

FINAL BILL REPORT

ESHB 2018

C 383 L 19

Synopsis as Enacted

Brief Description: Concerning harassment and discrimination by legislators and legislative branch employees.

Sponsors: House Committee on State Government & Tribal Relations (originally sponsored by Representatives Morgan, Jinkins, Harris, Bergquist, Appleton, Cody, Tharinger, Pollet, Fey, Tarleton, Goodman, Pettigrew, Doglio, Senn, Lovick, Dolan, Kilduff, Ryu, Thai, Stanford, Lekanoff, Wylie, Slatter, Hansen, Shewmake, Robinson, Chapman, Santos, Walen, Chopp, Fitzgibbon, Hudgins, Leavitt, Macri, Valdez, Irwin, Reeves, Pellicciotti, Frame and Ormsby).

House Committee on State Government & Tribal Relations
Senate Committee on State Government, Tribal Relations & Elections
Senate Committee on Ways & Means

Background:

The Ethics in Public Service Act (Ethics Act) prohibits state officers and state employees from using their public employment for personal gain or private advantage, or creating the appearance of such impropriety. Some prohibited activities include:

- having financial interests or engaging in business activity that conflicts with the proper discharge of official duties;
- receiving gifts or outside compensation for official duties;
- receiving compensation for certain activity outside one's official duties;
- using public resources for private benefit or political campaigns; and
- using one's position to secure special privileges or exemptions for oneself or others, except as required to perform duties within the scope of employment.

The Ethics Act is enforced by the state ethics boards. Any person may initiate a complaint, 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 may investigate people not under the jurisdiction of an ethics board who were involved in unlawful transactions.

The Legislative Ethics Board has found violations of the special privileges provision in the following circumstances:

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.

- a legislator employed as an attorney wrote to private clients and appeared to offer special access to legislators;
- a legislator solicited tickets to a sporting event from lobbyists in a campaign mailer;
- a legislator pressured an agency to take action favorable to a private business owned by family members; and
- a legislator used his position to advocate for a friend involved in a private dispute.

In January 2019 the Legislative Ethics Board issued an opinion that concluded that engaging in inappropriate and harassing communications with a staff person does not constitute using one's position to secure special privileges under the Ethics Act.

State agencies are required to develop and disseminate their own policies to define and prohibit sexual harassment in the workplace. Agencies must also include procedures that describe how the agency will address concerns, including appropriate sanctions and disciplinary action. Employees must also receive training and education to prevent and eliminate sexual harassment. Although the Legislature is not subject to that requirement, each chamber has a policy for respectful or appropriate workplace behavior that prohibits discrimination and harassment based on a person's protected status, abusive or offensive behavior and bullying regardless of the basis for the conduct, and retaliation.

Summary:

It is a violation of the special privileges section of the Ethics Act for legislators and legislative branch employees to use their position to harass another person.

"Harassment" is defined as conduct that has the purpose or effect of interfering with the person's work performance, creates a hostile, intimidating, or offensive work environment, or constitutes sexual harassment.

"Sexual harassment" is defined as unwelcome or unwanted sexual or romantic conduct or communication to which submission is required as a condition of employment, that factors into decisions affecting an individual's employment, that unreasonably interferes with a person's work performance, or that creates a hostile, intimidating, or offensive work environment.

Votes on Final Passage:

House	98	0	
Senate	34	11	(Senate amended)
House	96	0	(House concurred)

Effective: July 28, 2019