
SENATE BILL 5170

State of Washington

67th Legislature

2021 Regular Session

By Senators Carlyle, Hunt, Kuderer, Lias, Saldaña, and Wilson, C.

Read first time 01/12/21. Referred to Committee on State Government & Elections.

1 AN ACT Relating to employment after public service in state
2 government; amending RCW 42.52.080 and 42.52.900; adding a new
3 section to chapter 42.52 RCW; creating new sections; and providing an
4 effective date.

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

6 **Sec. 1.** RCW 42.52.080 and 1999 c 299 s 3 are each amended to
7 read as follows:

8 (1) No former state officer or state employee may, within a
9 period of one year from the date of termination of state employment,
10 accept employment or receive compensation from an employer if:

11 (a) The officer or employee, during the two years immediately
12 preceding termination of state employment, was engaged in the
13 negotiation or administration on behalf of the state or agency of one
14 or more contracts with that employer and was in a position to make
15 discretionary decisions affecting the outcome of such negotiation or
16 the nature of such administration;

17 (b) Such a contract or contracts have a total value of more than
18 ten thousand dollars; and

19 (c) The duties of the employment with the employer or the
20 activities for which the compensation would be received include
21 fulfilling or implementing, in whole or in part, the provisions of

1 such a contract or contracts or include the supervision or control of
2 actions taken to fulfill or implement, in whole or in part, the
3 provisions of such a contract or contracts. This subsection shall not
4 be construed to prohibit a state officer or state employee from
5 accepting employment with a state employee organization.

6 (2) No person who has served as a state officer or state employee
7 may, within a period of two years following the termination of state
8 employment, have a direct or indirect beneficial interest in a
9 contract or grant that was expressly authorized or funded by specific
10 legislative or executive action in which the former state officer or
11 state employee participated.

12 (3) No former state officer or state employee may accept an offer
13 of employment or receive compensation from an employer if the officer
14 or employee knows or has reason to believe that the offer of
15 employment or compensation was intended, in whole or in part,
16 directly or indirectly, to influence the officer or employee or as
17 compensation or reward for the performance or nonperformance of a
18 duty by the officer or employee during the course of state
19 employment.

20 (4) No former state officer or state employee may accept an offer
21 of employment or receive compensation from an employer if the
22 circumstances would lead a reasonable person to believe the offer has
23 been made, or compensation given, for the purpose of influencing the
24 performance or nonperformance of duties by the officer or employee
25 during the course of state employment.

26 (5) No former state officer or state employee may at any time
27 subsequent to his or her state employment assist another person,
28 whether or not for compensation, in any transaction involving the
29 state in which the former state officer or state employee at any time
30 participated during state employment. This subsection shall not be
31 construed to prohibit any employee or officer of a state employee
32 organization from rendering assistance to state officers or state
33 employees in the course of employee organization business.

34 (6) (a) The following categories of former state officers and
35 state employees apply to this subsection (6):

36 (i) Category A:

37 (A) Statewide elected officials;

38 (B) State legislators;

39 (C) Heads of agencies included in the governor's executive
40 cabinet;

1 (D) Chiefs of staff or equivalent top administrators who report
2 directly to statewide elected officials and heads of agencies
3 included in the governor's executive cabinet;

4 (E) Chiefs of staff and top administrators of the legislature,
5 which includes the chief clerk of the house of representatives, the
6 secretary of the senate, the legal counsel for each legislative
7 chamber, and the caucus chiefs of staff and caucus leadership counsel
8 in each legislative chamber; and

9 (F) Senior executive staff of legislative agencies and agencies
10 managed by statewide elected officials or heads of agencies included
11 in the governor's executive cabinet; and

12 (ii) Category B:

13 (A) Heads of agencies not otherwise listed in category A;

14 (B) Chiefs of staff or equivalent top administrators who report
15 directly to heads of agencies not otherwise listed in category A; and

16 (C) Senior executive staff managed by heads of agencies not
17 otherwise listed in category A.

18 (b) For the purpose of this subsection (6), "senior executive
19 staff" means those state employees or state officers whose primary
20 responsibilities require the exercise of significant discretion and
21 judgment on final agency policy, rule, legislative matter, or state
22 action. By January 15th of each year, every agency shall submit to
23 the relevant ethics board the names and staff positions meeting the
24 criteria of senior executive staff, and must periodically update that
25 list throughout the year as necessary to reflect changes in staff.

26 (c) Persons in categories A and B shall file a postemployment
27 disclosure statement under section 3 of this act.

28 (d) Persons in category A, within one year after leaving state
29 office or employment, may not receive compensation for:

30 (i) Serving as a lobbyist as defined in RCW 42.17A.005 for
31 others;

32 (ii) Practicing or appearing before any state agency; or

33 (iii) Attempting, on behalf of another, to influence a state
34 action by any state agency.

35 (e) Persons in category B, within one year after leaving state
36 office or employment, may not receive compensation for:

37 (i) Serving as a lobbyist for others as defined in RCW 42.17A.005
38 on any matter that was or is under the authority of his or her most
39 recent former state employer;

1 (ii) Practicing or appearing before his or her most recent former
2 state employer; or

3 (iii) Attempting, on behalf of another, to influence a state
4 action by his or her most recent former state employer.

5 (f) This subsection (6) does not apply to persons receiving
6 compensation for the following activities:

7 (i) Performing official duties as a current state officer or
8 state employee;

9 (ii) Leaving a state agency to take another state agency, local
10 agency, or federal government position;

11 (iii) Representing a person in a judicial or quasi-judicial
12 proceeding including administrative hearings;

13 (iv) Being called or requested to testify in any judicial or
14 quasi-judicial proceeding, or in public sessions of the committees of
15 the legislature;

16 (v) Participating in rule making at the request of an agency
17 under RCW 34.05.310;

18 (vi) Assisting a natural person or corporation in obtaining or
19 completing application forms or other forms required by a state
20 agency for the conduct of business, or similar ministerial activities
21 defined in rule by the ethics boards; or

22 (vii) Activities approved by a waiver under the relevant ethics
23 boards.

24 (7) The ethics boards shall adopt rules at each of their agencies
25 describing a process for a person to seek a waiver from the
26 postemployment requirements in subsection (6)(d) and (e) of this
27 section. Rules must be adopted by July 1, 2022. No waiver may be
28 granted from the requirement to file a postemployment disclosure
29 statement in subsection (6)(c) of this section. The ethics boards are
30 authorized to delegate waiver approval to the chair or the chair's
31 designee, including the executive director. Before granting a waiver,
32 the board must find that:

33 (a) The postemployment activity presents no conflict with the
34 state's interest;

35 (b) A need for the former state officer or employee's compensated
36 service outweighs any potential or perceived conflict with the
37 state's interest; or

38 (c) Extraordinary, emergency, or unique circumstances otherwise
39 warrant granting a waiver.

1 (8) As used in this section, "employer" means a person as defined
2 in RCW 42.52.010 or any other entity or business that the person owns
3 or in which the person has a controlling interest. For purposes of
4 subsection (1) of this section, the term "employer" does not include
5 a successor organization to the rural development council under
6 chapter 43.31 RCW.

7 **Sec. 2.** RCW 42.52.900 and 1994 c 154 s 1 are each amended to
8 read as follows:

9 Government derives its powers from the people. Ethics in
10 government are the foundation on which the structure of government
11 rests. State officials and employees of government hold a public
12 trust that obligates them, in a special way, to honesty and integrity
13 in fulfilling the responsibilities to which they are elected and
14 appointed. Paramount in that trust is the principle that public
15 office, whether elected or appointed, may not be used for personal
16 gain or private advantage.

17 The citizens of the state expect all state officials and
18 employees to perform their public responsibilities in accordance with
19 the highest ethical and moral standards and to conduct the business
20 of the state only in a manner that advances the public's interest.
21 State officials and employees are subject to the sanctions of law and
22 scrutiny of the media; ultimately, however, they are accountable to
23 the people and must consider this public accountability as a
24 particular obligation of the public service. Only when affairs of
25 government are conducted, at all levels, with openness as provided by
26 law and an unswerving commitment to the public good does government
27 work as it should.

28 The obligations of government rest equally on the state's
29 citizenry. The effectiveness of government depends, fundamentally, on
30 the confidence citizens can have in the judgments and decisions of
31 their elected representatives. Citizens, therefore, should honor and
32 respect the principles and the spirit of representative democracy,
33 recognizing that both elected and appointed officials, together with
34 state employees, seek to carry out their public duties with
35 professional skill and dedication to the public interest. Such
36 service merits public recognition and support.

37 All who have the privilege of working for the people of
38 Washington state can have but one aim: To give the highest public
39 service to its citizens.

1 Furthermore, the legislature finds that the state has a
2 compelling interest in preserving the public trust in the integrity
3 of our government and ensuring that the actions of state employees
4 are free from improper influence. The ability of a former public
5 officer or employee in state government to be paid to influence state
6 government actions immediately after leaving state service creates
7 the appearance to the public of special favor, unfair access, and
8 conflicts of interest. The practice of paying former public servants
9 in state government to use their special knowledge of internal agency
10 process and personal relationships with former colleagues to gain
11 influence for private and special interests should be tempered for a
12 period of time to protect the public interest.

13 A majority of states, as well as the federal government, have
14 enacted laws requiring a cooling off period or other postgovernment
15 employment laws addressing when a former public officer may lobby
16 government or seek to influence his or her former employer. These
17 laws impose anywhere from a one-year to a lifetime ban on certain
18 postemployment activities. A cooling off period can effectively
19 reduce the leverage a former officer or high-level employee has when
20 he or she is paid to influence policy decisions within the authority
21 of his or her former employer or former duties, until that influence
22 is mitigated through the passage of time.

23 The disclosure by former state officers and high-level employees
24 of their postemployment income sources will strengthen transparency
25 and confidence in the integrity of government.

26 NEW SECTION. Sec. 3. A new section is added to chapter 42.52
27 RCW to read as follows:

28 (1) The postemployment disclosure statement required under RCW
29 42.52.080(6) must include the following information:

30 (a) The name of the person leaving state service;

31 (b) The position held in state government before leaving state
32 service and the name of the most recent employer agency; and

33 (c) An acknowledgment that the person has reviewed RCW 42.52.080
34 and 42.52.090, and for former executive branch employees, RCW
35 42.52.100.

36 (2) If, following state service, the person leaving state service
37 receives compensation from an employer or other entity that does
38 business with the state or takes action to influence any state
39 policy, rule, legislative matter, or action, the postemployment

1 disclosure statement required under RCW 42.52.080(6) must also
2 include the following information:

3 (a) The name and address of the new employer or source of
4 compensation following state service;

5 (b) The name of the supervisor at the new employer, if any, or
6 other identifying information of the principal of the employing or
7 contracting entity;

8 (c) The date such new employment begins or began; and

9 (d) A description of anticipated postemployment duties at the new
10 employer or employing business or provided by a contract.

11 (3) The person must date the statement and sign it under oath. An
12 electronic signature is permitted if the form is filed
13 electronically.

14 (4)(a) The statement is required during the twelve-month period
15 after the date the person leaves state service and takes a new
16 employment position or receives compensation during that same period.
17 The information in the statement is public information.

18 (b) The person shall submit the statement to the respective
19 ethics board no later than 14 days after the person leaves state
20 service to take a compensated employment position or takes the
21 compensated employment position, whichever occurs earlier.

22 (c) If during the 12-month period a person changes employers or
23 sources of employment compensation to another employer that does
24 business with the state or takes action to influence any state
25 policy, rule, legislative matter, or action, he or she shall submit a
26 new statement within 45 days.

27 (d) For the purposes of this section and the statement required
28 by it, compensation does not mean income received through the
29 person's retirement or investment accounts, social security, or
30 similar sources.

31 (5) The ethics boards shall collaborate as necessary to design a
32 uniform postemployment statement that permits online filing and on a
33 process to send copies of filed statements to the executive ethics
34 board. The ethics boards may adopt the statement and filing process
35 by rule.

36 (6) The legislative ethics board and the commission on judicial
37 conduct shall provide a copy of filed postemployment statements to
38 the executive ethics board. Postemployment statements must be made
39 available online in a searchable database on the executive ethics
40 board website. The other ethics boards and the public disclosure

1 commission shall link to the database on their respective websites.
2 "Searchable database" means copies of statements are posted on the
3 executive ethics board's website and can be searched by the names of
4 the employee or state officer, former employer, and if required to be
5 disclosed under subsection (2) of this section, the new employer.

6 (7) The ethics boards may adopt rules to implement this section
7 with any initial rules adopted by July 1, 2022.

8 NEW SECTION. **Sec. 4.** The ethics boards may begin the
9 rule-making process under sections 1 and 3 of this act on the
10 effective date of this section.

11 NEW SECTION. **Sec. 5.** This act applies to state officers and
12 employees who were employed in state positions on or after the
13 effective date of this section.

14 NEW SECTION. **Sec. 6.** Sections 1 through 3 and 5 of this act
15 take effect July 1, 2022.

16 NEW SECTION. **Sec. 7.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

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