

November 21, 1995

Advisory Opinion 1995 - No. 19

The Board has received a request for an advisory opinion from Timothy A. Martin, Chief Clerk of the House of Representatives. Mr. Martin has waived the right to confidentiality afforded to persons requesting advisory opinions.

QUESTIONS

In newsletters and other correspondence state legislators have offered constituents the opportunity to receive up-to-date information on matters of legislative interest by (1) providing the legislator's telephone number and address and inviting constituents to make contact, (2) providing a return card or form that the constituent can fill out with a request for information, or (3) providing a return card or form with a series of boxes that the constituent can check, indicating subjects in which the constituent would like additional information.

RCW 42.17.132 provides, in pertinent part:

During the twelve-month period preceding the last day for certification of the election results for a state legislator's election to office, the legislator may not mail to a constituent at public expense a letter, newsletter, brochure, or other piece of literature except as provided in this section.

The legislator may mail one mailing no later than thirty days after the start of a regular legislative session and one mailing no later than sixty days after the end of a regular legislative session of identical newsletters to constituents.

The legislator may mail an individual letter to an individual constituent who (1) has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office; or (2) holds a governmental office with jurisdiction over the subject matter of the letter. . . .

The questions are:

1. Does RCW 42.17.132 allow a legislator to respond in writing to a constituent who has requested information in the context set forth above without counting the response as one of the two newsletters permitted by that statute?

2. If the legislator may respond in writing, may the legislator provide periodic written updates to the interested citizen, provided that such written updates are individually tailored with regards to the subject matter in which the citizen has requested information?

OPINION

The answer to each question is a "yes" with qualifications.

ANALYSIS

The law, RCW 42.17.132, expressly permits legislators to "mail an individual letter to an individual constituent who . . . has contacted the legislator regarding the subject matter of the letter. . . ." A legislator who is contacted by constituents under the circumstances described in the questions may respond by sending them individual letters. These letters will not be counted as newsletters, subject to qualifications discussed in this opinion.

The purpose of RCW 42.17.132 is to reduce the advantage in elections that incumbent legislators previously enjoyed through mailings at public expense during the last year of their terms. This purpose is generally accomplished by limiting the number and kind of mailings that legislators may mail during that year.

In our answer to these questions, we assume that the legislator would not solicit information requests for general legislative information but rather would solicit requests for information dealing with narrow subject matters. The legislator should not solicit requests for information on broad subjects because the legislator's responses to such requests would resemble a newsletter in scope of coverage. To stay within the purpose of RCW 42.17.132, the legislator should not use subject matter boxes that deal with broad subject matters. Furthermore, the legislator should not provide periodic updates on broad subject matter requests.

We provide the following examples of broad versus narrow subject matters: "Education" would be a broad subject matter, while "higher education tuition," "merit pay for teachers," or "class size" would be narrow subject matters. "Crime" would be a broad subject matter, while "the death penalty" or "sentencing guidelines" would be narrow subject matters. A request for information on all issues before the Education Committee would be a broad subject matter request, while a request for a particular bill would be a narrow subject matter request.

Citizens need timely access to legislative information in order to participate in the legislative process. With this opinion, we interpret the law in a manner that permits legislators to encourage such participation, while at the same time complying with RCW 42.17.132.