
ENGROSSED SENATE BILL 6128

State of Washington

60th Legislature

2007 Regular Session

By Senators Keiser and Kohl-Welles

Read first time 02/26/2007. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to persons authorized to make expenditures on
2 behalf of a candidate or committee; amending RCW 42.17.020, 42.17.040,
3 and 42.17.070; and providing an effective date.

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

5 **Sec. 1.** RCW 42.17.020 and 2005 c 445 s 6 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

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

18 (3) "Authorized committee" means the political committee authorized

1 by a candidate, or by the public official against whom recall charges
2 have been filed, to accept contributions or make expenditures on behalf
3 of the candidate or public official.

4 (4) "Ballot proposition" means any "measure" as defined by RCW
5 29A.04.091, or any initiative, recall, or referendum proposition
6 proposed to be submitted to the voters of the state or any municipal
7 corporation, political subdivision, or other voting constituency from
8 and after the time when the proposition has been initially filed with
9 the appropriate election officer of that constituency prior to its
10 circulation for signatures.

11 (5) "Benefit" means a commercial, proprietary, financial, economic,
12 or monetary advantage, or the avoidance of a commercial, proprietary,
13 financial, economic, or monetary disadvantage.

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

15 (a) An organization that has filed a valid certificate of
16 nomination with the secretary of state under chapter 29A.20 RCW;

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

21 (c) The county central committee or legislative district committee
22 of a major political party. There may be only one legislative district
23 committee for each party in each legislative district.

24 (7) "Depository" means a bank designated by a candidate or
25 political committee pursuant to RCW 42.17.050.

26 (8) "Treasurer" and "deputy treasurer" mean the individuals
27 appointed by a candidate or political committee, pursuant to RCW
28 42.17.050, to perform the duties specified in that section.

29 (9) "Candidate" means any individual who seeks nomination for
30 election or election to public office. An individual seeks nomination
31 or election when he or she first:

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

34 (b) Announces publicly or files for office;

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

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

1 (10) "Caucus political committee" means a political committee
2 organized and maintained by the members of a major political party in
3 the state senate or state house of representatives.

4 (11) "Commercial advertiser" means any person who sells the service
5 of communicating messages or producing printed material for broadcast
6 or distribution to the general public or segments of the general public
7 whether through the use of newspapers, magazines, television and radio
8 stations, billboard companies, direct mail advertising companies,
9 printing companies, or otherwise.

10 (12) "Commission" means the agency established under RCW 42.17.350.

11 (13) "Compensation" unless the context requires a narrower meaning,
12 includes payment in any form for real or personal property or services
13 of any kind: PROVIDED, That for the purpose of compliance with RCW
14 42.17.241, the term "compensation" shall not include per diem
15 allowances or other payments made by a governmental entity to reimburse
16 a public official for expenses incurred while the official is engaged
17 in the official business of the governmental entity.

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

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

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

26 (ii) An expenditure made by a person in cooperation, consultation,
27 or concert with, or at the request or suggestion of, a candidate, a
28 political committee, the person or persons named on the candidate's or
29 committee's registration form who direct expenditures on behalf of the
30 candidate or committee, or their agents;

31 (iii) The financing by a person of the dissemination, distribution,
32 or republication, in whole or in part, of broadcast, written, graphic,
33 or other form of political advertising or electioneering communication
34 prepared by a candidate, a political committee, or its authorized
35 agent;

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

1 (b) "Contribution" does not include:

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

4 (ii) Ordinary home hospitality;

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

8 (iv) A news item, feature, commentary, or editorial in a regularly
9 scheduled news medium that is of primary interest to the general
10 public, that is in a news medium controlled by a person whose business
11 is that news medium, and that is not controlled by a candidate or a
12 political committee;

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

18 (vi) The rendering of personal services of the sort commonly
19 performed by volunteer campaign workers, or incidental expenses
20 personally incurred by volunteer campaign workers not in excess of
21 fifty dollars personally paid for by the worker. "Volunteer services,"
22 for the purposes of this section, means services or labor for which the
23 individual is not compensated by any person;

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

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

31 (A) A political party or caucus political committee if the person
32 paying for the services is the regular employer of the person rendering
33 such services; or

34 (B) A candidate or an authorized committee if the person paying for
35 the services is the regular employer of the individual rendering the
36 services and if the services are solely for the purpose of ensuring
37 compliance with state election or public disclosure laws; or

1 (ix) The performance of ministerial functions by a person or
2 persons on behalf of one or more candidates or political committees.

3 (c) Contributions other than money or its equivalent are deemed to
4 have a monetary value equivalent to the fair market value of the
5 contribution. Services or property or rights furnished at less than
6 their fair market value for the purpose of assisting any candidate or
7 political committee are deemed a contribution. Such a contribution
8 must be reported as an in-kind contribution at its fair market value
9 and counts towards any applicable contribution limit of the provider.

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

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

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

23 (19) "Election cycle" means the period beginning on the first day
24 of December after the date of the last previous general election for
25 the office that the candidate seeks and ending on November 30th after
26 the next election for the office. In the case of a special election to
27 fill a vacancy in an office, "election cycle" means the period
28 beginning on the day the vacancy occurs and ending on November 30th
29 after the special election.

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

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

36 (b) Is broadcast, transmitted, mailed, erected, distributed, or
37 otherwise published within sixty days before any election for that

1 office in the jurisdiction in which the candidate is seeking election;
2 and

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

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

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

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

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

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

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

22 (iii) Not a medium controlled by a candidate or a political
23 committee;

24 (d) Slate cards and sample ballots;

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

29 (f) Public service announcements;

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

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

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

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

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

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

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

21 (26) "Immediate family" includes the spouse, dependent children,
22 and other dependent relatives, if living in the household. For the
23 purposes of RCW 42.17.640 through 42.17.790, "immediate family" means
24 an individual's spouse, and child, stepchild, grandchild, parent,
25 stepparent, grandparent, brother, half brother, sister, or half sister
26 of the individual and the spouse of any such person and a child,
27 stepchild, grandchild, parent, stepparent, grandparent, brother, half
28 brother, sister, or half sister of the individual's spouse and the
29 spouse of any such person.

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

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

34 (a) It is made in support of or in opposition to a candidate for
35 office by a person who is not (i) a candidate for that office, (ii) an
36 authorized committee of that candidate for that office, (iii) a person
37 who has received the candidate's encouragement or approval to make the
38 expenditure, if the expenditure pays in whole or in part for political

1 advertising supporting that candidate or promoting the defeat of any
2 other candidate or candidates for that office, or (iv) a person with
3 whom the candidate has collaborated for the purpose of making the
4 expenditure, if the expenditure pays in whole or in part for political
5 advertising supporting that candidate or promoting the defeat of any
6 other candidate or candidates for that office;

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

11 (c) The expenditure, alone or in conjunction with another
12 expenditure or other expenditures of the same person in support of or
13 opposition to that candidate, has a value of five hundred dollars or
14 more. A series of expenditures, each of which is under five hundred
15 dollars, constitutes one independent expenditure if their cumulative
16 value is five hundred dollars or more.

17 (29)(a) "Intermediary" means an individual who transmits a
18 contribution to a candidate or committee from another person unless the
19 contribution is from the individual's employer, immediate family as
20 defined for purposes of RCW 42.17.640 through 42.17.790, or an
21 association to which the individual belongs.

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

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

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

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

35 (31) "Lobby" and "lobbying" each mean attempting to influence the
36 passage or defeat of any legislation by the legislature of the state of
37 Washington, or the adoption or rejection of any rule, standard, rate,
38 or other legislative enactment of any state agency under the state

1 Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor
2 "lobbying" includes an association's or other organization's act of
3 communicating with the members of that association or organization.

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

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

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

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

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

14 (c) Endorses a candidate prior to contributions being made by a
15 subsidiary corporation or local unit with respect to that candidate or
16 that candidate's opponent;

17 (d) Makes a recommendation regarding whether a candidate should be
18 supported or opposed prior to a contribution being made by a subsidiary
19 corporation or local unit with respect to that candidate or that
20 candidate's opponent; or

21 (e) Directly or indirectly collaborates or consults with a
22 subsidiary corporation or local unit on matters relating to the support
23 of or opposition to a candidate, including, but not limited to, the
24 amount of a contribution, when a contribution should be given, and what
25 assistance, services or independent expenditures, or electioneering
26 communications, if any, will be made or should be made in support of or
27 opposition to a candidate.

28 (35) "Person" includes an individual, partnership, joint venture,
29 public or private corporation, association, federal, state, or local
30 governmental entity or agency however constituted, candidate,
31 committee, political committee, political party, executive committee
32 thereof, or any other organization or group of persons, however
33 organized.

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

1 (37) "Political advertising" includes any advertising displays,
2 newspaper ads, billboards, signs, brochures, articles, tabloids,
3 flyers, letters, radio or television presentations, or other means of
4 mass communication, used for the purpose of appealing, directly or
5 indirectly, for votes or for financial or other support or opposition
6 in any election campaign.

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

11 (39) "Primary" for the purposes of RCW 42.17.640 means the
12 procedure for nominating a candidate to state office under chapter
13 29A.52 RCW or any other primary for an election that uses, in large
14 measure, the procedures established in chapter 29A.52 RCW.

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

18 (41) "Public record" includes any writing containing information
19 relating to the conduct of government or the performance of any
20 governmental or proprietary function prepared, owned, used, or retained
21 by any state or local agency regardless of physical form or
22 characteristics. For the office of the secretary of the senate and the
23 office of the chief clerk of the house of representatives, public
24 records means legislative records as defined in RCW 40.14.100 and also
25 means the following: All budget and financial records; personnel
26 leave, travel, and payroll records; records of legislative sessions;
27 reports submitted to the legislature; and any other record designated
28 a public record by any official action of the senate or the house of
29 representatives.

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

33 (43) "Sponsor of an electioneering communications, independent
34 expenditures, or political advertising" means the person paying for the
35 electioneering communication, independent expenditure, or political
36 advertising. If a person acts as an agent for another or is reimbursed
37 by another for the payment, the original source of the payment is the
38 sponsor.

1 (44) "State legislative office" means the office of a member of the
2 state house of representatives or the office of a member of the state
3 senate.

4 (45) "State office" means state legislative office or the office of
5 governor, lieutenant governor, secretary of state, attorney general,
6 commissioner of public lands, insurance commissioner, superintendent of
7 public instruction, state auditor, or state treasurer.

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

9 (47) "Surplus funds" mean, in the case of a political committee or
10 candidate, the balance of contributions that remain in the possession
11 or control of that committee or candidate subsequent to the election
12 for which the contributions were received, and that are in excess of
13 the amount necessary to pay remaining debts incurred by the committee
14 or candidate prior to that election. In the case of a continuing
15 political committee, "surplus funds" mean those contributions remaining
16 in the possession or control of the committee that are in excess of the
17 amount necessary to pay all remaining debts when it makes its final
18 report under RCW 42.17.065.

19 (48) "Writing" means handwriting, typewriting, printing,
20 photostating, photographing, and every other means of recording any
21 form of communication or representation, including, but not limited to,
22 letters, words, pictures, sounds, or symbols, or combination thereof,
23 and all papers, maps, magnetic or paper tapes, photographic films and
24 prints, motion picture, film and video recordings, magnetic or punched
25 cards, discs, drums, diskettes, sound recordings, and other documents
26 including existing data compilations from which information may be
27 obtained or translated.

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

30 **Sec. 2.** RCW 42.17.040 and 1989 c 280 s 2 are each amended to read
31 as follows:

32 (1) Every political committee, within two weeks after its
33 organization or, within two weeks after the date when it first has the
34 expectation of receiving contributions or making expenditures in any
35 election campaign, whichever is earlier, shall file a statement of
36 organization with the commission and with the county auditor or
37 elections officer of the county in which the candidate resides, or in

1 the case of any other political committee, the county in which the
2 treasurer resides. A political committee organized within the last
3 three weeks before an election and having the expectation of receiving
4 contributions or making expenditures during and for that election
5 campaign shall file a statement of organization within three business
6 days after its organization or when it first has the expectation of
7 receiving contributions or making expenditures in the election
8 campaign.

9 (2) The statement of organization shall include but not be limited
10 to:

11 (a) The name and address of the committee;

12 (b) The names and addresses of all related or affiliated committees
13 or other persons, and the nature of the relationship or affiliation;

14 (c) The names, addresses, and titles of its officers; or if it has
15 no officers, the names, addresses, and titles of its responsible
16 leaders;

17 (d) The name and address of its treasurer and depository;

18 (e) A statement whether the committee is a continuing one;

19 (f) The name, office sought, and party affiliation of each
20 candidate whom the committee is supporting or opposing, and, if the
21 committee is supporting the entire ticket of any party, the name of the
22 party;

23 (g) The ballot proposition concerned, if any, and whether the
24 committee is in favor of or opposed to such proposition;

25 (h) What distribution of surplus funds will be made, in accordance
26 with RCW 42.17.095, in the event of dissolution;

27 (i) The street address of the place and the hours during which the
28 committee will make available for public inspection its books of
29 account and all reports filed in accordance with RCW 42.17.080; (~~and~~)

30 (j) Such other information as the commission may by regulation
31 prescribe, in keeping with the policies and purposes of this chapter;
32 and

33 (k) The name, address, and title of the person or persons who
34 direct expenditures on behalf of the candidate or committee.

35 (3) Any material change in information previously submitted in a
36 statement of organization shall be reported to the commission and to
37 the appropriate county elections officer within the ten days following
38 the change.

1 **Sec. 3.** RCW 42.17.070 and 1989 c 280 s 7 are each amended to read
2 as follows:

3 No expenditures may be made or incurred by any candidate or
4 political committee except on the authority of ~~((the treasurer or))~~ the
5 candidate or the person or persons named on the candidate's or
6 committee's registration form, and a record of all such expenditures
7 shall be maintained by the treasurer.

8 No expenditure of more than fifty dollars may be made in currency
9 unless a receipt, signed by the recipient and by the candidate or
10 treasurer, is prepared and made a part of the campaign's or political
11 committee's financial records.

12 NEW SECTION. **Sec. 4.** This act takes effect January 1, 2008.

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