
SENATE BILL 5991

State of Washington

61st Legislature

2009 Regular Session

By Senator Benton

Read first time 02/12/09. Referred to Committee on Government Operations & Elections.

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

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

4 **Sec. 1.** RCW 42.52.180 and 1995 c 397 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) Activities that are part of the normal and regular conduct of
19 the office or agency, regardless of whether or not an office holder is
20 running for election or reelection to office. The timing of pending
21 elections or campaigns shall not operate to prohibit legislators from
22 producing materials, utilizing staff and other state resources,
23 attending functions, maintaining web sites, or engaging in all other
24 legislative activities properly associated with their office; ((and))

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

31 (e) Newsletters are a vital means of communication between
32 legislators and their constituents, and open communication from a
33 legislator to those he or she serves is imperative to representative
34 democracy. As a result, members have complete discretionary control,
35 subject only to budget limitations, as to the content, text, language,
36 and format of newsletters. In no case shall any newsletter content be
37 considered campaign activity for purposes of this chapter.

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

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