
Government Operations & Elections Committee

HB 1093

Brief Description: Regarding state agency lobbying activities.

Sponsors: Representatives Shea, Overstreet and Taylor.

Brief Summary of Bill

- Restricts who may lobby on behalf of a state agency.
- Limits the type of lobbying activity in which an agency may participate.
- Prohibits an agency from paying membership dues in any organization that engages in lobbying activities.
- Establishes civil penalties and further restrictions on agency lobbying for violation of the state agency lobbying restrictions.

Hearing Date: 1/24/13

Staff: Jasmine Vasavada (786-7301).

Background:

Public officers and agency employees communicate requests for legislative action or appropriations to each other and to government leaders, including legislators. Such communications, when related to an agency's performance of its mission and programs, are sometimes deemed necessary for the efficient conduct of public business.

Government to government lobbying

State campaign disclosure and contribution law defines "lobbying" as the attempt to influence the passage or defeat of any legislation by the Washington legislature, or to influence the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency. Specifically exempted from this definition of lobbying is an association's or other organization's

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act of communicating with the members of that association or organization. Agencies are authorized to expend public funds for lobbying activities, but such activity is limited to providing information or communicating on matters pertaining to official agency business, or advocating the official position or interests of the agency. This lobbying activity may be performed by an agency's leaders or employees, or through a contract for lobbying services.

Reporting to the Public Disclosure Commission

When a state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district expends public funds for lobbying, it is required to file quarterly statements with the Public Disclosure Commission (PDC). These statements must generally be filed quarterly and include the agency name, the name and salary of all who lobbied for the agency, the nature of the lobbying, and the proportionate amount of time spent on lobbying. The quarterly statements also must include a listing of expenditures incurred for lobbying. In lieu of such reporting, the elected officials, officer, or employees who lobby on behalf of a local agency may register and report in the same manner as other lobbyists (for example, those who lobby for businesses, groups, associations, or other organizations.)

For purposes of the PDC reporting requirement, "lobbying" does not include certain state agency activities, to the extent that they include:

- certain requests for appropriations made through the state budgeting, accounting, and reporting system;
- reports and recommendations made in response to legislative requests for an agency study, recommendation, or report on a particular subject;
- official reports submitted to the legislature annually or biennially, as required by law;
- certain communications between or within state or local agencies;
- preparation or adoption of policy positions;
- telephone conversations or preparation of written correspondence;
- in-person lobbying by agency employees or officers, on behalf of the agency, for up to four days during any three month period; and
- in-person lobbying by agency elected officials, on behalf of the agency or in connection with the official's powers, duties, or compensation.

Penalties for violating lobbying and reporting laws

A court is authorized to impose civil remedies and sanctions for violation of the lobbying disclosures and limitations stated above. These include civil penalties of not more than \$10,000 for each violation, and a civil penalty of \$10 per day for each day that a person fails to file a properly completed statement or report. A court may also issue an order to prevent a person from violating these requirements. Finally, the PDC may refer certain intentional violations of the statutes for criminal prosecution.

Summary of Bill:

The express intent of this act is to save scarce resources by restricting lobbying activities paid for directly or indirectly with public funds.

Restrictions on who may lobby on behalf of a state agency

A state agency's elected officials, appointed officials, directors, or deputy directors ("agency leaders") are authorized to communicate requests for legislative action or appropriations that are

deemed necessary for the efficient conduct of public business or are made in the proper performance of their official duties. Agency employees may assist but may not be delegated lobbying activities. Agency leaders are no longer authorized to advocate the official position or interests of the agency to any elected official or officer or employee of any agency. State agencies are prohibited from entering into contracts for lobbying activities, and prohibited from paying dues for membership in any organization, public or private, that engages in lobbying activities.

Reporting to the Public Disclosure Commission

The following activities are no longer exempted from the definition of "lobbying" requiring PDC disclosure:

- preparation or adoption of policy positions;
- in-person lobbying by agency employees or officers, on behalf of the agency, for up to four days during any three month period, and;
- in-person lobbying by agency elected officials, on behalf of the agency or in connection with the official's powers, duties, or compensation.

Directors of each state agency that expends public funds for lobbying must sign the quarterly statements submitted to the PDC.

Penalties for violating lobbying and reporting laws

Additional penalties are established for violation of lobbying and reporting laws by state agencies, officials, or employees:

- a state agency director who knowingly fails to file required statements may be personally liable for a civil penalty of one hundred dollars;
- a state agency whose director fails to file statements for three consecutive quarters is prohibited from engaging in lobbying activities for a one year period;
- a state agency official, officer, or employee who expends public funds in violation of these provisions is subject to personal liability in the form of a civil penalty at least equivalent to the amount of public funds expended in violation; and
- a state agency director who knowingly fails to file statements required by RCW 42.17A.635 shall be subject to personal liability in the form of a civil penalty in the amount of \$100 per statement.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect January 1, 2014.