
SENATE BILL 5226

State of Washington 60th Legislature 2007 Regular Session

By Senators Oemig, Fairley, Rockefeller, Kohl-Welles and Kline; by request of Governor Gregoire

Read first time 01/15/2007. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to funding of judicial election campaign expenses;
2 amending RCW 42.52.180, 42.17.020, 42.17.128, 42.17.130, and 42.17.640;
3 adding new sections to chapter 42.17 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** INTENT. This act, the judicial independence
6 act, introduces a voluntary pilot campaign funding system for appellate
7 judicial positions that is intended to reduce the impact of special
8 interests in judicial campaigns.

9 NEW SECTION. **Sec. 2.** This act may be known and cited as the
10 judicial independence act.

11 NEW SECTION. **Sec. 3.** EXPLORATORY FUNDS. (1) A potential
12 candidate for the supreme court or the court of appeals who is
13 interested in participating in the judicial independence act program
14 and receiving public financing for his or her election campaign may
15 raise exploratory funds during the exploratory period beginning one
16 hundred twenty days before the date when filing for the office is first

1 permitted and ending at the close of the regular filing period for the
2 office.

3 (2) Exploratory fund contributions may not exceed one hundred
4 dollars per donor.

5 (3) The total amount of exploratory funds is limited to twenty
6 thousand dollars for candidates for the supreme court and ten thousand
7 dollars for candidates for the court of appeals.

8 (4) A candidate interested in participating in the judicial
9 independence act program and receiving public financing for his or her
10 election campaign may only accept exploratory funds from individuals.
11 A candidate may not accept any funds from political action committees,
12 unions, corporations, or other organizations during the period that
13 exploratory funds are being raised.

14 (5) A candidate may contribute up to five thousand dollars in
15 exploratory funds from his or her personal funds, and immediate family
16 members may contribute up to an aggregate total of five thousand
17 dollars in exploratory funds without violating this section.

18 (6) The commission shall adopt rules concerning reporting and
19 auditing of contributions under this section.

20 NEW SECTION. **Sec. 4.** QUALIFYING CONTRIBUTIONS. (1) In order to
21 qualify for participation in the judicial independence act program
22 candidates must raise qualifying contributions in the following
23 amounts:

24 (a) For candidates for the supreme court: At least ten thousand
25 dollars and not more than fifty thousand dollars;

26 (b) For candidates for the court of appeals: At least two thousand
27 dollars and not more than ten thousand dollars.

28 (2) A qualifying contribution must:

29 (a) Be in an amount of at least ten dollars and not more than one
30 hundred dollars;

31 (b) Be from an individual registered to vote in the state of
32 Washington. No qualifying contributions may be from political action
33 committees, unions, corporations, or other organizations;

34 (c) Be in the form of a check;

35 (d) Be identified as a qualifying contribution by the contributor.
36 Such identification shall include the name and address of the
37 contributor.

1 (3) For candidates for the supreme court, qualifying contributions
2 must come from at least five hundred contributors, and for candidates
3 for the court of appeals, qualifying contributions must come from at
4 least one hundred contributors.

5 (4) The commission shall determine whether or not sufficient
6 qualifying contributions have been received to qualify for
7 participation in the judicial independence act program.

8 (5) The commission shall adopt rules concerning reporting and
9 auditing of contributions under this section.

10 NEW SECTION. **Sec. 5.** CLEAN CAMPAIGN PLEDGE. (1) The clean
11 campaign pledge shall be developed by the Washington state commission
12 on judicial conduct.

13 (2) The clean campaign pledge must include at least the following
14 elements:

15 (a) In all campaign communications, a participating candidate must
16 identify that he or she is running a clean campaign under the judicial
17 independence act;

18 (b) A participating candidate must pledge to not use funds received
19 under sections 3 through 9 of this act for disparaging or disrespectful
20 communications. Candidates may respond to claims by opposing
21 candidates;

22 (c) A participating candidate must pledge to publicly request that
23 no independent expenditures be made favoring the participating
24 candidate or opposing competing candidates;

25 (d) A participating candidate must pledge to participate in at
26 least one public judicial forum; and

27 (e) If a participating candidate withdraws or is removed from the
28 program, the candidate must pledge to identify in all campaign
29 communications that he or she has withdrawn from the judicial
30 independence act clean campaign program.

31 NEW SECTION. **Sec. 6.** PARTICIPATION IN THE JUDICIAL INDEPENDENCE
32 ACT. (1) The commission shall determine whether or not a candidate is
33 qualified to participate in the judicial independence act program and
34 receive public financing for his or her election campaign.

35 (2) In order for a candidate to qualify to participate in the

1 judicial independence act program and receive public financing for his
2 or her election campaign, the commission must determine that the
3 candidate:

4 (a) Received only exploratory funds under section 3 of this act
5 during the exploratory period;

6 (b) Received sufficient qualifying contributions under section 4 of
7 this act, and did not receive any other funds;

8 (c) Has signed the clean campaign pledge described in section 5 of
9 this act.

10 (3) Once a candidate has qualified to participate in the judicial
11 independence act program, that candidate may not raise or receive any
12 additional funds.

13 NEW SECTION. **Sec. 7. PUBLIC FINANCING.** (1)(a) Participating
14 supreme court candidates in a contested primary shall receive a primary
15 disbursement of sixty times the candidate filing fee.

16 (b) Participating court of appeals candidates do not receive a
17 primary disbursement.

18 (2)(a) Participating supreme court candidates in a contested
19 general election shall receive a general election disbursement of sixty
20 times the candidate filing fee.

21 (b) Participating court of appeals candidates in a contested
22 general election shall receive a general election disbursement of eight
23 times the candidate filing fee.

24 (3)(a) Participating candidates in contested elections may be
25 eligible for matching funds.

26 (b) In a contested primary, if a candidate who is not participating
27 in the program expends in excess of a participating candidate's maximum
28 allowable expenditures, the participating candidate is eligible for
29 matching funds in the amount of that excess expenditure.

30 (c) In a contested general election, if a candidate who is not
31 participating in the program expends in excess of a participating
32 candidate's maximum allowable expenditures, the participating candidate
33 is eligible for matching funds in the amount of that excess
34 expenditure.

35 (4) The total available for matching funds for the primary and
36 general election is as follows:

1 (a) Supreme court: Four hundred eighty times the candidate filing
2 fee; and

3 (b) Court of appeals: Forty times the candidate filing fee.

4 (5) Participating candidates may determine when to access available
5 matching fees, either for the primary or the general election. If a
6 participating candidate is eligible for matching funds in a contested
7 primary, chooses not to use them, and then moves forward to an
8 uncontested general election, that candidate can no longer access those
9 matching funds.

10 (6) Independent expenditures that favor a nonparticipating
11 candidate or oppose a participating candidate may be counted as
12 expenditures by the nonparticipating candidate for the purpose of
13 determining whether a candidate is eligible for matching funds. The
14 commission shall review independent expenditures at the request of the
15 participating candidate to determine if matching funds should be
16 released.

17 NEW SECTION. **Sec. 8.** PUBLIC DISCLOSURE COMMISSION. (1) The
18 public disclosure commission shall administer the program under
19 sections 3 through 7 of this act. Participating candidates shall
20 report all contributions and expenditures according to rules set by the
21 commission.

22 (2) The commission shall administer an administrative appeals
23 process for all candidates who disagree with determinations on
24 qualifying contributions, matching funds disbursements, or civil
25 penalties levied.

26 (3) The commission shall disburse funds to candidates within three
27 days after certifying as a participating candidate, for primary
28 disbursements, and within three days after a primary election for those
29 participating candidates that move forward to a contested general
30 election. The commission shall disburse matching funds no later than
31 five calendar days after a candidate requests disbursement.

32 NEW SECTION. **Sec. 9.** JUDICIAL INDEPENDENCE ACT ACCOUNT. The
33 judicial independence act account is created in the state treasury.
34 All receipts from appropriations for public financing of judicial
35 election campaigns shall be deposited into the account. Moneys in the

1 account may be spent only after appropriation. Expenditures from the
2 account may be used only for public financing of judicial election
3 campaigns pursuant to sections 3 through 8 of this act.

4 **Sec. 10.** RCW 42.52.180 and 1995 c 397 s 30 are each amended to
5 read as follows:

6 (1) No state officer or state employee may use or authorize the use
7 of facilities of an agency, directly or indirectly, for the purpose of
8 assisting a campaign for election of a person to an office or for the
9 promotion of or opposition to a ballot proposition. Knowing
10 acquiescence by a person with authority to direct, control, or
11 influence the actions of the state officer or state employee using
12 public resources in violation of this section constitutes a violation
13 of this section. Facilities of an agency include, but are not limited
14 to, use of stationery, postage, machines, and equipment, use of state
15 employees of the agency during working hours, vehicles, office space,
16 publications of the agency, and clientele lists of persons served by
17 the agency.

18 (2) This section shall not apply to the following activities:

19 (a) Action taken at an open public meeting by members of an elected
20 legislative body to express a collective decision, or to actually vote
21 upon a motion, proposal, resolution, order, or ordinance, or to support
22 or oppose a ballot proposition as long as (i) required notice of the
23 meeting includes the title and number of the ballot proposition, and
24 (ii) members of the legislative body or members of the public are
25 afforded an approximately equal opportunity for the expression of an
26 opposing view;

27 (b) A statement by an elected official in support of or in
28 opposition to any ballot proposition at an open press conference or in
29 response to a specific inquiry. For the purposes of this subsection,
30 it is not a violation of this section for an elected official to
31 respond to an inquiry regarding a ballot proposition, to make
32 incidental remarks concerning a ballot proposition in an official
33 communication, or otherwise comment on a ballot proposition without an
34 actual, measurable expenditure of public funds. The ethics boards
35 shall adopt by rule a definition of measurable expenditure;

36 (c) Activities that are part of the normal and regular conduct of
37 the office or agency; (~~and~~)

1 (d) De minimis use of public facilities by statewide elected
2 officials and legislators incidental to the preparation or delivery of
3 permissible communications, including written and verbal communications
4 initiated by them of their views on ballot propositions that
5 foreseeably may affect a matter that falls within their constitutional
6 or statutory responsibilities; and

7 (e) Activities that are undertaken by a public agency in
8 implementation of sections 3 through 9 of this act.

9 (3) As to state officers and employees, this section operates to
10 the exclusion of RCW 42.17.130.

11 **Sec. 11.** RCW 42.17.020 and 2005 c 445 s 6 are each amended to read
12 as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

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

17 (2) "Agency" includes all state agencies and all local agencies.
18 "State agency" includes every state office, department, division,
19 bureau, board, commission, or other state agency. "Local agency"
20 includes every county, city, town, municipal corporation, quasi-
21 municipal corporation, or special purpose district, or any office,
22 department, division, bureau, board, commission, or agency thereof, or
23 other local public agency.

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

28 (4) "Ballot proposition" means any "measure" as defined by RCW
29 29A.04.091, or any initiative, recall, or referendum proposition
30 proposed to be submitted to the voters of the state or any municipal
31 corporation, political subdivision, or other voting constituency from
32 and after the time when the proposition has been initially filed with
33 the appropriate election officer of that constituency prior to its
34 circulation for signatures.

35 (5) "Benefit" means a commercial, proprietary, financial, economic,
36 or monetary advantage, or the avoidance of a commercial, proprietary,
37 financial, economic, or monetary disadvantage.

1 (6) "Bona fide political party" means:
2 (a) An organization that has filed a valid certificate of
3 nomination with the secretary of state under chapter 29A.20 RCW;
4 (b) The governing body of the state organization of a major
5 political party, as defined in RCW 29A.04.086, that is the body
6 authorized by the charter or bylaws of the party to exercise authority
7 on behalf of the state party; or
8 (c) The county central committee or legislative district committee
9 of a major political party. There may be only one legislative district
10 committee for each party in each legislative district.
11 (7) "Depository" means a bank designated by a candidate or
12 political committee pursuant to RCW 42.17.050.
13 (8) "Treasurer" and "deputy treasurer" mean the individuals
14 appointed by a candidate or political committee, pursuant to RCW
15 42.17.050, to perform the duties specified in that section.
16 (9) "Candidate" means any individual who seeks nomination for
17 election or election to public office. An individual seeks nomination
18 or election when he or she first:
19 (a) Receives contributions or makes expenditures or reserves space
20 or facilities with intent to promote his or her candidacy for 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 of
25 the individual any of the actions in (a) or (c) of this subsection.
26 (10) "Caucus political committee" means a political committee
27 organized and maintained by the members of a major political party in
28 the state senate or state house of representatives.
29 (11) "Commercial advertiser" means any person who sells the service
30 of communicating messages or producing printed material for broadcast
31 or distribution to the general public or segments of the general public
32 whether through the use of newspapers, magazines, television and radio
33 stations, billboard companies, direct mail advertising companies,
34 printing companies, or otherwise.
35 (12) "Commission" means the agency established under RCW 42.17.350.
36 (13) "Compensation" unless the context requires a narrower meaning,
37 includes payment in any form for real or personal property or services
38 of any kind: PROVIDED, That for the purpose of compliance with RCW

1 42.17.241, the term "compensation" shall not include per diem
2 allowances or other payments made by a governmental entity to reimburse
3 a public official for expenses incurred while the official is engaged
4 in the official business of the governmental entity.

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

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

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

13 (ii) An expenditure made by a person in cooperation, consultation,
14 or concert with, or at the request or suggestion of, a candidate, a
15 political committee, or their agents;

16 (iii) The financing by a person of the dissemination, distribution,
17 or republication, in whole or in part, of broadcast, written, graphic,
18 or other form of political advertising or electioneering communication
19 prepared by a candidate, a political committee, or its authorized
20 agent;

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

24 (b) "Contribution" does not include:

25 (i) Standard interest on money deposited in a political committee's
26 account;

27 (ii) Ordinary home hospitality;

28 (iii) A contribution received by a candidate or political committee
29 that is returned to the contributor within five business days of the
30 date on which it is received by the candidate or political committee;

31 (iv) A news item, feature, commentary, or editorial in a regularly
32 scheduled news medium that is of primary interest to the general
33 public, that is in a news medium controlled by a person whose business
34 is that news medium, and that is not controlled by a candidate or a
35 political committee;

36 (v) An internal political communication primarily limited to the
37 members of or contributors to a political party organization or

1 political committee, or to the officers, management staff, or
2 stockholders of a corporation or similar enterprise, or to the members
3 of a labor organization or other membership organization;

4 (vi) The rendering of personal services of the sort commonly
5 performed by volunteer campaign workers, or incidental expenses
6 personally incurred by volunteer campaign workers not in excess of
7 fifty dollars personally paid for by the worker. "Volunteer services,"
8 for the purposes of this section, means services or labor for which the
9 individual is not compensated by any person;

10 (vii) Messages in the form of reader boards, banners, or yard or
11 window signs displayed on a person's own property or property occupied
12 by a person. However, a facility used for such political advertising
13 for which a rental charge is normally made must be reported as an in-
14 kind contribution and counts towards any applicable contribution limit
15 of the person providing the facility;

16 (viii) Legal or accounting services rendered to or on behalf of:

17 (A) A political party or caucus political committee if the person
18 paying for the services is the regular employer of the person rendering
19 such services; or

20 (B) A candidate or an authorized committee if the person paying for
21 the services is the regular employer of the individual rendering the
22 services and if the services are solely for the purpose of ensuring
23 compliance with state election or public disclosure laws.

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

31 (16) "Elected official" means any person elected at a general or
32 special election to any public office, and any person appointed to fill
33 a vacancy in any such office.

34 (17) "Election" includes any primary, general, or special election
35 for public office and any election in which a ballot proposition is
36 submitted to the voters: PROVIDED, That an election in which the
37 qualifications for voting include other than those requirements set

1 forth in Article VI, section 1 (Amendment 63) of the Constitution of
2 the state of Washington shall not be considered an election for
3 purposes of this chapter.

4 (18) "Election campaign" means any campaign in support of or in
5 opposition to a candidate for election to public office and any
6 campaign in support of, or in opposition to, a ballot proposition.

7 (19) "Election cycle" means the period beginning on the first day
8 of December after the date of the last previous general election for
9 the office that the candidate seeks and ending on November 30th after
10 the next election for the office. In the case of a special election to
11 fill a vacancy in an office, "election cycle" means the period
12 beginning on the day the vacancy occurs and ending on November 30th
13 after the special election.

14 (20) "Electioneering communication" means any broadcast, cable, or
15 satellite television or radio transmission, United States postal
16 service mailing, billboard, newspaper, or periodical that:

17 (a) Clearly identifies a candidate for a state, local, or judicial
18 office either by specifically naming the candidate, or identifying the
19 candidate without using the candidate's name;

20 (b) Is broadcast, transmitted, mailed, erected, distributed, or
21 otherwise published within sixty days before any election for that
22 office in the jurisdiction in which the candidate is seeking election;
23 and

24 (c) Either alone, or in combination with one or more communications
25 identifying the candidate by the same sponsor during the sixty days
26 before an election, has a fair market value of five thousand dollars or
27 more.

28 (21) "Electioneering communication" does not include:

29 (a) Usual and customary advertising of a business owned by a
30 candidate, even if the candidate is mentioned in the advertising when
31 the candidate has been regularly mentioned in that advertising
32 appearing at least twelve months preceding his or her becoming a
33 candidate;

34 (b) Advertising for candidate debates or forums when the
35 advertising is paid for by or on behalf of the debate or forum sponsor,
36 so long as two or more candidates for the same position have been
37 invited to participate in the debate or forum;

1 (c) A news item, feature, commentary, or editorial in a regularly
2 scheduled news medium that is:

3 (i) Of primary interest to the general public;

4 (ii) In a news medium controlled by a person whose business is that
5 news medium; and

6 (iii) Not a medium controlled by a candidate or a political
7 committee;

8 (d) Slate cards and sample ballots;

9 (e) Advertising for books, films, dissertations, or similar works
10 (i) written by a candidate when the candidate entered into a contract
11 for such publications or media at least twelve months before becoming
12 a candidate, or (ii) written about a candidate;

13 (f) Public service announcements;

14 (g) A mailed internal political communication primarily limited to
15 the members of or contributors to a political party organization or
16 political committee, or to the officers, management staff, or
17 stockholders of a corporation or similar enterprise, or to the members
18 of a labor organization or other membership organization;

19 (h) An expenditure by or contribution to the authorized committee
20 of a candidate for state, local, or judicial office; or

21 (i) Any other communication exempted by the commission through rule
22 consistent with the intent of this chapter.

23 (22) "Expenditure" includes a payment, contribution, subscription,
24 distribution, loan, advance, deposit, or gift of money or anything of
25 value, and includes a contract, promise, or agreement, whether or not
26 legally enforceable, to make an expenditure. The term "expenditure"
27 also includes a promise to pay, a payment, or a transfer of anything of
28 value in exchange for goods, services, property, facilities, or
29 anything of value for the purpose of assisting, benefiting, or honoring
30 any public official or candidate, or assisting in furthering or
31 opposing any election campaign. For the purposes of this chapter,
32 agreements to make expenditures, contracts, and promises to pay may be
33 reported as estimated obligations until actual payment is made. The
34 term "expenditure" shall not include the partial or complete repayment
35 by a candidate or political committee of the principal of a loan, the
36 receipt of which loan has been properly reported.

37 (23) "Final report" means the report described as a final report in
38 RCW 42.17.080(2).

1 (24) "General election" for the purposes of RCW 42.17.640 means the
2 election that results in the election of a person to a state office.
3 It does not include a primary.

4 (25) "Gift," is as defined in RCW 42.52.010.

5 (26) "Immediate family" includes the spouse, dependent children,
6 and other dependent relatives, if living in the household. For the
7 purposes of RCW 42.17.640 through 42.17.790 and sections 3 through 9 of
8 this act, "immediate family" means an individual's spouse, and child,
9 stepchild, grandchild, parent, stepparent, grandparent, brother, half
10 brother, sister, or half sister of the individual and the spouse of any
11 such person and a child, stepchild, grandchild, parent, stepparent,
12 grandparent, brother, half brother, sister, or half sister of the
13 individual's spouse and the spouse of any such person.

14 (27) "Incumbent" means a person who is in present possession of an
15 elected office.

16 (28) "Independent expenditure" means an expenditure that has each
17 of the following elements:

18 (a) It is made in support of or in opposition to a candidate for
19 office by a person who is not (i) a candidate for that office, (ii) an
20 authorized committee of that candidate for that office, (iii) a person
21 who has received the candidate's encouragement or approval to make the
22 expenditure, if the expenditure pays in whole or in part for political
23 advertising supporting that candidate or promoting the defeat of any
24 other candidate or candidates for that office, or (iv) a person with
25 whom the candidate has collaborated for the purpose of making the
26 expenditure, if the expenditure pays in whole or in part for political
27 advertising supporting that candidate or promoting the defeat of any
28 other candidate or candidates for that office;

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

33 (c) The expenditure, alone or in conjunction with another
34 expenditure or other expenditures of the same person in support of or
35 opposition to that candidate, has a value of five hundred dollars or
36 more. A series of expenditures, each of which is under five hundred
37 dollars, constitutes one independent expenditure if their cumulative
38 value is five hundred dollars or more.

1 (29)(a) "Intermediary" means an individual who transmits a
2 contribution to a candidate or committee from another person unless the
3 contribution is from the individual's employer, immediate family as
4 defined for purposes of RCW 42.17.640 through 42.17.790 and sections 3
5 through 9 of this act, or an association to which the individual
6 belongs.

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

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

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

14 (30) "Legislation" means bills, resolutions, motions, amendments,
15 nominations, and other matters pending or proposed in either house of
16 the state legislature, and includes any other matter that may be the
17 subject of action by either house or any committee of the legislature
18 and all bills and resolutions that, having passed both houses, are
19 pending approval by the governor.

20 (31) "Lobby" and "lobbying" each mean attempting to influence the
21 passage or defeat of any legislation by the legislature of the state of
22 Washington, or the adoption or rejection of any rule, standard, rate,
23 or other legislative enactment of any state agency under the state
24 Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor
25 "lobbying" includes an association's or other organization's act of
26 communicating with the members of that association or organization.

27 (32) "Lobbyist" includes any person who lobbies either in his or
28 her own or another's behalf.

29 (33) "Lobbyist's employer" means the person or persons by whom a
30 lobbyist is employed and all persons by whom he or she is compensated
31 for acting as a lobbyist.

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

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

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

37 (c) Endorses a candidate prior to contributions being made by a

1 subsidiary corporation or local unit with respect to that candidate or
2 that candidate's opponent;

3 (d) Makes a recommendation regarding whether a candidate should be
4 supported or opposed prior to a contribution being made by a subsidiary
5 corporation or local unit with respect to that candidate or that
6 candidate's opponent; or

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

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

20 (36) "Person in interest" means the person who is the subject of a
21 record or any representative designated by that person, except that if
22 that person is under a legal disability, the term "person in interest"
23 means and includes the parent or duly appointed legal representative.

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

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

34 (39) "Primary" for the purposes of RCW 42.17.640 means the
35 procedure for nominating a candidate to state office under chapter
36 29A.52 RCW or any other primary for an election that uses, in large
37 measure, the procedures established in chapter 29A.52 RCW.

1 (40) "Public office" means any federal, state, judicial, county,
2 city, town, school district, port district, special district, or other
3 state political subdivision elective office.

4 (41) "Public record" includes any writing containing information
5 relating to the conduct of government or the performance of any
6 governmental or proprietary function prepared, owned, used, or retained
7 by any state or local agency regardless of physical form or
8 characteristics. For the office of the secretary of the senate and the
9 office of the chief clerk of the house of representatives, public
10 records means legislative records as defined in RCW 40.14.100 and also
11 means the following: All budget and financial records; personnel
12 leave, travel, and payroll records; records of legislative sessions;
13 reports submitted to the legislature; and any other record designated
14 a public record by any official action of the senate or the house of
15 representatives.

16 (42) "Recall campaign" means the period of time beginning on the
17 date of the filing of recall charges under RCW 29A.56.120 and ending
18 thirty days after the recall election.

19 (43) "Sponsor of an electioneering communications, independent
20 expenditures, or political advertising" means the person paying for the
21 electioneering communication, independent expenditure, or political
22 advertising. If a person acts as an agent for another or is reimbursed
23 by another for the payment, the original source of the payment is the
24 sponsor.

25 (44) "State legislative office" means the office of a member of the
26 state house of representatives or the office of a member of the state
27 senate.

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

32 (46) "State official" means a person who holds a state office.

33 (47) "Surplus funds" mean, in the case of a political committee or
34 candidate, the balance of contributions that remain in the possession
35 or control of that committee or candidate subsequent to the election
36 for which the contributions were received, and that are in excess of
37 the amount necessary to pay remaining debts incurred by the committee
38 or candidate prior to that election. In the case of a continuing

1 political committee, "surplus funds" mean those contributions remaining
2 in the possession or control of the committee that are in excess of the
3 amount necessary to pay all remaining debts when it makes its final
4 report under RCW 42.17.065.

5 (48) "Writing" means handwriting, typewriting, printing,
6 photostating, photographing, and every other means of recording any
7 form of communication or representation, including, but not limited to,
8 letters, words, pictures, sounds, or symbols, or combination thereof,
9 and all papers, maps, magnetic or paper tapes, photographic films and
10 prints, motion picture, film and video recordings, magnetic or punched
11 cards, discs, drums, diskettes, sound recordings, and other documents
12 including existing data compilations from which information may be
13 obtained or translated.

14 As used in this chapter, the singular shall take the plural and any
15 gender, the other, as the context requires.

16 **Sec. 12.** RCW 42.17.128 and 1993 c 2 s 24 are each amended to read
17 as follows:

18 Except as provided in sections 3 through 9 of this act, public
19 funds, whether derived through taxes, fees, penalties, or any other
20 sources, shall not be used to finance political campaigns for state or
21 local office.

22 **Sec. 13.** RCW 42.17.130 and 2006 c 215 s 2 are each amended to read
23 as follows:

24 Except as provided in sections 3 through 9 of this act, no elective
25 official nor any employee of his (~~(for her)~~) or her office nor any
26 person appointed to or employed by any public office or agency may use
27 or authorize the use of any of the facilities of a public office or
28 agency, directly or indirectly, for the purpose of assisting a campaign
29 for election of any person to any office or for the promotion of or
30 opposition to any ballot proposition. Facilities of a public office or
31 agency include, but are not limited to, use of stationery, postage,
32 machines, and equipment, use of employees of the office or agency
33 during working hours, vehicles, office space, publications of the
34 office or agency, and clientele lists of persons served by the office
35 or agency. However, this does not apply to the following activities:

1 (1) Action taken at an open public meeting by members of an elected
2 legislative body or by an elected board, council, or commission of a
3 special purpose district including, but not limited to, fire districts,
4 public hospital districts, library districts, park districts, port
5 districts, public utility districts, school districts, sewer districts,
6 and water districts, to express a collective decision, or to actually
7 vote upon a motion, proposal, resolution, order, or ordinance, or to
8 support or oppose a ballot proposition so long as (a) any required
9 notice of the meeting includes the title and number of the ballot
10 proposition, and (b) members of the legislative body, members of the
11 board, council, or commission of the special purpose district, or
12 members of the public are afforded an approximately equal opportunity
13 for the expression of an opposing view;

14 (2) A statement by an elected official in support of or in
15 opposition to any ballot proposition at an open press conference or in
16 response to a specific inquiry;

17 (3) Activities which are part of the normal and regular conduct of
18 the office or agency.

19 **Sec. 14.** RCW 42.17.640 and 2006 c 348 s 1 are each amended to read
20 as follows:

21 (1) The contribution limits in this section apply to:

22 (a) Candidates for state legislative office;

23 (b) Candidates for state office other than state legislative
24 office;

25 (c) Candidates for county office in a county that has over two
26 hundred thousand registered voters;

27 (d) Candidates for special purpose district office if that district
28 is authorized to provide freight and passenger transfer and terminal
29 facilities and that district has over two hundred thousand registered
30 voters;

31 (e) Persons holding an office in (a) through (d) of this subsection
32 against whom recall charges have been filed or to a political committee
33 having the expectation of making expenditures in support of the recall
34 of a person holding the office;

35 (f) Caucus political committees;

36 (g) Bona fide political parties.

1 (2) No person, other than a bona fide political party or a caucus
2 political committee, may make contributions to a candidate for a state
3 legislative office or county office that in the aggregate exceed seven
4 hundred dollars or to a candidate for a public office in a special
5 purpose district or a state office other than a state legislative
6 office that in the aggregate exceed one thousand four hundred dollars
7 for each election in which the candidate is on the ballot or appears as
8 a write-in candidate. Contributions to candidates subject to the
9 limits in this section made with respect to a primary may not be made
10 after the date of the primary. However, contributions to a candidate
11 or a candidate's authorized committee may be made with respect to a
12 primary until thirty days after the primary, subject to the following
13 limitations: (a) The candidate lost the primary; (b) the candidate's
14 authorized committee has insufficient funds to pay debts outstanding as
15 of the date of the primary; and (c) the contributions may only be
16 raised and spent to satisfy the outstanding debt. Contributions to
17 candidates subject to the limits in this section made with respect to
18 a general election may not be made after the final day of the
19 applicable election cycle.

20 (3) No person, other than a bona fide political party or a caucus
21 political committee, may make contributions to a state official, a
22 county official, or a public official in a special purpose district
23 against whom recall charges have been filed, or to a political
24 committee having the expectation of making expenditures in support of
25 the recall of the state official, county official, or public official
26 in a special purpose district during a recall campaign that in the
27 aggregate exceed seven hundred dollars if for a state legislative
28 office or county office or one thousand four hundred dollars if for a
29 special purpose district office or a state office other than a state
30 legislative office.

31 (4)(a) Notwithstanding subsection (2) of this section, no bona fide
32 political party or caucus political committee may make contributions to
33 a candidate during an election cycle that in the aggregate exceed (i)
34 seventy cents multiplied by the number of eligible registered voters in
35 the jurisdiction from which the candidate is elected if the contributor
36 is a caucus political committee or the governing body of a state
37 organization, or (ii) thirty-five cents multiplied by the number of

1 registered voters in the jurisdiction from which the candidate is
2 elected if the contributor is a county central committee or a
3 legislative district committee.

4 (b) No candidate may accept contributions from a county central
5 committee or a legislative district committee during an election cycle
6 that when combined with contributions from other county central
7 committees or legislative district committees would in the aggregate
8 exceed thirty-five cents times the number of registered voters in the
9 jurisdiction from which the candidate is elected.

10 (5)(a) Notwithstanding subsection (3) of this section, no bona fide
11 political party or caucus political committee may make contributions to
12 a state official, county official, or a public official in a special
13 purpose district against whom recall charges have been filed, or to a
14 political committee having the expectation of making expenditures in
15 support of the state official, county official, or a public official in
16 a special purpose district during a recall campaign that in the
17 aggregate exceed (i) seventy cents multiplied by the number of eligible
18 registered voters in the jurisdiction entitled to recall the state
19 official if the contributor is a caucus political committee or the
20 governing body of a state organization, or (ii) thirty-five cents
21 multiplied by the number of registered voters in the jurisdiction from
22 which the candidate is elected if the contributor is a county central
23 committee or a legislative district committee.

24 (b) No official holding an office specified in subsection (1) of
25 this section against whom recall charges have been filed, no authorized
26 committee of the official, and no political committee having the
27 expectation of making expenditures in support of the recall of the
28 official may accept contributions from a county central committee or a
29 legislative district committee during an election cycle that when
30 combined with contributions from other county central committees or
31 legislative district committees would in the aggregate exceed thirty-
32 five cents multiplied by the number of registered voters in the
33 jurisdiction from which the candidate is elected.

34 (6) For purposes of determining contribution limits under
35 subsections (4) and (5) of this section, the number of eligible
36 registered voters in a jurisdiction is the number at the time of the
37 most recent general election in the jurisdiction.

1 (7) Notwithstanding subsections (2) through (5) of this section, no
2 person other than an individual, bona fide political party, or caucus
3 political committee may make contributions reportable under this
4 chapter to a caucus political committee that in the aggregate exceed
5 seven hundred dollars in a calendar year or to a bona fide political
6 party that in the aggregate exceed three thousand five hundred dollars
7 in a calendar year. This subsection does not apply to loans made in
8 the ordinary course of business.

9 (8) For the purposes of RCW 42.17.640 through 42.17.790, a
10 contribution to the authorized political committee of a candidate or of
11 an official specified in subsection (1) of this section against whom
12 recall charges have been filed is considered to be a contribution to
13 the candidate or official.

14 (9) A contribution received within the twelve-month period after a
15 recall election concerning an office specified in subsection (1) of
16 this section is considered to be a contribution during that recall
17 campaign if the contribution is used to pay a debt or obligation
18 incurred to influence the outcome of that recall campaign.

19 (10) The contributions allowed by subsection (3) of this section
20 are in addition to those allowed by subsection (2) of this section, and
21 the contributions allowed by subsection (5) of this section are in
22 addition to those allowed by subsection (4) of this section.

23 (11) RCW 42.17.640 through 42.17.790 apply to a special election
24 conducted to fill a vacancy in an office specified in subsection (1) of
25 this section. However, the contributions made to a candidate or
26 received by a candidate for a primary or special election conducted to
27 fill such a vacancy shall not be counted toward any of the limitations
28 that apply to the candidate or to contributions made to the candidate
29 for any other primary or election.

30 (12) Notwithstanding the other subsections of this section, no
31 corporation or business entity not doing business in Washington state,
32 no labor union with fewer than ten members who reside in Washington
33 state, and no political committee that has not received contributions
34 of ten dollars or more from at least ten persons registered to vote in
35 Washington state during the preceding one hundred eighty days may make
36 contributions reportable under this chapter to a candidate, to a state
37 official against whom recall charges have been filed, or to a political

1 committee having the expectation of making expenditures in support of
2 the recall of the official. This subsection does not apply to loans
3 made in the ordinary course of business.

4 (13) Notwithstanding the other subsections of this section, no
5 county central committee or legislative district committee may make
6 contributions reportable under this chapter to a candidate specified in
7 subsection (1) of this section, or an official specified in subsection
8 (1) of this section against whom recall charges have been filed, or
9 political committee having the expectation of making expenditures in
10 support of the recall of an official specified in subsection (1) of
11 this section if the county central committee or legislative district
12 committee is outside of the jurisdiction entitled to elect the
13 candidate or recall the official.

14 (14) No person may accept contributions that exceed the
15 contribution limitations provided in this section.

16 (15) The following contributions are exempt from the contribution
17 limits of this section:

18 (a) An expenditure or contribution earmarked for voter
19 registration, for absentee ballot information, for precinct caucuses,
20 for get-out-the-vote campaigns, for precinct judges or inspectors, for
21 sample ballots, or for ballot counting, all without promotion of or
22 political advertising for individual candidates; ((or))

23 (b) An expenditure by a political committee for its own internal
24 organization or fund raising without direct association with individual
25 candidates; or

26 (c) A contribution made by an immediate family member in compliance
27 with sections 3 through 9 of this act.

28 NEW SECTION. Sec. 15. Sections 3 through 9 of this act are each
29 added to chapter 42.17 RCW.

30 NEW SECTION. Sec. 16. Captions used in this act are not part of
31 the law.

32 NEW SECTION. Sec. 17. If any provision of this act or its
33 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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