
SENATE BILL 5149

State of Washington

52nd Legislature

1991 Regular Session

By Senators Nelson and Rasmussen; by request of Public Disclosure Commission.

Read first time January 22, 1991. Referred to Committee on Governmental Operations.

1 AN ACT Relating to gifts and public office funds; amending RCW
2 42.17.020, 42.17.090, 42.17.095, 42.17.240, and 42.17.243; and
3 providing an effective date.

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

5 **Sec. 1.** RCW 42.17.020 and 1990 c 139 s 2 are each amended to read
6 as follows:

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

14 (2) "Ballot proposition" means any "measure" as defined by RCW
15 29.01.110, or any initiative, recall, or referendum proposition

1 proposed to be submitted to the voters of the state or any municipal
2 corporation, political subdivision, or other voting constituency from
3 and after the time when the proposition has been initially filed with
4 the appropriate election officer of that constituency prior to its
5 circulation for signatures.

6 (3) "Benefit" means any commercial, proprietary, financial,
7 economic, or monetary advantage, or the avoidance of any commercial,
8 proprietary, financial, economic, or monetary disadvantage.

9 (4) "Depository" means a bank designated by a candidate or
10 political committee pursuant to RCW 42.17.050.

11 ((+4)) (5) "Treasurer" and "deputy treasurer" mean the individuals
12 appointed by a candidate or political committee, pursuant to RCW
13 42.17.050, to perform the duties specified in that section.

14 ((+5)) (6) "Candidate" means any individual who seeks election to
15 public office. An individual shall be deemed to seek election when he
16 first:

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

19 (b) Announces publicly or files for office.

20 ((+6)) (7) "Commercial advertiser" means any person who sells the
21 service of communicating messages or producing printed material for
22 broadcast or distribution to the general public or segments of the
23 general public whether through the use of newspapers, magazines,
24 television and radio stations, billboard companies, direct mail
25 advertising companies, printing companies, or otherwise.

26 ((+7)) (8) "Commission" means the agency established under RCW
27 42.17.350.

28 ((+8)) (9) "Compensation" unless the context requires a narrower
29 meaning, includes payment in any form for real or personal property or
30 services of any kind: PROVIDED, That for the purpose of compliance with

1 RCW 42.17.241, the term "compensation" shall not include per diem
2 allowances or other payments made by a governmental entity to reimburse
3 a public official for expenses incurred while the official is engaged
4 in the official business of the governmental entity.

5 ~~((9))~~ (10) "Continuing political committee" means a political
6 committee that is an organization of continuing existence not
7 established in anticipation of any particular election campaign.

8 ~~((10))~~ (11) "Contribution" includes a loan, gift, deposit,
9 subscription, forgiveness of indebtedness, donation, advance, pledge,
10 payment, transfer of funds between political committees, or transfer of
11 anything of value, including personal and professional services for
12 less than full consideration, but does not include interest on moneys
13 deposited in a political committee's account, ordinary home hospitality
14 and the rendering of personal services of the sort commonly performed
15 by volunteer campaign workers, or incidental expenses personally
16 incurred by volunteer campaign workers not in excess of fifty dollars
17 personally paid for by the worker. Volunteer services, for the
18 purposes of this chapter, means services or labor for which the
19 individual is not compensated by any person. For the purposes of this
20 chapter, contributions other than money or its equivalents shall be
21 deemed to have a money value equivalent to the fair market value of the
22 contribution. Sums paid for tickets to fund-raising events such as
23 dinners and parties are contributions; however, the amount of any such
24 contribution may be reduced for the purpose of complying with the
25 reporting requirements of this chapter, by the actual cost of
26 consumables furnished in connection with the purchase of the tickets,
27 and only the excess over the actual cost of the consumables shall be
28 deemed a contribution.

1 (~~(11)~~) (12) "Elected official" means any person elected at a
2 general or special election to any public office, and any person
3 appointed to fill a vacancy in any such office.

4 (~~(12)~~) (13) "Election" includes any primary, general, or special
5 election for public office and any election in which a ballot
6 proposition is submitted to the voters: PROVIDED, That an election in
7 which the qualifications for voting include other than those
8 requirements set forth in Article VI, section 1 (Amendment 63) of the
9 Constitution of the state of Washington shall not be considered an
10 election for purposes of this chapter.

11 (~~(13)~~) (14) "Election campaign" means any campaign in support of
12 or in opposition to a candidate for election to public office and any
13 campaign in support of, or in opposition to, a ballot proposition.

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

28 (~~(15)~~) (16) "Final report" means the report described as a final
29 report in RCW 42.17.080(2).

1 (~~(16)~~) (17) "Gift" means a rendering of money, property,
2 services, discount, loan forgiveness, payment of indebtedness,
3 reimbursements from or payments by persons, other than the state of
4 Washington or any agency or political subdivision thereof, for travel
5 or anything else of value in excess of fifty dollars in return for
6 which legal consideration of equal or greater value is not given and
7 received but does not include:

8 (a) Any contribution that is required to be reported under RCW
9 42.17.090 or 42.17.243;

10 (b) Any informational material that is transferred for the purpose
11 of informing the recipient about matters pertaining to official agency
12 business, and that is not intended to financially benefit that
13 recipient;

14 (c) Any symbolic presentation that is not intended to financially
15 benefit the recipient;

16 (d) Any honorarium that is required to be reported under this
17 chapter;

18 (e) Any hosting in the form of entertainment, meals, or
19 refreshments, the value of which does not exceed one hundred dollars,
20 furnished in connection with official appearances, official ceremonies,
21 and occasions where official agency business is discussed;

22 (f) Gifts that are not used and that, within thirty days after
23 receipt, are returned to the donor or delivered to a charitable
24 organization without being claimed as a charitable contribution for tax
25 purposes;

26 (g) Intrafamily gifts; or

27 (h) Gifts received in the normal course of private business or
28 social interaction that are not related to public policy decisions or
29 agency actions.

1 (18) "Immediate family" includes the spouse, dependent children,
2 and other dependent relatives, if living in the household.

3 (~~(17)~~) (19) "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 (~~(18)~~) (20) "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 (~~(19)~~) (21) "Lobbyist" includes any person who lobbies either in
18 his or her own or another's behalf.

19 (~~(20)~~) (22) "Lobbyist's employer" means the person or persons by
20 whom a lobbyist is employed and all persons by whom he is compensated
21 for acting as a lobbyist.

22 (~~(21)~~) (23) "Person" includes an individual, partnership, joint
23 venture, public or private corporation, association, federal, state, or
24 local governmental entity or agency however constituted, candidate,
25 committee, political committee, political party, executive committee
26 thereof, or any other organization or group of persons, however
27 organized.

28 (~~(22)~~) (24) "Person in interest" means the person who is the
29 subject of a record or any representative designated by that person,
30 except that if that person is under a legal disability, the term

1 "person in interest" means and includes the parent or duly appointed
2 legal representative.

3 ~~((+23+))~~ (25) "Political advertising" includes any advertising
4 displays, newspaper ads, billboards, signs, brochures, articles,
5 tabloids, flyers, letters, radio or television presentations, or other
6 means of mass communication, used for the purpose of appealing,
7 directly or indirectly, for votes or for financial or other support in
8 any election campaign.

9 ~~((+24+))~~ (26) "Political committee" means any person (except a
10 candidate or an individual dealing with his own funds or property)
11 having the expectation of receiving contributions or making
12 expenditures in support of, or opposition to, any candidate or any
13 ballot proposition.

14 ~~((+25+))~~ (27) "Public office" means any federal, state, county,
15 city, town, school district, port district, special district, or other
16 state political subdivision elective office.

17 ~~((+26+))~~ (28) "Public record" includes any writing containing
18 information relating to the conduct of government or the performance of
19 any governmental or proprietary function prepared, owned, used, or
20 retained by any state or local agency regardless of physical form or
21 characteristics.

22 ~~((+27+))~~ (29) "Surplus funds" mean, in the case of a political
23 committee or candidate, the balance of contributions that remain in the
24 possession or control of that committee or candidate subsequent to the
25 election for which the contributions were received, and that are in
26 excess of the amount necessary to pay remaining debts incurred by the
27 committee or candidate prior to that election. In the case of a
28 continuing political committee, "surplus funds" mean those
29 contributions remaining in the possession or control of the committee

1 that are in excess of the amount necessary to pay all remaining debts
2 when it makes its final report under RCW 42.17.065.

3 ((+28+)) (30) "Writing" means handwriting, typewriting, printing,
4 photostating, photographing, and every other means of recording any
5 form of communication or representation, including letters, words,
6 pictures, sounds, or symbols, or combination thereof, and all papers,
7 maps, magnetic or paper tapes, photographic films and prints, magnetic
8 or punched cards, discs, drums, and other documents.

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

11 **Sec. 2.** RCW 42.17.090 and 1989 c 280 s 9 are each amended to read
12 as follows:

13 (1) Each report required under RCW 42.17.080 (1) and (2) shall
14 disclose the following:

15 (a) The funds on hand at the beginning of the period;

16 (b) The name and address of each person who has made one or more
17 contributions during the period, together with the money value and date
18 of such contributions and the aggregate value of all contributions
19 received from each such person during the campaign or in the case of a
20 continuing political committee, the current calendar year: PROVIDED,
21 That pledges in the aggregate of less than one hundred dollars from any
22 one person need not be reported: PROVIDED FURTHER, That the income
23 which results from a fund-raising activity conducted in accordance with
24 RCW 42.17.067 may be reported as one lump sum, with the exception of
25 that portion of such income which was received from persons whose names
26 and addresses are required to be included in the report required by RCW
27 42.17.067: PROVIDED FURTHER, That contributions of no more than
28 twenty-five dollars in the aggregate from any one person during the
29 election campaign may be reported as one lump sum so long as the

1 campaign treasurer maintains a separate and private list of the name,
2 address, and amount of each such contributor: PROVIDED FURTHER, That
3 the money value of contributions of postage shall be the face value of
4 such postage;

5 (c) Each loan, promissory note, or security instrument to be used
6 by or for the benefit of the candidate or political committee made by
7 any person, together with the names and addresses of the lender and
8 each person liable directly, indirectly or contingently and the date
9 and amount of each such loan, promissory note, or security instrument;

10 (d) All other contributions not otherwise listed or exempted;

11 (e) The name and address of each candidate or political committee
12 to which any transfer of funds was made, together with the amounts and
13 dates of such transfers;

14 (f) The name and address of each person to whom an expenditure was
15 made in the aggregate amount of more than fifty dollars during the
16 period covered by this report, and the amount, date, and purpose of
17 each such expenditure. A candidate for state executive or state
18 legislative office or the political committee of such a candidate shall
19 report this information for an expenditure under one of the following
20 categories, whichever is appropriate: (i) Expenditures for the
21 election of the candidate; (ii) (~~expenditures for nonreimbursed public~~
22 ~~office-related expenses; (iii)~~) expenditures required to be reported
23 under (e) of this subsection; or (~~(iv)~~) (iii) expenditures of surplus
24 funds and other expenditures. The report of such a candidate or
25 committee shall contain a separate total of expenditures for each
26 category and a total sum of all expenditures. Other candidates and
27 political committees need not report information regarding expenditures
28 under the categories listed in (i) through (~~(iv)~~) (iii) of this
29 subsection or under similar such categories unless required to do so by

1 the commission by rule. The report of such an other candidate or
2 committee shall also contain the total sum of all expenditures;

3 (g) The name and address of any person and the amount owed for any
4 debt, obligation, note, unpaid loan, or other liability in the amount
5 of more than two hundred fifty dollars or in the amount of more than
6 fifty dollars that has been outstanding for over thirty days;

7 (h) The surplus or deficit of contributions over expenditures;

8 (i) The disposition made in accordance with RCW 42.17.095 of any
9 surplus funds;

10 (j) Such other information as shall be required by the commission
11 by rule in conformance with the policies and purposes of this chapter;
12 and

13 (k) Funds received from a political committee not otherwise
14 required to report under this chapter (a "nonreporting committee").
15 Such funds shall be forfeited to the state of Washington unless the
16 nonreporting committee has filed or within ten days following such
17 receipt files with the commission a statement disclosing: (i) its name
18 and address; (ii) the purposes of the nonreporting committee; (iii) the
19 names, addresses, and titles of its officers or if it has no officers,
20 the names, addresses, and titles of its responsible leaders; (iv) the
21 name, office sought, and party affiliation of each candidate in the
22 state of Washington whom the nonreporting committee is supporting, and,
23 if such committee is supporting the entire ticket of any party, the
24 name of the party; (v) the ballot proposition supported or opposed in
25 the state of Washington, if any, and whether such committee is in favor
26 of or opposed to such proposition; (vi) the name and address of each
27 person residing in the state of Washington or corporation which has a
28 place of business in the state of Washington who has made one or more
29 contributions in the aggregate of more than twenty-five dollars to the
30 nonreporting committee during the current calendar year, together with

1 the money value and date of such contributions; (vii) the name and
2 address of each person in the state of Washington to whom an
3 expenditure was made by the nonreporting committee on behalf of a
4 candidate or political committee in the aggregate amount of more than
5 fifty dollars, the amount, date, and purpose of such expenditure, and
6 the total sum of such expenditures; (viii) such other information as
7 the commission may prescribe by rule, in keeping with the policies and
8 purposes of this chapter. A nonreporting committee incurring an
9 obligation to file additional reports in a calendar year may satisfy
10 the obligation by filing with the commission a letter providing
11 updating or amending information.

12 (2) The treasurer and the candidate shall certify the correctness
13 of each report.

14 **Sec. 3.** RCW 42.17.095 and 1982 c 147 s 8 are each amended to read
15 as follows:

16 The surplus funds of a candidate, or of a political committee
17 supporting or opposing a candidate, may only be disposed of in any one
18 or more of the following ways:

19 (1) Return the surplus to a contributor in an amount not to exceed
20 that contributor's original contribution;

21 (2) Transfer the surplus to the candidate's personal account as
22 reimbursement for lost earnings incurred as a result of that
23 candidate's election campaign. Such lost earnings shall be verifiable
24 as unpaid salary or, when the candidate is not salaried, as an amount
25 not to exceed income received by the candidate for services rendered
26 during an appropriate, corresponding time period. All lost earnings
27 incurred shall be documented and a record thereof shall be maintained
28 by the candidate or the candidate's political committee. The committee

1 shall include a copy of such record when its expenditure for such
2 reimbursement is reported pursuant to RCW 42.17.090;

3 (3) Transfer all or part of the surplus to a public office fund
4 established in accordance with RCW 42.17.243;

5 (4) Transfer the surplus to one or more candidates or to a
6 political committee or party;

7 ((+4)) (5) Donate the surplus to a charitable organization
8 registered in accordance with chapter 19.09 RCW;

9 ((+5)) (6) Transmit the surplus to the state treasurer for deposit
10 in the general fund; or

11 ((+6)) (7) Hold the surplus in the ((campaign)) depository or
12 depositories designated in accordance with RCW 42.17.050 for possible
13 use in a future election campaign, for political activity, or for
14 community activity(~~(, or for nonreimbursed public office related~~
15 ~~expenses and report any such disposition in accordance with RCW~~
16 ~~42.17.090: PROVIDED, That)).~~ However, if the candidate subsequently
17 announces or publicly files for office, information as appropriate is
18 reported to the commission in accordance with RCW 42.17.040 through
19 42.17.090. If a subsequent office is not sought the surplus held shall
20 be disposed of in accordance with the requirements of this section.

21 **Sec. 4.** RCW 42.17.240 and 1989 c 158 s 1 are each amended to read
22 as follows:

23 (1) Every elected official and every executive state officer shall
24 after January 1st and before April 15th of each year file with the
25 commission a statement of financial affairs for the preceding calendar
26 year. However, any local elected official whose term of office expires
27 immediately after December 31st shall file the statement required to be
28 filed by this section for the year that ended on that December 31st.
29 In addition to and in conjunction with the statement of financial

1 affairs, every official and officer shall file a statement describing
2 any gifts received during the preceding calendar year.

3 (2) Every candidate shall within two weeks of becoming a candidate
4 file with the commission a statement of financial affairs for the
5 preceding twelve months.

6 (3) Every person appointed to a vacancy in an elective office or
7 executive state officer position shall within two weeks of being so
8 appointed file with the commission a statement of financial affairs for
9 the preceding twelve months.

10 (4) A statement of a candidate or appointee filed during the period
11 from January 1st to April 15th shall cover the period from January 1st
12 of the preceding calendar year to the time of candidacy or appointment
13 if the filing of the statement would relieve the individual of a prior
14 obligation to file a statement covering the entire preceding calendar
15 year.

16 (5) No individual may be required to file more than once in any
17 calendar year.

18 (6) Each statement of financial affairs filed under this section
19 shall be sworn as to its truth and accuracy.

20 (7) For the purposes of this section, the term "executive state
21 officer" includes those listed in RCW 42.17.2401.

22 (8) This section does not apply to incumbents or candidates for a
23 federal office or the office of precinct committee officer.

24 **Sec. 5.** RCW 42.17.243 and 1977 ex.s. c 366 s 5 are each amended to
25 read as follows:

26 (1) Elected and appointed officials required to report under RCW
27 42.17.240(~~(7)~~) shall report for themselves and for members of their
28 immediate family to the commission any contributions received (~~during~~
29 ~~the preceding calendar year~~) for the officials' use in defraying

1 nonreimbursed public office related expenses. Contributions reported
2 under this section shall be referred to as a "public office fund" and
3 shall ~~((not be transferred to a political committee nor used to promote
4 or oppose a candidate or ballot proposition, other than as provided by
5 subsection (3) (a) of this section. For the purposes of this section
6 contributions shall include reimbursements from or payments by persons,
7 other than the state of Washington or any agency, for travel expenses))~~
8 be held in a separate bank account established for that purpose.

9 (2) Within two weeks of the day the public office fund is
10 established, the official for whom it is established shall file with
11 the commission a registration statement to include:

12 (a) The name of the official;

13 (b) The name and business address of the person who will maintain
14 all financial records of the fund;

15 (c) Such other information as the commission may prescribe by rule,
16 in keeping with the policies and purposes of this chapter.

17 Any official who has a public office fund in existence on the
18 effective date of this act shall file a registration statement at the
19 time the quarterly report required by subsection (3) of this section
20 first comes due.

21 (3) A report shall be filed ~~((during the month of January of any~~
22 year following a year)) within one month after the end of each calendar
23 quarter in which ~~((such contributions were received for or expenditures~~
24 made from)) a public office fund existed. The report shall include:

25 (a) The name and address of each contributor;

26 (b) A description of each contribution, including the date on which
27 it was received and its amount or, if its dollar value is
28 unascertainable, an estimate of its fair market value; ~~((and))~~

1 (c) A description of each expenditure made from a public office
2 fund, including the name and address of the recipient, the amount, and
3 the date of each ~~((such))~~ expenditure; and

4 (d) Such other information as the commission may prescribe by rule,
5 in keeping with the policies and purpose of this chapter.

6 The official for whom the office fund is established shall certify
7 that the report is correct.

8 ~~((2))~~ (4) No report under ~~((subsection (1)))~~ subsections (2) and
9 (3) of this section ~~((shall be))~~ is required if ~~((+~~

10 ~~(a) The receipt of the contribution has been reported pursuant to~~
11 ~~RCW 42.17.065 (continuing political committee reports) or RCW 42.17.090~~
12 ~~(political committee reports); or~~

13 ~~(b))~~ the contribution is in the form of meals, refreshments, or
14 entertainment given in connection with official appearances or
15 occasions where public business was discussed.

16 ~~((3))~~ (5) Expenditures may be made from a public office fund only
17 to pay expenses incurred by the official or members of the official's
18 immediate family solely because of the person holding a public office.

19 (a) No funds or assets of a public office fund may be used to
20 support or oppose a candidate or ballot proposition, political party,
21 or political committee except as provided in subsection (6)(a) of this
22 section.

23 (b) No payment may be made from a public office fund to an official
24 to reimburse that official or a member of the official's family for
25 lost earnings incurred as a result of that person being a public
26 official.

27 (c) No funds or assets of a public office fund may be transferred
28 to the public office fund of another person.

29 (d) All payments shall be substantiated by receipts or other
30 appropriate documentation.

1 (6) Any funds ((which)) or other assets, whether tangible or
2 intangible, that remain in a public office fund after all permissible
3 public office related expenses have been paid may only be disposed of
4 in one or more of the following ways:

5 (a) Returned to a contributor in an amount not to exceed that
6 contributor's original contribution; or

7 (b) Donated to a charitable organization registered in accordance
8 with chapter 19.09 RCW; or

9 (c) Transferred to the state treasurer for deposit in the general
10 fund; or

11 (d) In the case of tangible assets, transferred to the government
12 agency in which the official holds office.

13 (7) The official or person named in the registration statement
14 shall preserve books of account, bills, receipts, and all other
15 financial records of the office fund for not less than five calendar
16 years following the year in which the transaction occurred.

17 NEW SECTION. Sec. 6. This act shall take effect January 1,
18 1992.