

SENATE BILL REPORT

SB 5033

As of January 20, 2020

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

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

Sponsors: Senators Carlyle, Hunt, Kuderer, Rolfes, Conway, Keiser, Liias and Wellman; by request of Attorney General.

Brief History:

Committee Activity: State Government, Tribal Relations & Elections: 1/23/19, 1/17/20.

Brief Summary of Bill

- Prohibits statewide elected officials and state legislators from receiving compensation for certain lobbying activities for one year after leaving state service.
- Requires statewide elected officials and state legislators to file post-employment disclosure statements.
- Requires display of post-employment disclosure statements on the Executive Ethics Board's website.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Staff: Samuel Brown (786-7470)

Background: Post-Public Employment Restrictions. Former state officers and employees are barred from entering into certain employment and contractual arrangements after they leave public service. A former officer or employee may not accept employment or receive compensation from an employer for one year after leaving public service if:

- the former officer or employee was in a position to affect contract negotiations or administration with the employer within two years before leaving public service;
- the contract or multiple contracts had a total value over \$10,000; and
- the employment opportunity includes fulfilling or implementing the contract provisions.

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 former officer or employee may not have a beneficial interest in a contract or grant for two years after leaving public service, if the former officer or employee participated in the specific legislative or executive funding of that contract or grant. A former officer or employee may never accept employment or compensation from an employer if the former officer or employee has reason to believe the employer intended that the offer would influence the officer or employee's duties in public service or would compensate or reward the officer or employee for past performance. The ban also applies where a reasonable person would believe the offer was made for the purpose of influencing the performance of the officer or employee while in public service.

A former officer or employee may not assist another person in any transaction involving the state if the former officer or employee participated in the transaction during state employment.

Enforcement. The Legislative Ethics Board, the Executive Ethics Board, and the Commission on Judicial Conduct have authority over the members and employees of their respective branches of government regarding the enforcement of state ethics laws. The Attorney General may investigate persons not under the jurisdiction of the boards who are suspected of violating state ethics laws.

Each board has authority to issue civil penalties of up to \$5,000 per violation of state ethics laws, or up to three times the value of each thing received or sought that was in violation of ethics law.

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

Summary of Bill (Proposed Substitute): Post-Employment Prohibitions. Statewide elected officials and state legislators are prohibited, for one year after leaving public service, from receiving compensation to serve as a lobbyist, practicing or appearing before state agencies, or attempting to influence state actions on behalf of another person or entity.

Exceptions. The one year post-employment ban on lobbying or influencing state agencies does not apply to persons working for another state, local, or federal agency, representing a person or testifying in a judicial or administrative hearing, invited testimony in a public legislative committee session, participating in rulemaking at the request of an agency, or assisting with ministerial activities. Former officials and legislators may also seek waivers of the ban.

The state ethics boards must adopt rules for persons who seek a waiver from the post-employment lobbying and influencing prohibitions by July 1, 2021. A waiver must be conditioned upon a finding that the compensated service does not present a conflict of interest, the need outweighs any potential conflict of interest, or extraordinary circumstances warrant a waiver.

Disclosure Statements. Each statewide elected official and state legislator must submit a post-employment disclosure form to the relevant state ethics board. The statement is due within 14 days after the person leaves public service and extends through the first year after

leaving public service. The person must update the statement within 45 days after the person takes a new compensated position with an employer that conducts business with the state.

If the former official or legislator receives compensation from an employer or entity that conducts business with the state, or takes action to influence any state policy, rule, or legislative matter, the former official or legislator must provide the following information:

- the name and address of the employee's new employer or source of compensation and supervisor, if any;
- the date the new employment will begin or began; and
- a description of the employee's anticipated duties for the new employer or business.

Ethics boards must collaborate to provide online filing and a process to send forms to the Executive Ethics Board. Post-employment disclosure statements must be available on the Executive Ethics Board's website, and linked to by the other ethics boards and the Public Disclosure Commission.

Other Provisions. The bill contains a severability clause stating that if any provision is held invalid, other provisions in the bill shall not be affected.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on July 1, 2020, except that agencies may begin rulemaking 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony on Original Bill (Regular Session 2019): PRO: Washington has been proactive in ensuring transparency and ethical conduct; this takes laws one step further by ensuring a cooling-off period. This addresses the problem of officials using insider knowledge that taxpayers have paid for. Employees have access to information and connections that should not be exploited for any interest. This common-sense reform will ensure that public officials are working for the people. A major obstacle to involvement and participation in government is the perception that people with money run everything. This will go a long way to change that.

Persons Testifying: PRO: Nancy Krier, Brittany Gregory, Office of the Attorney General; Cindy Black, Fix Democracy First; Kathy Sakahara, League of Women Voters.

Persons Signed In To Testify But Not Testifying: No one.

Staff Summary of Public Testimony on Proposed Substitute (Regular Session 2020): PRO: We need to take a step forward. A modest cooling-off period before advocating for interests is an important representation of the integrity of public service. People support this. Washington receives very high marks for ethics in government, with the exception of this one weak link. This addresses conflicts of interest, leverage, undue influence, and the appearance of undue influence. These situations raise the question of when a job offer was being made

or negotiated—how many votes were taken during that point? Having a cooling-off period is a fundamental principle ensuring an active and engaged democratic process. The very situation this bill intends to address happened last session, and our office received many inquiries expressing frustration that it was allowed.

Persons Testifying: PRO: Senator Reuven Carlyle, Prime Sponsor; Charlotte Persons, League of Women Voters; Yasmin Trudeau, Attorney General's Office.

Persons Signed In To Testify But Not Testifying: No one.