

CHAPTER 150.

[Engrossed Senate Bill No. 630.]

LEGISLATIVE ETHICS.

AN ACT creating boards of legislative ethics; prescribing powers, duties and functions; providing procedures in relation thereto; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Definition of terms:

(1) "Legislator" means a current member of the senate or house of representatives of the state of Washington. The term shall include an appointee to either house.

(2) "Board" or "board of ethics" means the senate board of legislative ethics or the house board of legislative ethics, created by this act, or the joint board, whichever is appropriate.

(3) "Unethical conduct" means any conduct which constitutes a violation of chapter 42.21 RCW, as now or hereafter amended, or of any other constitutional provision, statute, rule or joint rule prescribing standards of conduct or a code of ethics for legislators.

(4) "Legislative employee" means any person employed by either house on a temporary or permanent basis as well as any employee of a permanent or interim legislative committee.

Sec. 2. There is created within each house of the legislature a board of legislative ethics composed of eight members. Prior to the close of the present session of the legislature the respective chairmen of the majority and minority senate caucuses shall each appoint two senators from their own caucus and in addition thereto shall each appoint two persons who are not active members of the legislature to serve as lay members of the senate board, and the

Legislative
ethics—
Definitions.

Legislative
ethics—Boards
—Members,
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terms, etc.

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eight members so selected shall constitute the senate board of ethics; and the respective chairmen of the majority and minority caucuses in the house of representatives shall each appoint two members from their own caucus and in addition thereto shall each appoint two persons who are not active members of the legislature to serve as lay members of the house board, and the eight members so selected shall constitute the house board of ethics. All such appointments of legislative and lay members shall be subject to the consent of the caucus wherein the appointment is made. The terms of legislative members shall be until they are no longer a member of the legislature or until their successors are appointed, whichever is sooner, and the terms of lay members shall be until their successors are appointed; and no member shall be removed during his term except for cause. Successors to legislative and lay members shall be appointed on the day on which the next succeeding regular session of the legislature shall adjourn sine die: *Provided*, That if prior to such adjournment sine die, the governor shall have proclaimed an extraordinary session of the legislature, the appointments shall not be made until the day on which such extraordinary session shall adjourn sine die. Legislative and lay members shall both be eligible for reappointment. Vacancies in the position of legislative or lay members shall be filled by the same appointing power and in the same manner as for the member vacating. *The members of each board shall elect as chairman a legislator member thereof.*

*Words in italics vetoed by Governor.

Jurisdiction
of boards.

Sec. 3. The jurisdiction of the respective boards of ethics created by this act 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.

Sec. 4. Each lay member appointed by the respective caucus chairmen shall within thirty days after his appointment sign and file an affidavit with the secretary of the senate or the chief clerk of the house of representatives, whichever is appropriate, that during his term of office he will not engage in any legislative activity designed to defeat or enhance the passage of any legislative bill or measure. Upon the failure of a lay member to sign and file an affidavit as required by this section, the chairman of the board to which he was appointed shall declare his seat vacant.

Boards of legislative ethics
—Affidavits of lay members.

Sec. 5. The boards may meet as frequently as they deem necessary, whether or not the legislature is in session. For attendance at meetings during the interim or in attending to other business of his board during the interim, each legislative member shall be entitled to the allowances provided for in RCW 44.04.120, and each lay member shall be entitled to twenty-five dollars per diem and a travel allowance of ten cents per mile from funds appropriated for that purpose.

Boards of legislative ethics
—Meetings—Expenses—Voting.

All expenses incurred by a board or any member thereof shall be paid upon voucher forms as provided by the budget director and signed by the chairman of the board or his designee: *Provided*, That vouchers for the expenses of the joint board shall be signed by the chairman of the legislative council and attested by the chairman of the joint board.

A majority of a board shall constitute a quorum.

Sec. 6. The boards jointly shall:

(1) Prepare for the adoption by the forty-first legislature a code of ethics to govern the conduct of the members and employees thereof, and may from time to time present to the legislature amendments or revisions to the code. The code of ethics shall

Joint board of legislative ethics—Duties—Code of ethics.

Joint board of
legislative
ethics—Duties
—Code of
ethics.

follow the following principles: In private transactions, or activities involving an economic benefit to himself, and in the exercise of official responsibility, a legislator should avoid (a) action which destroys his independence of judgment as a legislator, (b) involves undue influence upon any state agency, court, or governmental subdivision, or (c) constitutes an abuse of his official position or a violation of his trust.

The code, and each revision or amendment thereto, shall be prepared in the form of joint rules of the senate and the house of representatives and shall be submitted in the form of a concurrent resolution at the commencement of the forty-first session of the legislature, and any revision or amendment thereto shall be submitted at the next session of the legislature following its preparation. Such code, or revision or amendment thereof, when adopted, shall become effective as standards of conduct for the members and employees of the legislature.

For the purpose of complying with the provisions of this section, the joint board shall select a chairman who may be either a legislator member or a lay member, a vice chairman and a secretary; and meetings of the joint board shall be called by the chairman when deemed necessary for the performance of the duties of the joint board.

The code submitted to the legislature for adoption shall be approved by a majority of the members of the joint board.

(2) To recommend other legislation and other action relating to legislative ethics.

(3) Investigate possible unethical conduct of employees of legislative interim committees in the same manner as hereafter specified for employees of one house.

Sec. 7. Each board shall have the following powers, duties and functions:

Boards of legislative ethics
—Powers and duties.

(1) Upon the request of any member of its own house or whenever in a board's judgment the public interest requires, to render advisory opinions with regard to questions arising under the code of legislative ethics or statutes governing legislative ethics or conduct, or other issues involving legislative ethics. Such advisory opinions, with such deletions and changes as shall be necessary to protect the identity of the persons involved or seeking them, shall be published by the board periodically.

(2) Whenever in a board's judgment the public interest requires, to investigate possible unethical conduct by one or more members of its own house or by a legislative employee of its own house as to violations of the code of legislative ethics or statutes governing legislative ethics. Any such investigation shall be conducted in accordance with the following procedures:

(a) When the conduct of a particular legislator or legislative employee is under investigation, and a board decides to hold a hearing thereon, such legislator or legislative employee shall receive at least thirty days' written notice of the matters under investigation, and shall be entitled to present evidence, cross-examine witnesses and be represented by counsel.

(b) Because hearings conducted by a board may, in some cases, involve alleged misconduct by particular legislators or legislative employees, the board shall hold hearings in closed session and the fact that hearings are being held or are to be held shall also be regarded as confidential information. However, any legislator or legislative employee who has received a notice of hearing under the terms of subparagraph (a) above, may advise the board that he elects that such hearing be public and the board

Boards of legislative ethics
—Powers and duties.

shall be bound by the election if such election was made in writing and formally presented to the chairman of the board not less than seven days prior to the date set for the hearing.

(c) A board may designate a subcommittee of the board to conduct hearings. The board, or if designated thereby, any member or subcommittee of the board, may issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing, administer oaths or affirmations, examine witnesses and receive evidence. In case of disobedience to a subpoena, the board may invoke the aid of any superior court of the state. Such court may, in case of refusal to obey a subpoena issued to such person, issue an order requiring such person to appear before the board, or to produce documentary evidence, or to give evidence, and any failure to obey such order may be punished by that court as contempt. Notwithstanding any other provision of law, every public official, state agency, and local governmental unit shall furnish to the board any documents, records, data, statements or information which the board designates as being necessary for the exercise of its functions, powers or duties.

(d) Members of a board shall disqualify themselves in any case involving a legislator or legislative employee whom they cannot judge impartially. *No finding of unethical conduct on the part of any legislator shall be valid unless signed by at least two-thirds of the members of the board who have not disqualified themselves.*

*Words in italics vetoed by Governor.

(e) All testimony, documents, records, data, statements or information received by a board in the course of any investigation shall be held private and confidential except in the course of a public

hearing. If the board shall make a finding of unethical conduct, it shall transmit its findings and recommendations as provided in subsection (f) of this section.

(f) Whenever a board finds that a legislator or legislative employee has engaged in unethical conduct, the board shall report its findings and recommendations directly to *the rules committee* of its own house, or to such other officer or committee as may be provided in the rules of such house, for such action as may be appropriate. The report shall include a recommendation as to whether the findings should remain confidential or become a matter of public record. A copy of the report shall be sent, by registered mail, to the legislator or legislative employee under investigation. The board shall notify the appropriate law enforcement agency directly if the board makes a finding that it has reasonable grounds to believe that a criminal violation of chapter 42.21 RCW or chapter 9.18 RCW has occurred.

***Words in italics vetoed by Governor.**

(3) To provide a continuing program of education, assistance, and information to legislators with regard to legislative ethics.

(4) To make such rules for its own functioning and exercise such powers as may be appropriate for the discharge of the responsibilities of the board not in conflict with this act or the joint rules of the legislature.

Sec. 8. The legislative council shall provide necessary staff services to the board.

Legislative council—Staff services.

Sec. 9. Nothing contained in this act shall prevent the discharge of any legislative employee without recourse to the provisions hereof.

Discharge of legislative employees—Limitation.

Sec. 10. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing

Emergency.

public institutions, and shall take effect immediately.

Passed the Senate April 27, 1967.

Passed the House April 25, 1967.

Approved by the Governor May 11, 1967, with the exception of certain items in Section 2 and Section 7 which were vetoed.

NOTE: Governor's explanation of partial veto is as follows:

"This bill deals with legislative ethics and provides for separate boards of ethics in the house and senate to pass upon alleged unethical practices by members of the legislature and legislative employees. Each board of ethics will consist of four legislators and four non-legislators. The joint boards are charged with the responsibility of developing a comprehensive code of ethics for submission to the next session of the legislature.

"I am in great sympathy with the object of this bill; however, there are three items of the bill which I have vetoed in an effort to strengthen its provisions.

"Section 2 requires that the chairman of each board of ethics shall be a legislator. The chairmen of the party caucuses in the House and Senate will choose the non-legislative members of the boards. Presumably these will be citizens whose stature might well qualify them to be considered for the position of chairman. If a majority of a board of ethics wishes to choose a non-legislator as chairman, I believe the law should not prohibit that choice. Therefore, I have vetoed the sentence in Section 2 which states:

"The members of each board shall elect as chairman a legislator member thereof."

"Section 7 provides that after an investigation and a hearing in regard to allegedly unethical conduct:

"No finding of unethical conduct on the part of any legislator shall be valid unless signed by at least two thirds of the members of the board who have not disqualified themselves."

"Apparently, a finding of unethical conduct on the part of a legislative employee would require a concurrence of at least a majority of the eight member board of ethics. I see no reason for discriminating either in favor of or against any person under investigation because he is or is not a member of the legislature. So that all persons whose conduct is under scrutiny by a board of ethics will be treated equally, I have vetoed the sentence quoted above.

"Section 7 also provides that the findings and recommendations of a board of ethics regarding unethical conduct of a legislator or a legislative employee shall be sent directly to the Rules Committee of the house in question or to such other officer or committee as may be provided by the applicable rules of the House or Senate. I believe that each house of the 1969 Legislature should adopt specific rules regarding the handling of reports from the newly created boards of ethics; however, in the event of substantial disagreement in either house, the most likely result would be that no rule would be adopted on this subject. In such a situation, the provisions of Section 7 would place these reports in the hands of the Rules Committee. However, I believe that in the absence of a specific rule to the contrary adopted by the 1969 Legislature, these reports should be made to the whole member-

ship of the house in question. For this reason, I have vetoed in Section 7, the words,

'The rules committee of'
which appear on page 6, line 5 of the bill.

"The effectiveness of this bill will depend in large measure upon the 'Code of Ethics' which is adopted during the interim by the joint boards of ethics. These boards should be given every possible opportunity to develop a meaningful and workable code of legislative ethics. All citizens interested in this subject should cooperate with the joint boards in this endeavor, for drafting a code for part-time public servants such as legislators and legislative employees will be much more difficult than drafting a code for full-time public officials.

"With the exception of the items in Section 2 and Section 7 discussed above, which I have vetoed, the remainder of Senate Bill No. 630 is approved."

DANIEL J. EVANS,
Governor.
