

SENATE BILL REPORT

SB 5071

As Passed Senate, March 16, 1999

Title: An act relating to false and misleading statements in political campaigns for public office.

Brief Description: Providing protection for candidates for public office against false statements in political advertising made with malice.

Sponsors: Senators Patterson, Prentice, Shin, Thibaudeau, Hale, Gardner, Fraser, Spanel, Haugen, Snyder, Morton, Loveland, B. Sheldon, Winsley, Wojahn, Costa and McAuliffe.

Brief History:

Committee Activity: State & Local Government: 2/24/99, 3/3/99 [DP].
Passed Senate, 3/16/99, 36-12.

SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

Majority Report: Do pass.

Signed by Senators Patterson, Chair; Gardner, Vice Chair; Hale, Haugen, Horn, Kline and McCaslin.

Staff: Diane Smith (786-7410)

Background: In a recent Washington State Supreme Court case, the state sought a judgment that a committee organized to oppose a citizens' initiative had violated a political advertising statute. The court held that the statutory prohibition on persons sponsoring, with actual malice, political advertising that contains a false statement of material fact violates the First Amendment to the United States Constitution. Without commenting on whether malicious falsehoods against candidates are beyond constitutional protection, the court found that the statute ... brings within its sweep every maliciously false statement of 'material fact' whether it is defamatory to an individual or not.—

Summary of Bill: The statute that prohibits persons from sponsoring, with actual malice, political advertising containing false statements of material fact is limited to false statements of material fact about a candidate for public office. This prohibition does not apply to statements about a candidate made by the candidate or by the candidate's agent.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Democracy depends on an informed electorate. The bill has sufficient safeguards to inoculate it against constitutional attack. The bill follows the federal statute.

Testimony Against: Let the people decide who is lying. This will not protect politicians from hit pieces late in the campaign.

Testified: Cherie Davidson, League of Women Voters of WA (pro); Melissa Warheit, PDC (pro); Jerry Sheehan, ACLU (con); Chuck Sauvage, Common Cause (pro); Rowland Thompson, Allied Daily Newspapers.