

SSB 5170 - S AMD 444

By Senator Wilson, J.

NOT CONSIDERED 04/26/2021

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

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

1 business. This section does not permit the printing of a state
2 publication that has been otherwise prohibited by law.

3 (4) No elective official or any employee of his or her office or
4 any person appointed to or employed by any public office or agency
5 may use or authorize the use of any of the facilities of a public
6 office or agency, directly or indirectly, in any effort to support or
7 oppose an initiative to the legislature. "Facilities of a public
8 office or agency" has the same meaning as in RCW 42.17A.555 and
9 42.52.180. The provisions of this subsection shall not apply to the
10 following activities:

11 (a) Action taken at an open public meeting by members of an
12 elected legislative body to express a collective decision, or to
13 actually vote upon a motion, proposal, resolution, order, or
14 ordinance, or to support or oppose an initiative to the legislature
15 so long as (i) any required notice of the meeting includes the title
16 and number of the initiative to the legislature, and (ii) members of
17 the legislative body or members of the public are afforded an
18 approximately equal opportunity for the expression of an opposing
19 view;

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

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

25 (d) Activities conducted regarding an initiative to the
26 legislature that would be permitted under RCW 42.17A.555 and
27 42.52.180 if conducted regarding other ballot measures.

28 (5) (a) Each state agency, county, city, town, municipal
29 corporation, quasi-municipal corporation, or special purpose district
30 that expends public funds for lobbying and each employee of such an
31 agency lobbying on behalf of the agency shall ((file with the
32 commission, except as exempted by (d) of this subsection, quarterly
33 statements providing the following information for the quarter just
34 completed:

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

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

1 ~~(c) A listing of expenditures incurred by the agency for lobbying~~
2 ~~including but not limited to travel, consultant or other special~~
3 ~~contractual services, and brochures and other publications, the~~
4 ~~principal purpose of which is to influence legislation;)), except as~~
5 ~~provided in this subsection (5), register and report as a lobbyist~~
6 ~~under RCW 42.17A.600 and 42.17A.615. Each such state and local agency~~
7 ~~shall report as a lobbyist employer pursuant to RCW 42.17A.630.~~

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

10 (i) Requests for appropriations by a state agency to the office
11 of financial management pursuant to chapter 43.88 RCW nor requests by
12 the office of financial management to the legislature for
13 appropriations other than its own agency budget requests;

14 (ii) Recommendations or reports to the legislature in response to
15 a legislative request expressly requesting or directing a specific
16 study, recommendation, or report by an agency on a particular
17 subject;

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

21 (iv) Requests, recommendations, or other communication between or
22 within state agencies or between or within local agencies;

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

24 (A) Telephone conversations or preparation of written
25 correspondence;

26 (B) In-person lobbying on behalf of an agency of no more than
27 four days or parts thereof during any three-month period by officers
28 or employees of that agency and in-person lobbying by any elected
29 official of such agency on behalf of such agency or in connection
30 with the powers, duties, or compensation of such official. The total
31 expenditures of nonpublic funds made in connection with such lobbying
32 for or on behalf of any one or more members of the legislature or
33 state elected officials or public officers or employees of the state
34 of Washington may not exceed fifteen dollars for any three-month
35 period. The exemption under this subsection (5) ~~((d))~~ (b) (v) (B) is
36 in addition to the exemption provided in ~~((d))~~ (b) (v) (A) of this
37 subsection;

38 (C) Preparation or adoption of policy positions.

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

4 (6) (~~In lieu of reporting under subsection (5) of this section,~~
5 ~~any county, city, town, municipal corporation, quasi municipal~~
6 ~~corporation, or special purpose district may determine and so notify~~
7 ~~the public disclosure commission that elected officials, officers, or~~
8 ~~employees who, on behalf of any such local agency, engage in lobbying~~
9 ~~reportable under subsection (5) of this section shall register and~~
10 ~~report such reportable lobbying in the same manner as a lobbyist who~~
11 ~~is required to register and report under RCW 42.17A.600 and~~
12 ~~42.17A.615. Each such local agency shall report as a lobbyist~~
13 ~~employer pursuant to RCW 42.17A.630.~~

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

18 ~~((8))~~) (7) The purpose of this section is to require each state
19 agency and certain local agencies to report the identities of those
20 persons who lobby on behalf of the agency for compensation, together
21 with certain separately identifiable and measurable expenditures of
22 an agency's funds for that purpose. This section shall be reasonably
23 construed to accomplish that purpose and not to require any agency to
24 report any of its general overhead cost or any other costs that
25 relate only indirectly or incidentally to lobbying or that are
26 equally attributable to or inseparable from nonlobbying activities of
27 the agency.

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

30 **Sec. 2.** RCW 42.52.080 and 1999 c 299 s 3 are each amended to
31 read as follows:

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

35 (a) The officer or employee, during the two years immediately
36 preceding termination of state employment, was engaged in the
37 negotiation or administration on behalf of the state or agency of one
38 or more contracts with that employer and was in a position to make

1 discretionary decisions affecting the outcome of such negotiation or
2 the nature of such administration;

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

5 (c) The duties of the employment with the employer or the
6 activities for which the compensation would be received include
7 fulfilling or implementing, in whole or in part, the provisions of
8 such a contract or contracts or include the supervision or control of
9 actions taken to fulfill or implement, in whole or in part, the
10 provisions of such a contract or contracts. This subsection shall not
11 be construed to prohibit a state officer or state employee from
12 accepting employment with a state employee organization.

13 (2) No person who has served as a state officer or state employee
14 may, within a period of two years following the termination of state
15 employment, have a direct or indirect beneficial interest in a
16 contract or grant that was expressly authorized or funded by specific
17 legislative or executive action in which the former state officer or
18 state employee participated.

19 (3) No former state officer or state employee may accept an offer
20 of employment or receive compensation from an employer if the officer
21 or employee knows or has reason to believe that the offer of
22 employment or compensation was intended, in whole or in part,
23 directly or indirectly, to influence the officer or employee or as
24 compensation or reward for the performance or nonperformance of a
25 duty by the officer or employee during the course of state
26 employment.

27 (4) No former state officer or state employee may accept an offer
28 of employment or receive compensation from an employer if the
29 circumstances would lead a reasonable person to believe the offer has
30 been made, or compensation given, for the purpose of influencing the
31 performance or nonperformance of duties by the officer or employee
32 during the course of state employment.

33 (5) No former state officer or state employee may at any time
34 subsequent to his or her state employment assist another person,
35 whether or not for compensation, in any transaction involving the
36 state in which the former state officer or state employee at any time
37 participated during state employment. This subsection shall not be
38 construed to prohibit any employee or officer of a state employee
39 organization from rendering assistance to state officers or state
40 employees in the course of employee organization business.

1 (6)(a) Statewide elected officials and state legislators shall
2 file a postemployment disclosure statement under section 3 of this
3 act.

4 (b) Statewide elected officials and state legislators, within one
5 year after leaving office, may not receive compensation for:

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

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

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

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

13 (c) This subsection (6) does not apply to persons receiving
14 compensation for the following activities:

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

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

20 (iii) Representing a person in a judicial or quasi-judicial
21 proceeding including administrative hearings;

22 (iv) Being called or requested to testify in any judicial or
23 quasi-judicial proceeding, or in public sessions of the committees of
24 the legislature;

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

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

31 (vii) Activities approved by a waiver under the relevant ethics
32 boards.

33 (7) The ethics boards shall adopt rules at each of their agencies
34 describing a process for a person to seek a waiver from the
35 postemployment requirements in subsection (6)(b) of this section.
36 Rules must be adopted by July 1, 2022. No waiver may be granted from
37 the requirement to file a postemployment disclosure statement in
38 subsection (6)(a) of this section. The ethics boards are authorized
39 to delegate waiver approval to the chair or the chair's designee,

1 including the executive director. Before granting a waiver, the board
2 must find that:

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

5 (b) A need for the former officer's compensated service outweighs
6 any potential or perceived conflict with the state's interest; or

7 (c) Extraordinary, emergency, or unique circumstances otherwise
8 warrant granting a waiver.

9 (8) As used in this section, "employer" means a person as defined
10 in RCW 42.52.010 or any other entity or business that the person owns
11 or in which the person has a controlling interest. For purposes of
12 subsection (1) of this section, the term "employer" does not include
13 a successor organization to the rural development council under
14 chapter 43.31 RCW.

15 NEW SECTION. Sec. 3. A new section is added to chapter 42.52
16 RCW to read as follows:

17 (1) The postemployment disclosure statement required under RCW
18 42.52.080(6) must include the following information:

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

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

22 (c) An acknowledgment that the person has reviewed RCW 42.52.080
23 and 42.52.090, and for former executive branch employees, RCW
24 42.52.100.

25 (2) If, following state service, the person leaving state service
26 receives compensation from an employer or other entity that does
27 business with the state or takes action to influence any state
28 policy, rule, legislative matter, or action, the postemployment
29 disclosure statement required under RCW 42.52.080(6) must also
30 include the following information:

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

33 (b) The name of the supervisor at the new employer, if any, or
34 other identifying information of the principal of the employing or
35 contracting entity;

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

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

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

4 (4) (a) The statement is required during the 12-month period after
5 the date the person leaves state service and takes a new employment
6 position or receives compensation during that same period. The
7 information in the statement is public information.

8 (b) The person shall submit the statement to the respective
9 ethics board no later than 14 days after the person leaves state
10 service to take a compensated employment position or takes the
11 compensated employment position, whichever occurs earlier.

12 (c) If during the 12-month period a person changes employers or
13 sources of employment compensation to another employer that does
14 business with the state or takes action to influence any state
15 policy, rule, legislative matter, or action, he or she shall submit a
16 new statement within 45 days.

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

21 (5) The ethics boards shall collaborate as necessary to design a
22 uniform postemployment statement that permits online filing and on a
23 process to send copies of filed statements to the executive ethics
24 board. The ethics boards may adopt the statement and filing process
25 by rule.

26 (6) The legislative ethics board and the commission on judicial
27 conduct shall provide a copy of filed postemployment statements to
28 the executive ethics board. Postemployment statements must be made
29 available online in a searchable database on the executive ethics
30 board website. The other ethics boards and the public disclosure
31 commission shall link to the database on their respective websites.
32 "Searchable database" means copies of statements are posted on the
33 executive ethics board's website and can be searched by the names of
34 the employee or state officer, former employer, and if required to be
35 disclosed under subsection (2) of this section, the new employer.

36 (7) The ethics boards may adopt rules to implement this section
37 with any initial rules adopted by July 1, 2022.

1 NEW SECTION. **Sec. 4.** The ethics boards may begin the
2 rule-making process under sections 2 and 3 of this act on the
3 effective date of this section.

4 NEW SECTION. **Sec. 5.** This act applies to statewide elected
5 officials and state legislators who were employed in state positions
6 on or after the effective date of this section.

7 NEW SECTION. **Sec. 6.** Sections 2, 3, and 5 of this act take
8 effect July 1, 2022.

9 NEW SECTION. **Sec. 7.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected."

SSB 5170 - S AMD 444

By Senator Wilson, J.

NOT CONSIDERED 04/26/2021

13 On page 1, line 1 of the title, after "Relating to" strike the
14 remainder of the title and insert "enhancing oversight and
15 transparency of lobbying activity; amending RCW 42.17A.635 and
16 42.52.080; adding a new section to chapter 42.52 RCW; creating new
17 sections; and providing an effective date."

EFFECT: (1) Directs each public agency employee who lobbies on behalf of the agency, with limited exceptions, to register with the PDC as a lobbyist and file reports.

(2) Directs each public agency whose employees are registered with the PDC as lobbyists to file as a lobbyist employer.

(3) Prohibits covered state employees and officials from receiving compensation within one year of leaving state service, unless a waiver is granted, for lobbying on behalf of a public agency.

(4) Removes legislative intent language.

(5) Changes the bill title.

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