

ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009
COMMITTEE STATEMENT
LB626

Hearing Date: Wednesday March 04, 2009
Committee On: Government, Military and Veterans Affairs
Introducer: Karpisek
One Liner: Change prohibited activities for public officials and public employees use of public resources

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 5 Senators Avery, Giese, Karpisek, Pahls, Pirsch
Nay: 3 Senators Janssen, Price, Sullivan
Absent:
Present Not Voting:

Proponents:
Senator Russ Karpisek
Lynn Rex
David Landis
Mick Mines
Ron Withem
Chris Dibbern
John McClure

Representing:
Introducer
League of Nebraska Municipalities
City of Lincoln
League of Nebraska Municipalities
University of Nebraska
Nebraska Municipal Power Pool
Nebraska Public Power District

Opponents:
Frank Daley

Representing:
Nebraska Accountability and Disclosure Commission

Neutral:
J. L. Spray
Beth Bazyn Ferrell

Representing:
Self
Nebraska Association of County Officials

Summary of purpose and/or changes:

LB 626 makes several changes to the Nebraska Political Accountability and Disclosure Act (Act) regarding the use of public resources.

First, the bill provides that any use of public resources by a public official or public employee which is incidental, de minimus, or unintentional will not constitute a violation of the sections dealing with personal financial gain or use of public resources.

Unless otherwise provided by another agreement or contract, a public official or employee may use a telephone or computer under the control of a governmental body for emails and calls in certain circumstances, such as calling a teacher, doctor or family member. The communication will be kept to a minimum and not interfere with public business.

The bill prohibits a public official or employee from intentionally using public resources for campaigning for or against a candidate or ballot question. The current law does not include the word "intentionally."

The bill expands who can use public resources for expressing and communicating opinions regarding candidates or ballot question. Under current law, legislators can use public funds for these purposes. LB 626 expands it to include public officials and public employees. Because of that change, the bill clarifies that public officials and employees are not authorized to utilize mass mailings at public expense for campaigning for or against candidates or ballot questions.

A public employee is not prohibited from using public resources consistent with the Act for the purpose of researching or campaigning for or against candidates and ballots questions if under the direction and supervision of a public official. Again, the current provisions only apply to an employee of the legislature.

Public officials, public employees and government bodies are not prohibited from preparing and presenting information demonstrating the consequences of the passage or defeat of a ballot question, resolution, or ordinance.

Finally, public officials or public employees are not prohibited from identifying themselves by their official titles.

Explanation of amendments:

The committee amendment strikes the original sections of the bill and replaces them with the following provisions:

With the committee amendment, any use of public resources by a public official or public employee which is incidental or de minimis will not constitute a violation of the sections in the Nebraska Political Accountability and Disclosure Act dealing with personal financial gain or use of public resources. Language providing that unintentional violations of these sections would not constitute a violation is eliminated.

A resource of government, including a vehicle, will not be considered a public resource and personal use will not be prohibited if the use for personal purposes is part of the public official's or public employee's compensation provided by a government body and the personal use of the resource is reported as compensation in accordance with the Internal Revenue Code and taxes are paid. If authorized by the contract or policy, the resource may be used whether or not the public official or public employee is engaged in the duties of his or her public office or public employment.

Use of a government vehicle to travel to a designated location or the home of a public official or public employee is permissible when the primary purpose of the travel serves a government purpose and the use is pursuant to a written policy approved by a government body.

Pursuant to a collective-bargaining agreement, a public facility may be used by a bargaining unit to meet, but the bargaining unit is not authorized to use public resources for the purpose of campaigning for or against the nomination or election of a candidate or the passage or defeat of a ballot question.

A public official or public employee is not prohibited from using his or her personal cellular telephone, handheld device or computer to access a wireless network which access is provided to the public by a government body.

Unless otherwise restricted by another agreement or contract, a public official or employee may use a telephone or computer under the control of a governmental body for emails and calls in certain circumstances, such as calling a teacher, doctor or family member. The communication will be kept to a minimum and not interfere with public business. A public official or public employee shall be responsible for reimbursement of charges that directly result from the communication.

The committee amendment allows a public employee under the direct supervision of a public official to respond to specific inquiries as to his or her opinion on a ballot question or to provide information in response to a request for information. Currently, only public officials are allowed to respond to specific inquiries regarding ballot questions.

A public official or public employee, in the normal course of his or her duties, is not prohibited from using public resources to research and prepare materials to assist the government body for which the individual is a public official or

public employee in determining the effect of the ballot question on that government body. An individual holding elective office is not prohibited from using public resources to express or communicate his or her opinion regarding a ballot question affecting the government body for which the individual holds the elective office. Mass mailings, mass duplication, or other mass communications at public expense are not authorized for the purpose of supporting or opposing a ballot question. Mass communication does not include placing public records regarding the consequences of the passage or defeat of a ballot question on an existing governmental website.

A public official or public employee is not prohibited from identifying himself or herself by his or her official title.

Finally, the committee amendment defines ballot question to mean any question which is submitted or intended to be submitted to a vote including initiatives, referendums, recalls or votes on judicial retention. Ballot question also means any question which has been submitted to a vote as a result of legislative action or adoption of a resolution by a political subdivision to place an issue on the ballot.

Bill Avery, Chairperson