
SENATE BILL 5638

State of Washington 58th Legislature 2003 Regular Session

By Senators Rasmussen, Sheahan, Haugen, Spanel, Swecker and Doumit

Read first time 02/04/2003. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to the application of public records laws to state
2 legislative offices; and amending RCW 42.17.020.

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

4 **Sec. 1.** RCW 42.17.020 and 2002 c 75 s 1 are each amended to read
5 as follows:

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

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

17 (3) "Ballot proposition" means any "measure" as defined by RCW
18 29.01.110, or any initiative, recall, or referendum proposition
19 proposed to be submitted to the voters of the state or any municipal

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

5 (4) "Benefit" means a commercial, proprietary, financial, economic,
6 or monetary advantage, or the avoidance of a commercial, proprietary,
7 financial, economic, or monetary disadvantage.

8 (5) "Bona fide political party" means:

9 (a) An organization that has filed a valid certificate of
10 nomination with the secretary of state under chapter 29.24 RCW;

11 (b) The governing body of the state organization of a major
12 political party, as defined in RCW 29.01.090, that is the body
13 authorized by the charter or bylaws of the party to exercise authority
14 on behalf of the state party; or

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

18 (6) "Depository" means a bank designated by a candidate or
19 political committee pursuant to RCW 42.17.050.

20 (7) "Treasurer" and "deputy treasurer" mean the individuals
21 appointed by a candidate or political committee, pursuant to RCW
22 42.17.050, to perform the duties specified in that section.

23 (8) "Candidate" means any individual who seeks nomination for
24 election or election to public office. An individual seeks nomination
25 or election when he or she first:

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

28 (b) Announces publicly or files for office;

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

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

33 (9) "Caucus political committee" means a political committee
34 organized and maintained by the members of a major political party in
35 the state senate or state house of representatives.

36 (10) "Commercial advertiser" means any person who sells the service
37 of communicating messages or producing printed material for broadcast
38 or distribution to the general public or segments of the general public

1 whether through the use of newspapers, magazines, television and radio
2 stations, billboard companies, direct mail advertising companies,
3 printing companies, or otherwise.

4 (11) "Commission" means the agency established under RCW 42.17.350.

5 (12) "Compensation" unless the context requires a narrower meaning,
6 includes payment in any form for real or personal property or services
7 of any kind: PROVIDED, That for the purpose of compliance with RCW
8 42.17.241, the term "compensation" shall not include per diem
9 allowances or other payments made by a governmental entity to reimburse
10 a public official for expenses incurred while the official is engaged
11 in the official business of the governmental entity.

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

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

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

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

23 (iii) The financing by a person of the dissemination, distribution,
24 or republication, in whole or in part, of broadcast, written, graphic,
25 or other form of political advertising prepared by a candidate, a
26 political committee, or its authorized agent;

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

30 (b) "Contribution" does not include:

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

33 (ii) Ordinary home hospitality;

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

37 (iv) A news item, feature, commentary, or editorial in a regularly
38 scheduled news medium that is of primary interest to the general

1 public, that is in a news medium controlled by a person whose business
2 is that news medium, and that is not controlled by a candidate or a
3 political committee;

4 (v) An internal political communication primarily limited to the
5 members of or contributors to a political party organization or
6 political committee, or to the officers, management staff, or
7 stockholders of a corporation or similar enterprise, or to the members
8 of a labor organization or other membership organization;

9 (vi) The rendering of personal services of the sort commonly
10 performed by volunteer campaign workers, or incidental expenses
11 personally incurred by volunteer campaign workers not in excess of
12 fifty dollars personally paid for by the worker. "Volunteer services,"
13 for the purposes of this section, means services or labor for which the
14 individual is not compensated by any person;

15 (vii) Messages in the form of reader boards, banners, or yard or
16 window signs displayed on a person's own property or property occupied
17 by a person. However, a facility used for such political advertising
18 for which a rental charge is normally made must be reported as an in-
19 kind contribution and counts towards any applicable contribution limit
20 of the person providing the facility;

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

22 (A) A political party or caucus political committee if the person
23 paying for the services is the regular employer of the person rendering
24 such services; or

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

29 (c) Contributions other than money or its equivalent are deemed to
30 have a monetary value equivalent to the fair market value of the
31 contribution. Services or property or rights furnished at less than
32 their fair market value for the purpose of assisting any candidate or
33 political committee are deemed a contribution. Such a contribution
34 must be reported as an in-kind contribution at its fair market value
35 and counts towards any applicable contribution limit of the provider.

36 (15) "Elected official" means any person elected at a general or
37 special election to any public office, and any person appointed to fill
38 a vacancy in any such office.

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

8 (17) "Election campaign" means any campaign in support of or in
9 opposition to a candidate for election to public office and any
10 campaign in support of, or in opposition to, a ballot proposition.

11 (18) "Election cycle" means the period beginning on the first day
12 of December after the date of the last previous general election for
13 the office that the candidate seeks and ending on November 30th after
14 the next election for the office. In the case of a special election to
15 fill a vacancy in an office, "election cycle" means the period
16 beginning on the day the vacancy occurs and ending on November 30th
17 after the special election.

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

32 (20) "Final report" means the report described as a final report in
33 RCW 42.17.080(2).

34 (21) "General election" for the purposes of RCW 42.17.640 means the
35 election that results in the election of a person to a state office.
36 It does not include a primary.

37 (22) "Gift," is as defined in RCW 42.52.010.

1 (23) "Immediate family" includes the spouse, dependent children,
2 and other dependent relatives, if living in the household. For the
3 purposes of RCW 42.17.640 through 42.17.790, "immediate family" means
4 an individual's spouse, and child, stepchild, grandchild, parent,
5 stepparent, grandparent, brother, half brother, sister, or half sister
6 of the individual and the spouse of any such person and a child,
7 stepchild, grandchild, parent, stepparent, grandparent, brother, half
8 brother, sister, or half sister of the individual's spouse and the
9 spouse of any such person.

10 (24) "Independent expenditure" means an expenditure that has each
11 of the following elements:

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

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

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

33 (25)(a) "Intermediary" means an individual who transmits a
34 contribution to a candidate or committee from another person unless the
35 contribution is from the individual's employer, immediate family as
36 defined for purposes of RCW 42.17.640 through 42.17.790, or an
37 association to which the individual belongs.

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

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

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

8 (26) "Legislation" means bills, resolutions, motions, amendments,
9 nominations, and other matters pending or proposed in either house of
10 the state legislature, and includes any other matter that may be the
11 subject of action by either house or any committee of the legislature
12 and all bills and resolutions that, having passed both houses, are
13 pending approval by the governor.

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

21 (28) "Lobbyist" includes any person who lobbies either in his or
22 her own or another's behalf.

23 (29) "Lobbyist's employer" means the person or persons by whom a
24 lobbyist is employed and all persons by whom he or she is compensated
25 for acting as a lobbyist.

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

32 (31) "Person in interest" means the person who is the subject of a
33 record or any representative designated by that person, except that if
34 that person is under a legal disability, the term "person in interest"
35 means and includes the parent or duly appointed legal representative.

36 (32) "Political advertising" includes any advertising displays,
37 newspaper ads, billboards, signs, brochures, articles, tabloids,
38 flyers, letters, radio or television presentations, or other means of

1 mass communication, used for the purpose of appealing, directly or
2 indirectly, for votes or for financial or other support in any election
3 campaign.

4 (33) "Political committee" means any person (except a candidate or
5 an individual dealing with his or her own funds or property) having the
6 expectation of receiving contributions or making expenditures in
7 support of, or opposition to, any candidate or any ballot proposition.

8 (34) "Primary" for the purposes of RCW 42.17.640 means the
9 procedure for nominating a candidate to state office under chapter
10 29.18 or 29.21 RCW or any other primary for an election that uses, in
11 large measure, the procedures established in chapter 29.18 or 29.21
12 RCW.

13 (35) "Public office" means any federal, state, county, city, town,
14 school district, port district, special district, or other state
15 political subdivision elective office.

16 (36) "Public record" includes any writing containing information
17 relating to the conduct of government or the performance of any
18 governmental or proprietary function prepared, owned, used, or retained
19 by any state or local agency regardless of physical form or
20 characteristics. For state legislative offices, the office of the
21 secretary of the senate, and the office of the chief clerk of the house
22 of representatives, public records means legislative records as defined
23 in RCW 40.14.100 and also means the following: All budget and
24 financial records; personnel leave, travel, and payroll records;
25 records of legislative sessions; reports submitted to the legislature;
26 and any other record designated a public record by any official action
27 of the senate or the house of representatives.

28 (37) "Recall campaign" means the period of time beginning on the
29 date of the filing of recall charges under RCW 29.82.015 and ending
30 thirty days after the recall election.

31 (38) "State legislative office" means the office of a member of the
32 state house of representatives or the office of a member of the state
33 senate.

34 (39) "State office" means state legislative office or the office of
35 governor, lieutenant governor, secretary of state, attorney general,
36 commissioner of public lands, insurance commissioner, superintendent of
37 public instruction, state auditor, or state treasurer.

38 (40) "State official" means a person who holds a state office.

1 (41) "Surplus funds" mean, in the case of a political committee or
2 candidate, the balance of contributions that remain in the possession
3 or control of that committee or candidate subsequent to the election
4 for which the contributions were received, and that are in excess of
5 the amount necessary to pay remaining debts incurred by the committee
6 or candidate prior to that election. In the case of a continuing
7 political committee, "surplus funds" mean those contributions remaining
8 in the possession or control of the committee that are in excess of the
9 amount necessary to pay all remaining debts when it makes its final
10 report under RCW 42.17.065.

11 (42) "Writing" means handwriting, typewriting, printing,
12 photostating, photographing, and every other means of recording any
13 form of communication or representation, including, but not limited to,
14 letters, words, pictures, sounds, or symbols, or combination thereof,
15 and all papers, maps, magnetic or paper tapes, photographic films and
16 prints, motion picture, film and video recordings, magnetic or punched
17 cards, discs, drums, diskettes, sound recordings, and other documents
18 including existing data compilations from which information may be
19 obtained or translated.

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

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