

SENATE BILL REPORT

EHB 1453

As Reported by Senate Committee On:
State Government & Elections, March 24, 2021

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: 3/3/21, 90-7.

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

Brief Summary of Amended 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.
- Requires that the county auditor mail statewide and local voters' pamphlets to service and overseas voters who request them.
- Requires that a fiscal impact statement appear in the voters' pamphlet for legislation passed significantly affecting state revenues.
- Requires that a pie chart showing operating budget expenditures for the most recent biennium appear in the voters' pamphlet.
- Increases the maximum fine for publishing or distributing campaign material deceptively similar to a voters' pamphlet.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

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.

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)

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.

Beginning July 1, 2021, each county auditor must produce a local voters' pamphlet for the entire county at each election. Until July 1, 2021, counties and cities may publish and distribute a local voters' pamphlet with information on ballot measures appearing within the jurisdiction if authorized by local ordinance including the text of measures and arguments supporting and opposing measures. The county or city may also specify in the ordinance that the local voters' pamphlet shall contain information on candidates for office. 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.

Overseas and Service Voters. Ballots must be mailed to service members and U.S. citizens residing outside the country who are registered to vote at least 45 days before each primary or general election. Overseas and service voters receive a return envelope that enables them to vote postage-free if returned through the U.S. Postal Service, the U.S. Armed Forces Postal Service, or the postal service of a U.S. foreign embassy. Overseas and service voters may also return their ballots by fax or email. There is no requirement that voters' pamphlets be mailed to service and overseas voters.

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 Amended 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:

- statements about the candidate themselves;
- 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. Information about each advisory vote must be given adequate space, rather than two pages in the voters' pamphlet. 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.

The voters' pamphlet must also include:

- a fiscal impact statement for each measure passed by the Legislature in the previous session increasing or decreasing state revenues by at least \$100 million in the first

- a pie chart showing state operating budget expenditures by areas of government.

The requirement that the voters' pamphlet include the names and office contact information of legislators and information on how legislators voted on legislation subject to an advisory vote is removed.

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.

Overseas and Service Voters. Overseas and service voters may request a statewide and local voters' pamphlet. County auditors must mail voters' pamphlets to overseas and service voters at the same time as ballots are mailed, or as soon as is practicable thereafter.

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.

EFFECT OF STATE GOVERNMENT & ELECTIONS COMMITTEE AMENDMENT(S):

Candidate and Ballot Measure Statements. Candidate statements in the statewide voters' pamphlet must also be limited to statements about the candidate themselves.

Overseas and Service Voters. Overseas and service voters may request a statewide and local voters' pamphlet. County auditors must mail voters' pamphlets to overseas and service voters at the same time as ballots are mailed, or as soon as is practicable thereafter.

Information About Ballot Measures. The voters' pamphlet must also include:

- a fiscal impact statement for each measure passed by the Legislature in the previous session increasing or decreasing state revenues by at least \$100 million in the first biennium in which the legislation takes effect; and
- a pie chart showing state operating budget expenditures by areas of government.

The requirement that the voters' pamphlet include the names and office contact information of legislators and information on how legislators voted on legislation subject to an advisory vote is removed.

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 on Engrossed House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Voters trust and rely upon the voters' pamphlets, and this will ensure the pamphlets are more effective. This will harmonize language to reflect the bill passed last year requiring local voters' pamphlets. It outlines a process for managing statements in districts across county lines and ensures uniform standards for candidate statements across the state. There is a need for an amendment to clarify that candidates can speak about themselves in candidate statements.

Persons Testifying: PRO: Garth Fell, Washington State Association of County Auditors; Jay Jennings, Office of the Secretary of State.

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