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## HOUSE BILL 1083

State of Washington

64th Legislature

2015 Regular Session

By Representative Hurst

Prefiled 01/08/15.

- AN ACT Relating to the acceptance of gifts by state officers and employees; amending RCW 42.17A.615, 42.17A.620, 42.17A.630,
- 3 42.17A.710, 42.52.120, and 42.52.150; and creating a new section.
- 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- State officers and employees receive a 5 NEW SECTION. Sec. 1. 6 salary and are paid per diem to cover lodging, meals, and travel when 7 attending out-of-town meetings, training, conferences, or other workrelated events. Legislators are paid a daily allowance in lieu of per 8 9 diem for each day they are engaged in legislative business. Unlike 10 other state officers and officials, legislators are not required to 11 deduct the cost of a free meal by lobbyists from their allowance. 12 While lobbying and government relations are important and integral to 13 state government and aid in representing the views of many groups of 14 citizens who have a common interest, the acceptance of free meals and gifts is perceived by the public to influence, regardless of the 15 16 amount of money spent. Therefore, it is the intent of the legislature 17 that food, beverages, gifts, and entertainment may not be accepted by 18 state officers and employees.
- 19 **Sec. 2.** RCW 42.17A.615 and 2010 c 204 s 804 are each amended to 20 read as follows:

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- (1) Any lobbyist registered under RCW 42.17A.600 and any person who lobbies shall file with the commission monthly reports of his or her lobbying activities. The reports shall be made in the form and manner prescribed by the commission and must be signed by the lobbyist. The monthly report shall be filed within fifteen days after the last day of the calendar month covered by the report.
  - (2) The monthly report shall contain:

- (a) The totals of all expenditures for lobbying activities made or incurred by the lobbyist or on behalf of the lobbyist by the lobbyist's employer during the period covered by the report. Expenditure totals for lobbying activities shall be segregated according to financial category, including compensation; ((food and refreshments;)) living accommodations; advertising; travel; contributions; and other expenses or services. ((Each individual expenditure of more than twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons taking part in the entertainment, along with the dollar amount attributable to each person, including the lobbyist's portion.))
- (b) In the case of a lobbyist employed by more than one employer, the proportionate amount of expenditures in each category incurred on behalf of each of the lobbyist's employers.
- (c) An itemized listing of each contribution of money or of tangible or intangible personal property, whether contributed by the lobbyist personally or delivered or transmitted by the lobbyist, to any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition. All contributions made to, or for the benefit of, any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.
- (d) The subject matter of proposed legislation or other legislative activity or rule making under chapter 34.05 RCW, the state administrative procedure act, and the state agency considering the same, which the lobbyist has been engaged in supporting or

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- 1 opposing during the reporting period, unless exempt under RCW 2 + 2.17A.610(2).
- (e) ((A listing of each payment for an item specified in RCW 42.52.150(5) in excess of fifty dollars and each item specified in RCW 42.52.010(10) (d) and (f) made to a state elected official, state officer, or state employee. Each item shall be identified by recipient, date, and approximate value of the item.
- The total expenditures paid or incurred during the 8 reporting period by the lobbyist for lobbying purposes, whether 9 through or on behalf of a lobbyist or otherwise, for (i) political 10 11 advertising as defined in RCW 42.17A.005; and (ii) public relations, 12 telemarketing, polling, or similar activities if the activities, directly or indirectly, are intended, designed, or calculated to 13 14 influence legislation or the adoption or rejection of a rule, standard, or rate by an agency under the administrative procedure 15 16 act. The report shall specify the amount, the person to whom the 17 amount was paid, and a brief description of the activity.
  - (3) Lobbyists are not required to report the following:

- 19 (a) Unreimbursed personal living and travel expenses not incurred 20 directly for lobbying;
- 21 (b) Any expenses incurred for his or her own living 22 accommodations;
- 23 (c) Any expenses incurred for his or her own travel to and from 24 hearings of the legislature;
- 25 (d) Any expenses incurred for telephone, and any office expenses, 26 including rent and salaries and wages paid for staff and secretarial 27 assistance.
- (4) The commission may adopt rules to vary the content of lobbyist reports to address specific circumstances, consistent with this section. Lobbyist reports are subject to audit by the commission.
- 32 **Sec. 3.** RCW 42.17A.620 and 2010 c 204 s 805 are each amended to 33 read as follows:
- (1) When a listing or a report of contributions is made to the commission under RCW 42.17A.615(2)(c), a copy of the listing or report must be given to the candidate, elected official, professional staff member of the legislature, or officer or employee of an agency, or a political committee supporting or opposing a ballot proposition named in the listing or report.

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(2) If a state elected official or a member of the official's immediate family is identified by a lobbyist in a lobbyist report as having received from the lobbyist an item specified in RCW ((42.52.150(5) or)) 42.52.010(((10))) (9) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission.

- **Sec. 4.** RCW 42.17A.630 and 2010 c 204 s 807 are each amended to 9 read as follows:
  - (1) Every employer of a lobbyist registered under this chapter during the preceding calendar year and every person other than an individual that made contributions aggregating to more than sixteen thousand dollars or independent expenditures aggregating to more than eight hundred dollars during the preceding calendar year shall file with the commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:
  - (a) The name of each state elected official and the name of each candidate for state office who was elected to the office and any member of the immediate family of those persons to whom the person reporting has paid any compensation in the amount of eight hundred dollars or more during the preceding calendar year for personal employment or professional services, including professional services rendered by a corporation, partnership, joint venture, association, union, or other entity in which the person holds any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more, the value of the compensation in accordance with the reporting provisions set out RCW 42.17A.710(2), and the consideration given or performed in exchange for the compensation.
  - (b) ((The name of each state elected official, successful candidate for state office, or members of his or her immediate family to whom the person reporting made expenditures, directly or indirectly, either through a lobbyist or otherwise, the amount of the expenditures and the purpose for the expenditures. For the purposes of this subsection, "expenditure" shall not include any expenditure made by the employer in the ordinary course of business if the expenditure is not made for the purpose of influencing, honoring, or

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1 benefiting the elected official, successful candidate, or member of his immediate family, as an elected official or candidate. 2

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- (c))) The total expenditures made by the person reporting for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise.
- $((\frac{d}{d}))$  (c) All contributions made to a political committee supporting or opposing a candidate for state office, political committee supporting or opposing a statewide ballot proposition. Such contributions shall be identified by the name and the address of the recipient and the aggregate amount contributed to each such recipient.
- $((\frac{(e)}{(e)}))$  (d) The name and address of each registered lobbyist employed by the person reporting and the total expenditures made by the person reporting for each lobbyist for lobbying purposes.
- $((\frac{f}{f}))$  (e) The names, offices sought, and party affiliations of candidates for state offices supported or opposed by independent expenditures of the person reporting and the amount of each such expenditure.
- $((\frac{g}{g}))$  (f) The identifying proposition number and a brief 20 description of any statewide ballot proposition supported or opposed 21 by expenditures not reported under  $((\frac{d}{d}))$  of this subsection and the amount of each such expenditure. 22
- $((\frac{h}{h}))$  (g) Any other information the commission prescribes by 23 24 rule.
  - (2)(a) ((Except as provided in (b) of this subsection,)) employer of a lobbyist registered under this chapter shall file a report with the commission if the employer makes contribution or contributions aggregating more than one hundred dollars in a calendar month to any one of the following: A candidate, elected official, officer or employee of an agency, or political committee. The report shall identify the date and amount of each such contribution and the name of the candidate, elected official, agency officer political committee receiving or employee, or the contribution or to be benefited by the contribution. The report shall be filed on a form prescribed by the commission and shall be filed within fifteen days after the last day of the calendar month during which the contribution was made.
- (b) The provisions of (a) of this subsection do not apply to a 38 39 contribution that made through a registered is lobbyist and 40 reportable under RCW 42.17A.425.

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- **Sec. 5.** RCW 42.17A.710 and 2010 c 204 s 903 are each amended to 2 read as follows:
  - (1) The statement of financial affairs required by RCW 42.17A.700 shall disclose the following information for the reporting individual and each member of his or her immediate family:
    - (a) Occupation, name of employer, and business address;

- (b) Each bank account, savings account, and insurance policy in which a direct financial interest was held that exceeds twenty-four thousand dollars at any time during the reporting period; each other item of intangible personal property in which a direct financial interest was held that exceeds two thousand four hundred dollars during the reporting period; the name, address, and nature of the entity; and the nature and highest value of each direct financial interest during the reporting period;
- (c) The name and address of each creditor to whom the value of two thousand <u>four hundred</u> dollars or more was owed; the original amount of each debt to each creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each debt; and the security given, if any, for each such debt. Debts arising from a "retail installment transaction" as defined in chapter 63.14 RCW (retail installment sales act) need not be reported;
- 22 (d) Every public or private office, directorship, and position 23 held as trustee;
  - (e) All persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation. For the purposes of this subsection, "compensation" does not include payments made to the person reporting by the governmental entity for which the person serves as an elected official or state executive officer or professional staff member for his or her service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid;
  - (f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of two thousand <u>four hundred</u> dollars or more; the value of the compensation; and the consideration given or performed in exchange for the compensation;

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(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and: (i) With respect to a governmental unit in which the official seeks or holds any office or position, if the entity has received compensation in any form during the preceding twelve months from the unit, the value of the compensation governmental consideration given or performed in exchange for the compensation; name of each governmental unit, corporation, (ii) the partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in any form in the amount of ((ten)) twelve thousand dollars or more during the preceding twelve months and the consideration given or performed in exchange for the compensation. As used in (g)(ii) of this subsection, "compensation" does not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing the service. With respect to any bank or commercial lending institution in which is held any office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of the bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by the bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by the bank or commercial lending institution if the interest exceeds two thousand ((four)) nine hundred dollars;

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38 39 (h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ((ten)) twelve thousand dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for that interest;

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(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ((ten)) twelve thousand dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for that interest, and the name and address of the person furnishing the consideration;

- (j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ((ten)) twelve thousand dollars in which a direct financial interest was held. If a description of the property has been included in a report previously filed, the property may be listed, for purposes of this subsection (1)(j), by reference to the previously filed report;
- (k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds twenty—four thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm, or enterprise a ten percent or greater ownership interest was held;
- (1) ((A list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of fifty dollars was accepted under RCW 42.52.150(5);
- (m))) A list of each occasion, specifying date, donor, and amount, at which items specified in RCW 42.52.010(((10))) (9) (d) and (f) were accepted; and
- $((\frac{n}{n}))$  (m) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall prescribe by rule.
- (2) Where an amount is required to be reported under subsection (1)(a) through ((\((\frac{m}{t}\))\)) (1) of this section, it shall be sufficient to comply with the requirement to report whether the amount is less than four thousand five hundred dollars, at least four thousand five hundred dollars, at least twenty-four thousand dollars but less than forty-eight thousand dollars, at least forty-eight thousand dollars but less than one hundred twenty thousand dollars, or one hundred twenty thousand dollars or more. An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection

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1 may be interpreted to prevent any person from filing more information 2 or more detailed information than required.

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- (3) Items of value given to an official's or employee's spouse, domestic partner, or family member are attributable to the official or employee, except the item is not attributable if an independent business, family, or social relationship exists between the donor and the spouse, domestic partner, or family member.
- 8 **Sec. 6.** RCW 42.52.120 and 1997 c 318 s 1 are each amended to 9 read as follows:
  - (1) No state officer or state employee may receive any thing of economic value under any contract or grant outside of his or her official duties. The prohibition in this subsection does not apply ((where the state officer or state employee has complied with RCW 42.52.030(2) or)) when each of the following conditions are met:
    - (a) The contract or grant is bona fide and actually performed;
  - (b) The performance or administration of the contract or grant is not within the course of the officer's or employee's official duties, or is not under the officer's or employee's official supervision;
  - (c) The performance of the contract or grant is not prohibited by RCW 42.52.040 or by applicable laws or rules governing outside employment for the officer or employee;
  - (d) The contract or grant is neither performed for nor compensated by any person from whom such officer or employee would be prohibited by RCW  $42.52.150((\frac{4}{1}))$  from receiving a gift;
    - (e) The contract or grant is not one expressly created or authorized by the officer or employee in his or her official capacity;
- 28 (f) The contract or grant would not require unauthorized 29 disclosure of confidential information.
- 30 (2) In addition to satisfying the requirements of subsection (1) 31 of this section, a state officer or state employee may have a 32 beneficial interest in a grant or contract or a series of 33 substantially identical contracts or grants with a state agency only 34 if:
  - (a) The contract or grant is awarded or issued as a result of an open and competitive bidding process in which more than one bid or grant application was received; or
  - (b) The contract or grant is awarded or issued as a result of an open and competitive bidding or selection process in which the

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officer's or employee's bid or proposal was the only bid or proposal received and the officer or employee has been advised by the appropriate ethics board, before execution of the contract or grant, that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties; or

- (c) The process for awarding the contract or issuing the grant is not open and competitive, but the officer or employee has been advised by the appropriate ethics board that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties.
- (3) A state officer or state employee awarded a contract or issued a grant in compliance with subsection (2) of this section shall file the contract or grant with the appropriate ethics board within thirty days after the date of execution; however, if proprietary formulae, designs, drawings, or research are included in the contract or grant, the proprietary formulae, designs, drawings, or research may be deleted from the contract or grant filed with the appropriate ethics board.
- (4) This section does not prevent a state officer or state employee from receiving compensation contributed from the treasury of the United States, another state, county, or municipality if the compensation is received pursuant to arrangements entered into between such state, county, municipality, or the United States and the officer's or employee's agency. This section does not prohibit a state officer or state employee from serving or performing any duties under an employment contract with a governmental entity.
- (5) As used in this section, "officer" and "employee" do not include officers and employees who, in accordance with the terms of their employment or appointment, are serving without compensation from the state of Washington or are receiving from the state only reimbursement of expenses incurred or a predetermined allowance for such expenses.
- **Sec. 7.** RCW 42.52.150 and 2011 c 60 s 29 are each amended to read as follows:
  - (1) No state officer or state employee or member of the officer's or employee's immediate family may accept gifts, other than those specified in subsection((s)) (2) ((and (5))) of this section((, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value

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- 1 in excess of fifty dollars. For purposes of this section, "single source" means any person, as defined in RCW 42.52.010, whether acting 2 directly or through any agent or other intermediary, and "single 3 gift" includes any event, item, or group of items used in conjunction 4 with each other or any trip including transportation, lodging, and 5 6 attendant costs, not excluded from the definition of gift under RCW 42.52.010. The value of gifts given to an officer's or employee's 7 family member or guest shall be attributed to the official or 8 9 employee for the purpose of determining whether the limit has been exceeded,)) unless an independent business, family, or social 10 11 relationship exists between the donor and the family member ((or 12 quest)).
  - (2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the ((limit established by)) no gift policy in subsection (1) of this section:

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- (a) ((Unsolicited flowers, plants, and floral arrangements;
- (b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- 20 <del>(e)</del>)) Unsolicited tokens or awards of appreciation in the form of 21 a plaque, trophy, desk item, wall memento, or similar item;
  - ((\(\frac{(d)}{(d)}\)) (b) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;
- 27 ((<del>(e)</del>)) <u>(c)</u> Informational material, publications, or 28 subscriptions related to the recipient's performance of official 29 duties;
- 30 ((<del>f)</del> Food and beverages consumed at hosted receptions where 31 attendance is related to the state officer's or state employee's 32 official duties;
  - (g))) (d) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for deposit in the legislative international trade account created in RCW 43.15.050;
- ((\(\frac{(\((\frac{h}{}\))\)}{(e)}\) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for the purpose of promoting the expansion of tourism as provided for in RCW 43.330.090; and

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((i) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, solicited on behalf of a national legislative association, 2006 official conference of the national lieutenant governors' association, or host committee for the purpose of hosting an official conference under the circumstances specified in RCW 42.52.820 and section 2, chapter 5, Laws of 2006. Anything solicited or accepted may only be received by the national association or host committee and may not be commingled with any funds or accounts that are the property of any person;

- (j))) (f) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization((i) and
  - (k) Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature)), as long as the purpose of the event is not to influence state officers or employees.
  - (3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.
  - (4) Notwithstanding subsection((s)) (2) ((and (5))) of this section, a state officer or state employee of a regulatory agency or of an agency that seeks to acquire goods or services who participates in those regulatory or contractual matters may receive, accept, take, or seek, directly or indirectly, only the following items from a person regulated by the agency or from a person who seeks to provide goods or services to the agency:
  - (a) ((Unsolicited advertising or promotional items of nominal value, such as pens and note pads:
- 29 <del>(b)</del>)) Unsolicited tokens or awards of appreciation in the form of 30 a plaque, trophy, desk item, wall memento, or similar item;
  - ((<del>(c)</del>)) (b) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;
- $((\frac{d}{d}))$  (c) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

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(((e) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(f))) (d) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization, as long as the purpose of the event is not to influence state officers or employees; and

 $((\frac{g}{g}))$  <u>(e)</u> Those items excluded from the definition of gift in 10 RCW 42.52.010 except:

- (i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity; and
- (ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution((; and

(iii) Flowers, plants, and floral arrangements.

(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in chapter 42.17A RCW)).

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