

SENATE BILL REPORT

SB 5046

As Reported By Senate Committee On:
Government Operations & Elections, March 4, 2003

Title: An act relating to crimes by election officials.

Brief Description: Penalizing officials lying about elections.

Sponsors: Senators Roach, Stevens and T. Sheldon.

Brief History:

Committee Activity: Government Operations & Elections: 2/18/03, 3/4/03 [DP].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: Do pass.

Signed by Senators Roach, Chair; Stevens, Vice Chair; Fairley, Horn, Kastama, McCaslin and Reardon.

Staff: Ronda Larson (786-7429)

Background: Statutory law includes several crimes involving acts of election officers. For example, it is a gross misdemeanor for an election officer to work actively for a political party on election day. More generally, it is a class C felony for an election officer to knowingly violate any provision of law relating to his or her elections duties.

However, nothing in statute forbids lying about an election if doing so is not in and of itself a violation of some duty. In contrast, it would be a felony to lie about vote totals because an election officer's duties include the requirement to publicly release vote totals the day they are counted.

The Washington State Supreme Court has held that constitutional free speech guaranties do not extend far enough to protect falsehood, at least where the speaker has actual knowledge that a statement is false.

Summary of Bill: Two new crimes are created. It is a class C felony for a county auditor to lie about the conduct of an election in the auditor's county. For it to be a crime, the auditor must make the deceitful statement in his or her official capacity, and he or she must know it is a false statement. It is a gross misdemeanor where the same type of statement is made by the county auditor's immediate subordinate involved in election functions.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Candidates time their expensive mailings of campaign literature to coincide with county absentee ballot mailings. Thus, it is a manipulation of an election if a county elections official states that ballots will be mailed by a certain date and then they are not. It is tantamount to an obstruction of the right of franchise because it interferes with voters' ability to receive information in time for them to use the information to determine which way to vote.

Testimony Against: Auditors take the oath of office and laws address malfeasance in office. Therefore, current laws address the situation that the bill intends to address.

Testified: Senator Roach, prime sponsor (pro); Kim Wyman, Thurston County Auditor, Association of WA County Auditors (con).