
SENATE BILL 5382

State of Washington

58th Legislature

2003 Regular Session

By Senators Kohl-Welles, Kastama, Deccio, Keiser, McAuliffe, Winsley and Schmidt

Read first time 01/23/2003. 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 a new section to chapter 43.07 RCW; and creating a new section.

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

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

1 process and as such should maintain a neutral or nonbiased course of
2 action throughout the public hearing process.

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

5 The secretary of state shall:

6 (1) Keep a register of and attest the official acts of the
7 governor;

8 (2) Affix the state seal, with his or her attestation, to
9 commissions, pardons, and other public instruments to which the
10 signature of the governor is required, and also attestations and
11 authentications of certificates and other documents properly issued by
12 the secretary;

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

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

17 (5) Take and file in the secretary of state's office receipts for
18 all books distributed by him or her;

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

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

26 (~~(7)~~) (8) Furnish, on demand, to any person paying the fees
27 therefor, a certified copy of all or any part of any law, record, or
28 other instrument filed, deposited, or recorded in the secretary of
29 state's office;

30 (~~(8)~~) (9) Present to the speaker of the house of representatives,
31 at the beginning of each regular session of the legislature during an
32 odd-numbered year, a full account of all purchases made and expenses
33 incurred by the secretary of state on account of the state;

34 (~~(9)~~) (10) File in his or her office an impression of each and
35 every seal in use by any state officer;

36 (~~(10)~~) (11) Keep a record of all fees charged or received by
37 the secretary of state.

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

3 (1) After the secretary of state certifies an initiative measure as
4 qualified for the general election ballot, the secretary of state, or
5 the secretary's designee, shall hold a public hearing on the measure in
6 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 initiative
11 measures in a single hearing.

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

16 (3) The public hearings must include opportunity for the following
17 persons, or their designees, to present to attendees arguments for and
18 against each initiative measure, including fiscal and policy impacts of
19 the measure:

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

22 (b) State, county, and municipal officers and agencies thereof who
23 determine that the measure affects their constitutional or statutory
24 responsibilities;

25 (c) Registered voters in the congressional district.

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

32 (5) Elected and appointed state and local officials, with the
33 assistance of the employees of the official's office or agency, and
34 under the supervision of the official, may use public facilities to
35 prepare or deliver written or verbal communications at the hearings,
36 consisting of information on the impact of the ballot measure that
37 foreseeably may affect a matter that falls within their constitutional
38 or statutory responsibilities. Copies of any written material may be

1 provided to the public at the time of the hearing and at any time
2 thereafter upon request. Other than the official voters' pamphlet, a
3 public official may not send, by mail or other form of communication,
4 any unsolicited information on the ballot measure. The secretary shall
5 not distribute any printed information presented by participants under
6 subsections (2) and (3) of this section, but may supply online access
7 to an unedited audio or audio/video file of any hearing by means of the
8 office's web site. Public officials attending the hearings are
9 entitled to travel expenses as otherwise provided by law.

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

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

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

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

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

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

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

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

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

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

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

24 (a) 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 as long as (i) required notice of the
28 meeting includes the title and number of the ballot proposition, and
29 (ii) 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 (b) 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. For the purposes of this subsection,
35 it is not a violation of this section for an elected official to
36 respond to an inquiry regarding a ballot proposition, to make
37 incidental remarks concerning a ballot proposition in an official

1 communication, or otherwise comment on a ballot proposition without an
2 actual, measurable expenditure of public funds. The ethics boards
3 shall adopt by rule a definition of measurable expenditure;

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

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

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

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

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