

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2046

67th Legislature
2022 Regular Session

Passed by the House February 8, 2022
Yeas 95 Nays 1

**Speaker of the House of
Representatives**

Passed by the Senate March 1, 2022
Yeas 48 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2046** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2046

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

By House State Government & Tribal Relations (originally sponsored by Representatives Stonier, Abbarno, and Senn)

READ FIRST TIME 02/02/22.

1 AN ACT Relating to ethics in public service rules governing
2 certain legislative activity; and amending RCW 42.52.070, 42.52.160,
3 42.52.180, and 42.52.185.

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

5 **Sec. 1.** RCW 42.52.070 and 2019 c 383 s 1 are each amended to
6 read as follows:

7 (1) Except as required to perform duties within the scope of
8 employment, no state officer or state employee may use his or her
9 position to secure special privileges or exemptions for himself or
10 herself, or his or her spouse, child, parents, or other persons.

11 (2) For purposes of this section, and only as applied to
12 legislators, activities within the scope of employment include but
13 are not limited to duties enumerated in law and activities that have
14 a tangible legislative nexus. Activities with a legislative nexus
15 include but are not limited to:

16 (a) Communications directly pertaining to any legislative
17 proposal which has been introduced in either chamber of the
18 legislature; and

19 (b) Posting information to a legislator's official legislative
20 website, including an official legislative social media account,
21 about:

1 (i) Emergencies;

2 (ii) Federal holidays, state and legislatively recognized
3 holidays established under RCW 1.16.050, and religious holidays;

4 (iii) Information originally provided or published by other
5 government entities which provide information about government
6 resources; and

7 (iv) Achievements, honors, or awards of extraordinary
8 distinction.

9 (3) It is not a violation of this section for a legislator or an
10 appropriate legislative staff designee to engage in activities listed
11 in subsection (2) of this section.

12 (4) For purposes of this section, and only as applied to
13 legislators and employees of the legislative branch, "special
14 privileges" includes, but is not limited to, engaging in behavior
15 that constitutes harassment. As used in this section:

16 (a) "Harassment" means engaging in physical, verbal, visual, or
17 psychological conduct that:

18 (i) Has the purpose or effect of interfering with the person's
19 work performance;

20 (ii) Creates a hostile, intimidating, or offensive work
21 environment; or

22 (iii) Constitutes sexual harassment.

23 (b) "Sexual harassment" means unwelcome or unwanted sexual
24 advances, requests for sexual or romantic favors, sexually motivated
25 bullying, or other verbal, visual, physical, or psychological conduct
26 or communication of a sexual or romantic nature, when:

27 (i) Submission to the conduct or communication is either
28 explicitly or implicitly a term or condition of current or future
29 employment;

30 (ii) Submission to or rejection of the conduct or communication
31 is used as the basis of an employment decision affecting the person;
32 or

33 (iii) The conduct or communication unreasonably interferes with
34 the person's job performance or creates a work environment that is
35 hostile, intimidating, or offensive.

36 **Sec. 2.** RCW 42.52.160 and 2014 c 28 s 1 are each amended to read
37 as follows:

38 (1) No state officer or state employee may employ or use any
39 person, money, or property under the officer's or employee's official

1 control or direction, or in his or her official custody, for the
2 private benefit or gain of the officer, employee, or another.

3 (2) This section does not prohibit the use of public resources to
4 benefit others as part of a state officer's or state employee's
5 official duties. It is not a violation of this section for a
6 legislator or an appropriate legislative staff designee to engage in
7 activities listed under RCW 42.52.070(2).

8 (3) This section does not prohibit de minimis use of state
9 facilities to provide employees with information about (a) medical,
10 surgical, and hospital care; (b) life insurance or accident and
11 health disability insurance; or (c) individual retirement accounts,
12 by any person, firm, or corporation administering such program as
13 part of authorized payroll deductions pursuant to RCW 41.04.020.

14 (4) The appropriate ethics boards may adopt rules providing
15 exceptions to this section for occasional use of the state officer or
16 state employee, of de minimis cost and value, if the activity does
17 not result in interference with the proper performance of public
18 duties.

19 **Sec. 3.** RCW 42.52.180 and 2017 c 7 s 2 are each amended to read
20 as follows:

21 (1) No state officer or state employee may use or authorize the
22 use of facilities of an agency, directly or indirectly, for the
23 purpose of assisting a campaign for election of a person to an office
24 or for the promotion of or opposition to a ballot proposition.
25 Knowing acquiescence by a person with authority to direct, control,
26 or influence the actions of the state officer or state employee using
27 public resources in violation of this section constitutes a violation
28 of this section. Facilities of an agency include, but are not limited
29 to, use of stationery, postage, machines, and equipment, use of state
30 employees of the agency during working hours, vehicles, office space,
31 publications of the agency, and clientele lists of persons served by
32 the agency.

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

34 (a) Action taken at an open public meeting by members of an
35 elected legislative body to express a collective decision, or to
36 actually vote upon a motion, proposal, resolution, order, or
37 ordinance, or to support or oppose a ballot proposition as long as
38 (i) required notice of the meeting includes the title and number of
39 the ballot proposition, and (ii) members of the legislative body or

1 members of the public are afforded an approximately equal opportunity
2 for the expression of an opposing view;

3 (b) A statement by an elected official in support of or in
4 opposition to any ballot proposition at an open press conference or
5 in response to a specific inquiry. For the purposes of this
6 subsection, it is not a violation of this section for an elected
7 official to respond to an inquiry regarding a ballot proposition, to
8 make incidental remarks concerning a ballot proposition in an
9 official communication, or otherwise comment on a ballot proposition
10 without an actual, measurable expenditure of public funds. The ethics
11 boards shall adopt by rule a definition of measurable expenditure;

12 (c) (i) The maintenance of official legislative websites
13 throughout the year, regardless of pending elections. The websites
14 may contain any discretionary material which was also specifically
15 prepared for the legislator in the course of his or her duties as a
16 legislator, including newsletters and press releases.

17 (ii) The official legislative websites of legislators seeking
18 reelection or election to any office shall not be altered, other than
19 during a special legislative session, beginning on the first day of
20 the declaration of candidacy filing period specified in RCW
21 29A.24.050 through the date of certification of the general election
22 of the election year. As used in this subsection, "legislator" means
23 a legislator who is a "candidate," as defined in RCW 42.17A.005, for
24 any public office. "Legislator" does not include a member of the
25 legislature who has announced their retirement from elected public
26 office and who does not file a declaration of candidacy by the end of
27 the candidacy filing period specified in RCW 29A.24.050.

28 (iii) The website shall not be used for campaign purposes;

29 (d) Activities that are part of the normal and regular conduct of
30 the office or agency, which include but are not limited to:

31 (i) Communications by a legislator or appropriate legislative
32 staff designee directly pertaining to any legislative proposal which
33 has been introduced in either chamber of the legislature; and

34 (ii) Posting, by a legislator or appropriate legislative staff
35 designee, information to a legislator's official legislative website
36 including an official legislative social media account, about:

37 (A) Emergencies;

38 (B) Federal holidays, state and legislatively recognized holidays
39 established under RCW 1.16.050, and religious holidays;

1 (C) Information originally provided or published by other
2 government entities which provide information about government
3 resources; and

4 (D) Achievements, honors, or awards of extraordinary distinction;
5 and

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

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

14 (4) As used in this section, "official legislative website"
15 includes, but is not limited to, a legislator's official legislative
16 social media accounts.

17 **Sec. 4.** RCW 42.52.185 and 2017 c 7 s 3 are each amended to read
18 as follows:

19 (1) During the period beginning on ~~((December 1st of the year~~
20 ~~before a))~~ the first day of the declaration of candidacy filing
21 period specified in RCW 29A.24.050 in the year of a general election
22 for a state legislator's election to office and continuing through
23 the date of certification of the general election, the legislator may
24 not mail, either by regular mail or email, to a constituent at public
25 expense a letter, newsletter, brochure, or other piece of literature,
26 except for routine legislative correspondence, such as scheduling,
27 and ~~((as follows:~~

28 ~~(a) The legislator may mail two mailings of newsletters to~~
29 ~~constituents. All newsletters within each mailing of newsletters must~~
30 ~~be identical as to their content but not as to the constituent name~~
31 ~~or address. Both mailings must be mailed before the first day of the~~
32 ~~declaration of candidacy filing period specified in RCW 29A.24.050.~~

33 ~~(b) The~~) the legislator may, by mail or email, send an
34 individual letter to ~~((+))~~ (a) an individual constituent who has
35 contacted the legislator regarding the subject matter of the letter
36 during the legislator's current term of office; ~~((+))~~ (b) an
37 individual constituent who holds a governmental office with
38 jurisdiction over the subject matter of the letter; or ~~((+++))~~ (c)
39 an individual constituent who has received an award or honor of

1 extraordinary distinction of a type that is sufficiently infrequent
2 to be noteworthy to a reasonable person((7)) including, but not
3 limited to: ((A)) (i) An international or national award such as
4 the Nobel prize or the Pulitzer prize; ((B)) (ii) a state award
5 such as Washington scholar; ((C)) (iii) an Eagle Scout award; and
6 ((D)) (iv) a Medal of Honor.

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

16 (2) A violation of this section constitutes use of the facilities
17 of a public office for the purpose of assisting a campaign under RCW
18 42.52.180.

19 (3) The house of representatives and senate shall specifically
20 limit expenditures per member for the total cost of mailings. Those
21 costs include, but are not limited to, production costs, printing
22 costs, and postage costs. The limits imposed under this subsection
23 apply only to the total expenditures on mailings per member and not
24 to any categorical cost within the total.

25 (4) For purposes of this section:

26 (a) "Legislator" means a legislator who is a "candidate," as
27 defined in RCW 42.17A.005, for any public office(~~;~~and)).
28 "Legislator" does not include a member of the legislature who has
29 announced their retirement from elected public office and who does
30 not file a declaration of candidacy by the end of the candidacy
31 filing period specified in RCW 29A.24.050.

32 (b) Persons residing outside the legislative district represented
33 by the legislator are not considered to be constituents, but
34 students, military personnel, or others temporarily employed outside
35 of the district who normally reside in the district are considered to
36 be constituents.

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