

SENATE BILL REPORT

EHB 1453

As of February 9, 2022

Title: An act relating to voters' pamphlets.

Brief Description: Concerning voters' pamphlets.

Sponsors: Representatives Bergquist, Volz, Valdez, Lekanoff, Shewmake, Sutherland and Riccelli.

Brief History: Passed House: 1/26/22, 70-27.

Committee Activity: State Government & Elections: 3/17/21, 3/24/21 [DPA, DNP];
2/09/22.

Brief Summary of Bill

- Adds content-based restrictions to candidate statements and arguments for and against ballot measures in voters' pamphlets.
- Requires that people appointed by the legislative authority of a jurisdiction to write arguments for and against ballot measures in local voters' pamphlets reside within the jurisdictional boundaries.
- Increases the maximum fine for publishing or distributing campaign material deceptively similar to a voters' pamphlet.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Hasegawa.

Minority Report: Do not pass.

Signed by Senators Wilson, J., Ranking Member; Hawkins.

Staff: Samuel Brown (786-7470)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: Voters' Pamphlets. The Secretary of State must print and distribute a voters' pamphlet to each household in the state, public libraries, and other locations the Secretary of State deems appropriate whenever a statewide ballot measure or office is scheduled to appear on the general election ballot.

Each county auditor must produce a local voters' pamphlet for the entire county at each election. County auditors must adopt and publish administrative rules for production of local voters' pamphlets, including deadlines for submission of statements and arguments, and the basis for rejection of any libelous or otherwise inappropriate content. Local voters' pamphlets must be sent to every residence in each jurisdiction that has included information in the pamphlet.

Contents. The statewide voters' pamphlet must contain:

- explanatory statements prepared by the Attorney General, fiscal impact statements prepared by the Office of Financial Management (OFM), and arguments for and against each statewide ballot measure; and
- statements from candidates for federal and state offices that appear on the ballot that year.

For advisory votes, the voters' pamphlet must include:

- the measure's short description;
- a ten-year cost projection of the measure by the Office of Financial Management (OFM), including an annual breakdown;
- the names and office contact information of legislators; and
- how legislators voted on the tax increase legislation.

Candidates for statewide office may include a photograph and information to contact their campaign and, for partisan offices, a statement of political party preference or independent status. Candidate statements and statements for or against ballot measures may not contain obscene matter. Candidate statements in a local voters' pamphlet must be limited to statements about the candidate themselves.

Ballot Measure Committees. For any local measure on the ballot, the governing body of the jurisdiction submitting the measure must appoint committees of no more than three members to prepare statements advocating for and against the measure if a local voters' pamphlet is produced. If the governing body fails to appoint committees, the county auditor must make the appointments if possible.

Penalties. It is illegal to publish or distribute campaign material that is deceptively similar in design or appearance to a voters' pamphlet. The Secretary of State may petition a superior court for a restraining order to stop publication or distribution, and a violator may be fined up to \$2 per copy or \$1,000, whichever is greater.

Summary of Bill: Candidate and Ballot Measure Statements. Candidate and ballot

measure statements published in state or local voters' pamphlets are subject to review and approval. Candidate statements must be limited to:

- plans and goals for the future of the jurisdiction; and
- directions on where to find more information about the candidate.

Candidate and ballot measure statements in state or local voters' pamphlets may not:

- ask for contributions;
- make commercial solicitations; or
- make obscene or otherwise inappropriate comments.

Photographs of candidates may not include hats, buttons, or clothing showing words, insignia, or symbols. Ballot measure committee statements must be text-only; they may no longer contain graphs or charts.

Information About Ballot Measures. The deadline for OFM to submit fiscal impact statements for state ballot measures to the Secretary of State is moved from August 10th to July 15th.

Local Voters' Pamphlets. Administrative rules for local voters' pamphlets must be adopted by the Secretary of State in consultation with county auditors. All information for cities, towns, or special districts located in multiple counties must appear in the local voters' pamphlets for each county, and be submitted to the county auditor which accepted filings for that office or measure.

Ballot Measure Committees. Persons appointed to write arguments for and against ballot measures in local voters' pamphlets must reside within the jurisdictional boundaries. If no appointments are made by the deadline set forth in administrative rules, the county auditor must issue a media release and publish information on the election website, and appoint persons to the relevant ballot measure committee on a first-come, first-served basis. If no statement is produced, the auditor shall include a statement to that effect in the local voters' pamphlet.

Penalties. The maximum fine for publishing or distributing campaign material deceptively similar to a voters' pamphlet is increased to up to \$5 per copy or \$10,000, whichever is greater.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2022.

Staff Summary of Public Testimony (Regular Session 2022): PRO: Ballot measure statements must be written by citizens actually living in jurisdictions to ensure that community needs are addressed and to get the message correct. Having committee members reside within the jurisdiction adds accountability to ensure that statements are correct. Only people impacted by a vote should be able to write a statement on a measure in their community. On our recent bond measure, the person appointed to the opposing committee was not even a resident of our county, and was the sole person on 29 committees across the state.

This solves a number of problems for counties. Many legislative districts span multiple small counties, and this allows for coordination on rules, eliminating the potential for voter confusion. Auditors appreciate clarity on who is responsible for ballot measure committee appointment and processes when there are no appointments. Auditors make final decisions on what constitutes inappropriate content, and their main concern is trying to ensure that candidates and committees are speaking specifically to the issues and not doing something else, such as defaming others.

OTHER: Hate speech is often in the eyes of the beholder, and I don't want to see the prohibition against offensive statements weaponized.

Persons Testifying: PRO: Sara Betnel, Washington State School Directors' Association, Shoreline School District; Jim Stoffer, Washington State School Directors' Association, Sequim School District; Lori Larsen, WSACA and Stevens County; Skip Moore, Chelan County Auditor/Washington State Association of County Auditors.

OTHER: Laurie Layne.

Persons Signed In To Testify But Not Testifying: No one.