

SIXTY FIFTH LEGISLATURE - REGULAR SESSION

SIXTY SIXTH DAY

House Chamber, Olympia, Wednesday, March 15, 2017

The House was called to order at 10:00 a.m. by the Speaker (Representative Orwall presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Simon Lee and Rebecca Giacomazzi. The Speaker (Representative Orwall presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Mark Suko, Discovery Baptist Church, Gig Harbor, Washington.

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

SPEAKER'S PRIVILEGE

The Speaker (Representative Orwall presiding) recognized former Seattle Supersonic Spencer Haywood, honored by House Resolution 4626 and asked the members to acknowledge him.

There being no objection, the House advanced to the fourth order of business.

INTRODUCTION & FIRST READING

HB 2165 by Representatives Harris, Cody, Pollet, Doglio, Kagi, Ryu and Slatter

AN ACT Relating to vapor products, e-cigarettes, and nicotine products taxation; amending RCW 66.08.145, 66.44.010, 82.24.510, 82.24.550, 82.26.060, 82.26.080, 82.26.150, 82.26.220, 82.32.300, and 43.06.450; adding new sections to chapter 43.06 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new chapter to Title 82 RCW; creating new sections; prescribing penalties; and providing an effective date.

Referred to Committee on Finance.

There being no objection, the bill listed on the day's introduction sheet under the fourth order of business was referred to the committee so designated.

There being no objection, the House advanced to the fifth order of business.

REPORTS OF STANDING COMMITTEES

SB 5091 March 14, 2017
Prime Sponsor, Senator Takko: Removing expiration dates, obsolete dates, and an

outdated statutory reference from the enforcement provisions of the underground utility damage prevention act. Reported by Committee on Technology & Economic Development

MAJORITY recommendation: Do pass. Signed by Representatives Morris, Chair; Kloba, Vice Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Doglio; Fey; Harmsworth; Hudgins; Manweller; McDonald; Nealey; Santos; Slatter; Steele and Wylie.

Referred to Committee on Rules for second reading.

There being no objection, the bill listed on the day's committee reports under the fifth order of business was referred to the committee so designated.

There being no objection, the House advanced to the seventh order of business.

MESSAGE FROM THE SENATE

March 1, 2017

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2106 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the prohibition on the use of public resources for campaign purposes serves an important purpose, but that the period prohibiting state legislators from communicating with constituents at public expense is unnecessary once the election, and the campaign itself, has ended. Furthermore, the delay in constituent outreach after the election only hinders a legislator's ability to quickly and effectively respond to requests and keep the public informed about current state issues, and the various deadlines relating to mailed, emailed, and web site communications are confusing and need to be harmonized. For these reasons, the legislature intends to change mailed, emailed, and web site communication deadlines to the same time periods, in order to allow legislators to

actively engage with the public on official legislative business in a timely and effective manner.

Sec. 2. RCW 42.52.180 and 2011 c 60 s 30 are each amended to read as follows:

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

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

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

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

(c) The maintenance of official legislative web sites throughout the year, regardless of pending elections.

The web sites may contain any discretionary material which was also specifically prepared for the legislator in the course of his or her duties as a legislator, including newsletters and press releases. The official legislative web sites of legislators seeking reelection or election to any office shall not be altered ((between June 30th and November 15th)), other than during a special legislative session, beginning on the first day of the declaration of candidacy filing period specified in RCW 29A.24.050 through the date of certification of the general election of the election year. The web site shall not be used for campaign purposes;

(d) Activities that are part of the normal and regular conduct of the office or agency; and

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

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

Sec. 3. RCW 42.52.185 and 2011 c 60 s 31 are each amended to read as follows:

(1) During the ((~~twelve-month~~)) period beginning on December 1st of the year before a general election for a state legislator's election to office and continuing through ((~~November 30th immediately after~~)) the date of certification of the general election, the legislator may not mail, either by regular mail or ((~~electronic mail~~)) email, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except for routine legislative correspondence, such as scheduling, and as follows:

(a) The legislator may mail two mailings of newsletters to constituents. All newsletters within each mailing of newsletters must be identical as to their content but not as to the constituent name or address. ((~~One such mailing may be mailed no later than thirty days after the start of a regular legislative session, except that a legislator appointed during a regular legislative~~))

~~session to fill a vacant seat may have up to thirty days from the date of appointment to send out the first mailing. The other) Both mailings ((may)) must be mailed ((no later than sixty days after the end of a regular legislative session)) before the first day of the declaration of candidacy filing period specified in RCW 29A.24.050.~~

(b) The legislator may mail an individual letter to (i) an individual constituent who has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office; (ii) an individual constituent who holds a governmental office with jurisdiction over the subject matter of the letter; or (iii) an individual constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person, including, but not limited to: (A) An international or national award such as the Nobel prize or the Pulitzer prize; (B) a state award such as Washington scholar; (C) an Eagle Scout award; and (D) a Medal of Honor.

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

~~(2) ((For purposes of subsection (1) of this section, "legislator" means a legislator who is a "candidate," as defined by RCW 42.17A.005, for any public office.~~

~~(3))~~ A violation of this section constitutes use of the facilities of a public office for the purpose of assisting a campaign under RCW 42.52.180.

~~((4))~~ (3) The house of representatives and senate shall specifically limit expenditures per member for the total cost of mailings.

Those costs include, but are not limited to, production costs, printing costs, and postage costs. The limits imposed under this subsection apply only to the total expenditures on mailings per member and not to any categorical cost within the total.

~~((5))~~ (4) For purposes of this section ~~((7))~~:

(a) "Legislator" means a legislator who is a "candidate," as defined in RCW 42.17A.005, for any public office; and

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

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 2 of the title, after "legislators;" strike the remainder of the title and insert "amending RCW 42.52.180 and 42.52.185; creating a new section; and declaring an emergency."

and the same is herewith transmitted.

Hunter Goodman , Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2106 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Koster and Hudgins spoke in favor of the passage of the bill.

MOTIONS

On motion of Representative Riccelli, Representative Appleton was excused.

On motion of Representative Hayes, Representative Young was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2106, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2106, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Buys, Caldier, Chandler, Chapman, Clibborn, Cody, Condotta, DeBolt, Dent, Doglio, Dolan, Dye, Farrell, Fey, Fitzgibbon, Frame, Goodman, Graves, Gregerson, Griffey, Haler, Hansen, Hargrove, Harmsworth, Harris, Hayes, Holy, Hudgins, Irwin, Jenkin, Jinkins, Johnson, Kagi, Kilduff, Kirby, Klippert, Kloba, Koster, Kraft, Kretz, Kristiansen, Lovick, Lytton, MacEwen, Macri, Manweller, Maycumber, McBride, McCabe, McCaslin, McDonald, Morris, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pike, Pollet, Reeves, Riccelli, Robinson, Rodne, Ryu, Santos, Sawyer, Schmick, Sells, Senn, Shea, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Taylor, Tharinger, Van Werven, Vick, Volz, J. Walsh, Wilcox, Wylie and Mr. Speaker.

Voting nay: Representative Stambaugh.

Excused: Representatives Appleton and Young.

SUBSTITUTE HOUSE BILL NO. 2106, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

HOUSE BILL NO. 1661, by Representatives Kagi, Sullivan, Dent, Senn, Muri, Kilduff, Klippert, Frame, Goodman, Ortiz-Self, Wilcox, Lovick, Hargrove, Clibborn, Lytton, Appleton, Fitzgibbon, Orwall, Kloba, Sells, Fey, Macri, Bergquist, Pollet, Hudgins, Robinson, Stanford and Slatter

Creating the department of children, youth, and families.

The bill was read the second time.

There being no objection Second Substitute House Bill No. 1661 was substituted for House Bill No. 1661 and the second substitute bill was placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 1661 was read the second time.

Representative Dent moved the adoption of amendment (324):

On page 5, line 17, after "manner." insert "An important role for the department shall be to provide preventative services to help secure and preserve families in crisis."

Representatives Dent and Kagi spoke in favor of the adoption of the amendment.

Amendment (324) was adopted.

Representative Dent moved the adoption of amendment (323):

On page 13, beginning on line 2, after "families;" strike "and

(k)" and insert the following:

"(k) To provide a report to the governor and the appropriate committees of the legislature by November 1, 2019, that includes a description of the current review process for foster licensing decisions and recommendations for expanding or modifying the authority of the office of the family and children's ombuds established in chapter 43.06A RCW to more effectively review foster licensing decisions, or development of a separate, independent process for review of foster licensing decisions; and

(l)"

Representatives Dent and Kagi spoke in favor of the adoption of the amendment.

Amendment (323) was adopted.

Representative Dent moved the adoption of amendment (322):

On page 14, line 17, after "(g)" insert "If final review is requested by a licensee, to review whether department of children, youth, and families' licensors appropriately and consistently applied agency rules in child care facility licensing compliance agreements as defined in section 115 of this act that do not involve a violation of health and safety standards as defined in section 115 of this act in cases that have already been reviewed by the internal review process described in section 115 of this act with the authority to overturn, change, or uphold such decisions;

(h)"

On page 14, at the beginning of line 22, strike "(h)" and insert "(i)"

On page 25, after line 8, insert the following:

"NEW SECTION. **Sec. 115.** (1) The department shall develop an internal review process to determine whether department licensors have appropriately and consistently applied agency rules in child care facility licensing compliance agreements that do not involve a violation of health and safety standards. Adverse licensing decisions including license denial, suspension, revocation, modification, or nonrenewal pursuant to RCW 43.215.300 (as recodified by this act) or imposition of civil fines pursuant to RCW 43.215.307 (as recodified by this act) are not subject to the internal review process in this section, but may be appealed using the administrative procedure act, chapter 34.05 RCW.

(2) The definitions in this subsection apply throughout this section.

(a) "Child care facility licensing compliance agreement" means an agreement issued by the department in lieu of the department taking enforcement action against a child care provider that contains: (i) A description of the violation and the rule or law that was violated; (ii) a statement from the licensee regarding the proposed plan to comply with the rule or law; (iii) the date the violation must be corrected; (iv) information regarding other licensing action that may be imposed if compliance does not occur by the required date; and (v) the signature of the licensor and licensee.

(b) "Health and safety standards" means rules or requirements developed by the department to protect the health and safety of children against substantial risk of bodily injury, illness, or death.

(3) The internal review process shall be conducted by the following six individuals:

(a) Three department employees who may include child care licensors; and

(b) Three child care providers selected by the department from names submitted by the oversight board for children, youth, and families established in section 105 of this act.

(4) The internal review process established in this section may overturn, change, or uphold a department licensing decision by majority vote. In the event that the six individuals conducting the internal review process are equally divided, the secretary shall make the

decision of the internal review process. The internal review process must provide the parties with a written decision of the outcome after completion of the internal review process. A licensee must request a review under the internal review process within ten days of the development of a child care facility licensing compliance agreement and the internal review process must be completed within thirty days after the request from the licensee to initiate the internal review process is received.

(5) A licensee may request a final review by the oversight board for children, youth, and families after completing the internal review process established in this section by giving notice to the department and the oversight board for children, youth, and families within ten days of receiving the written decision produced by the internal review process.

(6) The department shall not develop a child care facility licensing compliance agreement with a child care provider for first-time violations of rules that do not relate to health and safety standards and that can be corrected on the same day that the violation is identified. The department shall develop a procedure for providing a warning and offering technical assistance to providers in response to these first-time violations."

On page 255, line 25, after "109," insert "115,"

On page 256, line 3, after "through" strike "114" and insert "115"

Correct the title.

Representatives Dent and Kagi spoke in favor of the adoption of the amendment.

Amendment (322) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Kagi, Dent, Ortiz-Self, McCabe, Frame, Reeves and Caldier spoke in favor of the passage of the bill.

Representative Schmick spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1661.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1661, and the bill passed the House by the following vote: Yeas, 77; Nays, 19; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Buys, Caldier, Chandler, Chapman, Clibborn, Cody, DeBolt, Dent, Doglio, Dolan, Farrell, Fey, Fitzgibbon, Frame, Goodman, Graves, Gregerson, Griffey, Haler, Hansen, Hargrove, Harmsworth, Harris, Hudgins, Jenkin, Jinkins, Johnson, Kagi, Kilduff, Kirby, Klippert, Kloba, Kraft, Kristiansen, Lovick, Lytton, MacEwen, Macri, McBride, McCabe, McDonald, Morris, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pike, Pollet, Reeves, Riccelli, Robinson, Rodne, Ryu, Santos, Sawyer, Sells, Senn, Slatter, Springer, Stambaugh, Stanford,

Steele, Stonier, Sullivan, Tarleton, Tharinger, J. Walsh, Wylie and Mr. Speaker.

Voting nay: Representatives Condotta, Dye, Hayes, Holy, Irwin, Koster, Kretz, Manweller, Maycumber, McCaslin, Schmick, Shea, Smith, Stokesbary, Taylor, Van Werven, Vick, Volz and Wilcox.

Excused: Representatives Appleton and Young.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1661, having received the necessary constitutional majority, was declared passed.

There being no objection, the House adjourned until 10:00 a.m., March 16, 2017, the 67th Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk