
SENATE BILL 6580

State of Washington 63rd Legislature 2014 Regular Session

By Senators Nelson, Fraser, and Kohl-Welles

Read first time 03/03/14. Referred to Committee on Governmental Operations.

1 AN ACT Relating to providing clarification of activities that
2 constitute official duties of statewide elected officials for purposes
3 of ethics laws; reenacting and amending RCW 42.52.010; and creating a
4 new section.

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

6 NEW SECTION. **Sec. 1.** The legislature of the state of Washington
7 is based upon the concept of a citizen-legislator, with an expectation
8 that its members engage in private activities and occupations at the
9 discretion and control of those members. Legislators are thus allowed
10 and encouraged to have nonlegislative occupations, earnings, and
11 experiences, bringing the knowledge from those activities into the
12 legislative process for the benefit of other legislators and the
13 citizens. This expectation is reflected in the limited time periods
14 provided for the conduct of legislative sessions, alternating annual
15 sessions of sixty and one hundred five days.

16 By contrast, statewide elected officials are provided
17 constitutional and statutory duties that may require action at
18 different times during the full course of a calendar year. These
19 duties vary widely between statewide elected officials. Consistent

1 with the purposes and constitutional duties of their offices, such
2 officials should be able to engage in nonpartisan activities that
3 benefit the citizens of the state, without risking adverse legal and
4 political consequences arising from technical conflicts with otherwise
5 appropriate ethical limitations. The legislature finds that the
6 ethical distinction between official and unofficial activities can
7 under certain circumstances produce an unfair result that is not in the
8 best interests of the people of the state of Washington.

9 **Sec. 2.** RCW 42.52.010 and 2011 c 60 s 28 are each reenacted and
10 amended to read as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Agency" means any state board, commission, bureau, committee,
14 department, institution, division, or tribunal in the legislative,
15 executive, or judicial branch of state government. "Agency" includes
16 all elective offices, the state legislature, those institutions of
17 higher education created and supported by the state government, and
18 those courts that are parts of state government.

19 (2) "Assist" means to act, or offer or agree to act, in such a way
20 as to help, aid, advise, furnish information to, or otherwise provide
21 assistance to another person, believing that the action is of help,
22 aid, advice, or assistance to the person and with intent so to assist
23 such person.

24 (3) "Beneficial interest" has the meaning ascribed to it under the
25 Washington case law. However, an ownership interest in a mutual fund
26 or similar investment pooling fund in which the owner has no management
27 powers does not constitute a beneficial interest in the entities in
28 which the fund or pool invests.

29 (4) "Compensation" means anything of economic value, however
30 designated, that is paid, loaned, granted, or transferred, or to be
31 paid, loaned, granted, or transferred for, or in consideration of,
32 personal services to any person.

33 (5) "Confidential information" means (a) specific information,
34 rather than generalized knowledge, that is not available to the general
35 public on request or (b) information made confidential by law.

36 (6) "Contract" or "grant" means an agreement between two or more
37 persons that creates an obligation to do or not to do a particular

1 thing. "Contract" or "grant" includes, but is not limited to, an
2 employment contract, a lease, a license, a purchase agreement, or a
3 sales agreement.

4 (7) "Ethics boards" means the commission on judicial conduct, the
5 legislative ethics board, and the executive ethics board.

6 (8) "Family" has the same meaning as "immediate family" in RCW
7 42.17A.005.

8 (9) "Gift" means anything of economic value for which no
9 consideration is given. "Gift" does not include:

10 (a) Items from family members or friends where it is clear beyond
11 a reasonable doubt that the gift was not made as part of any design to
12 gain or maintain influence in the agency of which the recipient is an
13 officer or employee;

14 (b) Items related to the outside business of the recipient that are
15 customary and not related to the recipient's performance of official
16 duties;

17 (c) Items exchanged among officials and employees or a social event
18 hosted or sponsored by a state officer or state employee for coworkers;

19 (d) Payments by a governmental or nongovernmental entity of
20 reasonable expenses incurred in connection with a speech, presentation,
21 appearance, or trade mission made in an official capacity. As used in
22 this subsection, "reasonable expenses" are limited to travel, lodging,
23 and subsistence expenses incurred the day before through the day after
24 the event;

25 (e) Items a state officer or state employee is authorized by law to
26 accept;

27 (f) Payment of enrollment and course fees and reasonable travel
28 expenses attributable to attending seminars and educational programs
29 sponsored by a bona fide governmental or nonprofit professional,
30 educational, trade, or charitable association or institution. As used
31 in this subsection, "reasonable expenses" are limited to travel,
32 lodging, and subsistence expenses incurred the day before through the
33 day after the event;

34 (g) Items returned by the recipient to the donor within thirty days
35 of receipt or donated to a charitable organization within thirty days
36 of receipt;

37 (h) Campaign contributions reported under chapter 42.17A RCW;

1 (i) Discounts available to an individual as a member of an employee
2 group, occupation, or similar broad-based group; and

3 (j) Awards, prizes, scholarships, or other items provided in
4 recognition of academic or scientific achievement.

5 (10) "Head of agency" means the chief executive officer of an
6 agency. In the case of an agency headed by a commission, board,
7 committee, or other body consisting of more than one natural person,
8 agency head means the person or board authorized to appoint agency
9 employees and regulate their conduct.

10 (11) "Honorarium" means money or thing of value offered to a state
11 officer or state employee for a speech, appearance, article, or similar
12 item or activity in connection with the state officer's or state
13 employee's official role.

14 (12) "Official duty" means those duties within the specific scope
15 of employment of the state officer or state employee as defined by the
16 officer's or employee's agency or by statute or the state Constitution.
17 The official duties of a statewide elected official include, but are
18 not limited to, all activities prescribed in the state Constitution and
19 state statutes, legislatively funded or mandated authority and
20 responsibilities, job description, and any nonpartisan tasks conducted
21 by the statewide elected official in his or her official capacity that
22 are intended to protect, promote, educate, or serve the citizens of the
23 state of Washington.

24 (13) "Participate" means to participate in state action or a
25 proceeding personally and substantially as a state officer or state
26 employee, through approval, disapproval, decision, recommendation, the
27 rendering of advice, investigation, or otherwise but does not include
28 preparation, consideration, or enactment of legislation or the
29 performance of legislative duties.

30 (14) "Person" means any individual, partnership, association,
31 corporation, firm, institution, or other entity, whether or not
32 operated for profit.

33 (15) "Regulatory agency" means any state board, commission,
34 department, or officer, except those in the legislative or judicial
35 branches, authorized by law to conduct adjudicative proceedings, issue
36 permits or licenses, or to control or affect interests of identified
37 persons.

1 (16) "Responsibility" in connection with a transaction involving
2 the state, means the direct administrative or operating authority,
3 whether intermediate or final, and either exercisable alone or through
4 subordinates, effectively to approve, disapprove, or otherwise direct
5 state action in respect of such transaction.

6 (17) "State action" means any action on the part of an agency,
7 including, but not limited to:

8 (a) A decision, determination, finding, ruling, or order; and

9 (b) A grant, payment, award, license, contract, transaction,
10 sanction, or approval, or the denial thereof, or failure to act with
11 respect to a decision, determination, finding, ruling, or order.

12 (18) "State employee" means an individual who is employed by an
13 agency in any branch of state government. For purposes of this
14 chapter, employees of the superior courts are not state officers or
15 state employees.

16 (19) "State officer" means every person holding a position of
17 public trust in or under an executive, legislative, or judicial office
18 of the state. "State officer" includes judges of the superior court,
19 judges of the court of appeals, justices of the supreme court, members
20 of the legislature together with the secretary of the senate and the
21 chief clerk of the house of representatives, holders of elective
22 offices in the executive branch of state government, chief executive
23 officers of state agencies, members of boards, commissions, or
24 committees with authority over one or more state agencies or
25 institutions, and employees of the state who are engaged in
26 supervisory, policy-making, or policy-enforcing work. For the purposes
27 of this chapter, "state officer" also includes any person exercising or
28 undertaking to exercise the powers or functions of a state officer.

29 (20) "Thing of economic value," in addition to its ordinary
30 meaning, includes:

31 (a) A loan, property interest, interest in a contract or other
32 chose in action, and employment or another arrangement involving a
33 right to compensation;

34 (b) An option, irrespective of the conditions to the exercise of
35 the option; and

36 (c) A promise or undertaking for the present or future delivery or
37 procurement.

1 (21)(a) "Transaction involving the state" means a proceeding,
2 application, submission, request for a ruling or other determination,
3 contract, claim, case, or other similar matter that the state officer,
4 state employee, or former state officer or state employee in question
5 believes, or has reason to believe:

6 (i) Is, or will be, the subject of state action; or

7 (ii) Is one to which the state is or will be a party; or

8 (iii) Is one in which the state has a direct and substantial
9 proprietary interest.

10 (b) "Transaction involving the state" does not include the
11 following: Preparation, consideration, or enactment of legislation,
12 including appropriation of moneys in a budget, or the performance of
13 legislative duties by an officer or employee; or a claim, case,
14 lawsuit, or similar matter if the officer or employee did not
15 participate in the underlying transaction involving the state that is
16 the basis for the claim, case, or lawsuit.

17 (22) "University" includes "state universities" and "regional
18 universities" as defined in RCW 28B.10.016 and also includes any
19 research or technology institute affiliated with a university,
20 including without limitation, the Spokane intercollegiate research and
21 technology institute and the Washington technology center.

22 (23) "University research employee" means a state officer or state
23 employee employed by a university, but only to the extent the state
24 officer or state employee is engaged in research, technology transfer,
25 approved consulting activities related to research and technology
26 transfer, or other incidental activities.

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