
HOUSE BILL 2562

State of Washington

64th Legislature

2016 Regular Session

By Representatives S. Hunt, Jinkins, and Pollet; by request of Public Disclosure Commission

Read first time 01/15/16. Referred to Committee on State Government.

1 AN ACT Relating to the definition of "contribution" for the
2 purposes of campaign disclosure provisions; and reenacting and
3 amending RCW 42.17A.005.

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

5 **Sec. 1.** RCW 42.17A.005 and 2011 c 145 s 2 and 2011 c 60 s 19 are
6 each reenacted and amended to read 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
10 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,
17 or other local public agency.

18 (3) "Authorized committee" means the political committee
19 authorized by a candidate, or by the public official against whom
20 recall charges have been filed, to accept contributions or make
21 expenditures on behalf of the candidate or public official.

1 (4) "Ballot proposition" means any "measure" as defined by RCW
2 29A.04.091, or any initiative, recall, or referendum proposition
3 proposed to be submitted to the voters of the state or any municipal
4 corporation, political subdivision, or other voting constituency from
5 and after the time when the proposition has been initially filed with
6 the appropriate election officer of that constituency before its
7 circulation for signatures.

8 (5) "Benefit" means a commercial, proprietary, financial,
9 economic, or monetary advantage, or the avoidance of a commercial,
10 proprietary, financial, economic, or monetary disadvantage.

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

12 (a) An organization that has been recognized as a minor political
13 party by the secretary of state;

14 (b) The governing body of the state organization of a major
15 political party, as defined in RCW 29A.04.086, that is the body
16 authorized by the charter or bylaws of the party to exercise
17 authority on behalf of the state party; or

18 (c) The county central committee or legislative district
19 committee of a major political party. There may be only one
20 legislative district committee for each party in each legislative
21 district.

22 (7) "Candidate" means any individual who seeks nomination for
23 election or election to public office. An individual seeks nomination
24 or election when he or she first:

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

28 (b) Announces publicly or files for office;

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

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

34 (8) "Caucus political committee" means a political committee
35 organized and maintained by the members of a major political party in
36 the state senate or state house of representatives.

37 (9) "Commercial advertiser" means any person who sells the
38 service of communicating messages or producing printed material for
39 broadcast or distribution to the general public or segments of the
40 general public whether through the use of newspapers, magazines,

1 television and radio stations, billboard companies, direct mail
2 advertising companies, printing companies, or otherwise.

3 (10) "Commission" means the agency established under RCW
4 42.17A.100.

5 (11) "Compensation" unless the context requires a narrower
6 meaning, includes payment in any form for real or personal property
7 or services of any kind. For the purpose of compliance with RCW
8 42.17A.710, "compensation" does not include per diem allowances or
9 other payments made by a governmental entity to reimburse a public
10 official for expenses incurred while the official is engaged in the
11 official business of the governmental entity.

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

15 (13)(a) "Contribution" includes:

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

20 (ii) An expenditure made by a person in cooperation,
21 consultation, or concert with, or at the request or suggestion of, a
22 candidate, a political committee, the person or persons named on the
23 candidate's or committee's registration form who direct expenditures
24 on behalf of the candidate or committee, or their agents;

25 (iii) The financing by a person of the dissemination,
26 distribution, or republication, in whole or in part, of broadcast,
27 written, graphic, or other form of political advertising or
28 electioneering communication prepared by a candidate, a political
29 committee, or its authorized agent;

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

33 (b) "Contribution" does not include:

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

36 (ii) Ordinary home hospitality;

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

1 (iv) A news item, feature, commentary, or editorial in a
2 regularly scheduled news medium that is of primary interest to the
3 general public, that is in a news medium controlled by a person whose
4 business is that news medium, and that is not controlled by a
5 candidate or a political committee;

6 (v) An internal political communication primarily limited to the
7 members of or contributors to a political party organization or
8 political committee, or to the officers, management staff, or
9 stockholders of a corporation or similar enterprise, or to the
10 members of a labor organization or other membership organization;

11 (vi) The rendering of personal services of the sort commonly
12 performed by volunteer campaign workers, or incidental expenses
13 personally incurred by volunteer campaign workers not in excess of
14 fifty dollars personally paid for by the worker. "Volunteer
15 services," for the purposes of this subsection, means services or
16 labor for which the individual is not compensated by any person;

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

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

24 (A) A political party or caucus political committee if the person
25 paying for the services is the regular employer of the person
26 rendering such services; or

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

31 (ix) The performance of ministerial functions by a person on
32 behalf of two or more candidates or political committees either as
33 volunteer services defined in (b)(vi) of this subsection or for
34 payment by the candidate or political committee for whom the services
35 are performed as long as:

36 (A) The person performs solely ministerial functions;

37 (B) A person who is paid by two or more candidates or political
38 committees is identified by the candidates and political committees
39 on whose behalf services are performed as part of their respective
40 statements of organization under RCW 42.17A.205; and

1 (C) The person does not disclose, except as required by law, any
2 information regarding a candidate's or committee's plans, projects,
3 activities, or needs, or regarding a candidate's or committee's
4 contributions or expenditures that is not already publicly available
5 from campaign reports filed with the commission, or otherwise engage
6 in activity that constitutes a contribution under (a)(ii) of this
7 subsection.

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

12 (x) In the absence of coordination as described in (a)(iii) of
13 this subsection, the financing by a person of the dissemination,
14 distribution, or republication of a portion of electronic political
15 advertising prepared by a candidate, a political committee or its
16 authorized agent, if the republished portion, by itself, does not
17 promote or oppose the subject of the original political advertising.

18 (c) Contributions other than money or its equivalent are deemed
19 to have a monetary value equivalent to the fair market value of the
20 contribution. Services or property or rights furnished at less than
21 their fair market value for the purpose of assisting any candidate or
22 political committee are deemed a contribution. Such a contribution
23 must be reported as an in-kind contribution at its fair market value
24 and counts towards any applicable contribution limit of the provider.

25 (14) "Depository" means a bank, mutual savings bank, savings and
26 loan association, or credit union doing business in this state.

27 (15) "Elected official" means any person elected at a general or
28 special election to any public office, and any person appointed to
29 fill a vacancy in any such office.

30 (16) "Election" includes any primary, general, or special
31 election for public office and any election in which a ballot
32 proposition is submitted to the voters. An election in which the
33 qualifications for voting include other than those requirements set
34 forth in Article VI, section 1 (Amendment 63) of the Constitution of
35 the state of Washington shall not be considered an election for
36 purposes of this chapter.

37 (17) "Election campaign" means any campaign in support of or in
38 opposition to a candidate for election to public office and any
39 campaign in support of, or in opposition to, a ballot proposition.

1 (18) "Election cycle" means the period beginning on the first day
2 of January after the date of the last previous general election for
3 the office that the candidate seeks and ending on December 31st after
4 the next election for the office. In the case of a special election
5 to fill a vacancy in an office, "election cycle" means the period
6 beginning on the day the vacancy occurs and ending on December 31st
7 after the special election.

8 (19)(a) "Electioneering communication" means any broadcast,
9 cable, or satellite television or radio transmission, United States
10 postal service mailing, billboard, newspaper, or periodical that:

11 (i) Clearly identifies a candidate for a state, local, or
12 judicial office either by specifically naming the candidate, or
13 identifying the candidate without using the candidate's name;

14 (ii) Is broadcast, transmitted, mailed, erected, distributed, or
15 otherwise published within sixty days before any election for that
16 office in the jurisdiction in which the candidate is seeking
17 election; and

18 (iii) Either alone, or in combination with one or more
19 communications identifying the candidate by the same sponsor during
20 the sixty days before an election, has a fair market value of one
21 thousand dollars or more.

22 (b) "Electioneering communication" does not include:

23 (i) Usual and customary advertising of a business owned by a
24 candidate, even if the candidate is mentioned in the advertising when
25 the candidate has been regularly mentioned in that advertising
26 appearing at least twelve months preceding his or her becoming a
27 candidate;

28 (ii) Advertising for candidate debates or forums when the
29 advertising is paid for by or on behalf of the debate or forum
30 sponsor, so long as two or more candidates for the same position have
31 been invited to participate in the debate or forum;

32 (iii) A news item, feature, commentary, or editorial in a
33 regularly scheduled news medium that is:

34 (A) Of primary interest to the general public;

35 (B) In a news medium controlled by a person whose business is
36 that news medium; and

37 (C) Not a medium controlled by a candidate or a political
38 committee;

39 (iv) Slate cards and sample ballots;

1 (v) Advertising for books, films, dissertations, or similar works
2 (A) written by a candidate when the candidate entered into a contract
3 for such publications or media at least twelve months before becoming
4 a candidate, or (B) written about a candidate;

5 (vi) Public service announcements;

6 (vii) A mailed internal political communication primarily limited
7 to the members of or contributors to a political party organization
8 or political committee, or to the officers, management staff, or
9 stockholders of a corporation or similar enterprise, or to the
10 members of a labor organization or other membership organization;

11 (viii) An expenditure by or contribution to the authorized
12 committee of a candidate for state, local, or judicial office; or

13 (ix) Any other communication exempted by the commission through
14 rule consistent with the intent of this chapter.

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

30 (21) "Final report" means the report described as a final report
31 in RCW 42.17A.235(2).

32 (22) "General election" for the purposes of RCW 42.17A.405 means
33 the election that results in the election of a person to a state or
34 local office. It does not include a primary.

35 (23) "Gift" has the definition in RCW 42.52.010.

36 (24) "Immediate family" includes the spouse or domestic partner,
37 dependent children, and other dependent relatives, if living in the
38 household. For the purposes of the definition of "intermediary" in
39 this section, "immediate family" means an individual's spouse or
40 domestic partner, and child, stepchild, grandchild, parent,

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

7 (25) "Incumbent" means a person who is in present possession of
8 an elected office.

9 (26) "Independent expenditure" means an expenditure that has each
10 of the following elements:

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

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

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

32 (27)(a) "Intermediary" means an individual who transmits a
33 contribution to a candidate or committee from another person unless
34 the contribution is from the individual's employer, immediate family,
35 or an association to which the individual belongs.

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

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

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

3 (28) "Legislation" means bills, resolutions, motions, amendments,
4 nominations, and other matters pending or proposed in either house of
5 the state legislature, and includes any other matter that may be the
6 subject of action by either house or any committee of the legislature
7 and all bills and resolutions that, having passed both houses, are
8 pending approval by the governor.

9 (29) "Legislative office" means the office of a member of the
10 state house of representatives or the office of a member of the state
11 senate.

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

20 (31) "Lobbyist" includes any person who lobbies either in his or
21 her own or another's behalf.

22 (32) "Lobbyist's employer" means the person or persons by whom a
23 lobbyist is employed and all persons by whom he or she is compensated
24 for acting as a lobbyist.

25 (33) "Ministerial functions" means an act or duty carried out as
26 part of the duties of an administrative office without exercise of
27 personal judgment or discretion.

28 (34) "Participate" means that, with respect to a particular
29 election, an entity:

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

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

34 (c) Endorses a candidate before contributions are made by a
35 subsidiary corporation or local unit with respect to that candidate
36 or that candidate's opponent;

37 (d) Makes a recommendation regarding whether a candidate should
38 be supported or opposed before a contribution is made by a subsidiary
39 corporation or local unit with respect to that candidate or that
40 candidate's opponent; or

1 (e) Directly or indirectly collaborates or consults with a
2 subsidiary corporation or local unit on matters relating to the
3 support of or opposition to a candidate, including, but not limited
4 to, the amount of a contribution, when a contribution should be
5 given, and what assistance, services or independent expenditures, or
6 electioneering communications, if any, will be made or should be made
7 in support of or opposition to a candidate.

8 (35) "Person" includes an individual, partnership, joint venture,
9 public or private corporation, association, federal, state, or local
10 governmental entity or agency however constituted, candidate,
11 committee, political committee, political party, executive committee
12 thereof, or any other organization or group of persons, however
13 organized.

14 (36) "Political advertising" includes any advertising displays,
15 newspaper ads, billboards, signs, brochures, articles, tabloids,
16 flyers, letters, radio or television presentations, or other means of
17 mass communication, used for the purpose of appealing, directly or
18 indirectly, for votes or for financial or other support or opposition
19 in any election campaign.

20 (37) "Political committee" means any person (except a candidate
21 or an individual dealing with his or her own funds or property)
22 having the expectation of receiving contributions or making
23 expenditures in support of, or opposition to, any candidate or any
24 ballot proposition.

25 (38) "Primary" for the purposes of RCW 42.17A.405 means the
26 procedure for nominating a candidate to state or local office under
27 chapter 29A.52 RCW or any other primary for an election that uses, in
28 large measure, the procedures established in chapter 29A.52 RCW.

29 (39) "Public office" means any federal, state, judicial, county,
30 city, town, school district, port district, special district, or
31 other state political subdivision elective office.

32 (40) "Public record" has the definition in RCW 42.56.010.

33 (41) "Recall campaign" means the period of time beginning on the
34 date of the filing of recall charges under RCW 29A.56.120 and ending
35 thirty days after the recall election.

36 (42)(a) "Sponsor" for purposes of an electioneering
37 communications, independent expenditures, or political advertising
38 means the person paying for the electioneering communication,
39 independent expenditure, or political advertising. If a person acts

1 as an agent for another or is reimbursed by another for the payment,
2 the original source of the payment is the sponsor.

3 (b) "Sponsor," for purposes of a political committee, means any
4 person, except an authorized committee, to whom any of the following
5 applies:

6 (i) The committee receives eighty percent or more of its
7 contributions either from the person or from the person's members,
8 officers, employees, or shareholders;

9 (ii) The person collects contributions for the committee by use
10 of payroll deductions or dues from its members, officers, or
11 employees.

12 (43) "Sponsored committee" means a committee, other than an
13 authorized committee, that has one or more sponsors.

14 (44) "State office" means state legislative office or the office
15 of governor, lieutenant governor, secretary of state, attorney
16 general, commissioner of public lands, insurance commissioner,
17 superintendent of public instruction, state auditor, or state
18 treasurer.

19 (45) "State official" means a person who holds a state office.

20 (46) "Surplus funds" mean, in the case of a political committee
21 or candidate, the balance of contributions that remain in the
22 possession or control of that committee or candidate subsequent to
23 the election for which the contributions were received, and that are
24 in excess of the amount necessary to pay remaining debts incurred by
25 the committee or candidate with respect to that election. In the case
26 of a continuing political committee, "surplus funds" mean those
27 contributions remaining in the possession or control of the committee
28 that are in excess of the amount necessary to pay all remaining debts
29 when it makes its final report under RCW 42.17A.255.

30 (47) "Treasurer" and "deputy treasurer" mean the individuals
31 appointed by a candidate or political committee, pursuant to RCW
32 42.17A.210, to perform the duties specified in that section.

--- END ---