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ETHICS ALERT

Pertinent Provisions of ESSB 5143 – amendments to the Ethics Act June 2025

On May 20, 2025, the Governor signed ESSB 5143 into law. The bill amends the Ethics in Public Service Act (the Act) and becomes effective on July 27, 2025. Below is a summary of the most salient parts of the bill.

ESSB 5143 contains many technical changes that do not affect the substance of the Act. For example, references to obsolete statutes or those that have been repealed have been stricken.

The bill adds or amends a number of definitions to the Act. One of these amendments is to more clearly define the term “beneficial interest.” This term is used in various places throughout the Act and the current definition – “has the meaning ascribed to it in current Washington caselaw” – has not been helpful when the Board has been faced with the issue of what is a beneficial interest. The Board, using language from the PDC statute (RCW 42.17A.710(1)(g)), first clarifies that a beneficial interest is a financial interest. The definition then also provides that a legislator or legislative employee with no more than a 10% ownership interest in an entity does not have a beneficial interest in that entity.

One of the largest substantive changes deals with “gifts.” The “gift” provisions of the Act which were previously in three separate statutes have been consolidated and can be found in RCW 42.52.150. The following are the major substantive changes made to the “gift” statute:

- The limit on the value of a gift received by a legislator or legislative staff has been raised from \$50 to \$100.
- Gift cards received by legislative staff in an amount of \$25 or less are not considered “gifts” and may be accepted.
- The Act currently contains a list of items (gifts) that are presumed not to influence the recipient and to which the gift value limits do not apply. Added to that list are unsolicited gifts from a legislator to legislative staff.

During election season, the Act currently prohibits the alteration of a legislator’s official website or social media page. The bill amends this section (RCW 42.52.180) to permits the alteration of the above sites to change the “office contact information.” The Board interprets this change strictly to allow changes related to district office addresses, closing a district office or updating office staff information.

If the Board finds an ethics violation occurred, it can fine the violator and seek to recover costs but together the fine and cost recovery cannot exceed \$5000. ESSB 5143 maintains the penalty cap of \$5000 but removes the cap on costs.

Several sections of current law are moved into a new section of the bill. The term “legislative nexus” is more specifically defined as “having a reasonably objective connection to the legislator’s or staff’s official duties or to the policy or programmatic prerogatives of the legislature or the legislative institution.” Added to the current list of activities with a per se tangible legislative nexus are posting information to an official website or social media account about the following:

- Generally recognized days or months of note. This amendment was designed to allow legislators and caucus staff to post about such recognized events as Black History Month or Pride month.
- A legislator if the information posted has a direct and tangible relationship to a legislative proposal or a policy introduced in the legislature. Personal information about a legislator would still be prohibited. This reflects the current opinions of the board requiring a tangible legislative nexus.
- Commemorations or celebrations of Washington state historical events, holidays, or persons who are not current legislators.

The section of the Act that prohibits the use of public resources for campaign purposes (RCW 42.52.180) is amended. ESSB 5143 provides that official caucus websites are not subject to the provision that during an election season, official legislator websites and social media cannot be altered. However, even though the official caucus websites are not subject to this prohibition, during election season, the caucus websites cannot reference a ballot measure or legislator running for elected office. The Board believes this additional language codifies its longstanding opinion on this topic.