

HOUSE BILL REPORT

HB 1067

As Reported by House Committee On: State Government & Tribal Relations

Title: An act relating to employment after public service in state government.

Brief Description: Concerning employment after public service in state government.

Sponsors: Representatives Pellicciotti, Pollet, Gregerson, Macri, Dolan, Kilduff, Irwin, Appleton and Leavitt; by request of Attorney General.

Brief History:

Committee Activity:

State Government & Tribal Relations: 1/16/19, 1/22/19 [DPS].

Brief Summary of Substitute Bill

- Restricts the ability of certain former senior state officers and employees to lobby, appear before, or attempt to influence certain state agencies for two years after leaving public service.
- Provides for a waiver process.
- Requires those former senior officers and employees to disclose certain employment activities for two years after leaving public service.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Appleton, Dolan, Hudgins, Mosbrucker and Smith.

Staff: Jason Zolle (786-7124).

Background:

The Ethics in Public Service Act prohibits former state officers and employees from receiving compensation for certain employment activity after they leave public service.

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.

Lifetime Prohibitions.

Some prohibitions are lifetime. Former state officers and employees may not accept employment or receive compensation if they know or have reason to believe, or if it reasonably appears, that the offer was made to influence them in or compensate them for their actions as an officer or employee. Former state officers and employees also may not assist others in a transaction involving the state in which they participated during state employment. Nor may former state officers and employees accept employment or engage in professional activity that is reasonably expected to require or induce them to disclose confidential information acquired from their state employment.

Time-Limited Prohibitions.

Other prohibitions are limited in duration. For two years after leaving public service, former state officers and employees may not have a beneficial interest in a contract or grant that was funded by state action in which they participated. For one year after leaving public service, former state officers and employees may not receive compensation for employment that involves fulfilling or implementing a contract or series of contracts worth \$10,000 or greater on which they worked during their last two years of public service.

Enforcement.

These provisions are enforced by the state ethics boards. Complaints may be initiated by any person, and state employees who file complaints have whistleblower protections. Each branch of government has its own board that investigates, conducts hearings, and—if necessary—issues civil sanctions for its respective employees' violations of these ethics rules. The Attorney General (AG) may investigate persons not under the jurisdiction of an ethics board who were involved in unlawful transactions. The AG may also rescind or cancel state action that was influenced by a violation of these ethics laws.

Summary of Substitute Bill:

Additional post-employment restrictions are imposed on certain former senior state officers and employees. For two years after leaving public service, certain former senior state officers and employees are prohibited from receiving compensation for lobbying, practicing or appearing before, or attempting to influence certain state agencies or state actions on behalf of another.

The breadth of the restrictions depends on the former employer of the officers and employees. There are two categories of restrictions.

Broader Restriction: Applies to All Lobbying and Activity Directed Toward Any State Agency.

Certain former state officers and employees are prohibited for two years from serving as a lobbyist, or from appearing before or attempting on behalf of another to influence any state agency. These prohibitions apply to:

- statewide elected officials and state legislators;
- heads of agencies in the Governor's executive cabinet;

- chiefs of staffs or top administrators for statewide elected officials, heads of agencies in the Governor's executive cabinet, and the Legislature; and
- senior executive staff of agencies headed by statewide elected officials, agencies in the Governor's executive cabinet, and legislative agencies.

Narrower Restriction: Applies to Activity Directed Toward the Former State Employer.

Other former state officers and employees are prohibited for two years from lobbying on any matter under the authority of their most recent state employer, or from appearing before or attempting on behalf of another to influence their former employer. These prohibitions apply to:

- heads of all other agencies not listed above;
- chiefs of staffs or top administrators of those agencies; and
- senior executive staff of those agencies.

Exceptions.

These prohibitions on lobbying, appearing before agencies, or attempting to influence government action do not apply to:

- working in another state, local, or federal government position;
- representing a person or testifying in a judicial or administrative hearing;
- testifying in a public legislative committee session;
- participating in rulemaking at the request of an agency; or
- helping a person or corporation complete forms required by a state agency to conduct business.

A former officer or employee may also seek a waiver of the post-employment restrictions from the relevant ethics board. A waiver may be issued only if there is no conflict with the state's interest, if the need for employment outweighs any potential or perceived conflict, or if there are extraordinary or emergency circumstances that warrant a waiver. The ethics boards are instructed to adopt rules that describe the process for seeking a waiver.

Post-Employment Disclosure Statements.

Each former senior state officer or employee covered by these restrictions must submit a post-employment disclosure statement to the relevant state ethics board. The statement must acknowledge that the officer or employee reviewed the relevant statutes on post-employment restrictions. Former officers and employees that receive compensation from an employer or entity that does business with the state or seeks to influence state action or policy must disclose information about that employment relationship in the statement. That information includes the name of the employer, the name of the employee's supervisor, the date employment starts, and a description of the anticipated duties for the new employer.

The disclosure statement is due within 14 days after accepting a new job or leaving public service. If a person changes employers to another employer that does business with or seeks to influence the state, the person must file a new statement within 45 days. This requirement to file a statement lasts for two years after leaving public service. The disclosure statement may not be waived.

The ethics boards are instructed to design a uniform disclosure statement form that can be filed online and shared with the Executive Ethics Board. The Executive Ethics Board must

post these disclosure statements on its website, which must be linked on the other boards' websites.

Applicability.

These restrictions and requirements apply to all state officers and employees who are employed by the state on or after July 1, 2020.

Substitute Bill Compared to Original Bill:

The substitute bill extends the new post-employment restrictions and the requirement to file a post-employment disclosure statement from one year to two years.

Appropriation: None.

Fiscal Note: Requested on January 11, 2019.

Effective Date of Substitute Bill: This bill takes effect July 1, 2020, except for section 4, relating to rulemaking, which takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) There is a crisis in confidence in government today and the Legislature should do everything it can to restore the public trust. Public servants can leave their government jobs on Friday and start lobbying their former employer on Monday, which raises concerns that they were starting to negotiate their position while still working for the government. Lobbyists that just left public service have a great deal of information and access to connections, and it is unacceptable for them to exploit this access for the benefit of special interests. Lobbyists also have too much influence over lawmakers and it is hard for the voices of everyday Washingtonians to compete. Washington is behind the curve on ethical issues like this and received a low score from the Center for Public Integrity. More than 30 states and the federal government have a similar cooling-off period, and this bill will allow Washington to start catching up.

(Opposed) None.

Persons Testifying: Representative Pellicciotti, prime sponsor; Brittany Gregory and Nancy Krier, Office of the Attorney General; Kathy Sakahara, League of Women Voters; Cindy Black, Fix Democracy First; and Elise Orlick, Washington Public Interest Research Group.

Persons Signed In To Testify But Not Testifying: None.