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**SUBSTITUTE SENATE BILL 5991**

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**State of Washington                      61st Legislature                      2009 Regular Session**

**By** Senate Government Operations & Elections (originally sponsored by Senator Benton)

READ FIRST TIME 02/25/09.

1            AN ACT Relating to use of public resources by office holders during  
2 campaigns; and amending RCW 42.52.180.

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

4            **Sec. 1.** RCW 42.52.180 and 1995 c 397 s 30 are each amended to read  
5 as follows:

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

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

1 (a) Action taken at an open public meeting by members of an elected  
2 legislative body to express a collective decision, or to actually vote  
3 upon a motion, proposal, resolution, order, or ordinance, or to support  
4 or oppose a ballot proposition as long as (i) required notice of the  
5 meeting includes the title and number of the ballot proposition, and  
6 (ii) members of the legislative body or members of the public are  
7 afforded an approximately equal opportunity for the expression of an  
8 opposing view;

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

18 (c) Activities that are part of the normal and regular conduct of  
19 the office or agency. It shall be considered part of the normal  
20 regular conduct of office for legislators to maintain official web  
21 sites, without regard to pending elections or campaigns; and

22 (d) De minimis use of public facilities by statewide elected  
23 officials and legislators incidental to the preparation or delivery of  
24 permissible communications, including written and verbal communications  
25 initiated by them of their views on ballot propositions that  
26 foreseeably may affect a matter that falls within their constitutional  
27 or statutory responsibilities.

28 (3) As to state officers and employees, this section operates to  
29 the exclusion of RCW 42.17.130.

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