

# SENATE BILL REPORT

## SB 5383

---

As of February 2, 2015

**Title:** An act relating to limitations on gifts in the form of food and beverage.

**Brief Description:** Addressing gifts of food and beverage to state officers and state employees.

**Sponsors:** Senators Hatfield, Becker and McAuliffe.

**Brief History:**

**Committee Activity:** Government Operations & Security: 1/29/15.

---

### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

**Staff:** Karen Epps (786-7424)

**Background:** In 1994 the Legislature enacted the Ethics in Public Service Act (Ethics Act), establishing new and revised ethics rules, consolidating them in a single RCW chapter, and applying the new chapter to all state officials and employees of the executive, legislative, and judicial branches of state government. The Ethics Act created the Executive Ethics Board and Legislative Ethics Board (LEB), and expanded the authority of the Commission on Judicial Conduct. Each of these ethics boards have broad powers to enforce the Ethics Act, and may investigate and initiate complaints regarding the conduct of state government employees.

LEB has nine members, consisting of two Senators, two members of the House of Representatives, and five citizen members. The Board's activities fall under four broad categories: (1) providing training and educational materials; (2) issuing rules or policies limiting conduct in specified circumstances; (3) issuing advisory opinions; and (4) investigating, hearing, and determining complaints.

The Ethics Act prohibits state officers and state employees from accepting gifts under circumstances where it could be reasonably expected that the gifts would influence their votes, actions, or official judgment, or be considered as part of a reward for action or inaction. Limitations are also placed on gifts of a non-influential nature. State officers or state employees may accept gifts of food and beverages on infrequent occasions in the ordinary course of meals where attendance is related to the performance of official duties. State officers or state employees who accept gifts of food and beverages that exceed \$50 on a single occasion must report those to the Public Disclosure Commission (PDC).

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

In October 2014, LEB adopted Rule Number 5 concerning when a legislator may accept gifts of food and beverages on infrequent occasions in the ordinary course of meals where attendance is related to the performance of official duties. Rule Number 5 defines infrequent occasions to mean up to 12 meals total per calendar year. The rule is limited to food and beverage paid for by a registered lobbyist or lobbyist employer on behalf of a legislator.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** Gifts in the form of food and beverage may be considered to be made on infrequent occasions under rules adopted by LEB only if the gift exceeds \$50 and must be reported on a personal financial affairs statement to be filed with the PDC.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: There has been a lot of confusion around LEB's rulemaking. This bill is designed to be a compromise or a possible solution to LEB's rulemaking. There are a couple of examples that show the confusion. An organization invited legislators to a luncheon. They called it a brown bag, but there was no beverage. Counsel said that it would be a meal and would count toward one of the 12 because the beverage is implied. Organizations who call their event a dinner and it is a sit-down meal, this would also count as one of the 12 allowed meals. This bill uses LEB's definition of 12 infrequent meals and the reporting threshold of the PDC in order to provide some clarity. Under this a meal at McDonalds would not count toward the 12-meal limit, but a meal over \$50 would count toward the 12-meal limit. The idea that a legislator can be bought for a burger and a soda or even for a \$50 meal is offensive, but there should be some recordkeeping. This bill is designed to provide a bright line for legislators to report these meals.

OTHER: The PDC recognizes and respects the jurisdictional boundaries between the Ethics Act enforced by the Ethics Board and the PDC statutes. The PDC's role is on the reporting requirements that apply to lobbyists and lobbyist employers, as well as public officials. The PDC's interest is in making the reporting requirements as easy to understand and comply with as possible. The requirements in the Ethics Act and the PDC statute have never lined up as well as they probably should have and have never been as clear as they could be. The Ethics Act speaks in terms of food and beverage, but lobbyist reporting requirements around entertainment. That is where a lot of the confusion has come around with lobbyist reporting. It may make sense to line up the statutes in the Ethics Act with the reporting requirements in the PDC statutes.

**Persons Testifying:** PRO: Senator Hatfield, prime sponsor.

OTHER: Andrea McNamara Doyle, PDC.