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HOUSE BILL 1820

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Van Luven, H. Sommers, Lantz, Morris and Edwards; by request of University of Washington

Read first time 02/06/2001. Referred to Committee on State Government.

1 AN ACT Relating to clarifying ethics requirements for officers and  
2 employees of institutions of higher education with regard to sponsored  
3 research and technology transfer agreements; amending RCW 42.52.030 and  
4 42.52.120; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** Certain transactions by institutions of  
7 higher education that are conducted in compliance with federal  
8 regulations governing research are currently exempt from certain laws  
9 governing ethics in public service. The legislature intends to clarify  
10 that the exemption in RCW 42.52.030(2) also applies to technology  
11 transfer licensing agreements and that provisions of RCW 42.52.120(2)  
12 relating to open and competitive bidding do not apply to transactions  
13 exempt under RCW 42.52.030(2). The purpose of this act is to eliminate  
14 uncertainties arising from the current ethics provisions with regard to  
15 technology transfer licensing agreements, and in so doing, to ensure  
16 that Washington institutions of higher education remain competitive  
17 with other states' institutions of higher education in the areas of  
18 technology transfer and economic development.

1       **Sec. 2.** RCW 42.52.030 and 1996 c 213 s 3 are each amended to read  
2 as follows:

3       (1) No state officer or state employee, except as provided in  
4 subsections (2) and (3) of this section, may be beneficially  
5 interested, directly or indirectly, in a contract, sale, lease,  
6 purchase, or grant that may be made by, through, or is under the  
7 supervision of the officer or employee, in whole or in part, or accept,  
8 directly or indirectly, any compensation, gratuity, or reward from any  
9 other person beneficially interested in the contract, sale, lease,  
10 purchase, or grant.

11       (2) No officer or employee of an institution of higher education or  
12 of the Spokane intercollegiate research and technology institute,  
13 except as provided in subsection (3) of this section, may be  
14 beneficially interested, directly or indirectly, in a contract or grant  
15 that may be made by, through, or is under the supervision of the  
16 officer or employee, in whole or in part, or accept, directly or  
17 indirectly, any compensation, gratuity, or reward from any other person  
18 beneficially interested in the contract or grant, including sponsored  
19 research and technology transfer agreements, unless the institution of  
20 higher education or the Spokane intercollegiate research and technology  
21 institute has in effect a written administrative process to identify  
22 and manage, reduce, or eliminate conflicting interests with respect to  
23 such transactions (~~((as adopted pursuant))~~) that conforms to the national  
24 science investigator financial disclosure (GPM 510) 1995 and the public  
25 health service regulations, 42 C.F.R. Part 50 and 45 C.F.R. Subtitle A  
26 as each of those regulations existed on June 6, 1996, and the state  
27 employee or state officer has complied with such (~~((policy))~~)  
28 administrative process.

29       (3) No state officer or state employee may participate in a  
30 transaction involving the state in his or her official capacity with a  
31 person of which the officer or employee is an officer, agent, employee,  
32 or member, or in which the officer or employee owns a beneficial  
33 interest, except that an officer or employee of an institution of  
34 higher education or the Spokane intercollegiate research and technology  
35 institute may serve as an officer, agent, employee, or member, or on  
36 the board of directors, board of trustees, advisory board, or committee  
37 or review panel for any nonprofit institute, foundation, or fundraising  
38 entity; and may serve as a member of an advisory board, committee, or  
39 review panel for a governmental or other nonprofit entity.

1       **Sec. 3.** RCW 42.52.120 and 1997 c 318 s 1 are each amended to read  
2 as follows:

3       (1) No state officer or state employee may receive any thing of  
4 economic value under any contract or grant outside of his or her  
5 official duties. The prohibition in this subsection does not apply  
6 where (~~the state officer or state employee has complied with RCW~~  
7 ~~42.52.030(2) or~~) each of the following conditions are met:

8       (a) The contract or grant is bona fide and actually performed;

9       (b) The performance or administration of the contract or grant is  
10 not within the course of the officer's or employee's official duties,  
11 or is not under the officer's or employee's official supervision;

12       (c) The performance of the contract or grant is not prohibited by  
13 RCW 42.52.040 or by applicable laws or rules governing outside  
14 employment for the officer or employee;

15       (d) The contract or grant is neither performed for nor compensated  
16 by any person from whom such officer or employee would be prohibited by  
17 RCW 42.52.150(4) from receiving a gift;

18       (e) The contract or grant is not one expressly created or  
19 authorized by the officer or employee in his or her official capacity;

20       (f) The contract or grant would not require unauthorized disclosure  
21 of confidential information.

22       (2) In addition to satisfying the requirements of subsection (1) of  
23 this section, a state officer or state employee may have a beneficial  
24 interest in a grant or contract or a series of substantially identical  
25 contracts or grants with a state agency only if:

26       (a) The contract or grant is awarded or issued as a result of an  
27 open and competitive bidding process in which more than one bid or  
28 grant application was received; or

29       (b) The contract or grant is awarded or issued as a result of an  
30 open and competitive bidding or selection process in which the  
31 officer's or employee's bid or proposal was the only bid or proposal  
32 received and the officer or employee has been advised by the  
33 appropriate ethics board, before execution of the contract or grant,  
34 that the contract or grant would not be in conflict with the proper  
35 discharge of the officer's or employee's official duties; or

36       (c) The process for awarding the contract or issuing the grant is  
37 not open and competitive, but the officer or employee has been advised  
38 by the appropriate ethics board that the contract or grant would not be

1 in conflict with the proper discharge of the officer's or employee's  
2 official duties.

3 (3) A state officer or state employee awarded a contract or issued  
4 a grant in compliance with subsection (2) of this section shall file  
5 the contract or grant with the appropriate ethics board within thirty  
6 days after the date of execution; however, if proprietary formulae,  
7 designs, drawings, or research are included in the contract or grant,  
8 the proprietary formulae, designs, drawings, or research may be deleted  
9 from the contract or grant filed with the appropriate ethics board.

10 (4) This section does not prevent a state officer or state employee  
11 from receiving compensation contributed from the treasury of the United  
12 States, another state, county, or municipality if the compensation is  
13 received pursuant to arrangements entered into between such state,  
14 county, municipality, or the United States and the officer's or  
15 employee's agency. This section does not prohibit a state officer or  
16 state employee from serving or performing any duties under an  
17 employment contract with a governmental entity and does not apply to a  
18 state officer or state employee who has complied with RCW 42.52.030(2).

19 (5) As used in this section, "officer" and "employee" do not  
20 include officers and employees who, in accordance with the terms of  
21 their employment or appointment, are serving without compensation from  
22 the state of Washington or are receiving from the state only  
23 reimbursement of expenses incurred or a predetermined allowance for  
24 such expenses.

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