

SENATE BILL REPORT

SHB 2046

As Passed Senate, March 1, 2022

Title: An act relating to ethics in public service rules governing certain legislative activity.

Brief Description: Concerning ethics in public service rules governing certain legislative activity.

Sponsors: House Committee on State Government & Tribal Relations (originally sponsored by Representatives Stonier, Abbarno and Senn).

Brief History: Passed House: 2/8/22, 95-1.

Committee Activity: State Government & Elections: 2/16/22, 2/18/22 [DP].

Floor Activity: Passed Senate: 3/1/22, 48-1.

Brief Summary of Bill

- Allows legislators and staff to use state resources for communications directly pertaining to introduced legislative proposals and posting information to a legislator's official legislative website about emergencies, holidays, congratulatory letters, and government resources.
- Adjusts the start of the election year mailing freeze.
- Exempts legislators who have announced their retirement from the mailing freeze.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: Do pass.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Wilson, J., Ranking Member; Hasegawa and Hawkins.

Staff: Samuel Brown (786-7470)

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.

Background: Ethics Act. The Ethics in Public Service Act (Ethics Act) prohibits state officers and state employees from using their public employment for personal gain or private advantage, or to provide special privileges or exemptions for anyone else unless required to perform duties within the scope of their employment. It is not an improper use of a legislator's position or public resources to advocate for constituents when a legislative nexus exists—when the constituent is involved in a dispute with a government agency or official, or seeking assistance on legislative issues.

Election Year Communication Freeze. Certain communications by legislators seeking re-election or election to another office are prohibited during a specified period, known as the election year freeze. Beginning on the first day of the candidacy filing period, which is the Monday two weeks before Memorial Day, through the date of the certification of the general election, the official legislative website of a legislator seeking reelection or election to any public office may not be altered. The Legislative Ethics Board has advised that this prohibition extends to official social media accounts and pages.

During the period beginning on December 1st of the year before a general election for a state legislator's election to office through the date of certification of the general election, legislators seeking re-election or election to another office may not send mail or e-mail to constituents, except for routine legislative correspondence, two newsletters, and congratulatory letters. In addition, until the first day of candidacy filing, a legislator may mail or e-mail newsletters to constituents who have specifically indicated that they would like to be contacted to receive regular or periodic updates on legislative matters or have been added to a distribution list, if given an opportunity to opt out.

Summary of Bill: Use of Public Resources. An exemption to the prohibitions on the use of state resources for private gain or for campaign purposes is created for activities conducted by legislators or an appropriate legislative staff designee with a legislative nexus. These activities include communications directly pertaining to any proposal which has been introduced in either chamber of the Legislature, and posting information to a legislator's official legislative website or official legislative social media account about:

- emergencies;
- federal, state and legislatively-recognized, and religious holidays;
- information originally provided or published by other government entities about government resources; and
- achievements, honors, or awards of extraordinary distinction.

Activities that are considered part of the normal and regular conduct of the Legislature are specifically exempt from the prohibition on the use of public resources for campaign activity.

Election Year Freeze. Legislators seeking re-election or election to another office may not send mail and e-mail to constituents beginning on the first day of the candidate filing period, rather than beginning December 1st the year before the election. Official legislative

social media accounts may not be altered between the beginning of the candidate filing period and the certification of the general election. Legislators may no longer send newsletters during the election year freeze.

The election year freeze mailing restrictions do not apply to a member of the Legislature who has announced their retirement from elected public office and who does not file a declaration of candidacy.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: We need to update these policies to clarify access to legislative communication tools. There's a donut hole in existing law where new legislators can't access communications staff. This clarifies laws around legislative nexus for use of state resources and allows legislators to send farewell notices. Members should be able to communicate information that is provided by the state during a disaster or pandemic situation over social media.

Persons Testifying: PRO: Representative Monica Jurado Stonier, Prime Sponsor.

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