

SENATE BILL REPORT

SB 5386

As of February 2, 2015

Title: An act relating to the reporting of gifts in the form of food and beverage to state officers and state employees.

Brief Description: Addressing the reporting of gifts in the form of food and beverage to state officers and state employees.

Sponsors: Senators Pedersen, Miloscia, Rivers, Cleveland and Litzow; by request of Legislative Ethics Board.

Brief History:

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

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Staff: Karen Epps (786-7424)

Background: Ethics in Public Service Act (Ethics Act). In 1994 the Legislature enacted the 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 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.

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).

Legislative Ethics Board. 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

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.

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.

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.

Public Disclosure Commission. The PDC is the state's campaign finance regulatory agency. It is empowered to provide timely public access to information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates; and to ensure compliance with contribution limits and other campaign finance restrictions.

Lobbyists must register before doing any lobbying or within 30 days of being employed to lobby. Additionally lobbyists must file monthly reports disclosing compensation earned and expenditures incurred for lobbying.

Elected officials and executive state officers, including legislative and gubernatorial professional staff, certain state agency heads, and select board and commission members, are required to disclose to the PDC personal financial information. Reports are filed annually and cover the previous calendar year.

Summary of Bill: Under the Ethics Act, gifts of food and beverage on infrequent occasions in the ordinary course of meals where attendance is related to the performance of official duties must be reported to the PDC. A lobbyist's monthly report must include a listing of each gift of food or beverage to legislators regardless of dollar value. Legislators must include in their statement of financial affairs any gift of food or beverage from a lobbyist or lobbyist employers regardless of dollar value.

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: This bill is request legislation from the Legislative Ethics Board. About two years ago, in the wake of the 2013 session, there was an Associated Press investigation that led to a publication of what legislators were accepting from lobbyists and there was some perception that it did not seem to comply with infrequent in the statute dealing with legislators accepting meals from lobbyists. That led to two citizen complaints, one against the five top legislators that were identified and a second complaint against all 147 sitting legislators, claiming that all of the legislators were in a culture of noncompliance with the Act. In the fall of 2013, the LEB dismissed both complaints on the

basis that there was not notice to legislators about what how the statute was going to be enforced. The LEB sent notice to the Legislature and invited them to take action in the 2014 session on either changing the word infrequent or providing some definition of what the legislature had meant when adopting the statute. The LEB said that if the Legislature did not act, they would undertake a rulemaking in the 2014 interim to try to give some meaning to the word infrequent. The LEB had multiple hearings on the issue. The overwhelming feeling from the people who testified was that legislators get a per diem and they should not take any meals at all, but the statute is quite clear that these meals are permitted. There were a number of board members who felt that it would be at least as important to have some transparency about what was happening in terms of entertainment of legislators by lobbyists as it was to set a particular number. The counsel that the LEB received was that because of the way the statute is written, the LEB did not have the discretion to require any reporting of the meals. That is really the origin of this bill. The LEB set a limit of 12 meals as what would constitute infrequent and then the LEB requested this legislation to ask legislators and lobbyists to report the meals that would come under that exemption.

OTHER: The attempt to integrate and connect the Ethics Act with the reporting requirements in the PDC statutes is appreciated. The PDC would like to continue to work with the Legislature to make these line up in a way that gives as much clarity and as much notice to all the people who have to report, including the lobbyists, lobbyist employers, and legislators. This bill does a nice job of connecting and cross referencing the specific lobbyist reporting requirements and the personal financial statement reporting requirements to the provision in the Ethics Act that is being amended.

Persons Testifying: PRO: Senator Pedersen, prime sponsor.

OTHER: Andrea McNamara Doyle, PDC.