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**SUBSTITUTE SENATE BILL 6448**

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**State of Washington**

**63rd Legislature**

**2014 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Padden, Hatfield, and Roach)

READ FIRST TIME 02/07/14.

1       AN ACT Relating to authorizing establishment of ethics defense  
2 trust funds; amending RCW 42.52.150; and adding new sections to chapter  
3 42.52 RCW.

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

5       NEW SECTION.   **Sec. 1.**   (1)(a) A state officer as defined in RCW  
6 42.52.010 may establish an ethics defense trust fund and name a trustee  
7 if the state officer is subject to a complaint for an ethics violation  
8 filed or issued under this chapter relating to the state officer's  
9 official duties.

10       (b) For the purposes of this section and sections 2 through 4 of  
11 this act, "official duties" include, but are not limited to, all  
12 activities prescribed in the state Constitution and state statutes,  
13 legislatively funded or mandated authority and responsibilities, job  
14 description, or any tasks, activities, or actions related to carrying  
15 out the duties of the state officer's position that are intended to  
16 protect, promote, educate, and serve the citizens of the state of  
17 Washington.

18       (2)(a) The proceeds of the trust fund may be used to:

1 (i) Defray legal expenses and pay monetary penalties incurred by  
2 the state officer as a result of a complaint filed or issued for an  
3 ethics violation under this chapter or an internal legislative  
4 investigatory proceeding;

5 (ii) Defray costs reasonably incurred in administering the trust  
6 fund, including but not limited to costs incident to the solicitation  
7 of funds; and

8 (iii) Discharge any tax liabilities incurred as a result of the  
9 creation, operation, or administration of the trust fund.

10 (b) The proceeds of a trust fund may also be used to defray or  
11 discharge legal expenses, penalties, costs, or liabilities incurred  
12 before the trust fund was established if the legal expenses, penalties,  
13 costs, or liabilities are related to the complaint proceedings for  
14 which the trust fund was established.

15 (3) Except as provided in subsection (2) of this section, the state  
16 officer may not use proceeds from the trust fund for any personal use.

17 (4) A state officer may not establish or maintain more than one  
18 ethics defense trust fund at any one time.

19 (5) Chapter 11.98 RCW does not apply to a trust fund established  
20 under this chapter.

21 NEW SECTION. **Sec. 2.** (1) The trustee of an ethics defense trust  
22 fund is responsible for:

23 (a) The receipt and deposit of contributions to the trust fund;

24 (b) The authorization of expenditures and disbursements from the  
25 trust fund;

26 (c) The performance of other tasks incident to the administration  
27 of the trust fund.

28 (2)(a) A trustee of an ethics defense trust fund shall establish a  
29 single exclusive account in a depository, as defined in RCW 42.17A.005.  
30 The depository must be located in this state and must ordinarily  
31 conduct business with the general public in this state.

32 (b) The trustee shall maintain the account in the name of the trust  
33 fund.

34 (c) All expenditures made by the trustee shall be drawn from the  
35 account and:

36 (i) Issued on a check signed by the trustee; or

1 (ii) Paid using a debit card or other form of electronic  
2 transaction.

3 (d) A contribution received by a trustee shall be deposited into  
4 the account not later than three working days after the date the  
5 contribution is received.

6 (e) This section does not prohibit the transfer of any amount  
7 deposited in the account into a certificate of deposit, stock fund, or  
8 other investment instrument.

9 (f) The account may not include any public or private moneys or any  
10 moneys of any other person, other than contributions received by the  
11 trustee.

12 (g) A trustee shall retain a copy of each depository account  
13 statement from the account described in this section for not less than  
14 two years after the date the statement is issued by the depository.

15 (h) The trustee may not be a member of the family of or an employee  
16 of the state officer.

17 NEW SECTION. **Sec. 3.** (1) Any person may contribute to an ethics  
18 defense trust fund established in section 1 of this act.

19 (2) The maximum contribution by any person per year to an ethics  
20 defense trust fund shall be the same as the campaign contribution limit  
21 per person per election cycle established by the public disclosure  
22 commission for candidates for statewide executive office.

23 (3) The ethics defense trust fund agreement, contributions,  
24 expenditures, and other transfers of moneys to or from the trust fund  
25 shall be reported to the public disclosure commission once a month,  
26 within ten days after the completion of the month, for all transactions  
27 occurring in that month. Failure to report as required by this  
28 subsection is a violation of chapter 42.17A RCW.

29 (4) Reports filed with the public disclosure commission under  
30 subsection (3) of this section are nonexempt public records subject to  
31 disclosure under chapter 42.56 RCW.

32 NEW SECTION. **Sec. 4.** (1) An ethics defense trust fund established  
33 under section 1 of this act may be terminated by:

34 (a) The state officer who established the trust fund; or

35 (b) Subject to subsection (2) of this section, the terms of the  
36 trust agreement.

1 (2) A trust agreement may provide that an ethics defense trust fund  
2 is terminated not later than six months following the completion of the  
3 payments authorized under section 1(2) of this act.

4 (3) Following termination of an ethics defense trust fund, the  
5 trustee may not accept contributions to or make expenditures from the  
6 trust fund.

7 (4) Not later than thirty days after an ethics defense trust fund  
8 is terminated, the trustee of the trust fund shall return any moneys  
9 remaining in the trust fund to contributors to the trust fund on a pro  
10 rata basis.

11 **Sec. 5.** RCW 42.52.150 and 2011 c 60 s 29 are each amended to read  
12 as follows:

13 (1) No state officer or state employee may accept gifts, other than  
14 those specified in subsections (2) (~~and~~), (5), and (6) of this  
15 section, with an aggregate value in excess of fifty dollars from a  
16 single source in a calendar year or a single gift from multiple sources  
17 with a value in excess of fifty dollars. For purposes of this section,  
18 "single source" means any person, as defined in RCW 42.52.010, whether  
19 acting directly or through any agent or other intermediary, and "single  
20 gift" includes any event, item, or group of items used in conjunction  
21 with each other or any trip including transportation, lodging, and  
22 attendant costs, not excluded from the definition of gift under RCW  
23 42.52.010. The value of gifts given to an officer's or employee's  
24 family member or guest shall be attributed to the official or employee  
25 for the purpose of determining whether the limit has been exceeded,  
26 unless an independent business, family, or social relationship exists  
27 between the donor and the family member or guest.

28 (2) Except as provided in subsection (4) of this section, the  
29 following items are presumed not to influence under RCW 42.52.140, and  
30 may be accepted without regard to the limit established by subsection  
31 (1) of this section:

32 (a) Unsolicited flowers, plants, and floral arrangements;

33 (b) Unsolicited advertising or promotional items of nominal value,  
34 such as pens and note pads;

35 (c) Unsolicited tokens or awards of appreciation in the form of a  
36 plaque, trophy, desk item, wall memento, or similar item;

1 (d) Unsolicited items received by a state officer or state employee  
2 for the purpose of evaluation or review, if the officer or employee has  
3 no personal beneficial interest in the eventual use or acquisition of  
4 the item by the officer's or employee's agency;

5 (e) Informational material, publications, or subscriptions related  
6 to the recipient's performance of official duties;

7 (f) Food and beverages consumed at hosted receptions where  
8 attendance is related to the state officer's or state employee's  
9 official duties;

10 (g) Gifts, grants, conveyances, bequests, and devises of real or  
11 personal property, or both, in trust or otherwise accepted and  
12 solicited for deposit in the legislative international trade account  
13 created in RCW 43.15.050;

14 (h) Gifts, grants, conveyances, bequests, and devises of real or  
15 personal property, or both, in trust or otherwise accepted and  
16 solicited for the purpose of promoting the expansion of tourism as  
17 provided for in RCW 43.330.090;

18 (i) Gifts, grants, conveyances, bequests, and devises of real or  
19 personal property, or both, solicited on behalf of a national  
20 legislative association, 2006 official conference of the national  
21 lieutenant governors' association, or host committee for the purpose of  
22 hosting an official conference under the circumstances specified in RCW  
23 42.52.820 and section 2, chapter 5, Laws of 2006. Anything solicited  
24 or accepted may only be received by the national association or host  
25 committee and may not be commingled with any funds or accounts that are  
26 the property of any person;

27 (j) Admission to, and the cost of food and beverages consumed at,  
28 events sponsored by or in conjunction with a civic, charitable,  
29 governmental, or community organization; and

30 (k) Unsolicited gifts from dignitaries from another state or a  
31 foreign country that are intended to be personal in nature.

32 (3) The presumption in subsection (2) of this section is rebuttable  
33 and may be overcome based on the circumstances surrounding the giving  
34 and acceptance of the item.

35 (4) Notwithstanding subsections (2) and (5) of this section, a  
36 state officer or state employee of a regulatory agency or of an agency  
37 that seeks to acquire goods or services who participates in those  
38 regulatory or contractual matters may receive, accept, take, or seek,

1 directly or indirectly, only the following items from a person  
2 regulated by the agency or from a person who seeks to provide goods or  
3 services to the agency:

4 (a) Unsolicited advertising or promotional items of nominal value,  
5 such as pens and note pads;

6 (b) Unsolicited tokens or awards of appreciation in the form of a  
7 plaque, trophy, desk item, wall memento, or similar item;

8 (c) Unsolicited items received by a state officer or state employee  
9 for the purpose of evaluation or review, if the officer or employee has  
10 no personal beneficial interest in the eventual use or acquisition of  
11 the item by the officer's or employee's agency;

12 (d) Informational material, publications, or subscriptions related  
13 to the recipient's performance of official duties;

14 (e) Food and beverages consumed at hosted receptions where  
15 attendance is related to the state officer's or state employee's  
16 official duties;

17 (f) Admission to, and the cost of food and beverages consumed at,  
18 events sponsored by or in conjunction with a civic, charitable,  
19 governmental, or community organization; and

20 (g) Those items excluded from the definition of gift in RCW  
21 42.52.010 except:

22 (i) Payments by a governmental or nongovernmental entity of  
23 reasonable expenses incurred in connection with a speech, presentation,  
24 appearance, or trade mission made in an official capacity;

25 (ii) Payments for seminars and educational programs sponsored by a  
26 bona fide governmental or nonprofit professional, educational, trade,  
27 or charitable association or institution; and

28 (iii) Flowers, plants, and floral arrangements.

29 (5) A state officer or state employee may accept gifts in the form  
30 of food and beverage on infrequent occasions in the ordinary course of  
31 meals where attendance by the officer or employee is related to the  
32 performance of official duties. Gifts in the form of food and beverage  
33 that exceed fifty dollars on a single occasion shall be reported as  
34 provided in chapter 42.17A RCW.

35 (6) A state officer may accept contributions made to an ethics  
36 defense trust fund established under section 1 of this act.

1        NEW SECTION.    **Sec. 6.**    Sections 1 through 4 of this act are each  
2    added to chapter 42.52 RCW.

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