CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6128

Chapter 358, Laws of 2007

60th Legislature 2007 Regular Session

CANDIDATES OR COMMITTEES--EXPENDITURES

EFFECTIVE DATE: 01/01/08

Passed by the Senate April 17, 2007 YEAS 38 NAYS 10

BRAD OWEN

President of the Senate

Passed by the House April 12, 2007 YEAS 58 NAYS 40

FRANK CHOPP

Speaker of the House of Representatives

Approved May 8, 2007, 3:17 p.m.

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6128** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 10, 2007

CHRISTINE GREGOIRE

Governor of the State of Washington

Secretary of State State of Washington

ENGROSSED SENATE BILL 6128

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senators Keiser and Kohl-Welles

Read first time 02/26/2007. Referred to Committee on Government Operations & Elections.

- 1 AN ACT Relating to persons authorized to make expenditures on
- 2 behalf of a candidate or committee; amending RCW 42.17.020, 42.17.040,
- and 42.17.070; and providing an effective date.
- 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 5 **Sec. 1.** RCW 42.17.020 and 2005 c 445 s 6 are each amended to read 6 as follows:
- 7 The definitions in this section apply throughout this chapter 8 unless the context clearly requires otherwise.
- 9 (1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.
- 11 (2) "Agency" includes all state agencies and all local agencies.
- 12 "State agency" includes every state office, department, division,
- 13 bureau, board, commission, or other state agency. "Local agency"
- 14 includes every county, city, town, municipal corporation, quasi-
- 15 municipal corporation, or special purpose district, or any office,
- 16 department, division, bureau, board, commission, or agency thereof, or
- 17 other local public agency.
- 18 (3) "Authorized committee" means the political committee authorized

- by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.
 - (4) "Ballot proposition" means any "measure" as defined by RCW 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.
 - (5) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.
 - (6) "Bona fide political party" means:
- 15 (a) An organization that has filed a valid certificate of 16 nomination with the secretary of state under chapter 29A.20 RCW;
 - (b) The governing body of the state organization of a major political party, as defined in RCW 29A.04.086, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or
 - (c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.
 - (7) "Depository" means a bank designated by a candidate or political committee pursuant to RCW 42.17.050.
 - (8) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050, to perform the duties specified in that section.
 - (9) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:
 - (a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;
 - (b) Announces publicly or files for office;
- 35 (c) Purchases commercial advertising space or broadcast time to 36 promote his or her candidacy; or
- 37 (d) Gives his or her consent to another person to take on behalf of 38 the individual any of the actions in (a) or (c) of this subsection.

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- 1 (10) "Caucus political committee" means a political committee 2 organized and maintained by the members of a major political party in 3 the state senate or state house of representatives.
 - (11) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.
 - (12) "Commission" means the agency established under RCW 42.17.350.
 - (13) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: PROVIDED, That for the purpose of compliance with RCW 42.17.241, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.
 - (14) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.
 - (15)(a) "Contribution" includes:

- (i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;
- (ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents;
- (iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising or electioneering communication prepared by a candidate, a political committee, or its authorized agent;
- (iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

- (b) "Contribution" does not include:
- (i) Standard interest on money deposited in a political committee'saccount;
 - (ii) Ordinary home hospitality;

- (iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;
- (iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;
- (v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;
- (vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person;
- (vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an inkind contribution and counts towards any applicable contribution limit of the person providing the facility;
 - (viii) Legal or accounting services rendered to or on behalf of:
- (A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or
- 34 (B) A candidate or an authorized committee if the person paying for 35 the services is the regular employer of the individual rendering the 36 services and if the services are solely for the purpose of ensuring 37 compliance with state election or public disclosure laws; or

- (ix) The performance of ministerial functions by a person on behalf of two or more candidates or political committees either as volunteer services defined in (b)(vi) of this subsection or for payment by the candidate or political committee for whom the services are performed as long as:
 - (A) The person performs solely ministerial functions;

- (B) A person who is paid by two or more candidates or political committees is identified by the candidates and political committees on whose behalf services are performed as part of their respective statements of organization under RCW 42.17.040; and
- (C) The person does not disclose, except as required by law, any information regarding a candidate's or committee's plans, projects, activities, or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available from campaign reports filed with the commission, or otherwise engage in activity that constitutes a contribution under (a)(ii) of this subsection.

A person who performs ministerial functions under this subsection (15)(b)(ix) is not considered an agent of the candidate or committee as long as he or she has no authority to authorize expenditures or make decisions on behalf of the candidate or committee.

- (c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.
- (16) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.
- (17) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: PROVIDED, That an election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

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- 1 (18) "Election campaign" means any campaign in support of or in 2 opposition to a candidate for election to public office and any 3 campaign in support of, or in opposition to, a ballot proposition.
 - (19) "Election cycle" means the period beginning on the first day of December after the date of the last previous general election for the office that the candidate seeks and ending on November 30th after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on November 30th after the special election.
 - (20) "Electioneering communication" means any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that:
 - (a) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;
 - (b) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and
 - (c) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of five thousand dollars or more.
 - (21) "Electioneering communication" does not include:
 - (a) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding his or her becoming a candidate;
 - (b) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;
- 35 (c) A news item, feature, commentary, or editorial in a regularly 36 scheduled news medium that is:
 - (i) Of primary interest to the general public;

- 1 (ii) In a news medium controlled by a person whose business is that 2 news medium; and
- 3 (iii) Not a medium controlled by a candidate or a political 4 committee;
 - (d) Slate cards and sample ballots;

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- (e) Advertising for books, films, dissertations, or similar works(i) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or (ii) written about a candidate;
 - (f) Public service announcements;
- (g) A mailed internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;
- 16 (h) An expenditure by or contribution to the authorized committee 17 of a candidate for state, local, or judicial office; or
 - (i) Any other communication exempted by the commission through rule consistent with the intent of this chapter.
 - (22) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. The term "expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.
- 34 (23) "Final report" means the report described as a final report in RCW 42.17.080(2).
- 36 (24) "General election" for the purposes of RCW 42.17.640 means the 37 election that results in the election of a person to a state office. 38 It does not include a primary.

(25) "Gift," is as defined in RCW 42.52.010. 1

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- (26) "Immediate family" includes the spouse, dependent children, and other dependent relatives, if living in the household. For the purposes of RCW 42.17.640 through 42.17.790, "immediate family" means an individual's spouse, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister 7 of the individual and the spouse of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse and the spouse of any such person.
- 11 (27) "Incumbent" means a person who is in present possession of an elected office. 12
 - (28) "Independent expenditure" means an expenditure that has each of the following elements:
 - (a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;
 - (b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and
 - The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of five hundred dollars or more. A series of expenditures, each of which is under five hundred dollars, constitutes one independent expenditure if their cumulative value is five hundred dollars or more.
- (29)(a) "Intermediary" means an individual who transmits a 36 37 contribution to a candidate or committee from another person unless the

contribution is from the individual's employer, immediate family as defined for purposes of RCW 42.17.640 through 42.17.790, or an association to which the individual belongs.

- (b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.
- (c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.
- (d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.
- (30) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.
- (31) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.
- 24 (32) "Lobbyist" includes any person who lobbies either in his or 25 her own or another's behalf.
 - (33) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.
 - (34) "Ministerial functions" means an act or duty carried out as part of the duties of an administrative office without exercise of personal judgment or discretion.
 - (35) "Participate" means that, with respect to a particular election, an entity:
 - (a) Makes either a monetary or in-kind contribution to a candidate;
 - (b) Makes an independent expenditure or electioneering communication in support of or opposition to a candidate;
- 37 (c) Endorses a candidate prior to contributions being made by a

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subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

- (d) Makes a recommendation regarding whether a candidate should be supported or opposed prior to a contribution being made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent; or
- (e) Directly or indirectly collaborates or consults with a subsidiary corporation or local unit on matters relating to the support of or opposition to a candidate, including, but not limited to, the amount of a contribution, when a contribution should be given, and what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.
- $((\frac{35}{10}))$ (36) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.
- (((36))) (37) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.
- (((37))) (38) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.
- $((\frac{38}{)})$ (39) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.
- (((39))) (40) "Primary" for the purposes of RCW 42.17.640 means the procedure for nominating a candidate to state office under chapter

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- 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29A.52 RCW.
- (((41))) (42) "Public record" includes any writing containing 6 7 information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or 8 retained by any state or local agency regardless of physical form or 9 characteristics. For the office of the secretary of the senate and the 10 office of the chief clerk of the house of representatives, public 11 records means legislative records as defined in RCW 40.14.100 and also 12 means the following: All budget and financial records; personnel 13 leave, travel, and payroll records; records of legislative sessions; 14 reports submitted to the legislature; and any other record designated 15 16 a public record by any official action of the senate or the house of 17 representatives.
 - $((\frac{42}{1}))$ (43) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29A.56.120 and ending thirty days after the recall election.

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- ((43)) (44) "Sponsor of an electioneering communications, independent expenditures, or political advertising" means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.
- ((44))) (45) "State legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.
- ((45)) <u>(46)</u> "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.
- 35 $((\frac{46}{10}))$ "State official" means a person who holds a state office.
- $((\frac{47}{1}))$ $(\frac{48}{1})$ "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the

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- possession or control of that committee or candidate subsequent to the 1 2 election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the 3 committee or candidate prior to that election. 4 In the case of a 5 continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee 6 7 that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065. 8
- 9 (((48))) (49) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any 10 form of communication or representation, including, but not limited to, 11 letters, words, pictures, sounds, or symbols, or combination thereof, 12 and all papers, maps, magnetic or paper tapes, photographic films and 13 prints, motion picture, film and video recordings, magnetic or punched 14 cards, discs, drums, diskettes, sound recordings, and other documents 15 including existing data compilations from which information may be 16 17 obtained or translated.
- 18 As used in this chapter, the singular shall take the plural and any 19 gender, the other, as the context requires.
- 20 **Sec. 2.** RCW 42.17.040 and 1989 c 280 s 2 are each amended to read 21 as follows:
 - (1) Every political committee, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission and with the county auditor or elections officer of the county in which the candidate resides, or in the case of any other political committee, the county in which the treasurer resides. A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election campaign shall file a statement of organization within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.
- 36 (2) The statement of organization shall include but not be limited 37 to:

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1 (a) The name and address of the committee;

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- 2 (b) The names and addresses of all related or affiliated committees 3 or other persons, and the nature of the relationship or affiliation;
 - (c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;
 - (d) The name and address of its treasurer and depository;
 - (e) A statement whether the committee is a continuing one;
- 9 (f) The name, office sought, and party affiliation of each 10 candidate whom the committee is supporting or opposing, and, if the 11 committee is supporting the entire ticket of any party, the name of the 12 party;
- 13 (g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;
 - (h) What distribution of surplus funds will be made, in accordance with RCW 42.17.095, in the event of dissolution;
 - (i) The street address of the place and the hours during which the committee will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17.080; ((and))
 - (j) Such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter;
 - (k) The name, address, and title of any person who authorizes expenditures or makes decisions on behalf of the candidate or committee; and
 - (1) The name, address, and title of any person who is paid by or is a volunteer for a candidate or political committee to perform ministerial functions and who performs ministerial functions on behalf of two or more candidates or committees.
- 29 (3) Any material change in information previously submitted in a 30 statement of organization shall be reported to the commission and to 31 the appropriate county elections officer within the ten days following 32 the change.
- 33 **Sec. 3.** RCW 42.17.070 and 1989 c 280 s 7 are each amended to read as follows:
- No expenditures may be made or incurred by any candidate or political committee except on the authority of ((the treasurer or)) the

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candidate <u>or the person or persons named on the candidate's or</u> committee's registration form, and a record of all such expenditures shall be maintained by the treasurer.

No expenditure of more than fifty dollars may be made in currency unless a receipt, signed by the recipient and by the candidate or treasurer, is prepared and made a part of the campaign's or political committee's financial records.

NEW SECTION. Sec. 4. This act takes effect January 1, 2008.

Passed by the Senate April 17, 2007.

Passed by the House April 12, 2007.

Approved by the Governor May 8, 2007.

Filed in Office of Secretary of State May 10, 2007.

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