

# HOUSE BILL REPORT

## SHB 2898

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### As Passed Legislature

**Title:** An act relating to distribution of communications by state employees.

**Brief Description:** Regulating distribution of communications by state employees.

**Sponsors:** By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Hunt and Williams).

#### Brief History:

##### Committee Activity:

State Government Operations & Accountability: 1/24/06, 2/1/06 [DPS].

##### Floor Activity:

Passed House: 2/13/06, 97-1.

Passed Senate: 3/1/06, 39-7.

Passed Legislature.

#### Brief Summary of Substitute Bill

- Clarifies that state employees are allowed to distribute communications if the communications do not support or oppose a ballot proposition or candidate for any public office.

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### HOUSE COMMITTEE ON STATE GOVERNMENT OPERATIONS & ACCOUNTABILITY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Haigh, Chair; Green, Vice Chair; Nixon, Ranking Minority Member; Hunt, McDermott, Miloscia, Schindler and Sump.

**Minority Report:** Do not pass. Signed by 1 member: Representative Clements, Assistant Ranking Minority Member.

**Staff:** Stephanie Toby (786-7106).

#### Background:

State public officials and employees must comply with the State Ethics Act. This law is enforced by the Legislative Ethics Board for the legislative branch and by the Executive Ethics Board for the executive branch. This statute prohibits 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. The term "facilities" includes stationery, postage, machines, equipment, employees, vehicles, office space, publications, and clientele lists.

Some lobbying activities using public funds are allowed, including:

- Officers and employees of an agency may communicate with a member of the Legislature on that member's request, and may communicate to the Legislature requests for legislative action or appropriations that are necessary for the efficient conduct of public business or that are made in the performance of the officers' and employees' official duties.
- An agency may use public funds to communicate official agency business and to advocate the official position of the agency to any elected official or agency employee.

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**Summary of Substitute Bill:**

State employees may distribute communications from an employee organization or charitable organization to other state employees without violating the State Ethics Act (Act) so long as the communications do not support or oppose a ballot proposition or candidate for any public office.

An employee organization is defined as any organization, union, or association in which employees participate and that exists for the purpose of collective bargaining with employers or for the purpose of opposing collective bargaining or certification of a union.

Lobbying activity using public funds, except as already provided for by law, is not authorized.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support) With the implementation of the Collective Bargaining Act in the state, some agencies are choosing a literal interpretation of what constitutes "communication." Numerous situations have occurred in which agency employees have not been able to use agency rooms or email, and thus there has not been enough communication between union members regarding the contracts, union procedures, upcoming collective bargaining, and the advertisement of charitable events. In one situation, employees were not allowed de minimus use of email to discuss a possible union start-up. The bill needs a definition of "employee organization" and "charitable organization" so that management can't pick and choose their own definitions. The Executive Board decision was made under the assumption of financial gain to the union, yet other areas of financial gain are allowed, such as selling girl scout cookies. The advisory opinion defines a union as a private entity, not an

association of employees who choose to affiliate with outside entities to enhance what they are able to do as an association in the workplace.

(With concerns) The bill is overly broad and needs parameters to prevent abuse. There is no limit on the amount of time, equipment, and staff that may be used to distribute the communication. There are no definitions of the stated organizations. The bill does not exempt lobbying or other types of election related activity. It allows the stated organizations privileges that other organizations are not afforded. This issue relates to two advisory opinions: 02-01A, which allows for communications related to collective bargaining agreement negotiations and administration of the contract, and 00-09, which allows employees to raise funds for the Combined Fund Drive.

**Testimony Against:** "Employee organization" is defined narrowly in the RCW. This allows info to be disseminated by unions, but not by those who oppose unions, which is a serious violation of free speech. At the Department of Labor and Industries, members filed some Unfair Labor Practicess (ULPs) and the union gave out fliers saying that the ULP filing was holding up raises for all members. Communications have been used to stifle dissent.

**Persons Testifying:** (In support) Representative Hunt, prime sponsor; Paul Pickett; and Bev Hermanson, Joe Crossland, and Peter Kardas, Washington Federation of State Employees.

(With concerns) Susan Harris, Washington State Executive Ethics Board.

(Opposed) Deborah Johnson.

**Persons Signed In To Testify But Not Testifying:** None.