
SENATE BILL 6177

State of Washington

61st Legislature

2009 Regular Session

By Senator Kastama

Read first time 04/16/09. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to public financing of campaigns; amending RCW
2 42.17.390, 42.17.020, 42.17.095, 42.52.180, 42.17.128, and 42.17.130;
3 adding new sections to chapter 42.17 RCW; creating new sections; and
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The purpose of this act is to create a
7 system of clean elections for state office campaigns through public
8 financing, thereby focusing campaigns on issues and away from the
9 sources of campaign contributions. Public financing of campaigns will
10 limit the influence of large contributors and special interests in
11 political campaigns.

12 NEW SECTION. **Sec. 2.** CITIZENS PUBLIC CAMPAIGN FUND. The citizens
13 public campaign fund is created in the state treasury. All receipts
14 required to be deposited into the fund under sections 3 through 15 of
15 this act must be deposited into the fund. Expenditures from the fund
16 may be used only for the purposes of the citizens public campaign act,
17 sections 3 through 15 of this act. Only the commission may authorize

1 expenditures from this fund. The fund is subject to allotment
2 procedures under chapter 43.88 RCW, but an appropriation is not
3 required for expenditures.

4 NEW SECTION. **Sec. 3.** VOLUNTARY LIMITS ON CONTRIBUTIONS FOR
5 POLITICAL CAMPAIGNS. A participating candidate and a participating
6 candidate's authorized committee shall:

7 (1) Not accept contributions from a political committee, a bona
8 fide political party, a caucus political committee, a union, a
9 corporation, or any other group or entity;

10 (2) Not expend more than a total of five hundred dollars of the
11 candidate's personal money for a candidate for the legislature or more
12 than one thousand dollars for a candidate for statewide office and only
13 during the qualifying period;

14 (3) Receive and expend seed money according to the provisions of
15 section 6 of this act;

16 (4) Collect the minimum number of qualifying contributions under
17 section 4 of this act;

18 (5) Expend only funds received from the citizens public campaign
19 fund after being certified as a publicly funded candidate;

20 (6) Sign a joint statement with the treasurer of the publicly
21 financed candidate's authorized committee, under oath, promising to
22 comply with the requirements of this chapter; and

23 (7) Comply with the provisions of this chapter to the extent
24 required for publicly funded candidates as prescribed by the
25 commission.

26 NEW SECTION. **Sec. 4.** APPLICATION FOR CERTIFICATION. A candidate
27 who wishes to receive public campaign funds must:

28 (1) File an application with the commission declaring his or her
29 intent to participate in the program as candidate for political office.
30 The application must be filed before or during the qualifying period.
31 The application must identify the candidate, the office that the
32 candidate plans to seek, and the candidate's party, if any. In the
33 application, the candidate shall affirm that only one political
34 committee, identified with its treasurer, shall handle all
35 contributions, expenditures, and obligations for the publicly financed

1 candidate and that the candidate will comply with the requirements of
2 this act and rules adopted by the commission; and

3 (2) Obtain the minimum number of qualifying contributions by the
4 end of the qualifying period. Candidates for the legislature must
5 obtain at least two hundred qualifying contributions, candidates for
6 governor must obtain at least four thousand qualifying contributions,
7 and candidates for other state executive offices must obtain at least
8 one thousand five hundred qualifying contributions. No payment, gift,
9 or anything of value may be given for a qualifying contribution. A
10 qualifying contribution must be:

11 (a) Made by a resident who at the time of the contribution resides
12 in the electoral district of the office the candidate is seeking;

13 (b) Made by a person who is not given anything of value in exchange
14 for the qualifying contribution;

15 (c) In the sum of five dollars, exactly;

16 (d) Received during the qualifying period by the candidate or on
17 behalf of the candidate; and

18 (e) Made by check, money order, or credit card.

19 NEW SECTION. **Sec. 5.** APPLICATION REQUIREMENTS. (1) Upon receipt
20 of the application, the commission shall determine whether or not the
21 candidate has complied with the following requirements:

22 (a) Signed and filed an application to participate;

23 (b) Submitted a report itemizing the qualifying contributions
24 received. The report must include the name, address, telephone number,
25 and county of residence for each person who made a contribution and the
26 date the contribution was made, and any other information required by
27 the commission;

28 (c) Submitted a check or money order equal to the total qualifying
29 contributions received by the candidate and made out to the citizens
30 public campaign fund; and

31 (d) Submitted affidavits signed by persons collecting qualifying
32 contributions stating that, to the best of his or her knowledge, the
33 contribution was made by a resident in the electoral district of the
34 office the participating candidate is seeking.

35 (2) Once the requirements of subsection (1) of this section are
36 met, the commission must verify that a sample of the contributors were

1 residing in the electoral district of the office the participating
2 candidate is seeking.

3 (3) If the requirements of subsection (2) of this section are met,
4 the commission must certify the candidate for public financing. If the
5 commission denies certification, it must provide written reasons why
6 certification is denied. Any candidate who is denied certification may
7 reapply one time within fourteen days of the commission's decision by
8 submitting the required information or the number of qualifying
9 contributions needed to complete the certification.

10 (4) A candidate who is certified as a publicly financed candidate
11 may use that designation in campaign materials and will be so
12 designated in the state voters' pamphlet.

13 NEW SECTION. **Sec. 6.** SEED MONEY CONTRIBUTIONS. A publicly
14 financed candidate may accept contributions of no more than one hundred
15 dollars and only from individuals for seed money. Seed money is
16 limited to twelve thousand dollars for candidates for the legislature,
17 forty thousand dollars for candidates for governor, and twenty-five
18 thousand dollars for candidates for other state executive offices.
19 Seed money may be raised and spent only during the qualifying period
20 and may only be used for the purpose of raising qualifying
21 contributions. The candidate's personal money is considered seed money
22 and may only be spent during the qualifying period. Any seed money not
23 spent by the end of the qualifying period must be paid to the citizens
24 public campaign fund.

25 NEW SECTION. **Sec. 7.** CONTROLS ON A PUBLICLY FINANCED CANDIDATE'S
26 CAMPAIGN ACCOUNT. (1) A publicly financed candidate and the publicly
27 financed candidate's authorized committee shall conduct all financial
28 activity through a single campaign account. A participating candidate
29 shall not make any deposits into the campaign account other than those
30 permitted by this act.

31 (2) A publicly financed candidate and the treasurer of the publicly
32 financed candidate's authorized committee shall pay money from the
33 publicly financed candidate's campaign account directly to any person
34 providing goods or services valued over one hundred dollars to the
35 campaign and shall identify, on reports filed under RCW 42.17.080, the
36 full name and street address of the person and the nature of the goods

1 and services and compensation for which payment has been made. An
2 authorized committee may establish one or more petty cash accounts,
3 that in aggregate must not exceed one thousand dollars at any time. A
4 single expenditure may not be made from a petty cash account exceeding
5 one hundred dollars. Expenditures from any petty cash account must
6 also be included in reports filed under RCW 42.17.080.

7 NEW SECTION. **Sec. 8.** LIMITATIONS ON USE OF PUBLIC FUNDS. Money
8 in the account of a publicly financed candidate's authorized committee
9 may only be used for expenses directly related to the candidate's
10 campaign. It may not be used to pay fines or civil penalties, for
11 costs or legal fees related to representation before the commission, or
12 for defense of an enforcement action under this chapter. Nothing in
13 this chapter prevents a publicly financed candidate from having a legal
14 defense fund.

15 NEW SECTION. **Sec. 9.** REVOCATION. A publicly financed candidate
16 may revoke, in writing to the commission, a decision to participate in
17 the public financing program within five days of being certified as a
18 publicly financed candidate. After a timely revocation, that candidate
19 may accept and expend money outside the limits of this act. Within
20 twenty-four hours after revocation, a candidate must return to the
21 commission all money received from the citizens public campaign fund.

22 NEW SECTION. **Sec. 10.** PUBLIC CAMPAIGN FUNDING. (1) Within five
23 business days after a publicly financed candidate's name is approved to
24 appear on the primary election ballot in a contested election, the
25 commission shall distribute to the account of the authorized committee
26 of each candidate who qualifies for public campaign funding revenue
27 from the citizens public campaign fund as follows:

- 28 (a) For state legislative offices, twenty-five thousand dollars;
29 (b) For the office of governor, five hundred thousand dollars; and
30 (c) For other state executive offices, fifty thousand dollars.

31 (2) Within five business days after a publicly financed candidate's
32 name is approved to appear on the general election ballot in a
33 contested election, the commission shall distribute to the account of
34 the authorized committee of each candidate who qualifies for public

1 campaign funding revenue from the citizens public campaign fund as
2 follows:

3 (a) For state legislative offices, thirty thousand dollars;

4 (b) For the office of governor, seven hundred fifty thousand
5 dollars; and

6 (c) For other state executive offices, sixty thousand dollars.

7 (3) Publicly financed candidates who are uncontested shall receive
8 funds equal to the amount of qualifying contributions raised by that
9 candidate's committee.

10 (4) Within ten days of election certification, a publicly financed
11 candidate shall return to the citizens public campaign fund any amount
12 distributed for an election that is unspent and uncommitted at the date
13 of the election, or at the time the individual ceased to be a
14 candidate.

15 (5) The commission shall distribute funds to publicly financed
16 candidates in a manner that ensures accountability and safeguards the
17 integrity of the fund.

18 NEW SECTION. **Sec. 11.** EQUAL FUNDING OF CANDIDATES. (1) When a
19 report is filed during a primary or general election period, or other
20 information comes to the attention of the commission, indicating that
21 a nonparticipating candidate has raised more money than his or her
22 publicly financed candidate has received in public funding, the
23 commission shall authorize and allocate additional funds from the
24 citizens public campaign fund to the account of the authorized
25 committee of the publicly financed candidate seeking the same office as
26 the nonparticipating candidate. A publicly financed candidate may
27 receive funds equal to the difference between the total amount raised
28 by the nonparticipating candidate and the amount received by the
29 publicly financed candidate, but no more than five times the amount
30 distributed under section 10 of this act. If there are multiple
31 nonparticipating candidates who have raised more money than the
32 publicly financed candidate has received, the publicly financed
33 candidate shall receive funds based on the difference between the total
34 amount raised by the nonparticipating candidate who has raised the most
35 money and the amount received by the publicly financed candidate.

36 (2)(a) Independent expenditures and electioneering communications
37 made against a publicly financed candidate shall be considered as

1 contributions to each opposing candidate and the commission shall
2 provide funds pursuant to subsection (1) of this section to the
3 publicly financed candidate.

4 (b) Independent expenditures and electioneering communications made
5 in favor of one or more nonparticipating opponents of a publicly
6 financed candidate shall be treated as contributions to those
7 nonparticipating candidates and the commission shall provide funds
8 pursuant to subsection (1) of this section to the publicly financed
9 candidate.

10 (c) Independent expenditures and electioneering communications made
11 in favor of a publicly financed candidate shall be considered, for
12 every opposing publicly financed candidate, as though the independent
13 expenditures or electioneering communications were a contribution to a
14 nonparticipating opponent and the commission shall provide funds
15 pursuant to subsection (1) of this section to the publicly financed
16 candidate being opposed.

17 (d) Expenditures or electioneering communications made by a
18 nonparticipating candidate before the primary or general election
19 period that consist of a contract, promise, or agreement to make an
20 expenditure during that primary or general election period resulting in
21 an extension of credit shall be considered as though made during the
22 primary or general election period respectively, and the commission
23 shall provide funds pursuant to subsection (1) of this section.

24 (e) Expenditures or electioneering communications for or against a
25 publicly financed candidate promoting or opposing two or more
26 candidates who are not running for the same office shall be allocated
27 by the commission among candidates for different offices based on the
28 relative size or length and relative prominence of the reference to
29 candidates for different offices.

30 (f) For purposes of this section, expenditures made by a
31 nonparticipating candidate and independent expenditures and
32 electioneering communications are deemed to have been made on the day
33 the expenditure, independent expenditure, or electioneering
34 communication appears and not the day it is paid.

35 (3) If adequate funding is not available to fully equalize the
36 total amount raised by a nonparticipating candidate, the commission may
37 authorize a lesser amount based on available funding.

1 NEW SECTION.

2 **Sec. 12.**

3 REPORTS.

4 (1)(a) Any nonparticipating

5 candidate who has a publicly financed opponent shall report total
6 income, expenses, and obligations to the commission electronically
7 within twenty-four hours after the total amount of campaign
8 expenditures or obligations made, or funds raised or borrowed, exceeds
9 eighty percent of the amount authorized for publicly financed
10 candidates under section 10 of this act.

11 (b) Any person making independent expenditures or electioneering
12 communications in excess of three thousand dollars in support of or
13 opposition to a publicly financed candidate, or in support of a
14 candidate opposing a publicly financed candidate, shall report the
15 total funds received, spent, or obligated for those expenditures to the
16 commission electronically within twenty-four hours after the total
17 amount of expenditures or obligations made, or funds raised or
18 borrowed, for the purpose of making the independent expenditures or
19 electioneering communications, exceeds the amount authorized for the
20 publicly financed candidate under section 10 of this act.

21 (c) Once a nonparticipating candidate or person making an
22 independent expenditure or electioneering communication files the
23 reports required under (a) and (b) of this subsection, he or she shall
24 comply with an expedited reporting schedule by filing additional
25 reports after receiving each additional amount in excess of one
26 thousand dollars or after making or obligating to make each additional
27 expenditure or expenditures in excess of one thousand dollars.

28 (d) The commission shall adopt, in rule, procedures for the
29 reporting requirements of this subsection.

30 (2) Publicly financed candidates shall report in accordance with
31 procedures developed by the commission. A publicly financed candidate
32 who revokes his or her participation in the program, who ceases to be
33 a candidate, or who loses an election shall file a final report with
34 the commission and return any unspent revenues received from the
35 citizens public campaign fund. In developing reporting procedures for
36 publicly financed candidates, the commission shall use existing
37 campaign reporting procedures when practical.

38 (3) The commission shall ensure prompt public access to the reports
39 received under this section.

1 shall make monthly reports to the commission concerning the status of
2 the dispute over any contested bills. Any money in a candidate's
3 campaign account after payment of bills must be returned promptly to
4 the citizens public campaign fund.

5 NEW SECTION. **Sec. 15.** INFLATION AND OTHER ADJUSTMENTS OF DOLLAR
6 VALUES. (1) Every two years the commission shall modify the dollar
7 values specified in this act, in the manner specified by RCW 42.17.370
8 to account for inflation. Whenever a dollar value is so adjusted, this
9 act will be interpreted to apply to the inflation-adjusted value.

10 (2) Based on the results of the elections in the year 2008 or any
11 presidential election thereafter, and within six months after the
12 election, the commission may adopt rules reallocating funds available
13 to all candidates between the primary and general election by selecting
14 a fraction for primary election matching limits that is between one-
15 third and one-half of the matching limits for the election cycle. For
16 each office, the primary election matching limit will be modified to be
17 the sum of the primary and general elections matching limits multiplied
18 by the selected fraction, and the general election matching limit will
19 be modified to be the same sum.

20 **Sec. 16.** RCW 42.17.390 and 2006 c 315 s 2 are each amended to read
21 as follows:

22 One or more of the following civil remedies and sanctions may be
23 imposed by court order in addition to any other remedies provided by
24 law:

25 (1) If the court finds that the violation of any provision of this
26 chapter by any candidate or political committee probably affected the
27 outcome of any election, the result of said election may be held void
28 and a special election held within sixty days of such finding. Any
29 action to void an election shall be commenced within one year of the
30 date of the election in question. It is intended that this remedy be
31 imposed freely in all appropriate cases to protect the right of the
32 electorate to an informed and knowledgeable vote.

33 (2) If any lobbyist or sponsor of any grass roots lobbying campaign
34 violates any of the provisions of this chapter, his or her registration
35 may be revoked or suspended and he or she may be enjoined from

1 receiving compensation or making expenditures for lobbying: PROVIDED,
2 HOWEVER, That imposition of such sanction shall not excuse said
3 lobbyist from filing statements and reports required by this chapter.

4 (3) Any person who violates any of the provisions of this chapter
5 may be subject to a civil penalty of not more than ten thousand dollars
6 for each such violation. However, a person or entity who violates RCW
7 42.17.640 may be subject to a civil penalty of ten thousand dollars or
8 three times the amount of the contribution illegally made or accepted,
9 whichever is greater.

10 (4) Any person who fails to file a properly completed statement or
11 report within the time required by this chapter may be subject to a
12 civil penalty of ten dollars per day for each day each such delinquency
13 continues.

14 (5) Any person who fails to report a contribution or expenditure as
15 required by this chapter may be subject to a civil penalty equivalent
16 to the amount not reported as required.

17 (6) The court may enjoin any person to prevent the doing of any act
18 herein prohibited, or to compel the performance of any act required
19 herein.

20 (7)(a) The civil penalty for a violation of a contribution or
21 expenditure limit established under section 3 of this act by or on
22 behalf of a publicly financed candidate is ten times the amount by
23 which the expenditures or contributions exceed the applicable limit.
24 If the violation occurs within five days of an election, the civil
25 penalty is twenty times the amount by which the expenditures or
26 contributions exceed the applicable limit. A publicly financed
27 candidate found to have knowingly committed a violation of the
28 expenditure or contribution limits under section 3 of this act shall
29 pay the applicable fines, turn over all money in the candidate's
30 authorized committee account to the citizens public campaign fund, and
31 will cease to be a publicly financed candidate.

32 (b) In addition to any other penalties imposed by law, the civil
33 penalty for a violation by or on behalf of a publicly financed
34 candidate of a reporting requirement imposed by this chapter is one
35 hundred dollars per day. A civil penalty imposed under this subsection
36 (7)(b) may not exceed twice the amount of expenditures or contributions
37 not reported in a timely manner. The candidate and the candidate's

1 authorized committee are jointly and severally responsible for a civil
2 penalty imposed under this subsection.

3 (c) All civil penalties collected under this subsection will be
4 deposited into the citizens public campaign fund.

5 **Sec. 17.** RCW 42.17.020 and 2008 c 6 s 201 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
10 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
19 by a candidate, or by the public official against whom recall charges
20 have been filed, to accept contributions or make expenditures on behalf
21 of the candidate or public official.

22 (4) "Ballot proposition" means any "measure" as defined by RCW
23 29A.04.091, or any initiative, recall, or referendum proposition
24 proposed to be submitted to the voters of the state or any municipal
25 corporation, political subdivision, or other voting constituency from
26 and after the time when the proposition has been initially filed with
27 the appropriate election officer of that constituency prior to its
28 circulation for signatures.

29 (5) "Benefit" means a commercial, proprietary, financial, economic,
30 or monetary advantage, or the avoidance of a commercial, proprietary,
31 financial, economic, or monetary disadvantage.

32 (6) "Bona fide political party" means:

33 (a) An organization that has filed a valid certificate of
34 nomination with the secretary of state under chapter 29A.20 RCW;

35 (b) The governing body of the state organization of a major
36 political party, as defined in RCW 29A.04.086, that is the body

1 authorized by the charter or bylaws of the party to exercise authority
2 on behalf of the state party; or

3 (c) The county central committee or legislative district committee
4 of a major political party. There may be only one legislative district
5 committee for each party in each legislative district.

6 ~~(7) ("Depository" means a bank designated by a candidate or
7 political committee pursuant to RCW 42.17.050.~~

8 ~~(8) "Treasurer" and "deputy treasurer" mean the individuals
9 appointed by a candidate or political committee, pursuant to RCW
10 42.17.050, to perform the duties specified in that section.~~

11 ~~(9))~~ "Candidate" means any individual who seeks nomination for
12 election or election to public office. An individual seeks nomination
13 or election when he or she first:

14 (a) Receives contributions or makes expenditures or reserves space
15 or facilities with intent to promote his or her candidacy for office;

16 (b) Announces publicly or files for office;

17 (c) Purchases commercial advertising space or broadcast time to
18 promote his or her candidacy; or

19 (d) Gives his or her consent to another person to take on behalf of
20 the individual any of the actions in (a) or (c) of this subsection.

21 ~~((10))~~ (8) "Caucus political committee" means a political
22 committee organized and maintained by the members of a major political
23 party in the state senate or state house of representatives.

24 ~~((11))~~ (9) "Commercial advertiser" means any person who sells the
25 service of communicating messages or producing printed material for
26 broadcast or distribution to the general public or segments of the
27 general public whether through the use of newspapers, magazines,
28 television and radio stations, billboard companies, direct mail
29 advertising companies, printing companies, or otherwise.

30 ~~((12))~~ (10) "Commission" means the agency established under RCW
31 42.17.350.

32 ~~((13))~~ (11) "Compensation" unless the context requires a narrower
33 meaning, includes payment in any form for real or personal property or
34 services of any kind: PROVIDED, That for the purpose of compliance
35 with RCW 42.17.241, the term "compensation" shall not include per diem
36 allowances or other payments made by a governmental entity to reimburse
37 a public official for expenses incurred while the official is engaged
38 in the official business of the governmental entity.

1 (~~(14)~~) (12) "Contested election" means an election in which there
2 are two or more candidates running for the same office.

3 (13) "Continuing political committee" means a political committee
4 that is an organization of continuing existence not established in
5 anticipation of any particular election campaign.

6 (~~(15)~~) (14)(a) "Contribution" includes:

7 (i) A loan, gift, deposit, subscription, forgiveness of
8 indebtedness, donation, advance, pledge, payment, transfer of funds
9 between political committees, or anything of value, including personal
10 and professional services for less than full consideration;

11 (ii) An expenditure made by a person in cooperation, consultation,
12 or concert with, or at the request or suggestion of, a candidate, a
13 political committee, the person or persons named on the candidate's or
14 committee's registration form who direct expenditures on behalf of the
15 candidate or committee, or their agents;

16 (iii) The financing by a person of the dissemination, distribution,
17 or republication, in whole or in part, of broadcast, written, graphic,
18 or other form of political advertising or electioneering communication
19 prepared by a candidate, a political committee, or its authorized
20 agent;

21 (iv) Sums paid for tickets to fund-raising events such as dinners
22 and parties, except for the actual cost of the consumables furnished at
23 the event.

24 (b) "Contribution" does not include:

25 (i) Standard interest on money deposited in a political committee's
26 account;

27 (ii) Ordinary home hospitality;

28 (iii) A contribution received by a candidate or political committee
29 that is returned to the contributor within five business days of the
30 date on which it is received by the candidate or political committee;

31 (iv) A news item, feature, commentary, or editorial in a regularly
32 scheduled news medium that is of primary interest to the general
33 public, that is in a news medium controlled by a person whose business
34 is that news medium, and that is not controlled by a candidate or a
35 political committee;

36 (v) An internal political communication primarily limited to the
37 members of or contributors to a political party organization or

1 political committee, or to the officers, management staff, or
2 stockholders of a corporation or similar enterprise, or to the members
3 of a labor organization or other membership organization;

4 (vi) The rendering of personal services of the sort commonly
5 performed by volunteer campaign workers, or incidental expenses
6 personally incurred by volunteer campaign workers not in excess of
7 fifty dollars personally paid for by the worker. "Volunteer services,"
8 for the purposes of this section, means services or labor for which the
9 individual is not compensated by any person;

10 (vii) Messages in the form of reader boards, banners, or yard or
11 window signs displayed on a person's own property or property occupied
12 by a person. However, a facility used for such political advertising
13 for which a rental charge is normally made must be reported as an in-
14 kind contribution and counts towards any applicable contribution limit
15 of the person providing the facility;

16 (viii) Legal or accounting services rendered to or on behalf of:

17 (A) A political party or caucus political committee if the person
18 paying for the services is the regular employer of the person rendering
19 such services; or

20 (B) A candidate or an authorized committee if the person paying for
21 the services is the regular employer of the individual rendering the
22 services and if the services are solely for the purpose of ensuring
23 compliance with state election or public disclosure laws; or

24 (ix) The performance of ministerial functions by a person on behalf
25 of two or more candidates or political committees either as volunteer
26 services defined in (b)(vi) of this subsection or for payment by the
27 candidate or political committee for whom the services are performed as
28 long as:

29 (A) The person performs solely ministerial functions;

30 (B) A person who is paid by two or more candidates or political
31 committees is identified by the candidates and political committees on
32 whose behalf services are performed as part of their respective
33 statements of organization under RCW 42.17.040; and

34 (C) The person does not disclose, except as required by law, any
35 information regarding a candidate's or committee's plans, projects,
36 activities, or needs, or regarding a candidate's or committee's
37 contributions or expenditures that is not already publicly available

1 from campaign reports filed with the commission, or otherwise engage in
2 activity that constitutes a contribution under (a)(ii) of this
3 subsection.

4 A person who performs ministerial functions under this subsection
5 (~~((15))~~) (14)(b)(ix) is not considered an agent of the candidate or
6 committee as long as he or she has no authority to authorize
7 expenditures or make decisions on behalf of the candidate or committee.

8 (c) Contributions other than money or its equivalent are deemed to
9 have a monetary value equivalent to the fair market value of the
10 contribution. Services or property or rights furnished at less than
11 their fair market value for the purpose of assisting any candidate or
12 political committee are deemed a contribution. Such a contribution
13 must be reported as an in-kind contribution at its fair market value
14 and counts towards any applicable contribution limit of the provider.

15 (15) "Depository" means a bank designated by a candidate or
16 political committee under RCW 42.17.050.

17 (16) "Elected official" means any person elected at a general or
18 special election to any public office, and any person appointed to fill
19 a vacancy in any such office.

20 (17) "Election" includes any primary, general, or special election
21 for public office and any election in which a ballot proposition is
22 submitted to the voters: PROVIDED, That an election in which the
23 qualifications for voting include other than those requirements set
24 forth in Article VI, section 1 (Amendment 63) of the Constitution of
25 the state of Washington shall not be considered an election for
26 purposes of this chapter.

27 (18) "Election campaign" means any campaign in support of or in
28 opposition to a candidate for election to public office and any
29 campaign in support of, or in opposition to, a ballot proposition.

30 (19) "Election cycle" means the period beginning on the first day
31 of January after the date of the last previous general election for the
32 office that the candidate seeks and ending on December 31st after the
33 next election for the office. In the case of a special election to
34 fill a vacancy in an office, "election cycle" means the period
35 beginning on the day the vacancy occurs and ending on December 31st
36 after the special election.

37 (20) "Electioneering communication" means any broadcast, cable, or

1 satellite television or radio transmission, United States postal
2 service mailing, billboard, newspaper, or periodical that:

3 (a) Clearly identifies a candidate for a state, local, or judicial
4 office either by specifically naming the candidate, or identifying the
5 candidate without using the candidate's name;

6 (b) Is broadcast, transmitted, mailed, erected, distributed, or
7 otherwise published within sixty days before any election for that
8 office in the jurisdiction in which the candidate is seeking election;
9 and

10 (c) Either alone, or in combination with one or more communications
11 identifying the candidate by the same sponsor during the sixty days
12 before an election, has a fair market value of five thousand dollars or
13 more.

14 (21) "Electioneering communication" does not include:

15 (a) Usual and customary advertising of a business owned by a
16 candidate, even if the candidate is mentioned in the advertising when
17 the candidate has been regularly mentioned in that advertising
18 appearing at least twelve months preceding his or her becoming a
19 candidate;

20 (b) Advertising for candidate debates or forums when the
21 advertising is paid for by or on behalf of the debate or forum sponsor,
22 so long as two or more candidates for the same position have been
23 invited to participate in the debate or forum;

24 (c) A news item, feature, commentary, or editorial in a regularly
25 scheduled news medium that is:

26 (i) Of primary interest to the general public;

27 (ii) In a news medium controlled by a person whose business is that
28 news medium; and

29 (iii) Not a medium controlled by a candidate or a political
30 committee;

31 (d) Slate cards and sample ballots;

32 (e) Advertising for books, films, dissertations, or similar works
33 (i) written by a candidate when the candidate entered into a contract
34 for such publications or media at least twelve months before becoming
35 a candidate, or (ii) written about a candidate;

36 (f) Public service announcements;

37 (g) A mailed internal political communication primarily limited to
38 the members of or contributors to a political party organization or

1 political committee, or to the officers, management staff, or
2 stockholders of a corporation or similar enterprise, or to the members
3 of a labor organization or other membership organization;

4 (h) An expenditure by or contribution to the authorized committee
5 of a candidate for state, local, or judicial office; or

6 (i) Any other communication exempted by the commission through rule
7 consistent with the intent of this chapter.

8 (22) "Expenditure" includes a payment, contribution, subscription,
9 distribution, loan, advance, deposit, or gift of money or anything of
10 value, and includes a contract, promise, or agreement, whether or not
11 legally enforceable, to make an expenditure. The term "expenditure"
12 also includes a promise to pay, a payment, or a transfer of anything of
13 value in exchange for goods, services, property, facilities, or
14 anything of value for the purpose of assisting, benefiting, or honoring
15 any public official or candidate, or assisting in furthering or
16 opposing any election campaign. For the purposes of this chapter,
17 agreements to make expenditures, contracts, and promises to pay may be
18 reported as estimated obligations until actual payment is made. The
19 term "expenditure" shall not include the partial or complete repayment
20 by a candidate or political committee of the principal of a loan, the
21 receipt of which loan has been properly reported.

22 (23) "Exploratory period" means the period beginning the day after
23 the previous general election for the office being sought and ending
24 the day before the start of the qualifying period for that office.

25 (24) "Final report" means the report described as a final report in
26 RCW 42.17.080(2).

27 ((+24)) (25) "General election" for the purposes of RCW 42.17.640
28 means the election that results in the election of a person to a state
29 office. It does not include a primary.

30 ((+25)) (26) "General election period" means the period beginning
31 on the day after the primary election and ending the day of the general
32 election. For a recall election, the "general election period" extends
33 from the day after the end of the qualifying period to the day of the
34 recall election.

35 (27) "Gift," is as defined in RCW 42.52.010.

36 ((+26)) (28) "Immediate family" includes the spouse or domestic
37 partner, dependent children, and other dependent relatives, if living
38 in the household. For the purposes of RCW 42.17.640 through 42.17.790,

1 "immediate family" means an individual's spouse or domestic partner,
2 and child, stepchild, grandchild, parent, stepparent, grandparent,
3 brother, half brother, sister, or half sister of the individual and the
4 spouse or the domestic partner of any such person and a child,
5 stepchild, grandchild, parent, stepparent, grandparent, brother, half
6 brother, sister, or half sister of the individual's spouse or domestic
7 partner and the spouse or the domestic partner of any such person.

8 ~~((+27))~~ (29) "Incumbent" means a person who is in present
9 possession of an elected office.

10 ~~((+28))~~ (30) "Independent expenditure" means an expenditure that
11 has each of the following elements:

12 (a) It is made in support of or in opposition to a candidate for
13 office by a person who is not (i) a candidate for that office, (ii) an
14 authorized committee of that candidate for that office, (iii) a person
15 who has received the candidate's encouragement or approval to make the
16 expenditure, if the expenditure pays in whole or in part for political
17 advertising supporting that candidate or promoting the defeat of any
18 other candidate or candidates for that office, or (iv) a person with
19 whom the candidate has collaborated for the purpose of making the
20 expenditure, if the expenditure pays in whole or in part for political
21 advertising supporting that candidate or promoting the defeat of any
22 other candidate or candidates for that office;

23 (b) The expenditure pays in whole or in part for political
24 advertising that either specifically names the candidate supported or
25 opposed, or clearly and beyond any doubt identifies the candidate
26 without using the candidate's name; and

27 (c) The expenditure, alone or in conjunction with another
28 expenditure or other expenditures of the same person in support of or
29 opposition to that candidate, has a value of five hundred dollars or
30 more. A series of expenditures, each of which is under five hundred
31 dollars, constitutes one independent expenditure if their cumulative
32 value is five hundred dollars or more.

33 ~~((+29))~~ (31)(a) "Intermediary" means an individual who transmits
34 a contribution to a candidate or committee from another person unless
35 the contribution is from the individual's employer, immediate family as
36 defined for purposes of RCW 42.17.640 through 42.17.790, or an
37 association to which the individual belongs.

1 (b) A treasurer or a candidate is not an intermediary for purposes
2 of the committee that the treasurer or candidate serves.

3 (c) A professional fund-raiser is not an intermediary if the fund-
4 raiser is compensated for fund-raising services at the usual and
5 customary rate.

6 (d) A volunteer hosting a fund-raising event at the individual's
7 home is not an intermediary for purposes of that event.

8 ~~((+30+))~~ (32) "Legislation" means bills, resolutions, motions,
9 amendments, nominations, and other matters pending or proposed in
10 either house of the state legislature, and includes any other matter
11 that may be the subject of action by either house or any committee of
12 the legislature and all bills and resolutions that, having passed both
13 houses, are pending approval by the governor.

14 ~~((+31+))~~ (33) "Lobby" and "lobbying" each mean attempting to
15 influence the passage or defeat of any legislation by the legislature
16 of the state of Washington, or the adoption or rejection of any rule,
17 standard, rate, or other legislative enactment of any state agency
18 under the state Administrative Procedure Act, chapter 34.05 RCW.
19 Neither "lobby" nor "lobbying" includes an association's or other
20 organization's act of communicating with the members of that
21 association or organization.

22 ~~((+32+))~~ (34) "Lobbyist" includes any person who lobbies either in
23 his or her own or another's behalf.

24 ~~((+33+))~~ (35) "Lobbyist's employer" means the person or persons by
25 whom a lobbyist is employed and all persons by whom he or she is
26 compensated for acting as a lobbyist.

27 ~~((+34+))~~ (36) "Ministerial functions" means an act or duty carried
28 out as part of the duties of an administrative office without exercise
29 of personal judgment or discretion.

30 ~~((+35+))~~ (37) "Nonparticipating candidate" means a candidate who is
31 on the ballot but has chosen not to apply for public funds from the
32 citizens public campaign fund or a candidate who is on the ballot and
33 has applied but has not been certified to receive public funds from the
34 citizens public campaign fund.

35 (38) "Participate" means that, with respect to a particular
36 election, an entity:

37 (a) Makes either a monetary or in-kind contribution to a candidate;

1 (b) Makes an independent expenditure or electioneering
2 communication in support of or opposition to a candidate;

3 (c) Endorses a candidate prior to contributions being made by a
4 subsidiary corporation or local unit with respect to that candidate or
5 that candidate's opponent;

6 (d) Makes a recommendation regarding whether a candidate should be
7 supported or opposed prior to a contribution being made by a subsidiary
8 corporation or local unit with respect to that candidate or that
9 candidate's opponent; or

10 (e) Directly or indirectly collaborates or consults with a
11 subsidiary corporation or local unit on matters relating to the support
12 of or opposition to a candidate, including, but not limited to, the
13 amount of a contribution, when a contribution should be given, and what
14 assistance, services or independent expenditures, or electioneering
15 communications, if any, will be made or should be made in support of or
16 opposition to a candidate.

17 (~~(+36+)~~) (39) "Person" includes an individual, partnership, joint
18 venture, public or private corporation, association, federal, state, or
19 local governmental entity or agency however constituted, candidate,
20 committee, political committee, political party, executive committee
21 thereof, or any other organization or group of persons, however
22 organized.

23 (~~(+37+)~~) (40) "Person in interest" means the person who is the
24 subject of a record or any representative designated by that person,
25 except that if that person is under a legal disability, the term
26 "person in interest" means and includes the parent or duly appointed
27 legal representative.

28 (~~(+38+)~~) (41) "Political advertising" includes any advertising
29 displays, newspaper ads, billboards, signs, brochures, articles,
30 tabloids, flyers, letters, radio or television presentations, or other
31 means of mass communication, used for the purpose of appealing,
32 directly or indirectly, for votes or for financial or other support or
33 opposition in any election campaign.

34 (~~(+39+)~~) (42) "Political committee" means any person (except a
35 candidate or an individual dealing with his or her own funds or
36 property) having the expectation of receiving contributions or making
37 expenditures in support of, or opposition to, any candidate or any
38 ballot proposition.

1 (~~(40)~~) (43) "Primary" for the purposes of RCW 42.17.640 means the
2 procedure for nominating a candidate to state office under chapter
3 29A.52 RCW or any other primary for an election that uses, in large
4 measure, the procedures established in chapter 29A.52 RCW.

5 (~~(41)~~) (44) "Primary period" means the nine-week period before
6 and ending on the day of the primary election. There is no primary
7 period for a recall election.

8 (45) "Public office" means any federal, state, judicial, county,
9 city, town, school district, port district, special district, or other
10 state political subdivision elective office.

11 (~~(42)~~) (46) "Public record" includes any writing containing
12 information relating to the conduct of government or the performance of
13 any governmental or proprietary function prepared, owned, used, or
14 retained by any state or local agency regardless of physical form or
15 characteristics. For the office of the secretary of the senate and the
16 office of the chief clerk of the house of representatives, public
17 records means legislative records as defined in RCW 40.14.100 and also
18 means the following: All budget and financial records; personnel
19 leave, travel, and payroll records; records of legislative sessions;
20 reports submitted to the legislature; and any other record designated
21 a public record by any official action of the senate or the house of
22 representatives.

23 (~~(43)~~) (47) "Qualifying contribution" means a contribution of
24 exactly five dollars, made by a resident who at the time of the
25 contribution resides in the electoral district of the office the
26 candidate is seeking, and is received during the qualifying period.

27 (48) "Qualifying period" means the period beginning one hundred
28 twenty days before the first day a candidate may file for office and
29 ending on the close of the regular filing period for the office.

30 (49) "Recall campaign" means the period of time beginning on the
31 date of the filing of recall charges under RCW 29A.56.120 and ending
32 thirty days after the recall election.

33 (~~(44)~~) (50) "Seed money" means a contribution of no more than one
34 hundred dollars, made by an individual, and received during the
35 qualifying period.

36 (51) "Sponsor of an electioneering communications, independent
37 expenditures, or political advertising" means the person paying for the
38 electioneering communication, independent expenditure, or political

1 advertising. If a person acts as an agent for another or is reimbursed
2 by another for the payment, the original source of the payment is the
3 sponsor.

4 ~~((45))~~ (52) "State legislative office" means the office of a
5 member of the state house of representatives or the office of a member
6 of the state senate.

7 ~~((46))~~ (53) "State office" means state legislative office or the
8 office of governor, lieutenant governor, secretary of state, attorney
9 general, commissioner of public lands, insurance commissioner,
10 superintendent of public instruction, state auditor, or state
11 treasurer.

12 ~~((47))~~ (54) "State official" means a person who holds a state
13 office.

14 ~~((48))~~ (55) "Surplus funds" mean, in the case of a political
15 committee or candidate, the balance of contributions that remain in the
16 possession or control of that committee or candidate subsequent to the
17 election for which the contributions were received, and that are in
18 excess of the amount necessary to pay remaining debts incurred by the
19 committee or candidate prior to that election. In the case of a
20 continuing political committee, "surplus funds" mean those
21 contributions remaining in the possession or control of the committee
22 that are in excess of the amount necessary to pay all remaining debts
23 when it makes its final report under RCW 42.17.065.

24 ~~((49))~~ (56) "Treasurer" and "deputy treasurer" mean the
25 individuals appointed by a candidate or political committee, under RCW
26 42.17.050, to perform the duties specified in RCW 42.17.050.

27 (57) "Uncontested election" means an election in which a candidate
28 running for a specified office has no opponent.

29 (58) "Writing" means handwriting, typewriting, printing,
30 photostating, photographing, and every other means of recording any
31 form of communication or representation, including, but not limited to,
32 letters, words, pictures, sounds, or symbols, or combination thereof,
33 and all papers, maps, magnetic or paper tapes, photographic films and
34 prints, motion picture, film and video recordings, magnetic or punched
35 cards, discs, drums, diskettes, sound recordings, and other documents
36 including existing data compilations from which information may be
37 obtained or translated.

1 As used in this chapter, the singular shall take the plural and any
2 gender, the other, as the context requires.

3 **Sec. 18.** RCW 42.17.095 and 2005 c 467 s 1 are each amended to read
4 as follows:

5 The surplus funds of a candidate, or of a political committee
6 supporting or opposing a candidate, may only be disposed of in any one
7 or more of the following ways:

8 (1) Return the surplus to a contributor in an amount not to exceed
9 that contributor's original contribution;

10 (2) Transfer the surplus to the candidate's personal account as
11 reimbursement for lost earnings incurred as a result of that
12 candidate's election campaign. Such lost earnings shall be verifiable
13 as unpaid salary or, when the candidate is not salaried, as an amount
14 not to exceed income received by the candidate for services rendered
15 during an appropriate, corresponding time period. All lost earnings
16 incurred shall be documented and a record thereof shall be maintained
17 by the candidate or the candidate's political committee. The committee
18 shall include a copy of such record when its expenditure for such
19 reimbursement is reported pursuant to RCW 42.17.090;

20 (3) Transfer the surplus without limit to a political party or to
21 a caucus political committee;

22 (4) Donate the surplus to a charitable organization registered in
23 accordance with chapter 19.09 RCW;

24 (5) Transmit the surplus to the state treasurer for deposit in the
25 general fund, the ~~((oral history))~~ Washington state legacy project,
26 state library, and archives account under RCW 43.07.380, or the
27 legislative international trade account under RCW ~~((44.04.270))~~
28 43.15.050, as specified by the candidate or political committee; ~~((or))~~

29 (6) Hold the surplus in the ~~((campaign))~~ depository or depositories
30 designated in accordance with RCW 42.17.050 for possible use in a
31 future election campaign for the same office last sought by the
32 candidate and report any such disposition in accordance with RCW
33 42.17.090: PROVIDED, That if the candidate subsequently announces or
34 publicly files for office, information as appropriate is reported to
35 the commission in accordance with RCW 42.17.040 through 42.17.090. If
36 a subsequent office is not sought the surplus held shall be disposed of
37 in accordance with the requirements of this section~~((-))~~;

1 (7) Hold the surplus campaign funds in a separate account for
2 nonreimbursed public office-related expenses or as provided in this
3 section, and report any such disposition in accordance with RCW
4 42.17.090. The separate account required under this subsection shall
5 not be used for deposits of campaign funds that are not surplus((-));

6 (8) Notwithstanding subsections (1) through (7) of this section,
7 for those candidates certified for public campaign funding, all surplus
8 campaign funds must be transferred to the citizens public campaign
9 fund; or

10 (9) No candidate or authorized committee may transfer funds to any
11 other candidate or other political committee.

12 The disposal of surplus funds under this section shall not be
13 considered a contribution for purposes of this chapter.

14 **Sec. 19.** RCW 42.52.180 and 1995 c 397 s 30 are each amended to
15 read as follows:

16 (1) No state officer or state employee may use or authorize the use
17 of facilities of an agency, directly or indirectly, for the purpose of
18 assisting a campaign for election of a person to an office or for the
19 promotion of or opposition to a ballot proposition. Knowing
20 acquiescence by a person with authority to direct, control, or
21 influence the actions of the state officer or state employee using
22 public resources in violation of this section constitutes a violation
23 of this section. Facilities of an agency include, but are not limited
24 to, use of stationery, postage, machines, and equipment, use of state
25 employees of the agency during working hours, vehicles, office space,
26 publications of the agency, and clientele lists of persons served by
27 the agency.

28 (2) This section shall not apply to the following activities:

29 (a) Action taken at an open public meeting by members of an elected
30 legislative body to express a collective decision, or to actually vote
31 upon a motion, proposal, resolution, order, or ordinance, or to support
32 or oppose a ballot proposition as long as (i) required notice of the
33 meeting includes the title and number of the ballot proposition, and
34 (ii) members of the legislative body or members of the public are
35 afforded an approximately equal opportunity for the expression of an
36 opposing view;

1 (b) A statement by an elected official in support of or in
2 opposition to any ballot proposition at an open press conference or in
3 response to a specific inquiry. For the purposes of this subsection,
4 it is not a violation of this section for an elected official to
5 respond to an inquiry regarding a ballot proposition, to make
6 incidental remarks concerning a ballot proposition in an official
7 communication, or otherwise comment on a ballot proposition without an
8 actual, measurable expenditure of public funds. The ethics boards
9 shall adopt by rule a definition of measurable expenditure;

10 (c) Activities that are part of the normal and regular conduct of
11 the office or agency; (~~and~~)

12 (d) De minimis use of public facilities by statewide elected
13 officials and legislators incidental to the preparation or delivery of
14 permissible communications, including written and verbal communications
15 initiated by them of their views on ballot propositions that
16 foreseeably may affect a matter that falls within their constitutional
17 or statutory responsibilities; and

18 (e) Activities that are undertaken by a public agency in
19 implementation of sections 2 through 15 of this act, the citizens
20 public campaign act.

21 (3) As to state officers and employees, this section operates to
22 the exclusion of RCW 42.17.130.

23 **Sec. 20.** RCW 42.17.128 and 2008 c 29 s 1 are each amended to read
24 as follows:

25 Except as provided in sections 2 through 15 of this act, the
26 citizens public campaign act, public funds, whether derived through
27 taxes, fees, penalties, or any other sources, shall not be used to
28 finance political campaigns for state or school district office. A
29 county, city, town, or district that establishes a program to publicly
30 finance local political campaigns may only use funds derived from local
31 sources to fund the program. A local government must submit any
32 proposal for public financing of local political campaigns to voters
33 for their adoption and approval or rejection.

34 **Sec. 21.** RCW 42.17.130 and 2006 c 215 s 2 are each amended to read
35 as follows:

36 Except as provided in sections 2 through 15 of this act, the

1 citizens public campaign act, no elective official nor any employee of
2 his (~~(for her)~~) or her office nor any person appointed to or employed
3 by any public office or agency may use or authorize the use of any of
4 the facilities of a public office or agency, directly or indirectly,
5 for the purpose of assisting a campaign for election of any person to
6 any office or for the promotion of or opposition to any ballot
7 proposition. Facilities of a public office or agency include, but are
8 not limited to, use of stationery, postage, machines, and equipment,
9 use of employees of the office or agency during working hours,
10 vehicles, office space, publications of the office or agency, and
11 clientele lists of persons served by the office or agency. However,
12 this does not apply to the following activities:

13 (1) Action taken at an open public meeting by members of an elected
14 legislative body or by an elected board, council, or commission of a
15 special purpose district including, but not limited to, fire districts,
16 public hospital districts, library districts, park districts, port
17 districts, public utility districts, school districts, sewer districts,
18 and water districts, to express a collective decision, or to actually
19 vote upon a motion, proposal, resolution, order, or ordinance, or to
20 support or oppose a ballot proposition so long as (a) any required
21 notice of the meeting includes the title and number of the ballot
22 proposition, and (b) members of the legislative body, members of the
23 board, council, or commission of the special purpose district, or
24 members of the public are afforded an approximately equal opportunity
25 for the expression of an opposing view;

26 (2) A statement by an elected official in support of or in
27 opposition to any ballot proposition at an open press conference or in
28 response to a specific inquiry;

29 (3) Activities which are part of the normal and regular conduct of
30 the office or agency.

31 NEW SECTION. Sec. 22. Sections 2 through 15 of this act may be
32 known as the citizens public campaign act.

33 NEW SECTION. Sec. 23. Sections 2 through 15 of this act are each
34 added to chapter 42.17 RCW.

1 NEW SECTION. **Sec. 24.** Captions used in this act are not part of
2 law.

3 NEW SECTION. **Sec. 25.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

--- END ---