

CHAPTER 82

[Engrossed Substitute House Bill No. 341]

LEGISLATIVE LOBBYING

AN ACT Relating to legislative lobbying; providing for the registration and regulation of lobbyists; amending section 3, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.030; amending section 1, chapter 131, Laws of 1967 ex. sess. and RCW 44.64.010; amending section 2, chapter 131, Laws of 1967 ex. sess. and RCW 44.64.020; amending section 3, chapter 131, Laws of 1967 ex. sess. and RCW 44.64.030; amending section 4, chapter 131, Laws of 1967 ex. sess. and RCW 44.64.040; amending section 6, chapter 131, Laws of 1967 ex. sess. and RCW 44.64.060; adding new sections to chapter 131, Laws of 1967 ex. sess. and to chapter 44.64. RCW; repealing section 5, chapter 131, Laws of 1967 ex. sess. and RCW 44.64.050; and providing for a referendum.

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

Section 1. Section 1, chapter 131, Laws of 1967 ex. sess. and RCW 44.64.010 are each amended to read as follows:

When used in this chapter:

(1) ~~((The term "contribution" includes a gift, subscription, loan, advance or deposit of money or anything of value and includes a contract, promise or agreement, whether or not legally enforceable, to make a contribution, given with the intent of influencing the passage or defeat of any pending or proposed legislation;~~

~~(2))~~ The term "expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable, to make an expenditure~~((+))~~ ;

~~((+))~~ (2) The term "person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons. The term does not include a member or member-elect of either house of the state legislature~~((+))~~, an elected state officer nor a gubernatorial appointee to a position requiring confirmation by the senate;

~~((+))~~ (3) The term "legislation" means bills, resolutions, amendments, motions, nominations, and other matters pending or proposed in either house or any committee of the legislature;

(4) The terms "lobby" and "lobbying" each mean attempting to influence, through direct contact with any legislator or legislators, the passage or defeat of any legislation by the legislature;

(5) The term "lobbyist" means any person, including any public employee, who shall lobby either on his own or another's behalf;

(6) The term "lobbyist's employer" means the person or persons

by whom or on whose behalf the lobbyist is employed, and all persons by whom he is compensated for acting as a lobbyist;

(7) The term "code reviser" means the person so designated under the provisions of chapter 1.08 RCW;

(8) The terms "senate board of ethics" and "house board of ethics" mean the boards designated and defined in RCW 44.60.010;

(9) The term "prescribed form" means a form prescribed by the joint board of ethics.

Sec. 2. Section 2, chapter 131, Laws of 1967 ex. sess. and RCW 44.64.020 are each amended to read as follows:

(1) ((Any person who shall be engaged for pay or for any consideration for the purpose of attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington or the approval or veto of any legislation by the governor of the state of Washington shall register with the president of the senate and the speaker of the house before doing anything in furtherance of such object and shall give to such officers in writing and under oath a statement)) Before doing any lobbying a lobbyist shall register by filing with the code reviser a lobbyist registration statement executed under oath on a prescribed form, for each of his employers, showing:

(a) Name ((and)), permanent business address, and business address during the legislative session;

(b) Name and address of the ((person or persons by whom he is employed and in whose interest he appears or works and by whom he is compensated)) lobbyist's employer;

(c) The duration of such employment;

(d) If employed as a lobbyist, whether he is paid on a permanent basis with a lobbying assignment as a partial, temporary or incidental part of his duties, or whether his compensated employment is solely for lobbying purposes;

(e) A written authorization from ((each person by whom he is so employed)) the lobbyist's employer confirming such employment;

(f) Name and address of the person, if other than the lobbyist or his employer, who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept by section 7 of this 1972 amendatory act;

(g) The general area or areas of his legislative interest.

(2) ((In addition, any person as described in subsection (1) above shall similarly file not later than sixty days after the adjournment of each regular and extraordinary session of the legislature a statement which shall contain the total of all contributions and expenditures made, incurred, or expended for the purposes described in this section exclusive of personal living and travel expenses: PROVIDED, HOWEVER, That when an extraordinary

session follows immediately after a regular session such statement shall be filed not later than sixty days after the adjournment of the extraordinary session:

(3) Each statement required by this section shall be made on forms agreed upon by the president of the senate and the speaker of the house, a duplicate copy of which shall be filed with and preserved by the secretary of state for a period of three years as a public record open to public inspection.) On each Friday that the legislature is in session, the code reviser shall publish a list of the names of all lobbyists whose registration is then in effect and the names and addresses of the lobbyists' employers, and shall deliver a copy of this list to the governor, the president of the senate, the speaker of the house, the attorney general, the secretary of state, and the president of the capital correspondents' association.

(3) Whenever a change, modification, or termination to the lobbyist's employment occurs, the lobbyist shall within one week of such change, modification, or termination furnish full information regarding the same by filing with the code reviser an amended registration statement.

(4) The registration of all lobbyists shall terminate with the adjournment of the legislative session for which the lobbyist has registered: PROVIDED, HOWEVER, That the registration of all lobbyists shall continue in effect through the duration of any regular or extraordinary session convened not more than ten days following the adjournment of any regular or extraordinary session of the legislature.

Sec. 3. Section 3, chapter 131, Laws of 1967 ex. sess. and RCW 44.64.030 are each amended to read as follows:

The following activities shall not be deemed to require compliance with ((RCW 44-64-020)) sections 2, or 7(1) of this 1972 amendatory act:

(1) ((The activities or appearance of a person promoting or opposing the passage of any legislation or its approval or veto by the governor, in his own behalf and not as a representative, agent or employee of another person)) Lobbying without compensation or other consideration by a person in his own personal behalf, or as a member of a business, profession, occupation, or other group where no different benefit or detriment will accrue to that person because of his membership than will accrue to any other member of such business, profession, occupation, or group:

(2) Providing professional services in the drafting of legislative measures or in advising ((clients)) and rendering opinions to clients as to the construction and effect of proposed or pending legislation((, or in communicating with members of the

legislature or the governor in connection therewith));

(3) Appearing or testifying ((before a)) at a meeting of any committee of the legislature in support of or in opposition to any legislation;

(4) ((Giving testimony at committee hearings upon the request of the legislature or a committee or a member thereof;

(5) Giving testimony or contacting legislators by government employees as a part of their official duties;

or

(6)) News or feature reporting activities by working members of the press, radio, or television; PROVIDED, HOWEVER, That any member of the press, radio, or television who shall lobby shall register and be subject to all provisions of this chapter; or

(5) Communication, orally or in writing, to a legislator in response to an inquiry received from such legislator.

Sec. 4. Section 4, chapter 131, Laws of 1967 ex. sess. and RCW 44.64.040 are each amended to read as follows:

No agreement to ((accomplish any purpose set forth in RCW 44.64.020)) lobby shall be enforceable and no action shall be brought thereon where payment of all or any part of the compensation under said agreement depends in any manner upon the passage or defeat or executive approval or veto of any legislation, or upon any other contingency in connection with legislation: PROVIDED, That this section shall not apply to those agreements made between attorney and client in connection with claims against the state of Washington.

Sec. 5. Section 6, chapter 131, Laws of 1967 ex. sess. and RCW 44.64.060 are each amended to read as follows:

The ((attorney general)) senate board of ethics and house board of ethics shall enforce the provisions of this chapter ((and shall prosecute, or may delegate to the appropriate prosecuting attorney the prosecution of all violations of this chapter: PROVIDED, That this section shall not preclude actions for the recovery of damages)). Each board shall have the following powers, duties, and functions:

(1) The boards jointly, shall adopt procedural rules and guidelines for processing complaints and notifications of violations including, but not limited to, rules for the preservation of confidentiality when necessary and in the public interest.

(2) Upon the written complaint of any person who has reason to believe that there is or has been a violation of this 1972 amendatory act, or whenever in the board's judgment the public interest requires, either board may cause the attorney general to investigate the activities of any lobbyist or other person when there is reason to believe he is or has been acting in violation of this 1972 amendatory act.

(3) When the attorney general investigates any lobbyist or other person as directed by either the senate board of ethics or house board of ethics he may require any such person or any other person reasonably believed to have information concerning the activities of such person to appear at a time and place designated by the attorney general in the county in which such person resides or is found, to give such information under oath and to produce all accounts, bills, receipts, books, papers, and documents related to the expenditures statement required by section 7 of this 1972 amendatory act. When the attorney general requires the attendance of any person to obtain such lobbying information or the production of the lobbyist's accounts, bills, receipts, books, papers, and documents required to be preserved by section 7 of this 1972 amendatory act, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena, shall be effective state-wide, and, upon application of the attorney general, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the notice were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in the record, and shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) As soon as practical, the attorney general shall submit his report and recommendations to the joint board of ethics as to whether in his opinion the preponderance of evidence is that a lobbyist has violated or is violating any provisions of this 1972 amendatory act.

(5) The joint board of ethics may revoke or suspend the registration of any lobbyist who, it finds has violated or is violating any provision of this 1972 amendatory act. Before revoking or suspending any registration under this subsection, the joint board shall give the lobbyist reasonable notice of its intention regarding his registration, and shall, if requested by him, conduct a hearing on the issue of the revocation or suspension of his registration.

(6) When the joint board of ethics has reason to believe that a lobbyist has violated or is violating any provision of this 1972 amendatory act, it may direct the attorney general to bring a civil action to revoke such lobbyists' registration and enjoin his lobbying

activities. A lobbyist whose registration is revoked shall be enjoined from all lobbying activities for a period of not less than two years: PROVIDED, HOWEVER, That revocation of a lobbyist's registration does not excuse said lobbyist from filing the statements required under section 7 of this 1972 amendatory act.

(7) When the joint board of ethics has reason to believe that a lobbyist, without good cause, has failed to file any statement required by section 7 of this 1972 amendatory act, or has filed any such statement reporting less than the amount required to be reported, it may direct the attorney general to bring an action in the name of the state to require the filing of the required statement or information. If the state prevails in such action and the court finds that the lobbyist wilfully and knowingly violated the provisions of said section 7 then there may be awarded as a judgment to the state for its general fund an amount not more than treble the amount the lobbyist failed to report in violation of this 1972 amendatory act. In the event the lobbyist reported less than the amount required under the provisions of this 1972 amendatory act, then the amount he "failed to report", for purposes of computing damages, shall be the difference between the amount required to be reported and the actual amount reported. The court may, in addition, award to the state all costs of investigating and trial, including a reasonable attorney's fee to be fixed by the court. The registration of any lobbyist may be revoked under subsection (6) of this section if his violation of section 7 is found to have been intentional. If damages are awarded in such action, the judgment may be awarded against the lobbyist, the lobbyist's employer or employers joined as defendants, jointly, severally, or both.

(8) The senate board of ethics or house board of ethics may by general rule authorize the attorney general to serve written notice upon any person whenever the attorney general has reason to believe that person is or has been violating section 2 of this 1972 amendatory act by carrying on lobbying activities without having registered, which notice shall direct such person to respond within twenty-four hours of receipt of such notice and show cause why he should not register or be enjoined from all lobbying activities. An action to enjoin such person's lobbying activities may be brought by the attorney general at the direction of the joint board of ethics if the person does not register or the attorney general does not receive a satisfactory response as directed.

(9) The senate board of ethics, the house board of ethics, and the joint board of ethics may employ attorneys who are neither the attorney general nor an assistant attorney general to carry out any function of the attorney general prescribed in this section.

NEW SECTION. Sec. 6. There is added to chapter 131, Laws of

1967 ex. sess. and to chapter 44.64 RCW a new section to read as follows:

The powers and duties of the attorney general pursuant to this 1972 amendatory act shall not be construed to limit or restrict the exercise of his power or the performance of his duties under any other provision of law.

NEW SECTION. Sec. 7. There is added to chapter 131, Laws of 1967 ex. sess. and to chapter 44.64 RCW a new section to read as follows:

(1) Each lobbyist registered according to section 2 of this 1972 amendatory act shall file with the code reviser not later than sixty days after the expiration of his lobbyist registration, whether by termination of employment or adjournment of any session of the legislature, a complete and detailed statement upon a prescribed form showing:

The totals of all expenditures made or incurred by or on behalf of such lobbyist during the legislative session, which totals shall be segregated according to financial category, including but not limited to the following: (a) Entertainment, including food and refreshments; (b) advertising; (c) contributions; and (d) other expenses or services: PROVIDED, HOWEVER, That a lobbyist's personal living and travel expenses and the expenses incidental to establishing and maintaining an office in connection with lobbying activities need not be reported, and no expenditure which is properly reported as a campaign contribution under any other law of this state enacted after January 1, 1972, shall be reported under this 1972 amendatory act: PROVIDED, FURTHER, That all contributions made to, or for the benefit of, any legislator shall be identified by date, amount, and the name of the legislator receiving, or to be benefited by, each such contribution. Each individual expenditure of more than twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons in the group partaking in or of such entertainment including any portion thereof attributable to the lobbyist's participation therein but without allocating any portion of such expenditure to individual participants.

The reporting period of the statement required by this subsection shall be the duration of each legislative session: PROVIDED, HOWEVER, That when a regular or extraordinary session convenes not more than ten days following the adjournment of any regular or extraordinary session, the reporting period of the statement required by this subsection shall be the combined duration of such sessions.

(2) Within ninety days after the termination of all lobbyist registrations by the adjournment of the legislature, the code reviser shall publish a report showing each person who has registered as a

lobbyist since the last such report, and shall deliver a copy of such report to the governor, the president of the senate, the speaker of the house, the president of the capitol correspondents' association, the attorney general and the secretary of state. The report shall contain:

- (a) The lobbyist's name and permanent address;
- (b) The name and address of all employers listed by such lobbyist;
- (c) The total of all expenditures by category reported by such lobbyist.

The secretary of state shall file and preserve such report for a period of three years as a public record open to public inspection.

NEW SECTION. Sec. 8. There is added to chapter 131, Laws of 1967 ex. sess. and to chapter 44.64 RCW a new section to read as follows:

Any employee of the governor's office or of any other state funded activity, agency, or department engaged in lobbying activities shall be registered with the code reviser's office.

A list of such people shall be provided each legislator showing the name, age, address, salary, agency represented, education, previous employment, and areas they claim expertise in.

NEW SECTION. Sec. 9. There is added to chapter 131, Laws of 1967 ex. sess. and to chapter 44.64 RCW a new section to read as follows:

Each lobbyist's registration form, following the first publication thereof as required in section 2 (2) of this 1972 amendatory act, and each lobbyist's statement of expenditures, following publication as required in section 7 (2) of this 1972 amendatory act, shall be delivered by the code reviser to the secretary of state who shall file and preserve such documents for a period of three years as a public record open to public inspection.

NEW SECTION. Sec. 10. There is added to chapter 131, Laws of 1967 ex. sess. and to chapter 44.64 RCW a new section to read as follows:

A lobbyist has the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject the lobbyist, and the lobbyist's employer if such employer aids, abets, ratifies, or confirms any such act of the lobbyist, to other civil liabilities, as provided by this 1972 amendatory act.

A lobbyist shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the financial reports required to be made under this 1972 amendatory act for a period of at least two years from the date of the filing of the statement containing such items: PROVIDED, That if the lobbyist is



required under the terms of his employment contract to turn any records over to his employer, responsibility for the preservation of such records under this subsection shall rest with such employer.

In addition, a lobbyist shall not:

(1) Engage in any activity as a lobbyist in any session before registering as such;

(2) Knowingly deceive or attempt to deceive any legislator as to any fact pertaining to any pending or proposed legislation;

(3) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its defeat;

(4) Knowingly represent an interest adverse to any of his employers without first obtaining such employer's written consent thereto after full disclosure to such employer of such adverse interest.

(5) Exercise any undue influence, extortion, or unlawful retaliation upon any legislator by reason of such legislator's position with respect to, or his vote upon, any pending or proposed legislation.

Sec. 11. Section 3, chapter 150, Laws of 1967 ex. sess. and RCW 44.60.030 are each amended to read as follows:

The jurisdiction of the respective boards of ethics created by this chapter shall be strictly limited to the consideration of the conduct of the members of its own house ~~((and))~~, the conduct of employees of its own house, and the activities of legislative lobbying regulated under chapter 44.64 RCW.

NEW SECTION. Sec. 12. Section 5, chapter 131, Laws of 1967 ex. sess. and RCW 44.64.050 are each repealed.

NEW SECTION Sec. 13. Any person damaged by reason of any violation of the provisions of this 1972 amendatory act by any person may maintain an action against such person. If damages are awarded in such action a reasonable attorney's fee may also be allowed by the court.

NEW SECTION. Sec. 14. The enactment of this 1972 amendatory act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this act becomes effective. Nothing in this 1972 amendatory act shall be construed to in any way limit the power of the senate and house of representatives, or either of them, to adopt additional or supplementary rules regarding lobbying activities nor limit the right of any person to recover damages from any other person on account of any violation of this 1972 amendatory act.

NEW SECTION. Sec. 15. If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the

provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 16. The rule of strict construction shall not be applied to the operation of this act, and this act shall be liberally construed to carry out the purposes hereof.

NEW SECTION. Sec. 17. This 1972 amendatory act shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 1, Article II of the state Constitution, as amended, and laws adopted to facilitate the operation thereof.

Passed the House February 20, 1972.

Passed the Senate February 19, 1972.

Filed in Office of Secretary of State February 22, 1972.

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CHAPTER 83

[Engrossed House Bill No. 9]

ESTATES OF ABSENTEES

AN ACT Relating to estates of absentees; amending section 11.80.010, chapter 145, Laws of 1965 and RCW 11.80.010; and adding new sections to chapter 11.80 RCW.

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

Section 1. Section 11.80.010, chapter 145, Laws of 1965 and RCW 11.80.010 are each amended to read as follows:

Whenever it shall be made to appear by petition to any judge of the superior court of any county that there is property in such county, either real or personal, that requires care and attention, or is in such a condition that it is a menace to the public health, safety or welfare, or that the custodian of such property appointed by the owner thereof is either unable or unwilling to continue longer in the care and custody thereof, and that the owner of such property has absented himself from the county and that his whereabouts is unknown and cannot with reasonable diligence be ascertained, or that the absentee owner is a person defined in section 2 of this 1972 amendatory act, which petition shall state the name of the absent owner, his approximate age, his last known place of residence, the circumstances under which he left and the place to which he was going, if known, his business or occupation and his physical appearance and habits so far as known, the judge to whom such petition is presented shall set a time for hearing such petition not less than six weeks from the date of filing, and shall by order direct that a notice of such hearing be published for three