
SENATE BILL 6831

State of Washington

56th Legislature

2000 Regular Session

By Senators Morton, McCaslin, Horn, Finkbeiner, Winsley, Hochstatter, Swecker, Stevens, Johnson, Honeyford, Zarelli, Hale and Deccio

Read first time 02/04/2000. Referred to Committee on State & Local Government.

1 AN ACT Relating to ethics in public service; and amending RCW
2 42.52.010, 42.52.180, and 42.52.185.

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

4 **Sec. 1.** RCW 42.52.010 and 1998 c 7 s 1 are each amended to read as
5 follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Agency" means any state board, commission, bureau, committee,
9 department, institution, division, or tribunal in the legislative,
10 executive, or judicial branch of state government. "Agency" includes
11 all elective offices, the state legislature, those institutions of
12 higher education created and supported by the state government, and
13 those courts that are parts of state government.

14 (2) "Head of agency" means the chief executive officer of an
15 agency. In the case of an agency headed by a commission, board,
16 committee, or other body consisting of more than one natural person,
17 agency head means the person or board authorized to appoint agency
18 employees and regulate their conduct.

1 (3) "Assist" means to act, or offer or agree to act, in such a way
2 as to help, aid, advise, furnish information to, or otherwise provide
3 assistance to another person, believing that the action is of help,
4 aid, advice, or assistance to the person and with intent so to assist
5 such person.

6 (4) "Ballot proposition" means any measure as defined by RCW
7 29.01.110, or any initiative, recall, or referendum proposition
8 proposed to be submitted to the voters of the state or any municipal
9 corporation, political subdivision, or other voting constituency from
10 and after the time when the proposition has been certified by the
11 appropriate election officer of that constituency as sufficient.

12 (5) "Beneficial interest" has the meaning ascribed to it under the
13 Washington case law. However, an ownership interest in a mutual fund
14 or similar investment pooling fund in which the owner has no management
15 powers does not constitute a beneficial interest in the entities in
16 which the fund or pool invests.

17 (~~(5)~~) (6) "Compensation" means anything of economic value,
18 however designated, that is paid, loaned, granted, or transferred, or
19 to be paid, loaned, granted, or transferred for, or in consideration
20 of, personal services to any person.

21 (~~(6)~~) (7) "Confidential information" means (a) specific
22 information, rather than generalized knowledge, that is not available
23 to the general public on request or (b) information made confidential
24 by law.

25 (~~(7)~~) (8) "Contract" or "grant" means an agreement between two or
26 more persons that creates an obligation to do or not to do a particular
27 thing. "Contract" or "grant" includes, but is not limited to, an
28 employment contract, a lease, a license, a purchase agreement, or a
29 sales agreement.

30 (~~(8)~~) (9) "Ethics boards" means the commission on judicial
31 conduct, the legislative ethics board, and the executive ethics board.

32 (~~(9)~~) (10) "Family" has the same meaning as "immediate family" in
33 RCW 42.17.020.

34 (~~(10)~~) (11) "Gift" means anything of economic value for which no
35 consideration is given. "Gift" does not include:

36 (a) Items from family members or friends where it is clear beyond
37 a reasonable doubt that the gift was not made as part of any design to
38 gain or maintain influence in the agency of which the recipient is an
39 officer or employee;

1 (b) Items related to the outside business of the recipient that are
2 customary and not related to the recipient's performance of official
3 duties;

4 (c) Items exchanged among officials and employees or a social event
5 hosted or sponsored by a state officer or state employee for coworkers;

6 (d) Payments by a governmental or nongovernmental entity of
7 reasonable expenses incurred in connection with a speech, presentation,
8 appearance, or trade mission made in an official capacity. As used in
9 this subsection, "reasonable expenses" are limited to travel, lodging,
10 and subsistence expenses incurred the day before through the day after
11 the event;

12 (e) Items a state officer or state employee is authorized by law to
13 accept;

14 (f) Payment of enrollment and course fees and reasonable travel
15 expenses attributable to attending seminars and educational programs
16 sponsored by a bona fide governmental or nonprofit professional,
17 educational, trade, or charitable association or institution. As used
18 in this subsection, "reasonable expenses" are limited to travel,
19 lodging, and subsistence expenses incurred the day before through the
20 day after the event;

21 (g) Items returned by the recipient to the donor within thirty days
22 of receipt or donated to a charitable organization within thirty days
23 of receipt;

24 (h) Campaign contributions reported under chapter 42.17 RCW;

25 (i) Discounts available to an individual as a member of an employee
26 group, occupation, or similar broad-based group; and

27 (j) Awards, prizes, scholarships, or other items provided in
28 recognition of academic or scientific achievement.

29 ~~((11))~~ (12) "Honorarium" means money or thing of value offered to
30 a state officer or state employee for a speech, appearance, article, or
31 similar item or activity in connection with the state officer's or
32 state employee's official role.

33 ~~((12))~~ (13) "Official duty" means those duties within the
34 specific scope of employment of the state officer or state employee as
35 defined by the officer's or employee's agency or by statute or the
36 state Constitution.

37 ~~((13))~~ (14) "Participate" means to participate in state action or
38 a proceeding personally and substantially as a state officer or state
39 employee, through approval, disapproval, decision, recommendation, the

1 rendering of advice, investigation, or otherwise but does not include
2 preparation, consideration, or enactment of legislation or the
3 performance of legislative duties.

4 (~~(14)~~) (15) "Person" means any individual, partnership,
5 association, corporation, firm, institution, or other entity, whether
6 or not operated for profit.

7 (~~(15)~~) (16) "Regulatory agency" means any state board,
8 commission, department, or officer, except those in the legislative or
9 judicial branches, authorized by law to conduct adjudicative
10 proceedings, issue permits or licenses, or to control or affect
11 interests of identified persons.

12 (~~(16)~~) (17) "Responsibility" in connection with a transaction
13 involving the state, means the direct administrative or operating
14 authority, whether intermediate or final, and either exercisable alone
15 or through subordinates, effectively to approve, disapprove, or
16 otherwise direct state action in respect of such transaction.

17 (~~(17)~~) (18) "State action" means any action on the part of an
18 agency, including, but not limited to:

- 19 (a) A decision, determination, finding, ruling, or order; and
20 (b) A grant, payment, award, license, contract, transaction,
21 sanction, or approval, or the denial thereof, or failure to act with
22 respect to a decision, determination, finding, ruling, or order.

23 (~~(18)~~) (19) "State officer" means every person holding a position
24 of public trust in or under an executive, legislative, or judicial
25 office of the state. "State officer" includes judges of the superior
26 court, judges of the court of appeals, justices of the supreme court,
27 members of the legislature together with the secretary of the senate
28 and the chief clerk of the house of representatives, holders of
29 elective offices in the executive branch of state government, chief
30 executive officers of state agencies, members of boards, commissions,
31 or committees with authority over one or more state agencies or
32 institutions, and employees of the state who are engaged in
33 supervisory, policy-making, or policy-enforcing work. For the purposes
34 of this chapter, "state officer" also includes any person exercising or
35 undertaking to exercise the powers or functions of a state officer.

36 (~~(19)~~) (20) "State employee" means an individual who is employed
37 by an agency in any branch of state government. For purposes of this
38 chapter, employees of the superior courts are not state officers or
39 state employees.

1 (~~(20)~~) (21) "Thing of economic value," in addition to its
2 ordinary meaning, includes:

3 (a) A loan, property interest, interest in a contract or other
4 chose in action, and employment or another arrangement involving a
5 right to compensation;

6 (b) An option, irrespective of the conditions to the exercise of
7 the option; and

8 (c) A promise or undertaking for the present or future delivery or
9 procurement.

10 (~~(21)~~) (22)(a) "Transaction involving the state" means a
11 proceeding, application, submission, request for a ruling or other
12 determination, contract, claim, case, or other similar matter that the
13 state officer, state employee, or former state officer or state
14 employee in question believes, or has reason to believe:

15 (i) Is, or will be, the subject of state action; or

16 (ii) Is one to which the state is or will be a party; or

17 (iii) Is one in which the state has a direct and substantial
18 proprietary interest.

19 (b) "Transaction involving the state" does not include the
20 following: Preparation, consideration, or enactment of legislation,
21 including appropriation of moneys in a budget, or the performance of
22 legislative duties by an officer or employee; or a claim, case,
23 lawsuit, or similar matter if the officer or employee did not
24 participate in the underlying transaction involving the state that is
25 the basis for the claim, case, or lawsuit.

26 **Sec. 2.** RCW 42.52.180 and 1995 c 397 s 30 are each amended to read
27 as follows:

28 (1) No state officer or state employee may use or authorize the use
29 of facilities of an agency, directly or indirectly, for the purpose of
30 assisting a campaign for election of a person to an office or for the
31 promotion of or opposition to a ballot proposition. Knowing
32 acquiescence by a person with authority to direct, control, or
33 influence the actions of the state officer or state employee using
34 public resources in violation of this section constitutes a violation
35 of this section. Facilities of an agency include, but are not limited
36 to, use of stationery, postage, machines, and equipment, use of state
37 employees of the agency during working hours, vehicles, office space,

1 publications of the agency, and clientele lists of persons served by
2 the agency.

3 (2) This section shall not apply to the following activities:

4 (a) Action taken at an open public meeting by members of an elected
5 legislative body to express a collective decision, or to actually vote
6 upon a motion, proposal, resolution, order, or ordinance, or to support
7 or oppose a ballot proposition as long as (i) required notice of the
8 meeting includes the title and number of the ballot proposition, and
9 (ii) members of the legislative body or members of the public are
10 afforded an approximately equal opportunity for the expression of an
11 opposing view;

12 (b) A statement by an elected official in support of or in
13 opposition to any ballot proposition at an open press conference or in
14 response to a specific inquiry. For the purposes of this subsection,
15 it is not a violation of this section for an elected official to
16 respond to an inquiry regarding a ballot proposition, to make
17 incidental remarks concerning a ballot proposition in an official
18 communication, or otherwise comment on a ballot proposition without an
19 actual, measurable expenditure of public funds. The ethics boards
20 shall adopt by rule a definition of measurable expenditure;

21 (c) Activities that are part of the normal and regular conduct of
22 the office or agency; and

23 (d) ~~((De minimis use of public facilities by state-wide elected
24 officials and legislators incidental to the preparation or delivery of
25 permissible communications, including))~~ Initiation of written and
26 verbal communications initiated by ~~((them))~~ state-wide elected
27 officials and legislators of their views on ballot propositions that
28 foreseeably may affect a matter that falls within their constitutional
29 or statutory responsibilities.

30 (3) As to state officers and employees, this section operates to
31 the exclusion of RCW 42.17.130.

32 **Sec. 3.** RCW 42.52.185 and 1997 c 320 s 1 are each amended to read
33 as follows:

34 (1) During the twelve-month period beginning on December 1st of the
35 year before a general election for a state legislator's election to
36 office and continuing through November 30th immediately after the
37 general election, the legislator may not mail, either by regular mail
38 or electronic mail, to ~~((a))~~ more than one hundred constituents in a

1 single mailing at public expense a letter, newsletter, brochure, or
2 other piece of literature, except as follows:

3 (a) The legislator may mail two mailings of newsletters to
4 constituents. All newsletters within each mailing of newsletters must
5 be identical as to their content but not as to the constituent name or
6 address. One such mailing may be mailed no later than thirty days
7 after the start of a regular legislative session, except that a
8 legislator appointed during a regular legislative session to fill a
9 vacant seat may have up to thirty days from the date of appointment to
10 send out the first mailing. The other mailing may be mailed no later
11 than sixty days after the end of a regular legislative session.

12 (b) The legislator may mail an individual letter to (i) an
13 individual constituent who has contacted the legislator regarding the
14 subject matter of the letter during the legislator's current term of
15 office; (ii) an individual constituent who holds a governmental office
16 with jurisdiction over the subject matter of the letter; or (iii) an
17 individual constituent who has received an award or honor of
18 extraordinary distinction of a type that is sufficiently infrequent to
19 be noteworthy to a reasonable person, including, but not limited to:
20 (A) An international or national award such as the Nobel prize or the
21 Pulitzer prize; (B) a state award such as Washington scholar; (C) an
22 Eagle Scout award; and (D) a Medal of Honor.

23 (2) For purposes of subsection (1) of this section, "legislator"
24 means a legislator who is a "candidate," as defined by RCW 42.17.020,
25 for any public office.

26 (3) A violation of this section constitutes use of the facilities
27 of a public office for the purpose of assisting a campaign under RCW
28 42.52.180.

29 (4) The house of representatives and senate shall specifically
30 limit expenditures per member for the total cost of mailings. Those
31 costs include, but are not limited to, production costs, printing
32 costs, and postage costs. The limits imposed under this subsection
33 apply only to the total expenditures on mailings per member and not to
34 any categorical cost within the total.

35 (5) For purposes of this section, persons residing outside the
36 legislative district represented by the legislator are not considered
37 to be constituents, but students, military personnel, or others

1 temporarily employed outside of the district who normally reside in the
2 district are considered to be constituents.

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