

# SENATE BILL REPORT

## ESSB 5785

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As Amended by House, April 14, 2015

**Title:** An act relating to the definition of official duties of state officers.

**Brief Description:** Revising the definition of official duties of state officers.

**Sponsors:** Senate Committee on Government Operations & Security (originally sponsored by Senators Rivers, Nelson, Dassel, Hatfield, Pearson, Fain, Liias and Hobbs).

**Brief History:**

**Committee Activity:** Government Operations & Security: 2/09/15, 2/12/15 [DPS].

Passed Senate: 3/11/15, 45-3.

Passed House: 4/14/15, 67-30.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

**Majority Report:** That Substitute Senate Bill No. 5785 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Pearson, Vice Chair; Liias, Ranking Minority Member; McCoy.

**Staff:** Karen Epps (786-7424)

**Background:** In 1994 the Legislature enacted the Ethics in Public Service Act (Ethics Act), establishing new and revised ethics rules, consolidating them in a single RCW chapter, and applying the new chapter to all state officials and employees of the executive, legislative, and judicial branches of state government. The Ethics Act created the Executive Ethics Board and Legislative Ethics Board and expanded the authority of the Commission on Judicial Conduct. Each of these ethics boards have broad powers to enforce the Ethics Act, and may investigate and initiate complaints regarding the conduct of state government employees. Each of these ethics board's activities fall under four broad categories: (1) providing training and educational materials; (2) issuing rules or policies limiting conduct in specified circumstances; (3) issuing advisory opinions; and (4) investigating, hearing, and determining complaints.

Generally no state officer or state employee may have an interest, financial or otherwise, direct or indirect; engage in a business, transaction, or professional activity; or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or

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state employee's official duties. Limitations are also placed on gifts of a non-influential nature. The Ethics Act defines official duty to mean those duties within the specific scope of employment of the state officer or state employee as defined by the officer's or employee's agency or by statute or the state Constitution.

State officer generally refers to elected state officials, including the Governor, Lieutenant Governor, Secretary of State, Treasurer, Auditor, Attorney General, Superintendent of Public Instruction, Commissioner of Public Lands, and Insurance Commissioner. In the Ethics Act, state officer means every person holding a position of public trust in or under an executive, legislative, or judicial office of the state. This definition includes Superior Court Judges; Court of Appeals Judges; Supreme Court Justices; members of the Legislature together with the Secretary of the Senate and the Chief Clerk of the House of Representatives; the Governor; the Lieutenant Governor; the Secretary of State, the state Treasurer, Auditor, Superintendent of Public Instruction, and Insurance Commissioner; the Attorney General; the Commissioner of Public Lands; chief executive officers of state agencies; members of boards, commissions, or committees with authority over one or more state agencies or institutions; and employees of the state who are engaged in supervisory, policymaking, or policy-enforcing work. In the Ethics Act, state officer also includes any person exercising or undertaking to exercise the powers or functions of a state officer.

**Summary of Engrossed Substitute Bill:** The definition of official duty for a state officer holding an elective office is amended in the Ethics Act to mean those duties prescribed in the state Constitution, state statutes, or agency rules, legislatively funded or mandated authority and responsibilities, and tasks or actions directly related to carrying out the state officer's other official duties.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: This bill is designed to provide transparency, accountability, and certainty for statewide elected officials so that they may know what is and is not in the purview of their scope of service. State officials need to have the latitude to reach out in a multitude of ways to people in the state. The Board's staff determined that work with kids on drug and alcohol issues was not part of official duties of a state official. The Board has taken a narrow view of official duties to include only what is defined in statute and the state Constitution, and to serve on numerous boards and committees. The Board has said that it is acceptable for a state official to lead trade, goodwill, cultural, and education missions for the state, but these duties are not described in state statute or the state Constitution. A state officer's job cannot be narrowly defined and elected officials should not run for office if that is all they are going to do. Elected officials should use their positions to go beyond the narrowly defined statutes and reach out to help the people of Washington State. Elected positions give a person the stature and opportunity to make a difference and that is why a person runs for office. This bill eliminates arbitrary

decisions and encourages elected officials to go above and beyond the straight call of duty, and does not discourage them or create doubt and fear in what they do for the people they represent. This bill allows for a reasonable definition of what a state officer's job can and should be.

**Persons Testifying:** PRO: Senator Rivers, prime sponsor; Brad Owen, Lt. Governor.

**House Amendment(s):** The definition of official duty for a state officer holding elective office is further amended to include 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.