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HOUSE BILL 2112

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State of Washington                      62nd Legislature                      2011 1st Special Session

By Representatives Shea, Taylor, Overstreet, Condotta, Kristiansen, Warnick, McCune, Orcutt, and Short

Read first time 05/05/11. Referred to Committee on State Government & Tribal Affairs.

1            AN ACT Relating to state agencies' lobbying activities; amending  
2            RCW 42.17A.635 and 42.17A.750; creating new sections; prescribing  
3            penalties; and providing an effective date.

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

5            NEW SECTION.    **Sec. 1.**    This act may be known and cited as the  
6            taxpayer funded lobbying reform act.

7            NEW SECTION.    **Sec. 2.**    The legislature finds citizens are opposed  
8            to state agencies using public funds to influence the legislature to  
9            protect government agencies and their employees to the detriment of  
10           taxpayers. Washington has a current prohibition that no public funds  
11           may be used directly or indirectly for lobbying. However, there are a  
12           multitude of exceptions, so the activity continues. In times when  
13           citizens want government to reduce costs and enact meaningful reforms,  
14           it is counterproductive to have multiple government paid personnel  
15           fighting to preserve the status quo or expand agency activities so that  
16           reductions of, and implementation of efficiencies in, government  
17           agencies are stymied.

1 The legislature finds that restricting lobbying activities will  
2 save scarce resources. Citizens should not be forced to use their  
3 hard-earned taxpayer dollars to fund lobbyists they may have to compete  
4 against during legislative public hearings where state agency  
5 reductions and reforms are proposed.

6 It is the intent of the legislature to reaffirm and strengthen the  
7 lobbying prohibition in current law. It directs that lobbying and  
8 informational activities are to be done by the officials in charge of  
9 the agency instead of hiring lobbyists to engage in such activities.

10 **Sec. 3.** RCW 42.17A.635 and 2010 c 204 s 808 are each amended to  
11 read as follows:

12 (1) The house of representatives and the senate shall report  
13 annually: The total budget; the portion of the total attributed to  
14 staff; and the number of full-time and part-time staff positions by  
15 assignment, with dollar figures as well as number of positions.

16 (2) Unless authorized by subsection (3) of this section or  
17 otherwise expressly authorized by law, no public funds may be used  
18 directly or indirectly for lobbying. However, this does not prevent  
19 officers or employees of an agency from communicating with a member of  
20 the legislature on the request of that member; or communicating to the  
21 legislature, through the ~~((proper official channels))~~ state agency's  
22 elected officials, appointed officials, director, or deputy directors,  
23 requests for legislative action or appropriations that are deemed  
24 necessary for the efficient conduct of the public business or actually  
25 made in the proper performance of their official duties. Agency  
26 employees may assist with but may not be delegated lobbying activities.  
27 This subsection does not apply to the legislative branch.

28 (3)(a) Any ~~((agency, not otherwise expressly authorized by law, may~~  
29 ~~expend public funds for))~~ agency's elected officials, appointed  
30 officials, director, or deputy directors may engage in lobbying  
31 activities, but such lobbying activity shall be limited to ~~((a))~~  
32 providing information or communicating on matters pertaining to  
33 official agency business to any elected official or officer or employee  
34 of any agency ~~((or (b) advocating the official position or interests of~~  
35 ~~the agency to any elected official or officer or employee of any~~  
36 ~~agency))~~.

1       **(b)** Public funds may not be expended as a direct or indirect gift  
2 or campaign contribution to any elected official or officer or employee  
3 of any agency. For the purposes of this subsection, "gift" means a  
4 voluntary transfer of any thing of value without consideration of equal  
5 or greater value, but does not include informational material  
6 transferred for the sole purpose of informing the recipient about  
7 matters pertaining to official agency business. This section does not  
8 permit the printing of a state publication that has been otherwise  
9 prohibited by law.

10       **(c)** No state agency may enter into a contract for lobbying  
11 activities.

12       **(d)** No state agency may pay dues for membership in any  
13 organization, public or private, that engages in lobbying activities.

14       (4) No elective official or any employee of his or her office or  
15 any person appointed to or employed by any public office or agency may  
16 use or authorize the use of any of the facilities of a public office or  
17 agency, directly or indirectly, in any effort to support or oppose an  
18 initiative to the legislature. "Facilities of a public office or  
19 agency" has the same meaning as in RCW 42.17A.555 and 42.52.180. The  
20 provisions of this subsection shall not apply to the following  
21 activities:

22       (a) Action taken at an open public meeting by members of an elected  
23 legislative body to express a collective decision, or to actually vote  
24 upon a motion, proposal, resolution, order, or ordinance, or to support  
25 or oppose an initiative to the legislature so long as (i) any required  
26 notice of the meeting includes the title and number of the initiative  
27 to the legislature, and (ii) members of the legislative body or members  
28 of the public are afforded an approximately equal opportunity for the  
29 expression of an opposing view;

30       (b) A statement by an elected official in support of or in  
31 opposition to any initiative to the legislature at an open press  
32 conference or in response to a specific inquiry;

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

35       (d) Activities conducted regarding an initiative to the legislature  
36 that would be permitted under RCW 42.17A.555 and 42.52.180 if conducted  
37 regarding other ballot measures.

1 (5) Each state agency, county, city, town, municipal corporation,  
2 quasi-municipal corporation, or special purpose district that expends  
3 public funds for lobbying shall file with the commission, except as  
4 exempted by (d) of this subsection, quarterly statements providing the  
5 following information for the quarter just completed:

6 (a) The name of the agency filing the statement;

7 (b) The name, title, and job description and salary of each elected  
8 official, officer, or employee who lobbied, a general description of  
9 the nature of the lobbying, and the proportionate amount of time spent  
10 on the lobbying;

11 (c) A listing of expenditures incurred by the agency for lobbying  
12 including but not limited to travel, consultant or other special  
13 contractual services, and brochures and other publications, the  
14 principal purpose of which is to influence legislation;

15 (d) For purposes of this subsection, "lobbying" does not include:

16 (i) Requests for appropriations by a state agency to the office of  
17 financial management pursuant to chapter 43.88 RCW nor requests by the  
18 office of financial management to the legislature for appropriations  
19 other than its own agency budget requests;

20 (ii) Recommendations or reports to the legislature in response to  
21 a legislative request expressly requesting or directing a specific  
22 study, recommendation, or report by an agency on a particular subject;

23 (iii) Official reports including recommendations submitted to the  
24 legislature on an annual or biennial basis by a state agency as  
25 required by law;

26 (iv) Requests, recommendations, or other communication between or  
27 within state agencies or between or within local agencies;

28 (v) Any other lobbying to the extent that it includes( (+

29 (A)) telephone conversations or preparation of written  
30 correspondence( (+

31 ~~(B) In-person lobbying on behalf of an agency of no more than four~~  
32 ~~days or parts thereof during any three-month period by officers or~~  
33 ~~employees of that agency and in-person lobbying by any elected official~~  
34 ~~of such agency on behalf of such agency or in connection with the~~  
35 ~~powers, duties, or compensation of such official. The total~~  
36 ~~expenditures of nonpublic funds made in connection with such lobbying~~  
37 ~~for or on behalf of any one or more members of the legislature or state~~  
38 ~~elected officials or public officers or employees of the state of~~

1 ~~Washington may not exceed fifteen dollars for any three month period.~~  
2 ~~The exemption under this subsection (5)(d)(v)(B) is in addition to the~~  
3 ~~exemption provided in (d)(v)(A) of this subsection;~~

4 ~~(C) Preparation or adoption of policy positions)).~~

5 (6) The statement must be signed and filed by the agency director  
6 within one month after the end of the quarter covered by the report.

7 (7) Each state agency director who knowingly fails to file  
8 statements required pursuant to this section is subject to personal  
9 liability in the form of a civil penalty in the amount of one hundred  
10 dollars. These penalties are in addition to any other civil remedies  
11 or sanctions imposed on the agency.

12 (8) A state agency may not engage in lobbying activities for a  
13 period of one year after the failure of its director to file statements  
14 for three consecutive quarters.

15 (9) The statements shall be in the form and the manner prescribed  
16 by the commission ((and shall be filed within one month after the end  
17 of the quarter covered by the report)).

18 ~~((6))~~ (10) In lieu of reporting under subsection (5) of this  
19 section, any county, city, town, municipal corporation, quasi municipal  
20 corporation, or special purpose district may determine and so notify  
21 the public disclosure commission that elected officials, officers, or  
22 employees who, on behalf of any such local agency, engage in lobbying  
23 reportable under subsection (5) of this section shall register and  
24 report such reportable lobbying in the same manner as a lobbyist who is  
25 required to register and report under RCW 42.17A.600 and 42.17A.615.  
26 Each such local agency shall report as a lobbyist employer pursuant to  
27 RCW 42.17A.630.

28 ~~((7))~~ (11) The provisions of this section do not relieve any  
29 elected official or officer or employee of an agency from complying  
30 with other provisions of this chapter, if such elected official,  
31 officer, or employee is not otherwise exempted.

32 ~~((8))~~ (12) Any state agency official, officer, or employee who  
33 expends public funds in violation of subsection (2) or (3) of this  
34 section is subject to personal liability in the form of a civil penalty  
35 in an amount that is at least equivalent to the amount of public funds  
36 expended in the violation.

37 (13) The purpose of this section is to require each state agency  
38 and certain local agencies to report the identities of those persons

1 who lobby on behalf of the agency for compensation, together with  
2 certain separately identifiable and measurable expenditures of an  
3 agency's funds for that purpose. This section shall be reasonably  
4 construed to accomplish that purpose and not to require any agency to  
5 report any of its general overhead cost or any other costs that relate  
6 only indirectly or incidentally to lobbying or that are equally  
7 attributable to or inseparable from nonlobbying activities of the  
8 agency.

9 (14) The public disclosure commission may adopt rules clarifying  
10 and implementing this legislative interpretation and policy.

11 **Sec. 4.** RCW 42.17A.750 and 2010 c 204 s 1001 are each amended to  
12 read as follows:

13 One or more of the following civil remedies and sanctions may be  
14 imposed by court order in addition to any other remedies provided by  
15 law:

16 (1) If the court finds that the violation of any provision of this  
17 chapter by any candidate or political committee probably affected the  
18 outcome of any election, the result of that election may be held void  
19 and a special election held within sixty days of the finding. Any  
20 action to void an election shall be commenced within one year of the  
21 date of the election in question. It is intended that this remedy be  
22 imposed freely in all appropriate cases to protect the right of the  
23 electorate to an informed and knowledgeable vote.

24 (2) If any lobbyist or sponsor of any grass roots lobbying campaign  
25 violates any of the provisions of this chapter, his or her registration  
26 may be revoked or suspended and he or she may be enjoined from  
27 receiving compensation or making expenditures for lobbying. The  
28 imposition of a sanction shall not excuse the lobbyist from filing  
29 statements and reports required by this chapter.

30 (3) A person who violates any of the provisions of this chapter may  
31 be subject to a civil penalty of not more than ten thousand dollars for  
32 each violation. However, a person or entity who violates RCW  
33 42.17A.405 may be subject to a civil penalty of ten thousand dollars or  
34 three times the amount of the contribution illegally made or accepted,  
35 whichever is greater.

36 (4) A person who fails to file a properly completed statement or

1 report within the time required by this chapter may be subject to a  
2 civil penalty of ten dollars per day for each day each delinquency  
3 continues.

4 (5) Each state agency director who knowingly fails to file  
5 statements required by RCW 42.17A.635 shall be subject to personal  
6 liability in the form of a civil penalty in the amount of one hundred  
7 dollars per statement.

8 (6) A person who fails to report a contribution or expenditure as  
9 required by this chapter may be subject to a civil penalty equivalent  
10 to the amount not reported as required.

11 ~~((+6+))~~ (7) Any state agency official, officer, or employee who is  
12 responsible for or knowingly directs or expends public funds in  
13 violation of RCW 42.17A.635 (2) or (3) may be subject to personal  
14 liability in the form of a civil penalty.

15 (8) The court may enjoin any person to prevent the doing of any act  
16 herein prohibited, or to compel the performance of any act required  
17 herein.

18 NEW SECTION. Sec. 5. This act takes effect January 1, 2012.

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