 nonbiased course of action throughout the public hearing process.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.07 RCW
5 to read as follows:

6 DEFINITIONS. (1) "Agency" includes all state agencies and all
7 local agencies.

8 (a) "State agency" includes every state office as defined in RCW
9 42.17.020 and department as specified in RCW 43.17.010.

10 (b) "Local agency" includes every county, city, town, or special
11 purpose district.

12 (2) "Ballot measure" means a measure as defined by RCW 29.01.110.

13 (3) "Impact statement" or "statement" means the document issued by
14 an agency that complies with the requirements of section 4 of this act.

15 **Sec. 3.** RCW 43.07.030 and 1982 c 35 s 186 are each amended to read
16 as follows:

17 The secretary of state shall:

18 (1) Keep a register of and attest the official acts of the
19 governor;

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

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

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

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

30 (6) Hold public hearings on ballot measures certified to the
31 general election ballot;

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

1 (~~(7)~~) (8) Furnish, on demand, to any person paying the fees
2 therefor, a certified copy of all or any part of any law, record, or
3 other instrument filed, deposited, or recorded in the secretary of
4 state's office;

5 (~~(8)~~) (9) Present to the speaker of the house of representatives,
6 at the beginning of each regular session of the legislature during an
7 odd-numbered year, a full account of all purchases made and expenses
8 incurred by the secretary of state on account of the state;

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

11 (~~(10)~~) (11) Keep a record of all fees charged or received by
12 the secretary of state.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.07 RCW
14 to read as follows:

15 IMPACT STATEMENTS. (1) The director or secretary of an agency may
16 issue an impact statement providing an analysis of the effect of a
17 ballot measure on the agency's ability to perform its constitutional or
18 statutory responsibilities.

19 (2) State and local officials, with the assistance of the employees
20 of the official's office or agency, and under the supervision of the
21 official, may use public facilities to prepare an impact statement on
22 a ballot measure that foreseeably may affect a matter that falls within
23 their constitutional or statutory responsibilities.

24 (3) The statement may provide a description of the agency's
25 methodology used in determining the impact of the ballot measure.

26 (4) The impact statement is considered to be issued when it is
27 filed electronically with the secretary of state after certification of
28 the ballot measure to the ballot and not later than forty-five days
29 before the general election.

30 (5) If issued, the statement must include an attestation that the
31 impact statement results from deliberative intra-agency processes and
32 constitutes the agency's final statement on the ballot measure.

33 (6) The statement may be withdrawn at any time, but may not be
34 altered once issued.

35 (7) The issuing agency shall retain an official paper copy of the
36 statement for purposes of archival record and dissemination, upon
37 request, to any member of the public.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.07 RCW
2 to read as follows:

3 HEARINGS. (1) After the secretary of state certifies a ballot
4 measure as qualified for the general election ballot, the secretary of
5 state, or the secretary's designee, shall hold a public hearing on the
6 measure in each congressional district in the state. When two or more
7 congressional districts are in a compact geographical area, the
8 secretary of state may hold one hearing to serve these multiple
9 congressional districts. The secretary or a designee shall preside
10 over the hearings. The secretary may combine two or more ballot
11 measures in a single hearing.

12 (2) The secretary of state shall give thirty days' notice of the
13 hearings to all state agencies, county legislative authorities, and
14 persons designated in subsection (3)(a) of this section.

15 (3) The public hearings must include opportunity for the following
16 persons, or their designees, to present arguments for and against each
17 ballot measure, including an impact statement, if issued:

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

20 (b) State and local agency officials who determine that the measure
21 affects their constitutional or statutory responsibilities or have
22 issued an impact statement;

23 (c) Registered voters in the congressional district.

24 (4) The hearings must be held between September 1st and October
25 15th, and the secretary of state shall give notice of them by notifying
26 press, radio, and television in the congressional districts, and by
27 other means such as the secretary of state's web site. The secretary
28 may publish information in the state voters' pamphlet regarding the
29 availability of unedited audio or audio/video from the hearings.

30 (5) Other than the official voters' pamphlet, a public official may
31 not send, by mail or other form of communication, any unsolicited
32 information on the ballot measure. The secretary shall not distribute
33 any printed information presented by participants under this section,
34 but may supply on-line access to an unedited audio or audio/video file
35 of any hearing by means of the office's web site. Public officials
36 attending the hearings are entitled to travel expenses as otherwise
37 provided by law.

1 (6) When possible, hearings should be limited to four hours,
2 subject to being reconvened by the secretary or a designee at a later
3 date.

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

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

10 **Sec. 6.** RCW 42.17.130 and 1979 ex.s. c 265 s 2 are each amended to
11 read as follows:

12 No elective official nor any employee of his office nor any person
13 appointed to or employed by any public office or agency may use or
14 authorize the use of any of the facilities of a public office or
15 agency, directly or indirectly, for the purpose of assisting a campaign
16 for election of any person to any office or for the promotion of or
17 opposition to any ballot proposition. Facilities of public office or
18 agency include, but are not limited to, use of stationery, postage,
19 machines, and equipment, use of employees of the office or agency
20 during working hours, vehicles, office space, publications of the
21 office or agency, and clientele lists of persons served by the office
22 or agency: PROVIDED, That the foregoing provisions of this section
23 shall not apply to the following activities:

24 (1) Action taken at an open public meeting by members of an elected
25 legislative body to express a collective decision, or to actually vote
26 upon a motion, proposal, resolution, order, or ordinance, or to support
27 or oppose a ballot proposition so long as (a) any required notice of
28 the meeting includes the title and number of the ballot proposition,
29 and (b) members of the legislative body or members of the public are
30 afforded an approximately equal opportunity for the expression of an
31 opposing view;

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

35 (3) Activities (~~which~~) that are part of the normal and regular
36 conduct of the office or agency;

1 (4) Activities in compliance with sections 4 and 5 of this act of
2 an elected official or an employee of the official's office or a person
3 appointed to or employed by a public office or agency.

4 **Sec. 7.** RCW 42.52.180 and 1995 c 397 s 30 are each amended to read
5 as follows:

6 (1) No state officer or state employee may use or authorize the use
7 of facilities of an agency, directly or indirectly, for the purpose of
8 assisting a campaign for election of a person to an office or for the
9 promotion of or opposition to a ballot proposition. Knowing
10 acquiescence by a person with authority to direct, control, or
11 influence the actions of the state officer or state employee using
12 public resources in violation of this section constitutes a violation
13 of this section. Facilities of an agency include, but are not limited
14 to, use of stationery, postage, machines, and equipment, use of state
15 employees of the agency during working hours, vehicles, office space,
16 publications of the agency, and clientele lists of persons served by
17 the agency.

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

19 (a) Action taken at an open public meeting by members of an elected
20 legislative body to express a collective decision, or to actually vote
21 upon a motion, proposal, resolution, order, or ordinance, or to support
22 or oppose a ballot proposition as long as (i) required notice of the
23 meeting includes the title and number of the ballot proposition, and
24 (ii) members of the legislative body or members of the public are
25 afforded an approximately equal opportunity for the expression of an
26 opposing view;

27 (b) A statement by an elected official in support of or in
28 opposition to any ballot proposition at an open press conference or in
29 response to a specific inquiry. For the purposes of this subsection,
30 it is not a violation of this section for an elected official to
31 respond to an inquiry regarding a ballot proposition, to make
32 incidental remarks concerning a ballot proposition in an official
33 communication, or otherwise comment on a ballot proposition without an
34 actual, measurable expenditure of public funds. The ethics boards
35 shall adopt by rule a definition of measurable expenditure;

36 (c) Activities that are part of the normal and regular conduct of
37 the office or agency; (~~and~~)

1 (d) De minimis use of public facilities by statewide elected
2 officials and legislators incidental to the preparation or delivery of
3 permissible communications, including written and verbal communications
4 initiated by them of their views on ballot propositions that
5 foreseeably may affect a matter that falls within their constitutional
6 or statutory responsibilities; and

7 (e) Activities in compliance with sections 4 and 5 of this act of
8 an elected official or an employee of the official's office or a person
9 appointed to or employed by a public office or agency.

10 (3) As to state officers and employees, this section operates to
11 the exclusion of RCW 42.17.130.

12 NEW SECTION. **Sec. 8.** Captions used in this act are not part of
13 the law.

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