

ESSB 5785 - H COMM AMD  
By Committee on State Government

ADOPTED 4/14/2015

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 42.52.010 and 2011 c 60 s 28 are each reenacted and  
4 amended to read as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

7 (1) "Agency" means any state board, commission, bureau,  
8 committee, department, institution, division, or tribunal in the  
9 legislative, executive, or judicial branch of state government.  
10 "Agency" includes all elective offices, the state legislature, those  
11 institutions of higher education created and supported by the state  
12 government, and those courts that are parts of state government.

13 (2) "Assist" means to act, or offer or agree to act, in such a  
14 way as to help, aid, advise, furnish information to, or otherwise  
15 provide assistance to another person, believing that the action is of  
16 help, aid, advice, or assistance to the person and with intent so to  
17 assist such person.

18 (3) "Beneficial interest" has the meaning ascribed to it under  
19 the Washington case law. However, an ownership interest in a mutual  
20 fund or similar investment pooling fund in which the owner has no  
21 management powers does not constitute a beneficial interest in the  
22 entities in which the fund or pool invests.

23 (4) "Compensation" means anything of economic value, however  
24 designated, that is paid, loaned, granted, or transferred, or to be  
25 paid, loaned, granted, or transferred for, or in consideration of,  
26 personal services to any person.

27 (5) "Confidential information" means (a) specific information,  
28 rather than generalized knowledge, that is not available to the  
29 general public on request or (b) information made confidential by  
30 law.

31 (6) "Contract" or "grant" means an agreement between two or more  
32 persons that creates an obligation to do or not to do a particular

1 thing. "Contract" or "grant" includes, but is not limited to, an  
2 employment contract, a lease, a license, a purchase agreement, or a  
3 sales agreement.

4 (7) "Ethics boards" means the commission on judicial conduct, the  
5 legislative ethics board, and the executive ethics board.

6 (8) "Family" has the same meaning as "immediate family" in RCW  
7 42.17A.005.

8 (9) "Gift" means anything of economic value for which no  
9 consideration is given. "Gift" does not include:

10 (a) Items from family members or friends where it is clear beyond  
11 a reasonable doubt that the gift was not made as part of any design  
12 to gain or maintain influence in the agency of which the recipient is  
13 an officer or employee;

14 (b) Items related to the outside business of the recipient that  
15 are customary and not related to the recipient's performance of  
16 official duties;

17 (c) Items exchanged among officials and employees or a social  
18 event hosted or sponsored by a state officer or state employee for  
19 coworkers;

20 (d) Payments by a governmental or nongovernmental entity of  
21 reasonable expenses incurred in connection with a speech,  
22 presentation, appearance, or trade mission made in an official  
23 capacity. As used in this subsection, "reasonable expenses" are  
24 limited to travel, lodging, and subsistence expenses incurred the day  
25 before through the day after the event;

26 (e) Items a state officer or state employee is authorized by law  
27 to accept;

28 (f) Payment of enrollment and course fees and reasonable travel  
29 expenses attributable to attending seminars and educational programs  
30 sponsored by a bona fide governmental or nonprofit professional,  
31 educational, trade, or charitable association or institution. As used  
32 in this subsection, "reasonable expenses" are limited to travel,  
33 lodging, and subsistence expenses incurred the day before through the  
34 day after the event;

35 (g) Items returned by the recipient to the donor within thirty  
36 days of receipt or donated to a charitable organization within thirty  
37 days of receipt;

38 (h) Campaign contributions reported under chapter 42.17A RCW;

39 (i) Discounts available to an individual as a member of an  
40 employee group, occupation, or similar broad-based group; and

1 (j) Awards, prizes, scholarships, or other items provided in  
2 recognition of academic or scientific achievement.

3 (10) "Head of agency" means the chief executive officer of an  
4 agency. In the case of an agency headed by a commission, board,  
5 committee, or other body consisting of more than one natural person,  
6 agency head means the person or board authorized to appoint agency  
7 employees and regulate their conduct.

8 (11) "Honorarium" means money or thing of value offered to a  
9 state officer or state employee for a speech, appearance, article, or  
10 similar item or activity in connection with the state officer's or  
11 state employee's official role.

12 (12) "Official duty" means: (a) For a state officer holding an  
13 elective office, those duties ((within the specific scope of  
14 employment of the state officer or state employee as defined by the  
15 officer's or employee's agency or by statute or the state  
16 Constitution)) prescribed in the state Constitution, state statutes,  
17 or agency rules, legislatively funded or mandated authority and  
18 responsibilities, activities described in an agency's publicly  
19 released strategic plan or similar document, and tasks or actions  
20 directly related to carrying out the state officer's other official  
21 duties; and (b) for a state employee or a state officer who is not  
22 holding an elective office, those duties within the specific scope of  
23 employment of the state officer or state employee as defined by the  
24 officer's or employee's agency or by statute or the state  
25 Constitution.

26 (13) "Participate" means to participate in state action or a  
27 proceeding personally and substantially as a state officer or state  
28 employee, through approval, disapproval, decision, recommendation,  
29 the rendering of advice, investigation, or otherwise but does not  
30 include preparation, consideration, or enactment of legislation or  
31 the performance of legislative duties.

32 (14) "Person" means any individual, partnership, association,  
33 corporation, firm, institution, or other entity, whether or not  
34 operated for profit.

35 (15) "Regulatory agency" means any state board, commission,  
36 department, or officer, except those in the legislative or judicial  
37 branches, authorized by law to conduct adjudicative proceedings,  
38 issue permits or licenses, or to control or affect interests of  
39 identified persons.

1 (16) "Responsibility" in connection with a transaction involving  
2 the state, means the direct administrative or operating authority,  
3 whether intermediate or final, and either exercisable alone or  
4 through subordinates, effectively to approve, disapprove, or  
5 otherwise direct state action in respect of such transaction.

6 (17) "State action" means any action on the part of an agency,  
7 including, but not limited to:

8 (a) A decision, determination, finding, ruling, or order; and

9 (b) A grant, payment, award, license, contract, transaction,  
10 sanction, or approval, or the denial thereof, or failure to act with  
11 respect to a decision, determination, finding, ruling, or order.

12 (18) "State employee" means an individual who is employed by an  
13 agency in any branch of state government. For purposes of this  
14 chapter, employees of the superior courts are not state officers or  
15 state employees.

16 (19) "State officer" means every person holding a position of  
17 public trust in or under an executive, legislative, or judicial  
18 office of the state. "State officer" includes judges of the superior  
19 court, judges of the court of appeals, justices of the supreme court,  
20 members of the legislature together with the secretary of the senate  
21 and the chief clerk of the house of representatives, holders of  
22 elective offices in the executive branch of state government, chief  
23 executive officers of state agencies, members of boards, commissions,  
24 or committees with authority over one or more state agencies or  
25 institutions, and employees of the state who are engaged in  
26 supervisory, policy-making, or policy-enforcing work. For the  
27 purposes of this chapter, "state officer" also includes any person  
28 exercising or undertaking to exercise the powers or functions of a  
29 state officer.

30 (20) "Thing of economic value," in addition to its ordinary  
31 meaning, includes:

32 (a) A loan, property interest, interest in a contract or other  
33 chose in action, and employment or another arrangement involving a  
34 right to compensation;

35 (b) An option, irrespective of the conditions to the exercise of  
36 the option; and

37 (c) A promise or undertaking for the present or future delivery  
38 or procurement.

39 (21)(a) "Transaction involving the state" means a proceeding,  
40 application, submission, request for a ruling or other determination,

1 contract, claim, case, or other similar matter that the state  
2 officer, state employee, or former state officer or state employee in  
3 question believes, or has reason to believe:

- 4 (i) Is, or will be, the subject of state action; or
- 5 (ii) Is one to which the state is or will be a party; or
- 6 (iii) Is one in which the state has a direct and substantial  
7 proprietary interest.

8 (b) "Transaction involving the state" does not include the  
9 following: Preparation, consideration, or enactment of legislation,  
10 including appropriation of moneys in a budget, or the performance of  
11 legislative duties by an officer or employee; or a claim, case,  
12 lawsuit, or similar matter if the officer or employee did not  
13 participate in the underlying transaction involving the state that is  
14 the basis for the claim, case, or lawsuit.

15 (22) "University" includes "state universities" and "regional  
16 universities" as defined in RCW 28B.10.016 and also includes any  
17 research or technology institute affiliated with a university,  
18 including without limitation, the Spokane intercollegiate research  
19 and technology institute and the Washington technology center.

20 (23) "University research employee" means a state officer or  
21 state employee employed by a university, but only to the extent the  
22 state officer or state employee is engaged in research, technology  
23 transfer, approved consulting activities related to research and  
24 technology transfer, or other incidental activities."

25 Correct the title.

EFFECT: Includes activities described in an agency's publicly  
released strategic plan or similar document within the scope of  
official duties of a state officer holding elective office.

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