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HOUSE BILL 2322

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Chase, Hasegawa, and Green

1 AN ACT Relating to referenda; and amending RCW 42.52.180.

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

3 **Sec. 1.** RCW 42.52.180 and 1995 c 397 s 30 are each amended to read  
4 as follows:

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

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

18 (a) Action taken at an open public meeting by members of an elected  
19 legislative body to express a collective decision, or to actually vote

1 upon a motion, proposal, resolution, order, or ordinance, or to support  
2 or oppose a ballot proposition as long as (i) required notice of the  
3 meeting includes the title and number of the ballot proposition, and  
4 (ii) members of the legislative body or members of the public are  
5 afforded an approximately equal opportunity for the expression of an  
6 opposing view;

7 (b) A statement by an elected official in support of or in  
8 opposition to any ballot proposition at an open press conference or in  
9 response to a specific inquiry. For the purposes of this subsection,  
10 it is not a violation of this section for an elected official to  
11 respond to an inquiry regarding a ballot proposition, to make  
12 incidental remarks concerning a ballot proposition in an official  
13 communication, or otherwise comment on a ballot proposition without an  
14 actual, measurable expenditure of public funds. The ethics boards  
15 shall adopt by rule a definition of measurable expenditure;

16 (c) Activities that are part of the normal and regular conduct of  
17 the office or agency. "Normal and regular conduct" for a legislator  
18 includes discussing a ballot proposition placed on the ballot by the  
19 legislature. Legislators are permitted to discuss such a ballot  
20 measure, including its merits and demerits. Legislators may state  
21 their position on such a ballot measure, including advocacy expressions  
22 of support or opposition. Such discussions are permitted in all manner  
23 of communications, whether initiated by the legislator or in response  
24 to an inquiry, and including newsletters, letters, press releases, and  
25 public meetings undertaken in the conduct of the official's office; and

26 (d) De minimis use of public facilities by statewide elected  
27 officials and legislators incidental to the preparation or delivery of  
28 permissible communications, including written and verbal communications  
29 initiated by them of their views on ballot propositions that  
30 foreseeably may affect a matter that falls within their constitutional  
31 or statutory responsibilities.

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

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