



STATE OF WASHINGTON
— OFFICE OF GOVERNOR BOB FERGUSON —

July 8, 2025

Via email

Alice Fiman
Compliance Manager
Public Disclosure Commission
pdcc@pdc.wa.gov

Re: PDC Case Number 174537

Ms. Fiman:

Having reviewed the complaint submitted by Joe Kunzler in the above-referenced matter, the Governor's Office is pleased to respond.

Mr. Kunzler's complaint alleges that a tweet posted on the Governor's official X/Twitter account was "in violation of RCW 42.17A.555" because it referenced a ballot initiative that would end voting by mail in Washington state.

This allegation lacks merit for several reasons. First, RCW 42.17A.555 does not apply to the Governor; it applies only to *local* officials' use of public facilities. Second, although not referenced in the complaint, the analogous statute that applies to state officials authorizes the use of public facilities (such as an official X/Twitter account) to comment on ballot propositions in response to a specific inquiry, or where—as in the case of a single tweet—there is no "actual, measurable expenditure of public funds." RCW 42.52.180(2)(b). The tweet in question was part of a response to specific media inquiries, and moreover, involved no separately identifiable cost to the state. Third, the same statute also expressly authorizes state officials' *de minimis* use of public facilities to comment on ballot propositions that "foreseeably may affect a matter that falls within their constitutional or statutory responsibilities." RCW 42.52.180(2)(e). As the supreme executive officer of this state, the Governor has a duty to see that the right to vote in free and equal elections is protected, and also has statutory roles in protecting election security and integrity that would be directly impacted by the referenced ballot proposition.

Thus—if the complaint is analyzed under the statute that properly applies to state officials rather than the cited statute—the tweet in question falls neatly under both the (2)(b) and (2)(e) exemptions. The complaint should be dismissed.

1. RCW 42.17A.555 does not apply to the Governor.

Mr. Kunzler references only one statute as the basis for his complaint: RCW 42.17A.555. This statute applies exclusively to local officials, not statewide elected officials like the Governor. RCW 42.17A.555(4) (“This section does not apply to any person who is a state officer or state employee as defined in RCW 42.52.010.”); *see also* PDC Interpretation No. 04-02, <https://www.pdc.wa.gov/rules-enforcement/guidelines-restrictions/guidelines-local-government-agencies-election-campaigns> (providing guidelines for “local government agencies in election campaigns” based on RCW 42.17A.555).

Because this statute does not apply to the Governor, the complaint should be dismissed on this basis alone. Nevertheless, in the spirit of addressing the substance of the complaint, the Governor’s Office offers the below response under the applicable statutory rubric.

2. The tweet at issue complies with the applicable public-resources statute.

RCW 42.52.180 applies to state officials “to the exclusion of RCW 42.17A.555.” RCW 42.52.180(3). The statute provides in relevant part:

(1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, ... for the promotion of or opposition to a ballot proposition. ... 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:

[...]

(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;

[...]

(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***.

RCW 42.52.180(1), (2)(b), (e) (emphasis added).

a. The tweet in question was part of a “response to a specific inquiry.”

The tweet in question was posted after the Governor’s Office responded via email to two separate press inquiries regarding Initiative Measure No. IL26-126, which would end voting by mail in Washington state. Having responded directly to the media, staff posted largely the same responsive message content as a tweet accessible to the public. Thus, the tweet was part of a response to a “specific inquiry,” bringing it within the subsection (2)(b) exemption.

Further, as discussed below, even if the tweet had not been in response to a specific inquiry, “an official may comment on a proposition, provided there is no actual, measurable expenditure of public funds.” *Matter of Recall of Inslee*, 194 Wn.2d 563, 574, 451 P.3d 305, 311 (2019) (emphasis added). The subsection (2)(b) exemption applies for this reason as well.

b. A single tweet referencing a ballot initiative involves no “actual, measurable expenditure of public funds.”

Regardless of its message, a single tweet involves no “actual, measurable expenditure of public funds” as defined by the Executive Ethics Board’s regulations. WAC 292-110-030 provides:

For purposes of RCW 42.52.180 (2)(b) ‘measurable expenditure’ means any *separately identifiable* cost or specific portion of a cost that is *beyond the normal and regular costs incurred by the agency* in responding directly to a specific inquiry from the media, a constituent, or any other person.

(Emphasis added.) The Governor’s Office has a subscription for X/Twitter that costs \$2.67 per month, but there is no separate cost associated with posting individual tweets. As such, there is no “separately identifiable” cost associated with a single tweet that is “beyond the normal and regular costs” of having an official account that is routinely used to communicate with the public. Similarly, while there is a cost associated with employing communications staff in general, these employees have a wide range of responsibilities related to communicating with the public about the Governor’s Office’s work, and there is no “separately identifiable” cost or specific portion of a cost associated with the few moments it takes to post a single tweet. Posting to X and other social media platforms is just one of the communications team’s many duties, which also include issue research, preparing talking points for the Governor’s events, drafting press releases, taking photos at every public event across the state, and responding to media inquiries. Posting on X represents a tiny fraction of staff time: in the month of June 2025, for example, members of the communications team posted just 55 tweets—an average of about 13 per week, or less than 2 per day. The few moments it takes a staff member to post a single tweet is not separately identifiable beyond the normal and regular cost of employing communications staff.

Thus, the single tweet in question fits neatly within the exemption under subsection (2)(b), regardless of the message it sends or its relationship to the Governor’s official duties—a question the PDC need not address to resolve this complaint. Regardless, as discussed below, the tweet in question also fits neatly under the exception under subsection (2)(e).

- c. It is appropriate for the Governor to comment, at *de minimis* cost, on a ballot initiative that would foreseeably affect his responsibilities to uphold the right to vote and ensure election security and integrity.**

The tweet in question accurately stated that Initiative Measure No. IL26-126 would end the right to vote by mail in Washington, and expressed opposition to the measure on the grounds that Washington state's current election system is "convenient, safe and secure." As described above, the cost of posting this single tweet was *de minimis*.

Further, this tweet commented on a ballot proposition that would foreseeably affect matters that fall within the Governor's constitutional and statutory responsibilities. As the supreme executive officer of the state, it is the Governor's duty to see that Washington's laws are faithfully executed. Wash. const. art. III, §§ 2, 5. The right to vote is enshrined in our constitution, and access to the ballot and free and fair elections are fundamental bulwarks of our democracy. Wash. const. art. I, § 19. Further, the entirety of Title 29A of the Revised Code of Washington is devoted to elections—including chapters governing voters and registration, voting systems, and elections by mail, among others. The Governor has the ultimate constitutional responsibility to see that these laws are faithfully executed. Wash. const. art. III, §§ 2, 5; *see* Memorandum re Restrictions on Use of Public Funds and Property to Support or Oppose Candidates or Ballot Measures (Mar. 28, 2019), https://ethics.wa.gov/sites/default/files/public/20190328_PublicFundsMemo.pdf (concluding that, under the subsection (2)(e) exception, "the governor ... may have authority to make statements on more issues than, say, the superintendent of public instruction or the insurance commissioner," because of the broad scope of his official duties).

Additionally, the Governor has specific statutory roles related to election integrity and security. For example, the Governor is responsible for designating agencies to provide voter registration services, RCW 29A.08.310, and determining whether agencies shall implement automatic voter registration, RCW 29A.08.365; receives a confidential annual report from the secretary of state on election security breaches, RCW 29A.12.200; will participate in evaluating the alternative verification options pilot program, which will explore supplemental methods for ballot review besides signature verification, RCW 29A.40.111; and must be present for the secretary of state's canvassing of questions submitted to the people for a vote and must declare the result, RCW 29A.60.260. The fulfillment of these roles would be affected by a ballot proposition ending the right to vote by mail and requiring voter ID and proof of citizenship to vote in-person, as Initiative Measure No. IL26-126 would do.

For these reasons, an official X/Twitter account is an effective and appropriate means of communicating with the public, at *de minimis* cost, about the Governor's views on an issue that bears directly on his responsibility to protect the fundamental right to vote and all eligible Washington voters' access to the ballot, while protecting the safety and security of our state's elections. The tweet in question therefore fits neatly within the exception under subsection (2)(e).

d. RCW 42.17A.635 is not at issue, but if it were, the outcome is the same.

The PDC's cover email providing notice of Mr. Kunzler's complaint to the Governor's Office states that the complaint alleges a "violation of RCW 42.17A.635 for prohibited indirect lobbying." This statement appears to be an error, as the complaint does not include any references to RCW 42.17A.635 or to "lobbying," but rather addresses a ballot initiative.¹ Regardless, "[a]ctivities conducted regarding an initiative to the legislature that would be permitted under RCW 42.17A.555 and 42.52.180 if conducted regarding other ballot measures" are also permitted under RCW 42.17A.635. RCW 42.17A.635(4)(d). Thus, under the analysis above, the outcome is the same: there is no violation because the tweet in question comports with RCW 42.52.180.

* * *

We trust this response provides the PDC with the information needed to resolve Mr. Kunzler's complaint. Should you require any additional information or explanation, please do not hesitate to contact me directly.

Sincerely,



Kristin Beneski
Chief Legal Counsel
Office of Governor Bob Ferguson

¹ "Lobbying" means attempting to influence the passage or defeat of any legislation by the *legislature*, RCW 42.17A.005(34), whereas this complaint involves a tweet about a ballot initiative that would be decided by voters.