

ESSB 5108 - H AMD 1359

By Representative Irwin

1 On page 5, after line 26, insert the following:

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3 **"Sec. 4.** RCW 42.17A.005 and 2011 c 145 s 2 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Actual malice" means to act with knowledge of falsity or
8 with reckless disregard as to truth or falsity.

9 (2) "Agency" includes all state agencies and all local agencies.
10 "State agency" includes every state office, department, division,
11 bureau, board, commission, or other state agency. "Local agency"
12 includes every county, city, town, municipal corporation, quasi-
13 municipal corporation, or special purpose district, or any office,
14 department, division, bureau, board, commission, or agency thereof,
15 or other local public agency.

16 (3) "Authorized committee" means the political committee
17 authorized by a candidate, or by the public official against whom
18 recall charges have been filed, to accept contributions or make
19 expenditures on behalf of the candidate or public official.

20 (4) "Ballot proposition" means any "measure" as defined by RCW
21 29A.04.091, or any initiative, recall, or referendum proposition
22 proposed to be submitted to the voters of the state or any municipal
23 corporation, political subdivision, or other voting constituency
24 from and after the time when the proposition has been initially
25 filed with the appropriate election officer of that constituency
26 before its circulation for signatures.

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1 (5) "Benefit" means a commercial, proprietary, financial,
2 economic, or monetary advantage, or the avoidance of a commercial,
3 proprietary, financial, economic, or monetary disadvantage.

4 (6) "Bona fide political party" means:

5 (a) An organization that has been recognized as a minor
6 political party by the secretary of state;

7 (b) The governing body of the state organization of a major
8 political party, as defined in RCW 29A.04.086, that is the body
9 authorized by the charter or bylaws of the party to exercise
10 authority on behalf of the state party; or

11 (c) The county central committee or legislative district
12 committee of a major political party. There may be only one
13 legislative district committee for each party in each legislative
14 district.

15 (7) "Candidate" means any individual who seeks nomination for
16 election or election to public office. An individual seeks
17 nomination or election when he or she first:

18 (a) Receives contributions or makes expenditures or reserves
19 space or facilities with intent to promote his or her candidacy for
20 office;

21 (b) Announces publicly or files for office;

22 (c) Purchases commercial advertising space or broadcast time to
23 promote his or her candidacy; or

24 (d) Gives his or her consent to another person to take on behalf
25 of the individual any of the actions in (a) or (c) of this
26 subsection.

27 (8) "Caucus political committee" means a political committee
28 organized and maintained by the members of a major political party
29 in the state senate or state house of representatives.

30 (9) "Commercial advertiser" means any person who sells the
31 service of communicating messages or producing printed material for
32 broadcast or distribution to the general public or segments of the
33 general public whether through the use of newspapers, magazines,
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1 television and radio stations, billboard companies, direct mail
2 advertising companies, printing companies, or otherwise.

3 (10) "Commission" means the agency established under RCW
4 42.17A.100.

5 (11) "Compensation" unless the context requires a narrower
6 meaning, includes payment in any form for real or personal property
7 or services of any kind. For the purpose of compliance with RCW
8 42.17A.710, "compensation" does not include per diem allowances or
9 other payments made by a governmental entity to reimburse a public
10 official for expenses incurred while the official is engaged in the
11 official business of the governmental entity.

12 (12) "Continuing political committee" means a political
13 committee that is an organization of continuing existence not
14 established in anticipation of any particular election campaign.

15 (13)(a) "Contribution" includes:

16 (i) A loan, gift, deposit, subscription, forgiveness of
17 indebtedness, donation, advance, pledge, payment, transfer of funds
18 between political committees, or anything of value, including
19 personal and professional services for less than full consideration;

20 (ii) An expenditure made by a person in cooperation,
21 consultation, or concert with, or at the request or suggestion of, a
22 candidate, a political committee, the person or persons named on the
23 candidate's or committee's registration form who direct expenditures
24 on behalf of the candidate or committee, or their agents;

25 (iii) The financing by a person of the dissemination,
26 distribution, or republication, in whole or in part, of broadcast,
27 written, graphic, or other form of political advertising or
28 electioneering communication prepared by a candidate, a political
29 committee, or its authorized agent;

30 (iv) Sums paid for tickets to fund-raising events such as
31 dinners and parties, except for the actual cost of the consumables
32 furnished at the event.

33 (b) "Contribution" does not include:

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- 1 (i) Standard interest on money deposited in a political
2 committee's account;
- 3 (ii) Ordinary home hospitality;
- 4 (iii) A contribution received by a candidate or political
5 committee that is returned to the contributor within five business
6 days of the date on which it is received by the candidate or
7 political committee;
- 8 (iv) A news item, feature, commentary, or editorial in a
9 regularly scheduled news medium that is of primary interest to the
10 general public, that is in a news medium controlled by a person
11 whose business is that news medium, and that is not controlled by a
12 candidate or a political committee;
- 13 (v) An internal political communication primarily limited to the
14 members of or contributors to a political party organization or
15 political committee, or to the officers, management staff, or
16 stockholders of a corporation or similar enterprise, or to the
17 members of a labor organization or other membership organization;
- 18 (vi) The rendering of personal services of the sort commonly
19 performed by volunteer campaign workers, or incidental expenses
20 personally incurred by volunteer campaign workers not in excess of
21 fifty dollars personally paid for by the worker. "Volunteer
22 services," for the purposes of this subsection, means services or
23 labor for which the individual is not compensated by any person;
- 24 (vii) Messages in the form of reader boards, banners, or yard or
25 window signs displayed on a person's own property or property
26 occupied by a person. However, a facility used for such political
27 advertising for which a rental charge is normally made must be
28 reported as an in-kind contribution and counts towards any
29 applicable contribution limit of the person providing the facility;
- 30 (viii) Legal or accounting services rendered to or on behalf of:
- 31 (A) A political party or caucus political committee if the
32 person paying for the services is the regular employer of the person
33 rendering such services; or
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1 (B) A candidate or an authorized committee if the person paying
2 for the services is the regular employer of the individual rendering
3 the services and if the services are solely for the purpose of
4 ensuring compliance with state election or public disclosure laws;
5 or

6 (ix) The performance of ministerial functions by a person on
7 behalf of two or more candidates or political committees either as
8 volunteer services defined in (b)(vi) of this subsection or for
9 payment by the candidate or political committee for whom the
10 services are performed as long as:

11 (A) The person performs solely ministerial functions;

12 (B) A person who is paid by two or more candidates or political
13 committees is identified by the candidates and political committees
14 on whose behalf services are performed as part of their respective
15 statements of organization under RCW 42.17A.205; and

16 (C) The person does not disclose, except as required by law, any
17 information regarding a candidate's or committee's plans, projects,
18 activities, or needs, or regarding a candidate's or committee's
19 contributions or expenditures that is not already publicly available
20 from campaign reports filed with the commission, or otherwise engage
21 in activity that constitutes a contribution under (a)(ii) of this
22 subsection.

23 A person who performs ministerial functions under this
24 subsection (13)(b)(ix) is not considered an agent of the candidate
25 or committee as long as he or she has no authority to authorize
26 expenditures or make decisions on behalf of the candidate or
27 committee.

28 (c) Contributions other than money or its equivalent are deemed
29 to have a monetary value equivalent to the fair market value of the
30 contribution. Services or property or rights furnished at less than
31 their fair market value for the purpose of assisting any candidate
32 or political committee are deemed a contribution. Such a
33 contribution must be reported as an in-kind contribution at its fair
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1 market value and counts towards any applicable contribution limit of
2 the provider.

3 (14) "Depository" means a bank, mutual savings bank, savings and
4 loan association, or credit union doing business in this state.

5 (15) "Elected official" means any person elected at a general or
6 special election to any public office, and any person appointed to
7 fill a vacancy in any such office.

8 (16) "Election" includes any primary, general, or special
9 election for public office and any election in which a ballot
10 proposition is submitted to the voters. An election in which the
11 qualifications for voting include other than those requirements set
12 forth in Article VI, section 1 (Amendment 63) of the Constitution of
13 the state of Washington shall not be considered an election for
14 purposes of this chapter.

15 (17) "Election campaign" means any campaign in support of or in
16 opposition to a candidate for election to public office and any
17 campaign in support of, or in opposition to, a ballot proposition.

18 (18) "Election cycle" means the period beginning on the first
19 day of January after the date of the last previous general election
20 for the office that the candidate seeks and ending on December 31st
21 after the next election for the office. In the case of a special
22 election to fill a vacancy in an office, "election cycle" means the
23 period beginning on the day the vacancy occurs and ending on
24 December 31st after the special election.

25 (19)(a) "Electioneering communication" means any broadcast,
26 cable, or satellite television or radio transmission, United States
27 postal service mailing, billboard, newspaper, or periodical that:

28 (i) Clearly identifies a candidate for a state, local, or
29 judicial office either by specifically naming the candidate, or
30 identifying the candidate without using the candidate's name;

31 (ii) Is broadcast, transmitted, mailed, erected, distributed, or
32 otherwise published within (~~sixty~~)ninety days before any election
33 for that office in the jurisdiction in which the candidate is
34 seeking election; and

1 (iii) Either alone, or in combination with one or more
2 communications identifying the candidate by the same sponsor during
3 the sixty days before an election, has a fair market value of one
4 thousand dollars or more.

5 (b) "Electioneering communication" does not include:

6 (i) Usual and customary advertising of a business owned by a
7 candidate, even if the candidate is mentioned in the advertising
8 when the candidate has been regularly mentioned in that advertising
9 appearing at least twelve months preceding his or her becoming a
10 candidate;

11 (ii) Advertising for candidate debates or forums when the
12 advertising is paid for by or on behalf of the debate or forum
13 sponsor, so long as two or more candidates for the same position
14 have been invited to participate in the debate or forum;

15 (iii) A news item, feature, commentary, or editorial in a
16 regularly scheduled news medium that is:

17 (A) Of primary interest to the general public;

18 (B) In a news medium controlled by a person whose business is
19 that news medium; and

20 (C) Not a medium controlled by a candidate or a political
21 committee;

22 (iv) Slate cards and sample ballots;

23 (v) Advertising for books, films, dissertations, or similar
24 works (A) written by a candidate when the candidate entered into a
25 contract for such publications or media at least twelve months
26 before becoming a candidate, or (B) written about a candidate;

27 (vi) Public service announcements;

28 (vii) A mailed internal political communication primarily
29 limited to the members of or contributors to a political party
30 organization or political committee, or to the officers, management
31 staff, or stockholders of a corporation or similar enterprise, or to
32 the members of a labor organization or other membership
33 organization;

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1 (viii) An expenditure by or contribution to the authorized
2 committee of a candidate for state, local, or judicial office; or

3 (ix) Any other communication exempted by the commission through
4 rule consistent with the intent of this chapter.

5 (20) "Expenditure" includes a payment, contribution,
6 subscription, distribution, loan, advance, deposit, or gift of money
7 or anything of value, and includes a contract, promise, or
8 agreement, whether or not legally enforceable, to make an
9 expenditure. "Expenditure" also includes a promise to pay, a
10 payment, or a transfer of anything of value in exchange for goods,
11 services, property, facilities, or anything of value for the purpose
12 of assisting, benefiting, or honoring any public official or
13 candidate, or assisting in furthering or opposing any election
14 campaign. For the purposes of this chapter, agreements to make
15 expenditures, contracts, and promises to pay may be reported as
16 estimated obligations until actual payment is made. "Expenditure"
17 shall not include the partial or complete repayment by a candidate
18 or political committee of the principal of a loan, the receipt of
19 which loan has been properly reported.

20 (21) "Final report" means the report described as a final report
21 in RCW 42.17A.235(2).

22 (22) "General election" for the purposes of RCW 42.17A.405 means
23 the election that results in the election of a person to a state or
24 local office. It does not include a primary.

25 (23) "Gift" has the definition in RCW 42.52.010.

26 (24) "Immediate family" includes the spouse or domestic partner,
27 dependent children, and other dependent relatives, if living in the
28 household. For the purposes of the definition of "intermediary" in
29 this section, "immediate family" means an individual's spouse or
30 domestic partner, and child, stepchild, grandchild, parent,
31 stepparent, grandparent, brother, half brother, sister, or half
32 sister of the individual and the spouse or the domestic partner of
33 any such person and a child, stepchild, grandchild, parent,
34 stepparent, grandparent, brother, half brother, sister, or half

1 sister of the individual's spouse or domestic partner and the spouse
2 or the domestic partner of any such person.

3 (25) "Incumbent" means a person who is in present possession of
4 an elected office.

5 (26) "Independent expenditure" means an expenditure that has
6 each of the following elements:

7 (a) It is made in support of or in opposition to a candidate for
8 office by a person who is not (i) a candidate for that office, (ii)
9 an authorized committee of that candidate for that office, (iii) a
10 person who has received the candidate's encouragement or approval to
11 make the expenditure, if the expenditure pays in whole or in part
12 for political advertising supporting that candidate or promoting the
13 defeat of any other candidate or candidates for that office, or (iv)
14 a person with whom the candidate has collaborated for the purpose of
15 making the expenditure, if the expenditure pays in whole or in part
16 for political advertising supporting that candidate or promoting the
17 defeat of any other candidate or candidates for that office;

18 (b) The expenditure pays in whole or in part for political
19 advertising that either specifically names the candidate supported
20 or opposed, or clearly and beyond any doubt identifies the candidate
21 without using the candidate's name; and

22 (c) The expenditure, alone or in conjunction with another
23 expenditure or other expenditures of the same person in support of
24 or opposition to that candidate, has a value of *eight hundred
25 dollars or more. A series of expenditures, each of which is under
26 eight hundred dollars, constitutes one independent expenditure if
27 their cumulative value is eight hundred dollars or more.

28 (27)(a) "Intermediary" means an individual who transmits a
29 contribution to a candidate or committee from another person unless
30 the contribution is from the individual's employer, immediate
31 family, or an association to which the individual belongs.

32 (b) A treasurer or a candidate is not an intermediary for
33 purposes of the committee that the treasurer or candidate serves.

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1 (c) A professional fund-raiser is not an intermediary if the
2 fund-raiser is compensated for fund-raising services at the usual
3 and customary rate.

4 (d) A volunteer hosting a fund-raising event at the individual's
5 home is not an intermediary for purposes of that event.

6 (28) "Legislation" means bills, resolutions, motions,
7 amendments, nominations, and other matters pending or proposed in
8 either house of the state legislature, and includes any other matter
9 that may be the subject of action by either house or any committee
10 of the legislature and all bills and resolutions that, having passed
11 both houses, are pending approval by the governor.

12 (29) "Legislative office" means the office of a member of the
13 state house of representatives or the office of a member of the
14 state senate.

15 (30) "Lobby" and "lobbying" each mean attempting to influence
16 the passage or defeat of any legislation by the legislature of the
17 state of Washington, or the adoption or rejection of any rule,
18 standard, rate, or other legislative enactment of any state agency
19 under the state administrative procedure act, chapter 34.05 RCW.
20 Neither "lobby" nor "lobbying" includes an association's or other
21 organization's act of communicating with the members of that
22 association or organization.

23 (31) "Lobbyist" includes any person who lobbies either in his or
24 her own or another's behalf.

25 (32) "Lobbyist's employer" means the person or persons by whom a
26 lobbyist is employed and all persons by whom he or she is
27 compensated for acting as a lobbyist.

28 (33) "Ministerial functions" means an act or duty carried out as
29 part of the duties of an administrative office without exercise of
30 personal judgment or discretion.

31 (34) "Participate" means that, with respect to a particular
32 election, an entity:

33 (a) Makes either a monetary or in-kind contribution to a
34 candidate;

1 (b) Makes an independent expenditure or electioneering
2 communication in support of or opposition to a candidate;

3 (c) Endorses a candidate before contributions are made by a
4 subsidiary corporation or local unit with respect to that candidate
5 or that candidate's opponent;

6 (d) Makes a recommendation regarding whether a candidate should
7 be supported or opposed before a contribution is made by a
8 subsidiary corporation or local unit with respect to that candidate
9 or that candidate's opponent; or

10 (e) Directly or indirectly collaborates or consults with a
11 subsidiary corporation or local unit on matters relating to the
12 support of or opposition to a candidate, including, but not limited
13 to, the amount of a contribution, when a contribution should be
14 given, and what assistance, services or independent expenditures, or
15 electioneering communications, if any, will be made or should be
16 made in support of or opposition to a candidate.

17 (35) "Person" includes an individual, partnership, joint
18 venture, public or private corporation, association, federal, state,
19 or local governmental entity or agency however constituted,
20 candidate, committee, political committee, political party,
21 executive committee thereof, or any other organization or group of
22 persons, however organized.

23 (36) "Political advertising" includes any advertising displays,
24 newspaper ads, billboards, signs, brochures, articles, tabloids,
25 flyers, letters, radio or television presentations, or other means
26 of mass communication, used for the purpose of appealing, directly
27 or indirectly, for votes or for financial or other support or
28 opposition in any election campaign.

29 (37) "Political committee" means any person (except a candidate
30 or an individual dealing with his or her own funds or property)
31 having the expectation of receiving contributions or making
32 expenditures in support of, or opposition to, any candidate or any
33 ballot proposition.

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1 (38) "Primary" for the purposes of RCW 42.17A.405 means the
2 procedure for nominating a candidate to state or local office under
3 chapter 29A.52 RCW or any other primary for an election that uses,
4 in large measure, the procedures established in chapter 29A.52 RCW.

5 (39) "Public office" means any federal, state, judicial, county,
6 city, town, school district, port district, special district, or
7 other state political subdivision elective office.

8 (40) "Public record" has the definition in RCW 42.56.010.

9 (41) "Recall campaign" means the period of time beginning on the
10 date of the filing of recall charges under RCW 29A.56.120 and ending
11 thirty days after the recall election.

12 (42)(a) "Sponsor" for purposes of an electioneering
13 communications, independent expenditures, or political advertising
14 means the person paying for the electioneering communication,
15 independent expenditure, or political advertising. If a person acts
16 as an agent for another or is reimbursed by another for the payment,
17 the original source of the payment is the sponsor.

18 (b) "Sponsor," for purposes of a political committee, means any
19 person, except an authorized committee, to whom any of the following
20 applies:

21 (i) The committee receives eighty percent or more of its
22 contributions either from the person or from the person's members,
23 officers, employees, or shareholders;

24 (ii) The person collects contributions for the committee by use
25 of payroll deductions or dues from its members, officers, or
26 employees.

27 (43) "Sponsored committee" means a committee, other than an
28 authorized committee, that has one or more sponsors.

29 (44) "State office" means state legislative office or the office
30 of governor, lieutenant governor, secretary of state, attorney
31 general, commissioner of public lands, insurance commissioner,
32 superintendent of public instruction, state auditor, or state
33 treasurer.

34 (45) "State official" means a person who holds a state office.

1 (46) "Surplus funds" mean, in the case of a political committee
2 or candidate, the balance of contributions that remain in the
3 possession or control of that committee or candidate subsequent to
4 the election for which the contributions were received, and that are
5 in excess of the amount necessary to pay remaining debts incurred by
6 the committee or candidate with respect to that election. In the
7 case of a continuing political committee, "surplus funds" mean those
8 contributions remaining in the possession or control of the
9 committee that are in excess of the amount necessary to pay all
10 remaining debts when it makes its final report under RCW 42.17A.255.

11 (47) "Treasurer" and "deputy treasurer" mean the individuals
12 appointed by a candidate or political committee, pursuant to RCW
13 42.17A.210, to perform the duties specified in that section."

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15 Correct the title.

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EFFECT: Extends the period that qualifies for an electioneering
communication from 60 to 90 days before an election.

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