
SENATE BILL 5019

State of Washington

63rd Legislature

2013 Regular Session

By Senator Benton

Read first time 01/14/13. Referred to Committee on Governmental Operations .

1 AN ACT Relating to the use of public resources by office holders
2 during campaigns; and amending RCW 42.52.180 and 42.52.185.

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

4 **Sec. 1.** RCW 42.52.180 and 2011 c 60 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:

1 (a) Action taken at an open public meeting by members of an elected
2 legislative body to express a collective decision, or to actually vote
3 upon a motion, proposal, resolution, order, or ordinance, or to support
4 or oppose a ballot proposition as long as (i) required notice of the
5 meeting includes the title and number of the ballot proposition, and
6 (ii) members of the legislative body or members of the public are
7 afforded an approximately equal opportunity for the expression of an
8 opposing view;

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

18 (c) The maintenance of official legislative web sites throughout
19 the year, regardless of pending elections. The web sites may contain
20 any discretionary material which was also specifically prepared for the
21 legislator in the course of his or her duties as a legislator,
22 including newsletters and press releases. (~~The official legislative
23 web sites of legislators seeking reelection shall not be altered
24 between June 30th and November 15th of the election year.~~) The web
25 site shall not be used for campaign purposes;

26 (d) Activities that are part of the normal and regular conduct of
27 the office or agency, regardless of whether or not an office holder is
28 running for election or reelection to office. The timing of pending
29 elections or campaigns must not operate to prohibit legislators from
30 producing materials, utilizing staff and other state resources,
31 attending functions, or engaging in all other legislative activities
32 properly associated with their office; and

33 (e) De minimis use of public facilities by statewide elected
34 officials and legislators incidental to the preparation or delivery of
35 permissible communications, including written and verbal communications
36 initiated by them of their views on ballot propositions that
37 foreseeably may affect a matter that falls within their constitutional
38 or statutory responsibilities.

1 (3) Newsletters are a vital means of communication between
2 legislators and their constituents, and open communication from a
3 legislator to those he or she serves is imperative to representative
4 democracy. As a result, members have complete discretionary control,
5 subject only to budget limitations, as to the content, text, language,
6 and format of newsletters. In no case may any newsletter content be
7 considered campaign activity for purposes of this chapter.

8 (4) As to state officers and employees, this section operates to
9 the exclusion of RCW 42.17A.555.

10 **Sec. 2.** RCW 42.52.185 and 2011 c 60 s 31 are each amended to read
11 as follows:

12 (1) During the twelve-month period beginning on December 1st of the
13 year before a general election for a state legislator's election to
14 office and continuing through November 30th immediately after the
15 general election, the legislator may not mail, either by regular mail
16 or electronic mail, to a constituent at public expense a letter,
17 (~~newsletter,~~) brochure, or other piece of literature, except as
18 follows:

19 (a) The legislator may mail two mailings of newsletters to
20 constituents. All newsletters within each mailing of newsletters must
21 be identical as to their content but not as to the constituent name or
22 address. (~~One such mailing may be mailed no later than thirty days~~
23 ~~after the start of a regular legislative session, except that a~~
24 ~~legislator appointed during a regular legislative session to fill a~~
25 ~~vacant seat may have up to thirty days from the date of appointment to~~
26 ~~send out the first mailing. The other mailing may be mailed no later~~
27 ~~than sixty days after the end of a regular legislative session.))~~

28 (b) The legislator may mail an individual letter to (i) an
29 individual constituent who has contacted the legislator regarding the
30 subject matter of the letter during the legislator's current term of
31 office; (ii) an individual constituent who holds a governmental office
32 with jurisdiction over the subject matter of the letter; or (iii) an
33 individual constituent who has received an award or honor of
34 extraordinary distinction of a type that is sufficiently infrequent to
35 be noteworthy to a reasonable person, including, but not limited to:

36 (A) An international or national award such as the Nobel prize or the

1 Pulitzer prize; (B) a state award such as Washington scholar; (C) an
2 Eagle Scout award; and (D) a Medal of Honor.

3 (c) In those cases where constituents have specifically indicated
4 that they would like to be contacted to receive regular or periodic
5 updates on legislative matters, legislators may provide such updates by
6 electronic mail throughout the legislative session and up until thirty
7 days from the conclusion of a legislative session.

8 (2) For purposes of subsection (1) of this section, "legislator"
9 means a legislator who is a "candidate," as defined by RCW 42.17A.005,
10 for any public office.

11 (3) A violation of this section constitutes use of the facilities
12 of a public office for the purpose of assisting a campaign under RCW
13 42.52.180.

14 (4) The house of representatives and senate shall specifically
15 limit expenditures per member for the total cost of mailings. Those
16 costs include, but are not limited to, production costs, printing
17 costs, and postage costs. The limits imposed under this subsection
18 apply only to the total expenditures on mailings per member and not to
19 any categorical cost within the total.

20 (5) For purposes of this section, persons residing outside the
21 legislative district represented by the legislator are not considered
22 to be constituents, but students, military personnel, or others
23 temporarily employed outside of the district who normally reside in the
24 district are considered to be constituents.

--- END ---