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SENATE BILL 6118

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State of Washington

55th Legislature

1998 Regular Session

By Senators Long and Spanel

Read first time 01/12/98. Referred to Committee on Government Operations.

1 AN ACT Relating to gifts under ethics in public service laws; and  
2 amending RCW 42.52.010 and 42.52.150.

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

4 **Sec. 1.** RCW 42.52.010 and 1996 c 213 s 1 are each amended to read  
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout this chapter.

8 (1) "Agency" means any state board, commission, bureau, committee,  
9 department, institution, division, or tribunal in the legislative,  
10 executive, or judicial branch of state government. "Agency" includes  
11 all elective offices, the state legislature, those institutions of  
12 higher education created and supported by the state government, and  
13 those courts that are parts of state government.

14 (2) "Head of agency" means the chief executive officer of an  
15 agency. In the case of an agency headed by a commission, board,  
16 committee, or other body consisting of more than one natural person,  
17 agency head means the person or board authorized to appoint agency  
18 employees and regulate their conduct.

1 (3) "Assist" means to act, or offer or agree to act, in such a way  
2 as to help, aid, advise, furnish information to, or otherwise provide  
3 assistance to another person, believing that the action is of help,  
4 aid, advice, or assistance to the person and with intent so to assist  
5 such person.

6 (4) "Beneficial interest" has the meaning ascribed to it under the  
7 Washington case law. However, an ownership interest in a mutual fund  
8 or similar investment pooling fund in which the owner has no management  
9 powers does not constitute a beneficial interest in the entities in  
10 which the fund or pool invests.

11 (5) "Compensation" means anything of economic value, however  
12 designated, that is paid, loaned, granted, or transferred, or to be  
13 paid, loaned, granted, or transferred for, or in consideration of,  
14 personal services to any person.

15 (6) "Confidential information" means (a) specific information,  
16 rather than generalized knowledge, that is not available to the general  
17 public on request or (b) information made confidential by law.

18 (7) "Contract" or "grant" means an agreement between two or more  
19 persons that creates an obligation to do or not to do a particular  
20 thing. "Contract" or "grant" includes, but is not limited to, an  
21 employment contract, a lease, a license, a purchase agreement, or a  
22 sales agreement.

23 (8) "Ethics boards" means the commission on judicial conduct, the  
24 legislative ethics board, and the executive ethics board.

25 (9) "Family" has the same meaning as "immediate family" in RCW  
26 42.17.020.

27 (10) "Gift" means anything of economic value for which no  
28 consideration is given. "Gift" does not include:

29 (a) Items from family members or friends where it is clear beyond  
30 a reasonable doubt that the gift was not made as part of any design to  
31 gain or maintain influence in the agency of which the recipient is an  
32 officer or employee;

33 (b) Items related to the outside business of the recipient that are  
34 customary and not related to the recipient's performance of official  
35 duties;

36 (c) Items exchanged among officials and employees or a social event  
37 hosted or sponsored by a state officer or state employee for coworkers;

38 (d) Payments by a governmental or nongovernmental entity of  
39 reasonable expenses incurred in connection with a speech, presentation,

1 appearance, or trade mission made in an official capacity. As used in  
2 this subsection, "reasonable expenses" are limited to travel, lodging,  
3 and subsistence expenses incurred the day before through the day after  
4 the event;

5 (e) Items a state officer or state employee is authorized by law to  
6 accept;

7 (f) Payment of enrollment and course fees and reasonable travel  
8 expenses attributable to attending seminars and educational programs  
9 sponsored by a bona fide governmental or nonprofit professional,  
10 educational, ((or)) trade ((association)), or charitable association or  
11 institution. As used in this subsection, "reasonable expenses" are  
12 limited to travel, lodging, and subsistence expenses incurred the day  
13 before through the day after the event;

14 (g) Items returned by the recipient to the donor within thirty days  
15 of receipt or donated to a charitable organization within thirty days  
16 of receipt;

17 (h) Campaign contributions reported under chapter 42.17 RCW;

18 (i) Discounts available to an individual as a member of an employee  
19 group, occupation, or similar broad-based group; and

20 (j) Awards, prizes, scholarships, or other items provided in  
21 recognition of academic or scientific achievement.

22 (11) "Honorarium" means money or thing of value offered to a state  
23 officer or state employee for a speech, appearance, article, or similar  
24 item or activity in connection with the state officer's or state  
25 employee's official role.

26 (12) "Official duty" means those duties within the specific scope  
27 of employment of the state officer or state employee as defined by the  
28 officer's or employee's agency or by statute or the state Constitution.

29 (13) "Participate" means to participate in state action or a  
30 proceeding personally and substantially as a state officer or state  
31 employee, through approval, disapproval, decision, recommendation, the  
32 rendering of advice, investigation, or otherwise but does not include  
33 preparation, consideration, or enactment of legislation or the  
34 performance of legislative duties.

35 (14) "Person" means any individual, partnership, association,  
36 corporation, firm, institution, or other entity, whether or not  
37 operated for profit.

38 (15) "Regulatory agency" means any state board, commission,  
39 department, or officer, except those in the legislative or judicial

1 branches, authorized by law to conduct adjudicative proceedings, issue  
2 permits or licenses, or to control or affect interests of identified  
3 persons.

4 (16) "Responsibility" in connection with a transaction involving  
5 the state, means the direct administrative or operating authority,  
6 whether intermediate or final, and either exercisable alone or through  
7 subordinates, effectively to approve, disapprove, or otherwise direct  
8 state action in respect of such transaction.

9 (17) "State action" means any action on the part of an agency,  
10 including, but not limited to:

11 (a) A decision, determination, finding, ruling, or order; and

12 (b) A grant, payment, award, license, contract, transaction,  
13 sanction, or approval, or the denial thereof, or failure to act with  
14 respect to a decision, determination, finding, ruling, or order.

15 (18) "State officer" means every person holding a position of  
16 public trust in or under an executive, legislative, or judicial office  
17 of the state. "State officer" includes judges of the superior court,  
18 judges of the court of appeals, justices of the supreme court, members  
19 of the legislature together with the secretary of the senate and the  
20 chief clerk of the house of representatives, holders of elective  
21 offices in the executive branch of state government, chief executive  
22 officers of state agencies, members of boards, commissions, or  
23 committees with authority over one or more state agencies or  
24 institutions, and employees of the state who are engaged in  
25 supervisory, policy-making, or policy-enforcing work. For the purposes  
26 of this chapter, "state officer" also includes any person exercising or  
27 undertaking to exercise the powers or functions of a state officer.

28 (19) "State employee" means an individual who is employed by an  
29 agency in any branch of state government. For purposes of this  
30 chapter, employees of the superior courts are not state officers or  
31 state employees.

32 (20) "Thing of economic value," in addition to its ordinary  
33 meaning, includes:

34 (a) A loan, property interest, interest in a contract or other  
35 chose in action, and employment or another arrangement involving a  
36 right to compensation;

37 (b) An option, irrespective of the conditions to the exercise of  
38 the option; and

1 (c) A promise or undertaking for the present or future delivery or  
2 procurement.

3 (21)(a) "Transaction involving the state" means a proceeding,  
4 application, submission, request for a ruling or other determination,  
5 contract, claim, case, or other similar matter that the state officer,  
6 state employee, or former state officer or state employee in question  
7 believes, or has reason to believe:

8 (i) Is, or will be, the subject of state action; or

9 (ii) Is one to which the state is or will be a party; or

10 (iii) Is one in which the state has a direct and substantial  
11 proprietary interest.

12 (b) "Transaction involving the state" does not include the  
13 following: Preparation, consideration, or enactment of legislation,  
14 including appropriation of moneys in a budget, or the performance of  
15 legislative duties by an officer or employee; or a claim, case,  
16 lawsuit, or similar matter if the officer or employee did not  
17 participate in the underlying transaction involving the state that is  
18 the basis for the claim, case, or lawsuit.

19 **Sec. 2.** RCW 42.52.150 and 1994 c 154 s 115 are each amended to  
20 read as follows:

21 (1) No state officer or state employee may accept gifts, other than  
22 those specified in subsections (2) and (5) of this section, with an  
23 aggregate value in excess of fifty dollars from a single source in a  
24 calendar year or a single gift from multiple sources with a value in  
25 excess of fifty dollars. For purposes of this section, "single source"  
26 means any person, as defined in RCW 42.52.010, whether acting directly  
27 or through any agent or other intermediary, and "single gift" includes  
28 any event, item, or group of items used in conjunction with each other  
29 or any trip including transportation, lodging, and attendant costs, not  
30 excluded from the definition of gift under RCW 42.52.010. The value of  
31 gifts given to an officer's or employee's family member or guest shall  
32 be attributed to the official or employee for the purpose of  
33 determining whether the limit has been exceeded, unless an independent  
34 business, family, or social relationship exists between the donor and  
35 the family member or guest.

36 (2) Except as provided in subsection (4) of this section, the  
37 following items are presumed not to influence under RCW 42.52.140, and

1 may be accepted without regard to the limit established by subsection  
2 (1) of this section:

3 (a) Unsolicited flowers, plants, and floral arrangements;

4 (b) Unsolicited advertising or promotional items of nominal value,  
5 such as pens and note pads;

6 (c) Unsolicited tokens or awards of appreciation in the form of a  
7 plaque, trophy, desk item, wall memento, or similar item;

8 (d) Unsolicited items received by a state officer or state employee  
9 for the purpose of evaluation or review, if the officer or employee has  
10 no personal beneficial interest in the eventual use or acquisition of  
11 the item by the officer's or employee's agency;

12 (e) Informational material, publications, or subscriptions related  
13 to the recipient's performance of official duties;

14 (f) Food and beverages consumed at hosted receptions where  
15 attendance is related to the state officer's or state employee's  
16 official duties;

17 (g) Admission to, and the cost of food and beverages consumed at,  
18 events sponsored by or in conjunction with a civic, charitable,  
19 governmental, or community organization; and

20 (h) Unsolicited gifts from dignitaries from another state or a  
21 foreign country that are intended to be personal in nature.

22 (3) The presumption in subsection (2) of this section is rebuttable  
23 and may be overcome based on the circumstances surrounding the giving  
24 and acceptance of the item.

25 (4) Notwithstanding subsections (2) and (5) of this section, a  
26 state officer or state employee of a regulatory agency or of an agency  
27 that seeks to acquire goods or services who participates in those  
28 regulatory or contractual matters may receive, accept, take, or seek,  
29 directly or indirectly, only the following items from a person  
30 regulated by the agency or from a person who seeks to provide goods or  
31 services to the agency:

32 (a) Unsolicited advertising or promotional items of nominal value,  
33 such as pens and note pads;

34 (b) Unsolicited tokens or awards of appreciation in the form of a  
35 plaque, trophy, desk item, wall memento, or similar item;

36 (c) Unsolicited items received by a state officer or state employee  
37 for the purpose of evaluation or review, if the officer or employee has  
38 no personal beneficial interest in the eventual use or acquisition of  
39 the item by the officer's or employee's agency;

1 (d) Informational material, publications, or subscriptions related  
2 to the recipient's performance of official duties;

3 (e) Food and beverages consumed at hosted receptions where  
4 attendance is related to the state officer's or state employee's  
5 official duties;

6 (f) Admission to, and the cost of food and beverages consumed at,  
7 events sponsored by or in conjunction with a civic, charitable,  
8 governmental, or community organization; and

9 (g) Those items excluded from the definition of gift in RCW  
10 42.52.010 except:

11 (i) Payments by a governmental or nongovernmental entity of  
12 reasonable expenses incurred in connection with a speech, presentation,  
13 appearance, or trade mission made in an official capacity;

14 (ii) Payments for seminars and educational programs sponsored by a  
15 bona fide governmental or nonprofit professional, educational, ~~((or))~~  
16 trade ~~((association))~~, or charitable association or institution; and

17 (iii) Flowers, plants, and floral arrangements.

18 (5) A state officer or state employee may accept gifts in the form  
19 of food and beverage on infrequent occasions in the ordinary course of  
20 meals where attendance by the officer or employee is related to the  
21 performance of official duties. Gifts in the form of food and beverage  
22 that exceed fifty dollars on a single occasion shall be reported as  
23 provided in chapter 42.17 RCW.

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