

SENATE BILL REPORT

E2SHB 1272

As Reported by Senate Committee On:
State Government & Elections, February 20, 2024

Title: An act relating to publishing, formatting, and distribution of the state and local voters' pamphlets.

Brief Description: Concerning publishing, formatting, and distribution of the state and local voters' pamphlets.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Bergquist, Volz, Reeves, Gregerson, Christian, Riccelli and Schmidt).

Brief History: Passed House: 1/24/24, 57-33.

Committee Activity: State Government & Elections: 2/16/24, 2/20/24 [DPA, DNP].

Brief Summary of Amended Bill

- 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.
- Increases the maximum fine for publishing or distributing campaign material that is deceptively similar to a voters' pamphlet to \$5 per copy or \$10,000, whichever is greater.
- Makes other changes to the administration and content of voters' pamphlets.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hunt, Chair; Valdez, Vice Chair; Hasegawa and Kuderer.

Minority Report: Do not pass.

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.

Signed by Senators Wilson, J., Ranking Member; Dozier and Fortunato.

Staff: Greg Vogel (786-7413)

Background: Statewide Voters' Pamphlet. The Washington Constitution requires the Secretary of State (Secretary) to send a publication containing ballot measures referred to the people, along with arguments for and against the measure, to each individual place of residence in the state. By statute, the Secretary also must send a voters' pamphlet if a statewide candidate appears on the ballot.

The statewide voters' pamphlet must contain:

- specific information about each measure initiated by or referred to the people, including explanatory statements prepared by the attorney general, arguments for and against the measure, and a fiscal impact statement prepared by the Office of Financial Management (OFM); and
- statements from candidates for federal and state offices that appear on the ballot that year.

Candidates 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 also may not contain false or misleading statements about the candidate's opponent that are defamatory or libelous. Statements for and against ballot measures may include graphs and charts supported by factual statistical data and pictures or other illustrations, but cartoons and caricatures are not permitted. The Secretary may petition the Thurston County Superior Court for a judicial determination that a statement may be rejected because it contains obscene matter or is otherwise prohibited by law for distribution by mail. A person who is defamed by an argument or statement in a voter's pamphlet may also seek a court order in Thurston County Superior Court to have the statement rejected.

The statewide voters' pamphlet must also provide contact information for the Public Disclosure Commission (PDC), which regulates campaign finance, and major political parties.

The Secretary must distribute the statewide voters' pamphlet to each household in the state, as well as to public libraries and other locations the Secretary deems appropriate. The Secretary must produce a taped or braille transcript of the pamphlet to send to anyone who requests it. The Secretary may distribute the voters' pamphlet in electronic form to computer networks, print and broadcast news, and similar services.

It is illegal to publish or distribute campaign material that is deceptively similar in design or appearance to a voters' pamphlet. The Secretary may petition a superior court for a restraining order to stop such publication or distribution, and a violator may be fined up to

\$2 per copy or \$1,000, whichever is greater.

Local Voters' Pamphlets. Each county auditor must produce a local voters' pamphlet for the entire county. Some counties have instead signed interlocal agreements with the Secretary to have local information about elections included with the statewide voters' pamphlet sent out by the Secretary. In those situations, the county produces the local content for the Secretary to include. Voters in those jurisdictions receive one pamphlet that includes all statewide and local elections.

The local voters' pamphlet must include information about ballot measures and candidates within the jurisdiction. The format of the pamphlet must mirror the statewide pamphlet whenever applicable. Ballot measures must also include explanatory statements prepared by the prosecuting attorney for the county or by the jurisdiction's attorney, as well as statements for and against. Statements for and against are prepared by committees appointed by the legislative authority of the jurisdiction. Candidates must be permitted to submit a statement and a photograph. Candidate statements in a local voters' pamphlet must be limited to statements about the candidate.

The local voters' pamphlet must be sent to every residence in each jurisdiction that has included information in the pamphlet. If it will be more economical and efficient, a pamphlet can instead be sent to every registered voter in the jurisdiction. Local voters' pamphlets must be sent as soon as practicable before an election.

Summary of Bill: The bill as referred to committee not considered.

Summary of Amended Bill: People appointed by the legislative authority of a jurisdiction to write arguments for and against ballot measures in local voters' pamphlets must reside within the jurisdictional boundaries. If the legislative authority misses the deadline for appointments, the county auditor shall issue a media release and publish information on the election website, and the auditor shall appoint people on a first-come, first-served basis. If no statement is produced, the auditor shall include a statement to that effect in the pamphlet.

The maximum fine for publishing or distributing campaign material that is deceptively similar to a voters' pamphlet is increased: a violator may be fined up to \$5 per copy or \$10,000, whichever is greater.

For offices appearing on a ballot due to a vacancy of a federal or state office, candidates may submit campaign contact information and a photograph not more than five years old for reproduction in the voters' pamphlet.

Argument statements for ballot measures may contain only text argument statements. Graphs, charts, photographs, cartoons, or caricatures are not permitted. The PDC's statement on where information can be found on candidate and ballot measure donors must be placed in a prominent position, such as the first two pages of the voters' pamphlet. The

Secretary or the county auditor must allocate space in the pamphlet based on the number of candidates or nominees for each office.

If a city, town or district is located within more than one county, all information for that jurisdiction must appear in the pamphlet for each of the counties containing the jurisdiction. All voters' pamphlets published by the county must include the elective offices and ballot measures of the county and offices and measures of each unit of local government within the county which will appear on the ballot at that primary or election. Local voters' pamphlets must include candidate statements and photographs.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill takes effect on January 1, 2025.

Staff Summary of Public Testimony on Bill as Amended by Committee: PRO: This is an issue we've been working on with the county auditors for many years. We've taken a few cracks at trying to streamline the voter's pamphlets and statements. We've had experiences where there is a jurisdictional race in more than one county, but the counties may have voter statements that differ from one another. The goal is to streamline the process and make sure that every voter pamphlet, if you're a voter in that district, you see the same statement, as well as a lot of other clean up around this.

CON: This bill is censorship by allowing the government to tell candidates what they can and cannot say and what ballot measure committees can say. The idea of banning graphs is really insane. You can basically call this the incumbent protection act because of the restriction on criticizing the person you're running against. The residency requirement on ballot statements is bad policy because it restricts the free flow of information to citizens. This bill strikes at the core of democracy, the citizens and their votes, it's censorship of what information we receive.

OTHER: It is important that citizens hear all viewpoints of any issue. Voter participation will drop off if they feel they are being spoon fed only one side of an issue.

Persons Testifying: PRO: Representative Steve Bergquist, Prime Sponsor; Mary Hall.

CON: Laurie Layne; Tim Eyman, Initiative Activist; Jeff Heckathorn; Liv Finne, Washington Policy Center; Jeffrey Pack, Washington Citizens Against Unfair Taxes.

OTHER: Michael Brunson.

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