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SENATE BILL 6448

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Padden, Hatfield, and Roach

Read first time 01/27/14. Referred to Committee on Law & Justice.

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 state officer holding an elective  
6 office may establish an ethics defense trust fund and name a trustee if  
7 the elective state officer is subject to a complaint for an ethics  
8 violation filed or issued under this chapter.

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

10 (i) Defray legal expenses and pay monetary penalties incurred by  
11 the elective state officer as a result of a complaint filed or issued  
12 for an ethics violations under this chapter;

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

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

18 (b) The proceeds of a trust fund may also be used to defray or  
19 discharge legal expenses, penalties, costs, or liabilities incurred

1 before the trust fund was established if the legal expenses, penalties,  
2 costs, or liabilities are related to the complaint proceedings for  
3 which the trust fund was established.

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

7 (4) An elective state officer may not establish or maintain more  
8 than one ethics defense trust fund at any one time.

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

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

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

14 (b) The authorization of expenditures and disbursements from the  
15 trust fund;

16 (c) The performance of other tasks incident to the administration  
17 of the trust fund.

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

22 (b) The trustee shall maintain the account in the name of the trust  
23 fund.

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

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

27 (ii) Paid using a debit card or other form of electronic  
28 transaction.

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

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

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

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

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

6 (2) A person may make contributions of moneys to an ethics defense  
7 trust fund in unlimited amounts.

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

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

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

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

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

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

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

25 (1) No state officer or state employee may accept gifts, other than  
26 those specified in subsections (2) (~~and~~), (5), and (6) of this  
27 section, with an aggregate value in excess of fifty dollars from a  
28 single source in a calendar year or a single gift from multiple sources  
29 with a value in excess of fifty dollars. For purposes of this section,  
30 "single source" means any person, as defined in RCW 42.52.010, whether  
31 acting directly or through any agent or other intermediary, and "single  
32 gift" includes any event, item, or group of items used in conjunction  
33 with each other or any trip including transportation, lodging, and  
34 attendant costs, not excluded from the definition of gift under RCW  
35 42.52.010. The value of gifts given to an officer's or employee's

1 family member or guest shall be attributed to the official or employee  
2 for the purpose of determining whether the limit has been exceeded,  
3 unless an independent business, family, or social relationship exists  
4 between the donor and the family member or guest.

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

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

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

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

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

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

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

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

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

31 (i) Gifts, grants, conveyances, bequests, and devises of real or  
32 personal property, or both, solicited on behalf of a national  
33 legislative association, 2006 official conference of the national  
34 lieutenant governors' association, or host committee for the purpose of  
35 hosting an official conference under the circumstances specified in RCW  
36 42.52.820 and section 2, chapter 5, Laws of 2006. Anything solicited  
37 or accepted may only be received by the national association or host

1 committee and may not be commingled with any funds or accounts that are  
2 the property of any person;

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

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

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

11 (4) Notwithstanding subsections (2) and (5) of this section, a  
12 state officer or state employee of a regulatory agency or of an agency  
13 that seeks to acquire goods or services who participates in those  
14 regulatory or contractual matters may receive, accept, take, or seek,  
15 directly or indirectly, only the following items from a person  
16 regulated by the agency or from a person who seeks to provide goods or  
17 services to the agency:

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

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

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

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

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

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

34 (g) Those items excluded from the definition of gift in RCW  
35 42.52.010 except:

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

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

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

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

11 (6) An elective state officer may accept contributions made to an  
12 ethics defense trust fund established under section 1 of this act.

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

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