
SUBSTITUTE SENATE BILL 5120

State of Washington

65th Legislature

2017 Regular Session

By Senate State Government (originally sponsored by Senators Carlyle, Miloscia, Hunt, Dandel, Rolfes, Cleveland, Keiser, Kuderer, and Chase; by request of Attorney General)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to enhancing oversight and transparency of
2 lobbying activity; amending RCW 42.17A.635 and 42.52.080; adding a
3 new section to chapter 42.17A RCW; adding a new section to chapter
4 42.52 RCW; creating new sections; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.17A
7 RCW to read as follows:

8 (1) All lobbyists and lobbyists' employers required to file
9 reports under RCW 42.17A.600, 42.17A.615, 42.17A.625, 42.17A.630, or
10 42.17A.635 must file all reports required by this chapter
11 electronically over the internet as provided by the commission under
12 RCW 42.17A.055.

13 (2) The commission must design, develop, implement, and maintain
14 computer hardware and software or other applications to accommodate
15 electronic filing of the reports required by this section and a
16 database and query system compatible with current architecture,
17 technology, and operating systems that result in readily available
18 data to the public for review and analysis. The commission is
19 encouraged to engage stakeholders in the design and development of
20 the system.

1 **Sec. 2.** RCW 42.17A.635 and 2010 c 204 s 808 are each amended to
2 read as follows:

3 (1) The house of representatives and the senate shall report
4 annually: The total budget; the portion of the total attributed to
5 staff; and the number of full-time and part-time staff positions by
6 assignment, with dollar figures as well as number of positions.

7 (2) Unless authorized by subsection (3) of this section or
8 otherwise expressly authorized by law, no public funds may be used
9 directly or indirectly for lobbying. However, this does not prevent
10 officers or employees of an agency from communicating with a member
11 of the legislature on the request of that member; or communicating to
12 the legislature, through the proper official channels, requests for
13 legislative action or appropriations that are deemed necessary for
14 the efficient conduct of the public business or actually made in the
15 proper performance of their official duties. This subsection does not
16 apply to the legislative branch.

17 (3) Any agency, not otherwise expressly authorized by law, may
18 expend public funds for lobbying, but such lobbying activity shall be
19 limited to (a) providing information or communicating on matters
20 pertaining to official agency business to any elected official or
21 officer or employee of any agency or (b) advocating the official
22 position or interests of the agency to any elected official or
23 officer or employee of any agency. Public funds may not be expended
24 as a direct or indirect gift or campaign contribution to any elected
25 official or officer or employee of any agency. For the purposes of
26 this subsection, "gift" means a voluntary transfer of any thing of
27 value without consideration of equal or greater value, but does not
28 include informational material transferred for the sole purpose of
29 informing the recipient about matters pertaining to official agency
30 business. This section does not permit the printing of a state
31 publication that has been otherwise prohibited by law.

32 (4) No elective official or any employee of his or her office or
33 any person appointed to or employed by any public office or agency
34 may use or authorize the use of any of the facilities of a public
35 office or agency, directly or indirectly, in any effort to support or
36 oppose an initiative to the legislature. "Facilities of a public
37 office or agency" has the same meaning as in RCW 42.17A.555 and
38 42.52.180. The provisions of this subsection shall not apply to the
39 following activities:

1 (a) Action taken at an open public meeting by members of an
2 elected legislative body to express a collective decision, or to
3 actually vote upon a motion, proposal, resolution, order, or
4 ordinance, or to support or oppose an initiative to the legislature
5 so long as (i) any required notice of the meeting includes the title
6 and number of the initiative to the legislature, and (ii) members of
7 the legislative body or members of the public are afforded an
8 approximately equal opportunity for the expression of an opposing
9 view;

10 (b) A statement by an elected official in support of or in
11 opposition to any initiative to the legislature at an open press
12 conference or in response to a specific inquiry;

13 (c) Activities that are part of the normal and regular conduct of
14 the office or agency;

15 (d) Activities conducted regarding an initiative to the
16 legislature that would be permitted under RCW 42.17A.555 and
17 42.52.180 if conducted regarding other ballot measures.

18 (5)(a) Each state agency, county, city, town, municipal
19 corporation, quasi-municipal corporation, or special purpose district
20 that expends public funds for lobbying and each employee of such an
21 agency lobbying on behalf of the agency shall ((file with the
22 commission, except as exempted by (d) of this subsection, quarterly
23 statements providing the following information for the quarter just
24 completed:

25 ~~(a) The name of the agency filing the statement;~~

26 ~~(b) The name, title, and job description and salary of each~~
27 ~~elected official, officer, or employee who lobbied, a general~~
28 ~~description of the nature of the lobbying, and the proportionate~~
29 ~~amount of time spent on the lobbying;~~

30 ~~(c) A listing of expenditures incurred by the agency for lobbying~~
31 ~~including but not limited to travel, consultant or other special~~
32 ~~contractual services, and brochures and other publications, the~~
33 ~~principal purpose of which is to influence legislation;)), except as~~

34 provided in this subsection (5), register and report as a lobbyist
35 under RCW 42.17A.600 and 42.17A.615. Each such state and local agency
36 shall report as a lobbyist employer pursuant to RCW 42.17A.630.

37 ~~((d))~~ (b) For purposes of this subsection (5), "lobbying" does
38 not include:

39 (i) Requests for appropriations by a state agency to the office
40 of financial management pursuant to chapter 43.88 RCW nor requests by

1 the office of financial management to the legislature for
2 appropriations other than its own agency budget requests;

3 (ii) Recommendations or reports to the legislature in response to
4 a legislative request expressly requesting or directing a specific
5 study, recommendation, or report by an agency on a particular
6 subject;

7 (iii) Official reports including recommendations submitted to the
8 legislature on an annual or biennial basis by a state agency as
9 required by law;

10 (iv) Requests, recommendations, or other communication between or
11 within state agencies or between or within local agencies;

12 (v) Any other lobbying to the extent that it includes:

13 (A) Telephone conversations or preparation of written
14 correspondence;

15 (B) In-person lobbying on behalf of an agency of no more than
16 four days or parts thereof during any three-month period by officers
17 or employees of that agency and in-person lobbying by any elected
18 official of such agency on behalf of such agency or in connection
19 with the powers, duties, or compensation of such official. The total
20 expenditures of nonpublic funds made in connection with such lobbying
21 for or on behalf of any one or more members of the legislature or
22 state elected officials or public officers or employees of the state
23 of Washington may not exceed fifteen dollars for any three-month
24 period. The exemption under this subsection (5)((~~d~~)) (b)(v)(B) is
25 in addition to the exemption provided in ((~~d~~)) (b)(v)(A) of this
26 subsection;

27 (C) Preparation or adoption of policy positions.

28 (~~The statements shall be in the form and the manner prescribed~~
29 ~~by the commission and shall be filed within one month after the end~~
30 ~~of the quarter covered by the report.))~~

31 (~~In lieu of reporting under subsection (5) of this section,~~
32 ~~any county, city, town, municipal corporation, quasi municipal~~
33 ~~corporation, or special purpose district may determine and so notify~~
34 ~~the public disclosure commission that elected officials, officers, or~~
35 ~~employees who, on behalf of any such local agency, engage in lobbying~~
36 ~~reportable under subsection (5) of this section shall register and~~
37 ~~report such reportable lobbying in the same manner as a lobbyist who~~
38 ~~is required to register and report under RCW 42.17A.600 and~~
39 ~~42.17A.615. Each such local agency shall report as a lobbyist~~
40 ~~employer pursuant to RCW 42.17A.630.~~

1 ~~(7)~~) The provisions of this section do not relieve any elected
2 official or officer or employee of an agency from complying with
3 other provisions of this chapter, if such elected official, officer,
4 or employee is not otherwise exempted.

5 ~~((8))~~ (7) The purpose of this section is to require each state
6 agency and certain local agencies to report the identities of those
7 persons who lobby on behalf of the agency for compensation, together
8 with certain separately identifiable and measurable expenditures of
9 an agency's funds for that purpose. This section shall be reasonably
10 construed to accomplish that purpose and not to require any agency to
11 report any of its general overhead cost or any other costs that
12 relate only indirectly or incidentally to lobbying or that are
13 equally attributable to or inseparable from nonlobbying activities of
14 the agency.

15 (8) The public disclosure commission may adopt rules clarifying
16 and implementing this legislative interpretation and policy.

17 **Sec. 3.** RCW 42.52.080 and 1999 c 299 s 3 are each amended to
18 read as follows:

19 (1) No former state officer or state employee may, within a
20 period of one year from the date of termination of state employment,
21 accept employment or receive compensation from an employer if:

22 (a) The officer or employee, during the two years immediately
23 preceding termination of state employment, was engaged in the
24 negotiation or administration on behalf of the state or agency of one
25 or more contracts with that employer and was in a position to make
26 discretionary decisions affecting the outcome of such negotiation or
27 the nature of such administration;

28 (b) Such a contract or contracts have a total value of more than
29 ten thousand dollars; and

30 (c) The duties of the employment with the employer or the
31 activities for which the compensation would be received include
32 fulfilling or implementing, in whole or in part, the provisions of
33 such a contract or contracts or include the supervision or control of
34 actions taken to fulfill or implement, in whole or in part, the
35 provisions of such a contract or contracts. This subsection shall not
36 be construed to prohibit a state officer or state employee from
37 accepting employment with a state employee organization.

38 (2) No person who has served as a state officer or state employee
39 may, within a period of two years following the termination of state

1 employment, have a direct or indirect beneficial interest in a
2 contract or grant that was expressly authorized or funded by specific
3 legislative or executive action in which the former state officer or
4 state employee participated.

5 (3) No former state officer or state employee may accept an offer
6 of employment or receive compensation from an employer if the officer
7 or employee knows or has reason to believe that the offer of
8 employment or compensation was intended, in whole or in part,
9 directly or indirectly, to influence the officer or employee or as
10 compensation or reward for the performance or nonperformance of a
11 duty by the officer or employee during the course of state
12 employment.

13 (4) No former state officer or state employee may accept an offer
14 of employment or receive compensation from an employer if the
15 circumstances would lead a reasonable person to believe the offer has
16 been made, or compensation given, for the purpose of influencing the
17 performance or nonperformance of duties by the officer or employee
18 during the course of state employment.

19 (5) No former state officer or state employee may at any time
20 subsequent to his or her state employment assist another person,
21 whether or not for compensation, in any transaction involving the
22 state in which the former state officer or state employee at any time
23 participated during state employment. This subsection shall not be
24 construed to prohibit any employee or officer of a state employee
25 organization from rendering assistance to state officers or state
26 employees in the course of employee organization business.

27 (6)(a) The following categories of former state officers and
28 state employees apply to this subsection (6):

29 (i) Category A:

30 (A) Statewide elected officials;

31 (B) State legislators;

32 (C) Heads of agencies included in the governor's executive
33 cabinet;

34 (D) Chiefs of staff or equivalent top administrators who report
35 directly to statewide elected officials and heads of agencies
36 included in the governor's executive cabinet;

37 (E) Chiefs of staff and top administrators of the legislature,
38 which includes the chief clerk of the house of representatives, the
39 secretary of the senate, the legal counsel for each legislative

1 chamber, and the caucus chiefs of staff and caucus leadership counsel
2 in each legislative chamber; and

3 (F) Senior executive staff of legislative agencies and agencies
4 managed by statewide elected officials or heads of agencies included
5 in the governor's executive cabinet; and

6 (ii) Category B:

7 (A) Heads of agencies not otherwise listed in category A;

8 (B) Chiefs of staff or equivalent top administrators who report
9 directly to heads of agencies not otherwise listed in category A; and

10 (C) Senior executive staff managed by heads of agencies not
11 otherwise listed in category A.

12 (b) For the purpose of this subsection (6), "senior executive
13 staff" means those state employees or state officers whose primary
14 responsibilities require the exercise of significant discretion and
15 judgment on final agency policy, rule, legislative matter, or state
16 action. By January 15th of each year, every agency shall submit to
17 the relevant ethics board the names and staff positions meeting the
18 criteria of senior executive staff, and must periodically update that
19 list throughout the year as necessary to reflect changes in staff.

20 (c) Persons in categories A and B shall file a postemployment
21 disclosure statement under section 4 of this act.

22 (d) Persons in category A, within one year after leaving state
23 office or employment, may not receive compensation for:

24 (i) Serving as a lobbyist as defined in RCW 42.17A.005 for
25 others;

26 (ii) Lobbying on behalf of a state or local agency as described
27 in RCW 42.17A.635;

28 (iii) Practicing or appearing before any state agency; or

29 (iv) Attempting, on behalf of another, to influence a state
30 action by any state agency.

31 (e) Persons in category B, within one year after leaving state
32 office or employment, may not receive compensation for:

33 (i) Serving as a lobbyist for others as defined in RCW 42.17A.005
34 on any matter that was or is under the authority of his or her most
35 recent former state employer;

36 (ii) Lobbying on behalf of a state or local agency as described
37 in RCW 42.17A.635 on any matter that was or is under the authority of
38 his or her most recent former state employer;

39 (iii) Practicing or appearing before his or her most recent
40 former state employer; or

1 (iv) Attempting, on behalf of another, to influence a state
2 action by his or her most recent former state employer.

3 (f) This subsection (6) does not apply to persons receiving
4 compensation for the following activities:

5 (i) Performing official duties not related to lobbying as a
6 current state officer or state employee;

7 (ii) Leaving a state agency to take another state agency, local
8 agency, or federal government position as long as that position does
9 not involve lobbying;

10 (iii) Representing a person in a judicial or quasi-judicial
11 proceeding including an administrative hearing;

12 (iv) Being called or requested to testify in any judicial or
13 quasi-judicial proceeding, or in public sessions of the committees of
14 the legislature;

15 (v) Participating in rule making at the request of an agency
16 under RCW 34.05.310;

17 (vi) Assisting a natural person or corporation in obtaining or
18 completing application forms or other forms required by a state
19 agency for the conduct of business, or similar ministerial activities
20 defined in rule by the ethics boards; or

21 (vii) Activities approved by a waiver under the relevant ethics
22 boards.

23 (7) The ethics boards shall adopt rules at each of their agencies
24 describing a process for a person to seek a waiver from the
25 postemployment requirements in subsection (6)(d) and (e) of this
26 section. Rules must be adopted by July 1, 2018. No waiver may be
27 granted from the requirement to file a postemployment disclosure
28 statement in subsection (6)(c) of this section. The ethics boards are
29 authorized to delegate waiver approval to the chair or the chair's
30 designee, including the executive director. Before granting a waiver,
31 the board must find that:

32 (a) The postemployment activity presents no conflict with the
33 state's interest;

34 (b) A need for the former state officer or employee's compensated
35 service outweighs any potential or perceived conflict with the
36 state's interest; or

37 (c) Extraordinary, emergency, or unique circumstances otherwise
38 warrant granting a waiver.

39 (8) As used in this section, "employer" means a person as defined
40 in RCW 42.52.010 or any other entity or business that the person owns

1 or in which the person has a controlling interest. For purposes of
2 subsection (1) of this section, the term "employer" does not include
3 a successor organization to the rural development council under
4 chapter 43.31 RCW.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.52
6 RCW to read as follows:

7 (1) The postemployment disclosure statement required under RCW
8 42.52.080(6) must include the following information:

9 (a) The name of the person leaving state service;

10 (b) The position held in state government before leaving state
11 service and the name of the most recent employer agency; and

12 (c) An acknowledgment that the person has reviewed RCW 42.52.080
13 and 42.52.090, and for former executive branch employees, RCW
14 42.52.100.

15 (2) If, following state service, the person leaving state service
16 receives compensation from an employer or other entity that does
17 business with the state or takes action to influence any state
18 policy, rule, legislative matter, or action, the postemployment
19 disclosure statement required under RCW 42.52.080(6) must also
20 include the following information:

21 (a) The name and address of the new employer or source of
22 compensation following state service;

23 (b) The name of the supervisor at the new employer, if any, or
24 other identifying information of the principal of the employing or
25 contracting entity;

26 (c) The date such new employment begins or began; and

27 (d) A description of anticipated postemployment duties at the new
28 employer or employing business or provided by a contract.

29 (3) The person must date the statement and sign it under oath. An
30 electronic signature is permitted if the form is filed
31 electronically.

32 (4)(a) The statement is required during the twelve-month period
33 after the date the person leaves state service and takes a new
34 employment position or receives compensation during that same period.
35 The information in the statement is public information.

36 (b) The person shall submit the statement to the respective
37 ethics board no later than fourteen days after the person leaves
38 state service to take a compensated employment position or takes the
39 compensated employment position, whichever occurs earlier.

1 (c) If during the twelve-month period a person changes employers
2 or sources of employment compensation to another employer that does
3 business with the state or takes action to influence any state
4 policy, rule, legislative matter, or action, he or she shall submit a
5 new statement within forty-five days.

6 (d) For the purposes of this section and the statement required
7 by it, compensation does not mean income received through the
8 person's retirement or investment accounts, social security, or
9 similar sources.

10 (5) The ethics boards shall collaborate as necessary to design a
11 uniform postemployment statement that permits online filing and on a
12 process to send copies of filed statements to the executive ethics
13 board. The ethics boards may adopt the statement and filing process
14 by rule.

15 (6) The legislative ethics board and the commission on judicial
16 conduct shall provide a copy of filed postemployment statements to
17 the executive ethics board. Postemployment statements must be made
18 available online in a searchable database on the executive ethics
19 board web site. The other ethics boards and the public disclosure
20 commission shall link to the database on their respective web sites.
21 As used in this subsection, "searchable database" means copies of
22 statements are posted on the executive ethics board's web site and
23 can be searched by the names of the employee or state officer, former
24 employer, and if required to be disclosed under subsection (2) of
25 this section, the new employer.

26 (7) The ethics boards may adopt rules to implement this section
27 with any initial rules adopted by July 1, 2018.

28 NEW SECTION. **Sec. 5.** The ethics boards may begin the rule-
29 making process under sections 3 and 4 of this act on the effective
30 date of this section.

31 NEW SECTION. **Sec. 6.** This act applies to state officers and
32 employees who were employed in state positions on or after the
33 effective date of this section.

34 NEW SECTION. **Sec. 7.** Sections 3, 4, and 6 of this act take
35 effect July 1, 2018.

1 NEW SECTION. **Sec. 8.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

--- END ---