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SENATE BILL 5736

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State of Washington

54th Legislature

1995 Regular Session

By Senators Bauer, Heavey, McCaslin, A. Anderson, Snyder, Hale, West, Quigley and Rasmussen

Read first time 02/03/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to public agency lobbyists; amending RCW 42.17.160  
2 and 42.17.190; and reenacting and amending RCW 43.88.030.

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

4 **Sec. 1.** RCW 42.17.160 and 1982 c 147 s 12 are each amended to read  
5 as follows:

6 The following persons and activities shall be exempt from  
7 registration and reporting under RCW 42.17.150, 42.17.170, and  
8 42.17.200:

9 (1) Persons who limit their lobbying activities to appearing before  
10 public sessions of committees of the legislature, or public hearings of  
11 state agencies;

12 (2) News or feature reporting activities and editorial comment by  
13 working members of the press, radio, or television and the publication  
14 or dissemination thereof by a newspaper, book publisher, regularly  
15 published periodical, radio station, or television station;

16 (3) Persons who lobby without compensation or other consideration  
17 for acting as a lobbyist: PROVIDED, Such person makes no expenditure  
18 for or on behalf of any member of the legislature or elected official  
19 or public officer or employee of the state of Washington in connection

1 with such lobbying. The exemption contained in this subsection is  
2 intended to permit and encourage citizens of this state to lobby any  
3 legislator, public official, or state agency without incurring any  
4 registration or reporting obligation provided they do not exceed the  
5 limits stated above. Any person exempt under this subsection (3) may  
6 at his or her option register and report under this chapter;

7 (4) Persons who restrict their lobbying activities to no more than  
8 four days or parts thereof during any three-month period and whose  
9 lobbying activities are not on behalf of an agency and whose total  
10 expenditures during such three-month period for or on behalf of any one  
11 or more members of the legislature or state elected officials or public  
12 officers or employees of the state of Washington in connection with  
13 such lobbying do not exceed twenty-five (~~{dollars}~~) dollars:  
14 PROVIDED, That the commission shall (~~promulgate regulations~~) adopt  
15 rules to require disclosure by persons exempt under this subsection or  
16 their employers or entities which sponsor or coordinate the lobbying  
17 activities of such persons if it determines that such (~~regulations~~)  
18 rules are necessary to prevent frustration of the purposes of this  
19 chapter. Any person exempt under this subsection (4) may at his or her  
20 option register and report under this chapter;

21 (5) The governor;

22 (6) The lieutenant governor;

23 (7) Except as provided by RCW 42.17.190(1), members of the  
24 legislature;

25 (8) Except as provided by RCW 42.17.190(1), persons employed by the  
26 legislature for the purpose of aiding in the preparation or enactment  
27 of legislation or the performance of legislative duties;

28 (9) Elected officials, and officers and employees of any agency  
29 reporting under RCW 42.17.190(4) (~~as now or hereafter amended~~).

30 **Sec. 2.** RCW 42.17.190 and 1986 c 239 s 1 are each amended to read  
31 as follows:

32 (1) Every legislator and every committee of the legislature shall  
33 file with the commission quarterly reports listing the names,  
34 addresses, and salaries of all persons employed by the person or  
35 committee making the filing for the purpose of aiding in the  
36 preparation or enactment of legislation or the performance of  
37 legislative duties of such legislator or committee during the preceding  
38 quarter. The reports shall be made in the form and the manner

1 prescribed by the commission and shall be filed between the first and  
2 tenth days of each calendar quarter: PROVIDED, That the information  
3 required by this subsection may be supplied, insofar as it is  
4 available, by the chief clerk of the house of representatives or by the  
5 secretary of the senate on a form prepared by the commission.

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

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

33 (4) No elective official or any employee of his or her office or  
34 any person appointed to or employed by any public office or agency may  
35 use or authorize the use of any of the facilities of a public office or  
36 agency, directly or indirectly, in any effort to support or oppose an  
37 initiative to the legislature. "Facilities of a public office or  
38 agency" has the same meaning as in RCW 42.17.130. The provisions of  
39 this subsection shall not apply to the following activities:

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

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

12 (c) Activities which are part of the normal and regular conduct of  
13 the office or agency.

14 (5) Each state agency, county, city, town, municipal corporation,  
15 quasi-municipal corporation, or special purpose district which expends  
16 public funds for lobbying shall file with the commission, except as  
17 exempted by (d) of this subsection, (~~quarterly~~) monthly statements  
18 providing the following information for the (~~quarter~~) month just  
19 completed:

20 (a) The name of the agency filing the statement;

21 (b) The name, title, and job description and salary of each elected  
22 official, officer, or employee who lobbied, a general description of  
23 the nature of the lobbying, and the proportionate amount of time spent  
24 on the lobbying;

25 (c) A listing of expenditures incurred by the agency for lobbying  
26 including but not limited to travel, consultant or other special  
27 contractual services, and brochures and other publications, the  
28 principal purpose of which is to influence legislation;

29 (d) For purposes of this subsection the term "lobbying" does not  
30 include:

31 (i) Requests for appropriations by a state agency to the office of  
32 financial management pursuant to chapter 43.88 RCW nor requests by the  
33 office of financial management to the legislature for appropriations  
34 other than its own agency budget requests;

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

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

4 (iv) Requests, recommendations, or other communication between or  
5 within state agencies or between or within local agencies;

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

7 (A) Telephone conversations or preparation of written  
8 correspondence;

9 (B) ~~((In person lobbying on behalf of an agency of no more than  
10 four days or parts thereof during any three month period by officers or  
11 employees of that agency and in person lobbying by any elected official  
12 of such agency on behalf of such agency or in connection with the  
13 powers, duties, or compensation of such official: PROVIDED, That the  
14 total expenditures of nonpublic funds made in connection with such  
15 lobbying for or on behalf of any one or more members of the legislature  
16 or state elected officials or public officers or employees of the state  
17 of Washington do not exceed fifteen dollars for any three month period:  
18 PROVIDED FURTHER, That the exemption under this subsection is in  
19 addition to the exemption provided in (A) of this subsection;~~

20 ~~(C))~~ Preparation or adoption of policy positions.

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

24 (6) In lieu of reporting under subsection (5) of this section any  
25 county, city, town, municipal corporation, quasi municipal corporation,  
26 or special purpose district may determine and so notify the public  
27 disclosure commission, that elected officials, officers, or employees  
28 who on behalf of any such local agency engage in lobbying reportable  
29 under subsection (5) of this section shall register and report such  
30 reportable lobbying in the same manner as a lobbyist who is required to  
31 register and report under RCW 42.17.150 and 42.17.170. Each such local  
32 agency shall report as a lobbyist employer pursuant to RCW 42.17.180.

33 (7) The provisions of this section do not relieve any elected  
34 official or officer or employee of an agency from complying with other  
35 provisions of this chapter, if such elected official, officer, or  
36 employee is not otherwise exempted.

37 (8) The purpose of this section is to require each state agency and  
38 certain local agencies to report the identities of those persons who  
39 lobby on behalf of the agency for compensation whether as agency

1 employees or contract lobbyists, together with certain separately  
2 identifiable and measurable expenditures of an agency's funds for that  
3 purpose. This section shall be reasonably construed to accomplish that  
4 purpose and not to require any agency to report any of its general  
5 overhead cost or any other costs which relate only indirectly or  
6 incidentally to lobbying or which are equally attributable to or  
7 inseparable from nonlobbying activities of the agency.

8 The public disclosure commission may adopt rules clarifying and  
9 implementing this legislative interpretation and policy.

10 **Sec. 3.** RCW 43.88.030 and 1994 c 247 s 7 and 1994 c 219 s 2 are  
11 each reenacted and amended to read as follows:

12 (1) The director of financial management shall provide all agencies  
13 with a complete set of instructions for submitting biennial budget  
14 requests to the director at least three months before agency budget  
15 documents are due into the office of financial management. The  
16 director shall provide agencies that are required under RCW 44.40.070  
17 to develop comprehensive six-year program and financial plans with a  
18 complete set of instructions for submitting these program and financial  
19 plans at the same time that instructions for submitting other budget  
20 requests are provided. The budget document or documents shall consist  
21 of the governor's budget message which shall be explanatory of the  
22 budget and shall contain an outline of the proposed financial policies  
23 of the state for the ensuing fiscal period, as well as an outline of  
24 the proposed six-year financial policies where applicable, and shall  
25 describe in connection therewith the important features of the budget.  
26 The message shall set forth the reasons for salient changes from the  
27 previous fiscal period in expenditure and revenue items and shall  
28 explain any major changes in financial policy. Attached to the budget  
29 message shall be such supporting schedules, exhibits and other  
30 explanatory material in respect to both current operations and capital  
31 improvements as the governor shall deem to be useful to the  
32 legislature. The budget document or documents shall set forth a  
33 proposal for expenditures in the ensuing fiscal period, or six-year  
34 period where applicable, based upon the estimated revenues as approved  
35 by the economic and revenue forecast council or upon the estimated  
36 revenues of the office of financial management for those funds,  
37 accounts, and sources for which the office of the economic and revenue  
38 forecast council does not prepare an official forecast, including those

1 revenues anticipated to support the six-year programs and financial  
2 plans under RCW 44.40.070. In estimating revenues to support financial  
3 plans under RCW 44.40.070, the office of financial management shall  
4 rely on information and advice from the interagency revenue task force.  
5 Revenues shall be estimated for such fiscal period from the source and  
6 at the rates existing by law at the time of submission of the budget  
7 document, including the supplemental budgets submitted in the even-  
8 numbered years of a biennium. However, the estimated revenues for use  
9 in the governor's budget document may be adjusted to reflect budgetary  
10 revenue transfers and revenue estimates dependent upon budgetary  
11 assumptions of enrollments, workloads, and caseloads. All adjustments  
12 to the approved estimated revenues must be set forth in the budget  
13 document. The governor may additionally submit, as an appendix to each  
14 supplemental, biennial, or six-year agency budget or to the budget  
15 document or documents, a proposal for expenditures in the ensuing  
16 fiscal period from revenue sources derived from proposed changes in  
17 existing statutes.

18 Supplemental and biennial documents shall reflect a six-year  
19 expenditure plan consistent with estimated revenues from existing  
20 sources and at existing rates for those agencies required to submit  
21 six-year program and financial plans under RCW 44.40.070. Any  
22 additional revenue resulting from proposed changes to existing statutes  
23 shall be separately identified within the document as well as related  
24 expenditures for the six-year period.

25 The budget document or documents shall also contain:

26 (a) Revenues classified by fund and source for the immediately past  
27 fiscal period, those received or anticipated for the current fiscal  
28 period, those anticipated for the ensuing biennium, and those  
29 anticipated for the ensuing six-year period to support the six-year  
30 programs and financial plans required under RCW 44.40.070;

31 (b) The undesignated fund balance or deficit, by fund;

32 (c) Such additional information dealing with expenditures,  
33 revenues, workload, performance, and personnel as the legislature may  
34 direct by law or concurrent resolution;

35 (d) Such additional information dealing with revenues and  
36 expenditures as the governor shall deem pertinent and useful to the  
37 legislature;

38 (e) Tabulations showing expenditures classified by fund, function,  
39 activity and object;

1 (f) A delineation of each agency's activities, including those  
2 activities funded from nonbudgeted, nonappropriated sources, including  
3 funds maintained outside the state treasury;

4 (g) Identification of all proposed direct expenditures to implement  
5 the Puget Sound water quality plan under chapter 90.70 RCW, shown by  
6 agency and in total; ((and))

7 (h) Tabulations showing each postretirement adjustment by  
8 retirement system established after fiscal year 1991, to include, but  
9 not be limited to, estimated total payments made to the end of the  
10 previous biennial period, estimated payments for the present biennium,  
11 and estimated payments for the ensuing biennium; and

12 (i) Identification of all FTE's and expenditures for lobbying  
13 purposes.

14 (2) The budget document or documents shall include detailed  
15 estimates of all anticipated revenues applicable to proposed operating  
16 or capital expenditures and shall also include all proposed operating  
17 or capital expenditures. The total of beginning undesignated fund  
18 balance and estimated revenues less working capital and other reserves  
19 shall equal or exceed the total of proposed applicable expenditures.  
20 The budget document or documents shall further include:

21 (a) Interest, amortization and redemption charges on the state  
22 debt;

23 (b) Payments of all reliefs, judgments and claims;

24 (c) Other statutory expenditures;

25 (d) Expenditures incident to the operation for each agency;

26 (e) Revenues derived from agency operations;

27 (f) Expenditures and revenues shall be given in comparative form  
28 showing those incurred or received for the immediately past fiscal  
29 period and those anticipated for the current biennium and next ensuing  
30 biennium, as well as those required to support the six-year programs  
31 and financial plans required under RCW 44.40.070;

32 (g) A showing and explanation of amounts of general fund and other  
33 funds obligations for debt service and any transfers of moneys that  
34 otherwise would have been available for appropriation;

35 (h) Common school expenditures on a fiscal-year basis;

36 (i) A showing, by agency, of the value and purpose of financing  
37 contracts for the lease/purchase or acquisition of personal or real  
38 property for the current and ensuing fiscal periods; and



1 (j) A showing and explanation of anticipated amounts of general  
2 fund and other funds required to amortize the unfunded actuarial  
3 accrued liability of the retirement system specified under chapter  
4 41.45 RCW, and the contributions to meet such amortization, stated in  
5 total dollars and as a level percentage of total compensation.

6 (3) A separate capital budget document or schedule shall be  
7 submitted that will contain the following:

8 (a) A statement setting forth a long-range facilities plan for the  
9 state that identifies and includes the highest priority needs within  
10 affordable spending levels;

11 (b) A capital program consisting of proposed capital projects for  
12 the next biennium and the two biennia succeeding the next biennium  
13 consistent with the long-range facilities plan. Inasmuch as is  
14 practical, and recognizing emergent needs, the capital program shall  
15 reflect the priorities, projects, and spending levels proposed in  
16 previously submitted capital budget documents in order to provide a  
17 reliable long-range planning tool for the legislature and state  
18 agencies;

19 (c) A capital plan consisting of proposed capital spending for at  
20 least four biennia succeeding the next biennium;

21 (d) A statement of the reason or purpose for a project;

22 (e) Verification that a project is consistent with the provisions  
23 set forth in chapter 36.70A RCW;

24 (f) A statement about the proposed site, size, and estimated life  
25 of the project, if applicable;

26 (g) Estimated total project cost;

27 (h) For major projects valued over five million dollars, estimated  
28 costs for the following project components: Acquisition, consultant  
29 services, construction, equipment, project management, and other costs  
30 included as part of the project. Project component costs shall be  
31 displayed in a standard format defined by the office of financial  
32 management to allow comparisons between projects;

33 (i) Estimated total project cost for each phase of the project as  
34 defined by the office of financial management;

35 (j) Estimated ensuing biennium costs;

36 (k) Estimated costs beyond the ensuing biennium;

37 (l) Estimated construction start and completion dates;

38 (m) Source and type of funds proposed;

1 (n) Estimated ongoing operating budget costs or savings resulting  
2 from the project, including staffing and maintenance costs;

3 (o) For any capital appropriation requested for a state agency for  
4 the acquisition of land or the capital improvement of land in which the  
5 primary purpose of the acquisition or improvement is recreation or  
6 wildlife habitat conservation, the capital budget document, or an  
7 omnibus list of recreation and habitat acquisitions provided with the  
8 governor's budget document, shall identify the projected costs of  
9 operation and maintenance for at least the two biennia succeeding the  
10 next biennium. Omnibus lists of habitat and recreation land  
11 acquisitions shall include individual project cost estimates for  
12 operation and maintenance as well as a total for all state projects  
13 included in the list. The document shall identify the source of funds  
14 from which the operation and maintenance costs are proposed to be  
15 funded;

16 (p) Such other information bearing upon capital projects as the  
17 governor deems to be useful;

18 (q) Standard terms, including a standard and uniform definition of  
19 maintenance for all capital projects;

20 (r) Such other information as the legislature may direct by law or  
21 concurrent resolution.

22 For purposes of this subsection (3), the term "capital project"  
23 shall be defined subsequent to the analysis, findings, and  
24 recommendations of a joint committee comprised of representatives from  
25 the house capital appropriations committee, senate ways and means  
26 committee, legislative transportation committee, legislative evaluation  
27 and accountability program committee, and office of financial  
28 management.

29 (4) No change affecting the comparability of agency or program  
30 information relating to expenditures, revenues, workload, performance  
31 and personnel shall be made in the format of any budget document or  
32 report presented to the legislature under this section or RCW  
33 43.88.160(1) relative to the format of the budget document or report  
34 which was presented to the previous regular session of the legislature  
35 during an odd-numbered year without prior legislative concurrence.  
36 Prior legislative concurrence shall consist of (a) a favorable majority  
37 vote on the proposal by the standing committees on ways and means of  
38 both houses if the legislature is in session or (b) a favorable  
39 majority vote on the proposal by members of the legislative evaluation

1 and accountability program committee if the legislature is not in  
2 session.

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