
SUBSTITUTE SENATE BILL 5785

State of Washington

64th Legislature

2015 Regular Session

By Senate Government Operations & Security (originally sponsored by Senators Rivers, Nelson, Dansel, Hatfield, Pearson, Fain, Lias, and Hobbs)

1 AN ACT Relating to the definition of official duties of state
2 officers; reenacting and amending RCW 42.52.010; and adding a new
3 section to chapter 43.01 RCW.

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

5 **Sec. 1.** RCW 42.52.010 and 2011 c 60 s 28 are each reenacted and
6 amended to read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

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

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

20 (3) "Beneficial interest" has the meaning ascribed to it under
21 the Washington case law. However, an ownership interest in a mutual

1 fund or similar investment pooling fund in which the owner has no
2 management powers does not constitute a beneficial interest in the
3 entities in which the fund or pool invests.

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

8 (5) "Confidential information" means (a) specific information,
9 rather than generalized knowledge, that is not available to the
10 general public on request or (b) information made confidential by
11 law.

12 (6) "Contract" or "grant" means an agreement between two or more
13 persons that creates an obligation to do or not to do a particular
14 thing. "Contract" or "grant" includes, but is not limited to, an
15 employment contract, a lease, a license, a purchase agreement, or a
16 sales agreement.

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

19 (8) "Family" has the same meaning as "immediate family" in RCW
20 42.17A.005.

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

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

27 (b) Items related to the outside business of the recipient that
28 are customary and not related to the recipient's performance of
29 official duties;

30 (c) Items exchanged among officials and employees or a social
31 event hosted or sponsored by a state officer or state employee for
32 coworkers;

33 (d) Payments by a governmental or nongovernmental entity of
34 reasonable expenses incurred in connection with a speech,
35 presentation, appearance, or trade mission made in an official
36 capacity. As used in this subsection, "reasonable expenses" are
37 limited to travel, lodging, and subsistence expenses incurred the day
38 before through the day after the event;

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

1 (f) Payment of enrollment and course fees and reasonable travel
2 expenses attributable to attending seminars and educational programs
3 sponsored by a bona fide governmental or nonprofit professional,
4 educational, trade, or charitable association or institution. As used
5 in this subsection, "reasonable expenses" are limited to travel,
6 lodging, and subsistence expenses incurred the day before through the
7 day after the event;

8 (g) Items returned by the recipient to the donor within thirty
9 days of receipt or donated to a charitable organization within thirty
10 days of receipt;

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

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

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

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

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

25 (12) "Official duty" means those duties (~~(within the specific~~
26 ~~scope of employment of the state officer or state employee as defined~~
27 ~~by the officer's or employee's agency or by statute or the state~~
28 ~~Constitution)) prescribed in the state Constitution and state
29 statutes, legislatively funded or mandated authority and
30 responsibilities, job description, or any tasks or actions related to
31 carrying out the activities of the state officer's position that are
32 intended to promote the state of Washington and protect, educate, and
33 serve the citizens of the state of Washington.~~

34 (13) "Participate" means to participate in state action or a
35 proceeding personally and substantially as a state officer or state
36 employee, through approval, disapproval, decision, recommendation,
37 the rendering of advice, investigation, or otherwise but does not
38 include preparation, consideration, or enactment of legislation or
39 the performance of legislative duties.

1 (14) "Person" means any individual, partnership, association,
2 corporation, firm, institution, or other entity, whether or not
3 operated for profit.

4 (15) "Regulatory agency" means any state board, commission,
5 department, or officer, except those in the legislative or judicial
6 branches, authorized by law to conduct adjudicative proceedings,
7 issue permits or licenses, or to control or affect interests of
8 identified persons.

9 (16) "Responsibility" in connection with a transaction involving
10 the state, means the direct administrative or operating authority,
11 whether intermediate or final, and either exercisable alone or
12 through subordinates, effectively to approve, disapprove, or
13 otherwise direct state action in respect of such transaction.

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

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

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

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

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

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

1 (a) A loan, property interest, interest in a contract or other
2 chose in action, and employment or another arrangement involving a
3 right to compensation;

4 (b) An option, irrespective of the conditions to the exercise of
5 the option; and

6 (c) A promise or undertaking for the present or future delivery
7 or procurement.

8 (21)(a) "Transaction involving the state" means a proceeding,
9 application, submission, request for a ruling or other determination,
10 contract, claim, case, or other similar matter that the state
11 officer, state employee, or former state officer or state employee in
12 question believes, or has reason to believe:

13 (i) Is, or will be, the subject of state action; or

14 (ii) Is one to which the state is or will be a party; or

15 (iii) Is one in which the state has a direct and substantial
16 proprietary interest.

17 (b) "Transaction involving the state" does not include the
18 following: Preparation, consideration, or enactment of legislation,
19 including appropriation of moneys in a budget, or the performance of
20 legislative duties by an officer or employee; or a claim, case,
21 lawsuit, or similar matter if the officer or employee did not
22 participate in the underlying transaction involving the state that is
23 the basis for the claim, case, or lawsuit.

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

29 (23) "University research employee" means a state officer or
30 state employee employed by a university, but only to the extent the
31 state officer or state employee is engaged in research, technology
32 transfer, approved consulting activities related to research and
33 technology transfer, or other incidental activities.

34 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.01
35 RCW to read as follows:

36 Unless the context clearly requires otherwise, "official duty"
37 means those duties prescribed in the state Constitution and state
38 statutes, legislatively funded or mandated authority and
39 responsibilities, job description, or any tasks or actions related to

1 carrying out the activities of the state officer's position that are
2 intended to promote the state of Washington and protect, educate, and
3 serve the citizens of the state of Washington.

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