
SUBSTITUTE HOUSE BILL 2106

State of Washington

65th Legislature

2017 Regular Session

By House State Government, Elections & Information Technology
(originally sponsored by Representatives Koster, Hudgins, Taylor, and
Shea)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to election year restrictions on state
2 legislators; amending RCW 42.52.180 and 42.52.185; creating a new
3 section; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the prohibition
6 on the use of public resources for campaign purposes serves an
7 important purpose, but that the period prohibiting state legislators
8 from communicating with constituents at public expense is unnecessary
9 once the election, and the campaign itself, has ended. Furthermore,
10 the delay in constituent outreach after the election only hinders a
11 legislator's ability to quickly and effectively respond to requests
12 and keep the public informed about current state issues, and the
13 various deadlines relating to mailed, emailed, and web site
14 communications are confusing and need to be harmonized. For these
15 reasons, the legislature intends to change mailed, emailed, and web
16 site communication deadlines to the same time periods, in order to
17 allow legislators to actively engage with the public on official
18 legislative business in a timely and effective manner.

19 **Sec. 2.** RCW 42.52.180 and 2011 c 60 s 30 are each amended to
20 read as follows:

1 (1) No state officer or state employee may use or authorize the
2 use of facilities of an agency, directly or indirectly, for the
3 purpose of assisting a campaign for election of a person to an office
4 or for the promotion of or opposition to a ballot proposition.
5 Knowing acquiescence by a person with authority to direct, control,
6 or influence the actions of the state officer or state employee using
7 public resources in violation of this section constitutes a violation
8 of this section. Facilities of an agency include, but are not limited
9 to, use of stationery, postage, machines, and equipment, use of state
10 employees of the agency during working hours, vehicles, office space,
11 publications of the agency, and clientele lists of persons served by
12 the agency.

13 (2) This section shall not apply to the following activities:

14 (a) Action taken at an open public meeting by members of an
15 elected legislative body to express a collective decision, or to
16 actually vote upon a motion, proposal, resolution, order, or
17 ordinance, or to support or oppose a ballot proposition as long as
18 (i) required notice of the meeting includes the title and number of
19 the ballot proposition, and (ii) members of the legislative body or
20 members of the public are afforded an approximately equal opportunity
21 for the expression of an opposing view;

22 (b) A statement by an elected official in support of or in
23 opposition to any ballot proposition at an open press conference or
24 in response to a specific inquiry. For the purposes of this
25 subsection, it is not a violation of this section for an elected
26 official to respond to an inquiry regarding a ballot proposition, to
27 make incidental remarks concerning a ballot proposition in an
28 official communication, or otherwise comment on a ballot proposition
29 without an actual, measurable expenditure of public funds. The ethics
30 boards shall adopt by rule a definition of measurable expenditure;

31 (c) The maintenance of official legislative web sites throughout
32 the year, regardless of pending elections. The web sites may contain
33 any discretionary material which was also specifically prepared for
34 the legislator in the course of his or her duties as a legislator,
35 including newsletters and press releases. The official legislative
36 web sites of legislators seeking reelection or election to any office
37 shall not be altered ((between June 30th and November 15th)), other
38 than during a special legislative session, beginning on the first day
39 of the declaration of candidacy filing period specified in RCW

1 29A.24.050 through the date of the general election of the election
2 year. The web site shall not be used for campaign purposes;

3 (d) Activities that are part of the normal and regular conduct of
4 the office or agency; and

5 (e) De minimis use of public facilities by statewide elected
6 officials and legislators incidental to the preparation or delivery
7 of permissible communications, including written and verbal
8 communications initiated by them of their views on ballot
9 propositions that foreseeably may affect a matter that falls within
10 their constitutional or statutory responsibilities.

11 (3) As to state officers and employees, this section operates to
12 the exclusion of RCW 42.17A.555.

13 (4) If by midnight of the date of the election the results of any
14 state legislator's election are within one percent more than the one-
15 half of one percent statutory threshold for triggering a mandatory
16 recount, pursuant to RCW 29A.64.021, the restriction period
17 established in subsection (2)(c) of this section applies until the
18 election has been certified.

19 **Sec. 3.** RCW 42.52.185 and 2011 c 60 s 31 are each amended to
20 read as follows:

21 (1) During the ~~((twelve-month))~~ period beginning on December 1st
22 of the year before a general election for a state legislator's
23 election to office and continuing through ~~((November 30th immediately~~
24 ~~after))~~ the ~~((general))~~ date of the election, the legislator may not
25 mail, either by regular mail or ~~((electronic-mail))~~ email, to a
26 constituent at public expense a letter, newsletter, brochure, or
27 other piece of literature, except for routine legislative
28 correspondence, such as scheduling, and as follows:

29 (a) The legislator may mail two mailings of newsletters to
30 constituents. All newsletters within each mailing of newsletters must
31 be identical as to their content but not as to the constituent name
32 or address. ~~((One such mailing may be mailed no later than thirty~~
33 ~~days after the start of a regular legislative session, except that a~~
34 ~~legislator appointed during a regular legislative session to fill a~~
35 ~~vacant seat may have up to thirty days from the date of appointment~~
36 ~~to send out the first mailing. The other))~~ Both mailings ~~((may))~~ must
37 be mailed ~~((no later than sixty days after the end of a regular~~
38 ~~legislative session))~~ before the first day of the declaration of
39 candidacy filing period specified in RCW 29A.24.050.

1 (b) The legislator may mail an individual letter to (i) an
2 individual constituent who has contacted the legislator regarding the
3 subject matter of the letter during the legislator's current term of
4 office; (ii) an individual constituent who holds a governmental
5 office with jurisdiction over the subject matter of the letter; or
6 (iii) an individual constituent who has received an award or honor of
7 extraordinary distinction of a type that is sufficiently infrequent
8 to be noteworthy to a reasonable person, including, but not limited
9 to: (A) An international or national award such as the Nobel prize or
10 the Pulitzer prize; (B) a state award such as Washington scholar; (C)
11 an Eagle Scout award; and (D) a Medal of Honor.

12 (c) In those cases where constituents have specifically indicated
13 that they would like to be contacted to receive regular or periodic
14 updates on legislative matters or been added to a distribution list
15 and provided regular opportunities to unsubscribe from that mailing
16 list, legislators may provide such updates by ~~((electronic mail))~~
17 email throughout the legislative session and up until ~~((thirty days~~
18 ~~from the conclusion of a legislative session))~~ the first day of the
19 declaration of candidacy filing period specified in RCW 29A.24.050.
20 Legislators may also provide these updates by email during any
21 special legislative session.

22 (2) ~~((For purposes of subsection (1) of this section,~~
23 ~~"legislator" means a legislator who is a "candidate," as defined by~~
24 ~~RCW 42.17A.005, for any public office.))~~ If by midnight of the date
25 of the election the results of any state legislator's election are
26 within one percent more than the one-half of one percent statutory
27 threshold for triggering a mandatory recount, pursuant to RCW
28 29A.64.021, the restriction period established in subsection (1) of
29 this section applies until the election has been certified.

30 (3) A violation of this section constitutes use of the facilities
31 of a public office for the purpose of assisting a campaign under RCW
32 42.52.180.

33 (4) The house of representatives and senate shall specifically
34 limit expenditures per member for the total cost of mailings. Those
35 costs include, but are not limited to, production costs, printing
36 costs, and postage costs. The limits imposed under this subsection
37 apply only to the total expenditures on mailings per member and not
38 to any categorical cost within the total.

39 (5) For purposes of this section~~((7))~~:

1 (a) "Legislator" means a legislator who is a "candidate," as
2 defined in RCW 42.17A.005, for any public office; and

3 (b) Persons residing outside the legislative district represented
4 by the legislator are not considered to be constituents, but
5 students, military personnel, or others temporarily employed outside
6 of the district who normally reside in the district are considered to
7 be constituents.

8 NEW SECTION. Sec. 4. This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of
10 the state government and its existing public institutions, and takes
11 effect immediately.

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