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HOUSE BILL 2713

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State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Simpson, Woods and Hunt

Read first time 01/12/2006.                      Referred to Committee on State Government Operations & Accountability.

1            AN ACT Relating to clarifying that special district boards,  
2 councils, and commissions may publicly take positions on ballot  
3 measures; amending RCW 42.17.020; and creating a new section.

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

5            NEW SECTION.    **Sec. 1.** The legislature finds that the public  
6 benefits from an open and inclusive discussion of ballot measures, and  
7 that for twenty-five years these discussions have included the  
8 opportunity for all elected boards, councils, and commissions to vote  
9 in open public meetings in order to express their support of, or  
10 opposition to, ballot propositions affecting their jurisdictions.

11            It is the intent of this act to affirm and clarify the state's  
12 long-standing policy of promoting informed public discussion and  
13 understanding of ballot propositions by allowing all state and local  
14 governing bodies, including elected boards, councils, and commissions,  
15 to adopt resolutions supporting or opposing ballot propositions.

16            **Sec. 2.** RCW 42.17.020 and 2005 c 445 s 6 are each amended to read  
17 as follows:

1 The definitions in this section apply throughout this chapter  
2 unless the context clearly requires otherwise.

3 (1) "Actual malice" means to act with knowledge of falsity or with  
4 reckless disregard as to truth or falsity.

5 (2) "Agency" includes all state agencies and all local agencies.  
6 "State agency" includes every state office, department, division,  
7 bureau, board, commission, or other state agency. "Local agency"  
8 includes every county, city, town, municipal corporation, quasi-  
9 municipal corporation, or special purpose district, or any office,  
10 department, division, bureau, board, commission, or agency thereof, or  
11 other local public agency.

12 (3) "Authorized committee" means the political committee authorized  
13 by a candidate, or by the public official against whom recall charges  
14 have been filed, to accept contributions or make expenditures on behalf  
15 of the candidate or public official.

16 (4) "Ballot proposition" means any "measure" as defined by RCW  
17 29A.04.091, or any initiative, recall, or referendum proposition  
18 proposed to be submitted to the voters of the state or any municipal  
19 corporation, political subdivision, or other voting constituency from  
20 and after the time when the proposition has been initially filed with  
21 the appropriate election officer of that constituency prior to its  
22 circulation for signatures.

23 (5) "Benefit" means a commercial, proprietary, financial, economic,  
24 or monetary advantage, or the avoidance of a commercial, proprietary,  
25 financial, economic, or monetary disadvantage.

26 (6) "Bona fide political party" means:

27 (a) An organization that has filed a valid certificate of  
28 nomination with the secretary of state under chapter 29A.20 RCW;

29 (b) The governing body of the state organization of a major  
30 political party, as defined in RCW 29A.04.086, that is the body  
31 authorized by the charter or bylaws of the party to exercise authority  
32 on behalf of the state party; or

33 (c) The county central committee or legislative district committee  
34 of a major political party. There may be only one legislative district  
35 committee for each party in each legislative district.

36 (7) "Depository" means a bank designated by a candidate or  
37 political committee pursuant to RCW 42.17.050.

1 (8) "Treasurer" and "deputy treasurer" mean the individuals  
2 appointed by a candidate or political committee, pursuant to RCW  
3 42.17.050, to perform the duties specified in that section.

4 (9) "Candidate" means any individual who seeks nomination for  
5 election or election to public office. An individual seeks nomination  
6 or election when he or she first:

7 (a) Receives contributions or makes expenditures or reserves space  
8 or facilities with intent to promote his or her candidacy for office;

9 (b) Announces publicly or files for office;

10 (c) Purchases commercial advertising space or broadcast time to  
11 promote his or her candidacy; or

12 (d) Gives his or her consent to another person to take on behalf of  
13 the individual any of the actions in (a) or (c) of this subsection.

14 (10) "Caucus political committee" means a political committee  
15 organized and maintained by the members of a major political party in  
16 the state senate or state house of representatives.

17 (11) "Commercial advertiser" means any person who sells the service  
18 of communicating messages or producing printed material for broadcast  
19 or distribution to the general public or segments of the general public  
20 whether through the use of newspapers, magazines, television and radio  
21 stations, billboard companies, direct mail advertising companies,  
22 printing companies, or otherwise.

23 (12) "Commission" means the agency established under RCW 42.17.350.

24 (13) "Compensation" unless the context requires a narrower meaning,  
25 includes payment in any form for real or personal property or services  
26 of any kind: PROVIDED, That for the purpose of compliance with RCW  
27 42.17.241, the term "compensation" shall not include per diem  
28 allowances or other payments made by a governmental entity to reimburse  
29 a public official for expenses incurred while the official is engaged  
30 in the official business of the governmental entity.

31 (14) "Continuing political committee" means a political committee  
32 that is an organization of continuing existence not established in  
33 anticipation of any particular election campaign.

34 (15)(a) "Contribution" includes:

35 (i) A loan, gift, deposit, subscription, forgiveness of  
36 indebtedness, donation, advance, pledge, payment, transfer of funds  
37 between political committees, or anything of value, including personal  
38 and professional services for less than full consideration;

1 (ii) An expenditure made by a person in cooperation, consultation,  
2 or concert with, or at the request or suggestion of, a candidate, a  
3 political committee, or their agents;

4 (iii) The financing by a person of the dissemination, distribution,  
5 or republication, in whole or in part, of broadcast, written, graphic,  
6 or other form of political advertising or electioneering communication  
7 prepared by a candidate, a political committee, or its authorized  
8 agent;

9 (iv) Sums paid for tickets to fund-raising events such as dinners  
10 and parties, except for the actual cost of the consumables furnished at  
11 the event.

12 (b) "Contribution" does not include:

13 (i) Standard interest on money deposited in a political committee's  
14 account;

15 (ii) Ordinary home hospitality;

16 (iii) A contribution received by a candidate or political committee  
17 that is returned to the contributor within five business days of the  
18 date on which it is received by the candidate or political committee;

19 (iv) A news item, feature, commentary, or editorial in a regularly  
20 scheduled news medium that is of primary interest to the general  
21 public, that is in a news medium controlled by a person whose business  
22 is that news medium, and that is not controlled by a candidate or a  
23 political committee;

24 (v) An internal political communication primarily limited to the  
25 members of or contributors to a political party organization or  
26 political committee, or to the officers, management staff, or  
27 stockholders of a corporation or similar enterprise, or to the members  
28 of a labor organization or other membership organization;

29 (vi) The rendering of personal services of the sort commonly  
30 performed by volunteer campaign workers, or incidental expenses  
31 personally incurred by volunteer campaign workers not in excess of  
32 fifty dollars personally paid for by the worker. "Volunteer services,"  
33 for the purposes of this section, means services or labor for which the  
34 individual is not compensated by any person;

35 (vii) Messages in the form of reader boards, banners, or yard or  
36 window signs displayed on a person's own property or property occupied  
37 by a person. However, a facility used for such political advertising

1 for which a rental charge is normally made must be reported as an in-  
2 kind contribution and counts towards any applicable contribution limit  
3 of the person providing the facility;

4 (viii) Legal or accounting services rendered to or on behalf of:

5 (A) A political party or caucus political committee if the person  
6 paying for the services is the regular employer of the person rendering  
7 such services; or

8 (B) A candidate or an authorized committee if the person paying for  
9 the services is the regular employer of the individual rendering the  
10 services and if the services are solely for the purpose of ensuring  
11 compliance with state election or public disclosure laws.

12 (c) Contributions other than money or its equivalent are deemed to  
13 have a monetary value equivalent to the fair market value of the  
14 contribution. Services or property or rights furnished at less than  
15 their fair market value for the purpose of assisting any candidate or  
16 political committee are deemed a contribution. Such a contribution  
17 must be reported as an in-kind contribution at its fair market value  
18 and counts towards any applicable contribution limit of the provider.

19 (16) "Elected official" means any person elected at a general or  
20 special election to any public office, and any person appointed to fill  
21 a vacancy in any such office.

22 (17) "Election" includes any primary, general, or special election  
23 for public office and any election in which a ballot proposition is  
24 submitted to the voters: PROVIDED, That an election in which the  
25 qualifications for voting include other than those requirements set  
26 forth in Article VI, section 1 (Amendment 63) of the Constitution of  
27 the state of Washington shall not be considered an election for  
28 purposes of this chapter.

29 (18) "Election campaign" means any campaign in support of or in  
30 opposition to a candidate for election to public office and any  
31 campaign in support of, or in opposition to, a ballot proposition.

32 (19) "Election cycle" means the period beginning on the first day  
33 of December after the date of the last previous general election for  
34 the office that the candidate seeks and ending on November 30th after  
35 the next election for the office. In the case of a special election to  
36 fill a vacancy in an office, "election cycle" means the period  
37 beginning on the day the vacancy occurs and ending on November 30th  
38 after the special election.

1 (20) "Electioneering communication" means any broadcast, cable, or  
2 satellite television or radio transmission, United States postal  
3 service mailing, billboard, newspaper, or periodical that:

4 (a) Clearly identifies a candidate for a state, local, or judicial  
5 office either by specifically naming the candidate, or identifying the  
6 candidate without using the candidate's name;

7 (b) Is broadcast, transmitted, mailed, erected, distributed, or  
8 otherwise published within sixty days before any election for that  
9 office in the jurisdiction in which the candidate is seeking election;  
10 and

11 (c) Either alone, or in combination with one or more communications  
12 identifying the candidate by the same sponsor during the sixty days  
13 before an election, has a fair market value of five thousand dollars or  
14 more.

15 (21) "Electioneering communication" does not include:

16 (a) Usual and customary advertising of a business owned by a  
17 candidate, even if the candidate is mentioned in the advertising when  
18 the candidate has been regularly mentioned in that advertising  
19 appearing at least twelve months preceding his or her becoming a  
20 candidate;

21 (b) Advertising for candidate debates or forums when the  
22 advertising is paid for by or on behalf of the debate or forum sponsor,  
23 so long as two or more candidates for the same position have been  
24 invited to participate in the debate or forum;

25 (c) A news item, feature, commentary, or editorial in a regularly  
26 scheduled news medium that is:

27 (i) Of primary interest to the general public;

28 (ii) In a news medium controlled by a person whose business is that  
29 news medium; and

30 (iii) Not a medium controlled by a candidate or a political  
31 committee;

32 (d) Slate cards and sample ballots;

33 (e) Advertising for books, films, dissertations, or similar works  
34 (i) written by a candidate when the candidate entered into a contract  
35 for such publications or media at least twelve months before becoming  
36 a candidate, or (ii) written about a candidate;

37 (f) Public service announcements;

1 (g) A mailed internal political communication primarily limited to  
2 the members of or contributors to a political party organization or  
3 political committee, or to the officers, management staff, or  
4 stockholders of a corporation or similar enterprise, or to the members  
5 of a labor organization or other membership organization;

6 (h) An expenditure by or contribution to the authorized committee  
7 of a candidate for state, local, or judicial office; or

8 (i) Any other communication exempted by the commission through rule  
9 consistent with the intent of this chapter.

10 (22) "Elected legislative body" means any governing body composed  
11 entirely of persons holding public office.

12 (23) "Expenditure" includes a payment, contribution, subscription,  
13 distribution, loan, advance, deposit, or gift of money or anything of  
14 value, and includes a contract, promise, or agreement, whether or not  
15 legally enforceable, to make an expenditure. The term "expenditure"  
16 also includes a promise to pay, a payment, or a transfer of anything of  
17 value in exchange for goods, services, property, facilities, or  
18 anything of value for the purpose of assisting, benefiting, or honoring  
19 any public official or candidate, or assisting in furthering or  
20 opposing any election campaign. For the purposes of this chapter,  
21 agreements to make expenditures, contracts, and promises to pay may be  
22 reported as estimated obligations until actual payment is made. The  
23 term "expenditure" shall not include the partial or complete repayment  
24 by a candidate or political committee of the principal of a loan, the  
25 receipt of which loan has been properly reported.

26 ((+23+)) (24) "Final report" means the report described as a final  
27 report in RCW 42.17.080(2).

28 ((+24+)) (25) "General election" for the purposes of RCW 42.17.640  
29 means the election that results in the election of a person to a state  
30 office. It does not include a primary.

31 ((+25+)) (26) "Gift," is as defined in RCW 42.52.010.

32 ((+26+)) (27) "Immediate family" includes the spouse, dependent  
33 children, and other dependent relatives, if living in the household.  
34 For the purposes of RCW 42.17.640 through 42.17.790, "immediate family"  
35 means an individual's spouse, and child, stepchild, grandchild, parent,  
36 stepparent, grandparent, brother, half brother, sister, or half sister  
37 of the individual and the spouse of any such person and a child,

1 stepchild, grandchild, parent, stepparent, grandparent, brother, half  
2 brother, sister, or half sister of the individual's spouse and the  
3 spouse of any such person.

4 ~~((+27))~~ (28) "Incumbent" means a person who is in present  
5 possession of an elected office.

6 ~~((+28))~~ (29) "Independent expenditure" means an expenditure that  
7 has each of the following elements:

8 (a) It is made in support of or in opposition to a candidate for  
9 office by a person who is not (i) a candidate for that office, (ii) an  
10 authorized committee of that candidate for that office, (iii) a person  
11 who has received the candidate's encouragement or approval to make the  
12 expenditure, if the expenditure pays in whole or in part for political  
13 advertising supporting that candidate or promoting the defeat of any  
14 other candidate or candidates for that office, or (iv) a person with  
15 whom the candidate has collaborated for the purpose of making the  
16 expenditure, if the expenditure pays in whole or in part for political  
17 advertising supporting that candidate or promoting the defeat of any  
18 other candidate or candidates for that office;

19 (b) The expenditure pays in whole or in part for political  
20 advertising that either specifically names the candidate supported or  
21 opposed, or clearly and beyond any doubt identifies the candidate  
22 without using the candidate's name; and

23 (c) The expenditure, alone or in conjunction with another  
24 expenditure or other expenditures of the same person in support of or  
25 opposition to that candidate, has a value of five hundred dollars or  
26 more. A series of expenditures, each of which is under five hundred  
27 dollars, constitutes one independent expenditure if their cumulative  
28 value is five hundred dollars or more.

29 ~~((+29))~~ (30)(a) "Intermediary" means an individual who transmits  
30 a contribution to a candidate or committee from another person unless  
31 the contribution is from the individual's employer, immediate family as  
32 defined for purposes of RCW 42.17.640 through 42.17.790, or an  
33 association to which the individual belongs.

34 (b) A treasurer or a candidate is not an intermediary for purposes  
35 of the committee that the treasurer or candidate serves.

36 (c) A professional fund-raiser is not an intermediary if the fund-  
37 raiser is compensated for fund-raising services at the usual and  
38 customary rate.

1 (d) A volunteer hosting a fund-raising event at the individual's  
2 home is not an intermediary for purposes of that event.

3 ~~((+30+))~~ (31) "Legislation" means bills, resolutions, motions,  
4 amendments, nominations, and other matters pending or proposed in  
5 either house of the state legislature, and includes any other matter  
6 that may be the subject of action by either house or any committee of  
7 the legislature and all bills and resolutions that, having passed both  
8 houses, are pending approval by the governor.

9 ~~((+31+))~~ (32) "Lobby" and "lobbying" each mean attempting to  
10 influence the passage or defeat of any legislation by the legislature  
11 of the state of Washington, or the adoption or rejection of any rule,  
12 standard, rate, or other legislative enactment of any state agency  
13 under the state Administrative Procedure Act, chapter 34.05 RCW.  
14 Neither "lobby" nor "lobbying" includes an association's or other  
15 organization's act of communicating with the members of that  
16 association or organization.

17 ~~((+32+))~~ (33) "Lobbyist" includes any person who lobbies either in  
18 his or her own or another's behalf.

19 ~~((+33+))~~ (34) "Lobbyist's employer" means the person or persons by  
20 whom a lobbyist is employed and all persons by whom he or she is  
21 compensated for acting as a lobbyist.

22 ~~((+34+))~~ (35) "Participate" means that, with respect to a  
23 particular election, an entity:

24 (a) Makes either a monetary or in-kind contribution to a candidate;

25 (b) Makes an independent expenditure or electioneering  
26 communication in support of or opposition to a candidate;

27 (c) Endorses a candidate prior to contributions being made by a  
28 subsidiary corporation or local unit with respect to that candidate or  
29 that candidate's opponent;

30 (d) Makes a recommendation regarding whether a candidate should be  
31 supported or opposed prior to a contribution being made by a subsidiary  
32 corporation or local unit with respect to that candidate or that  
33 candidate's opponent; or

34 (e) Directly or indirectly collaborates or consults with a  
35 subsidiary corporation or local unit on matters relating to the support  
36 of or opposition to a candidate, including, but not limited to, the  
37 amount of a contribution, when a contribution should be given, and what

1 assistance, services or independent expenditures, or electioneering  
2 communications, if any, will be made or should be made in support of or  
3 opposition to a candidate.

4 ~~((+35+))~~ (36) "Person" includes an individual, partnership, joint  
5 venture, public or private corporation, association, federal, state, or  
6 local governmental entity or agency however constituted, candidate,  
7 committee, political committee, political party, executive committee  
8 thereof, or any other organization or group of persons, however  
9 organized.

10 ~~((+36+))~~ (37) "Person in interest" means the person who is the  
11 subject of a record or any representative designated by that person,  
12 except that if that person is under a legal disability, the term  
13 "person in interest" means and includes the parent or duly appointed  
14 legal representative.

15 ~~((+37+))~~ (38) "Political advertising" includes any advertising  
16 displays, newspaper ads, billboards, signs, brochures, articles,  
17 tabloids, flyers, letters, radio or television presentations, or other  
18 means of mass communication, used for the purpose of appealing,  
19 directly or indirectly, for votes or for financial or other support or  
20 opposition in any election campaign.

21 ~~((+38+))~~ (39) "Political committee" means any person (except a  
22 candidate or an individual dealing with his or her own funds or  
23 property) having the expectation of receiving contributions or making  
24 expenditures in support of, or opposition to, any candidate or any  
25 ballot proposition.

26 ~~((+39+))~~ (40) "Primary" for the purposes of RCW 42.17.640 means the  
27 procedure for nominating a candidate to state office under chapter  
28 29A.52 RCW or any other primary for an election that uses, in large  
29 measure, the procedures established in chapter 29A.52 RCW.

30 ~~((+40+))~~ (41) "Public office" means any federal, state, judicial,  
31 county, city, town, school district, port district, special district,  
32 or other state political subdivision elective office.

33 ~~((+41+))~~ (42) "Public record" includes any writing containing  
34 information relating to the conduct of government or the performance of  
35 any governmental or proprietary function prepared, owned, used, or  
36 retained by any state or local agency regardless of physical form or  
37 characteristics. For the office of the secretary of the senate and the  
38 office of the chief clerk of the house of representatives, public

1 records means legislative records as defined in RCW 40.14.100 and also  
2 means the following: All budget and financial records; personnel  
3 leave, travel, and payroll records; records of legislative sessions;  
4 reports submitted to the legislature; and any other record designated  
5 a public record by any official action of the senate or the house of  
6 representatives.

7 ~~((42))~~ (43) "Recall campaign" means the period of time beginning  
8 on the date of the filing of recall charges under RCW 29A.56.120 and  
9 ending thirty days after the recall election.

10 ~~((43))~~ (44) "Sponsor of an electioneering communications,  
11 independent expenditures, or political advertising" means the person  
12 paying for the electioneering communication, independent expenditure,  
13 or political advertising. If a person acts as an agent for another or  
14 is reimbursed by another for the payment, the original source of the  
15 payment is the sponsor.

16 ~~((44))~~ (45) "State legislative office" means the office of a  
17 member of the state house of representatives or the office of a member  
18 of the state senate.

19 ~~((45))~~ (46) "State office" means state legislative office or the  
20 office of governor, lieutenant governor, secretary of state, attorney  
21 general, commissioner of public lands, insurance commissioner,  
22 superintendent of public instruction, state auditor, or state  
23 treasurer.

24 ~~((46))~~ (47) "State official" means a person who holds a state  
25 office.

26 ~~((47))~~ (48) "Surplus funds" mean, in the case of a political  
27 committee or candidate, the balance of contributions that remain in the  
28 possession or control of that committee or candidate subsequent to the  
29 election for which the contributions were received, and that are in  
30 excess of the amount necessary to pay remaining debts incurred by the  
31 committee or candidate prior to that election. In the case of a  
32 continuing political committee, "surplus funds" mean those  
33 contributions remaining in the possession or control of the committee  
34 that are in excess of the amount necessary to pay all remaining debts  
35 when it makes its final report under RCW 42.17.065.

36 ~~((48))~~ (49) "Writing" means handwriting, typewriting, printing,  
37 photostating, photographing, and every other means of recording any  
38 form of communication or representation, including, but not limited to,

1 letters, words, pictures, sounds, or symbols, or combination thereof,  
2 and all papers, maps, magnetic or paper tapes, photographic films and  
3 prints, motion picture, film and video recordings, magnetic or punched  
4 cards, discs, drums, diskettes, sound recordings, and other documents  
5 including existing data compilations from which information may be  
6 obtained or translated.

7 As used in this chapter, the singular shall take the plural and any  
8 gender, the other, as the context requires.

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