

SENATE BILL REPORT

SB 6448

As Reported by Senate Committee On:
Law & Justice, February 6, 2014

Title: An act relating to authorizing establishment of ethics defense trust funds.

Brief Description: Authorizing establishment of ethics defense trust funds.

Sponsors: Senators Padden, Hatfield and Roach.

Brief History:

Committee Activity: Law & Justice: 2/03/14, 2/06/14 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6448 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Kline, Ranking Member; Darneille, Pearson, Pedersen and Roach.

Staff: Aldo Melchiori (786-7439)

Background: There are three ethics boards with jurisdiction over state officers in Washington: the Commission on Judicial Conduct, the Legislative Ethics Board, and the Executive Ethics Board. The ethics boards can investigate, hear, and determine ethics complaints for alleged ethical violations and impose sanctions when appropriate. Penalties can include reprimands, monetary penalties, a recommendation of suspension or removal, or a recommendation of prosecution to the appropriate authority. Generally, no state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business, transaction, or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

Legal defense funds are sometimes used to defray legal costs when a person becomes subject to civil, criminal, or administrative proceedings during a campaign, in an electoral context, or in the performance of their public duties.

Summary of Bill: The bill as referred to committee not considered.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Recommended Substitute): A state officer may establish an ethics defense trust fund (trust fund) and name a trustee if the state officer is subject to an ethics in public service violation or an internal legislative investigatory proceeding relating to the state officer's official duties. Official duties include, but are not limited to, all activities prescribed in the state Constitution and state statutes, legislatively funded or mandated authority and responsibilities, job description, or any tasks, activities, or actions related to carrying out the duties of the state officer's position that are intended to protect, promote, educate, and serve the citizens of the state of Washington.

The trustee may not be a member of the family of or an employee of the state officer. Only one trust fund may be maintained at any one time. The trust fund must be in a single exclusive account at a bank, mutual savings bank, savings and loan association, or credit union doing business in Washington. The maximum contribution by any person per year to a trust fund is the same as the campaign contribution limit per person per election cycle established by the Public Disclosure Commission (PDC) for candidates for statewide executive office. All contributions must be deposited into the trust fund account within three working days after receipt. Account records must be kept for a minimum of two years.

The proceeds from the trust fund may not be utilized for personal uses. The proceeds of the trust funds may be used to:

- defray legal expenses and pay monetary penalties incurred by the state officer as a result of a complaint filed or issued for an ethics in public service violation;
- defray costs reasonably incurred in administering the trust fund, including but not limited to costs incident to the solicitation of funds;
- discharge any tax liabilities incurred as a result of the creation, operation, or administration of the trust fund; and
- defray or discharge legal expenses, penalties, costs, or liabilities incurred before the trust fund was established if the legal expenses, penalties, costs, or liabilities are related to the complaint proceedings for which the trust fund was established.

The trustee is responsible for the following:

- the receipt and deposit of contributions to the trust fund;
- the authorization of expenditures and disbursements from the trust fund; and
- the performance of other tasks incident to the administration of the trust fund.

A trust fund established may be terminated by the state officer who established the trust fund or the terms of the trust agreement. A trust agreement may provide that a trust fund is terminated not later than six months following the completion of any authorized payments. Following termination of a trust fund, the trustee may not accept contributions to or make expenditures from the trust fund. Not later than 30 days after a trust fund is terminated, the trustee must return any monies remaining in the trust fund to contributors on a pro rata basis.

The ethics defense trust fund agreement, contributions, expenditures, and other transfers of monies to or from the trust fund must be reported to the PDC once per month, within ten days after the completion of the month, for all transactions occurring in that month. Failure to report as required is a violation of the Fair Campaign Practices Act. Reports filed with the PDC are nonexempt public records subject to disclosure.

An additional exception is made to the general prohibition on the acceptance of gifts to state officers. A state officer is allowed to accept contributions to a trust fund.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute as Passed Committee): The trust fund may also be used if the state officer is subject to an internal legislative investigatory proceeding. The maximum contribution by any person per year to a trust fund is the same as the campaign contribution limit per person per election cycle established by the PDC for candidates for statewide executive office.

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Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute as Heard in Committee:
PRO: Addressing this issue is long overdue. State offices facing these proceedings often find it difficult to afford an adequate defense. This just brings common sense to the issue of state officer defense. The duties of the trustee and the parameters of the trust fund uses are clearly stated and enforceable. The maximum contribution by any person per year to a trust fund is the same as the campaign contribution limit per person per election cycle established by the PDC for candidates for statewide executive office.

Persons Testifying: PRO: Senator Hatfield, prime sponsor; Brian Sonntag, former State Auditor.