

SENATE BILL REPORT

SB 5849

As Reported by Senate Committee On:
Law & Justice, February 19, 2015

Title: An act relating to authorizing establishment of an ethics defense trust fund under certain circumstances.

Brief Description: Authorizing establishment of ethics defense trust funds.

Sponsors: Senators Padden, Pedersen, Hatfield and Pearson.

Brief History:

Committee Activity: Law & Justice: 2/10/15, 2/19/15 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5849 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Melissa Burke-Cain (786-7755)

Background: There are three ethics boards with jurisdiction over state officers in Washington: the Commission on Judicial Conduct, the Legislative Ethics Board, and the Executive Ethics Board. The ethics boards can investigate, hear, and determine ethics complaints for alleged ethical violations and impose sanctions when appropriate. Penalties can include reprimands, monetary penalties, a recommendation of suspension or removal, or a recommendation of prosecution to the appropriate authority. Generally, no state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business, transaction, or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

Summary of Bill (Recommended Substitute): A state officer may establish an ethics defense trust fund for legal defense costs associated with an ethics complaint about the state officer's official duties. Official duties include any tasks or actions directly incident to carrying out the activities of the state officer's position.

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.

The state officer may accept donations to fund the defense trust account from any person. A person is an individual partnership, association, corporation, firm, institution, or other entity. The maximum contribution is \$1,000 per person per year. Each month the public officer must report contributions, expenditures, and other money transfers to or from the trust fund to the Public Disclosure Commission (PDC). State officers violate the Fair Campaign Practices Act if they fail to report. The PDC reports are subject to public disclosure.

A state officer must not appoint a family member or an employee as the trustee of the account. The trust funds may only be used for legal expenses and monetary penalties due to the ethics complaint and the administrative costs of the trust fund. Trust funds may be used for expenses, costs, or liabilities incurred before the trust fund is established if the costs are related to the complaint that caused the fund to be established.

The trust may be dissolved by the state officer or as otherwise provided in the trust agreement. Once the trust is dissolved, no further contributions are accepted. Any funds remaining are returned to the contributors in proportion to the amount they contributed.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): The definition of official duties for a state officer applies to tasks and actions directly incident to the state officer's position, and recognizes that official duties may be authorized by job description, by law of the Washington Constitution, or through appropriation, appointment, or mandate.

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 on Original Bill: PRO: The ethics defense process is very expensive because of the cost of attorney fees and discovery costs to mount a defense. The administrative hearing process for ethics complaints is as costly as a lawsuit in the courts. State officers who are elected officials are vulnerable to ethics complaints during the campaign process. There were several ethics cases out of the last election and the number of such cases are expected to grow in the future. Public officers should be able to receive donations that can be used to defend themselves when a complaint is filed.

Persons Testifying: PRO: Brad Owen, Lt. Governor.