



CITY OF KIRKLAND
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MEMORANDUM

To: City Council

From: Dave Ramsay, City Manager
Marilynne Beard, Assistant City Manager
Robin S. Jenkinson, City Attorney

Date: January 20, 2010

Subject: DEVELOPING A CODE OF ETHICS/CODE OF CONDUCT

RECOMMENDATION:

City Council determines the scope and process to use for developing a code of ethics.

BACKGROUND:

While Councilmembers are subject to the "Code of Ethics for Municipal Officers" which appears in state law¹, the "Code of Ethics" in the Kirkland Municipal Code², applies to City employees but does not currently apply to the City Council. The City Council recently expressed its desire to develop a code of ethics that would be applicable to the Council.³ Staff was asked to get back to the Council with a report on how the development of a code of ethics could be approached.

Staff is requesting further clarification regarding the scope and process envisioned by Council by asking a series of threshold questions:

What is the scope of what the Council would like to see developed during this process? Is the Council interested in developing a code of ethics that applies only to the Council and/or a code of ethics that applies to the Council and boards and commissions?

Codes of ethics set forth principles of conduct that guide decision making and behavior, with the emphasis on ethical and accountable local government. An example of a statement often included in a code of ethics is "*Councilmembers shall make public any conflict of interest the Member has with respect to any issue under consideration by the Council. The Council Member shall not participate in discussions of the subject and shall not vote on it if the Council Member has a personal, financial or property involvement in the subject.*"

¹ Chapter 42.23 RCW.

² KMC 3.82

³ The Kirkland City Council has passed ordinances which specifically address limitations on the acceptance of campaign contributions (KMC Ch. 3.12) and gifts (KMC 3.80.140).

Is the Council interested in developing a code of conduct? Beyond the notion of a code of ethics is a code of conduct. Codes of conduct also concern behavior, but have more to do with describing the manner in which councilmembers should treat one another, city staff, citizens, and others with whom they come in contact. An example of a statement that might be included in a code of conduct is "*Councilmembers are respectful of other people's time and stay focused and act efficiently during public meetings.*"

If Council is interested in developing both, then is the preference to develop them concurrently or sequentially, first focusing on a more traditional code of ethics?

More information about codes of ethics is included below along with links to sample ethics codes for local governments in Washington and an appendix with copies of Kirkland's existing ethics code, Council-adopted rules regarding campaign contributions and acceptance of gifts and the Ethics Code for Washington State Officers. Local examples of codes of conduct can also be researched if Council is interested.

The City Council also has a document entitled "Council Policies and Procedures" which was the topic of several Council meeting discussions. The current document includes rules and procedures for a variety of items including the conduct of meetings (as adopted by resolution), criteria and process for selecting board and commission members and the roles of the Mayor and Deputy Mayor. **Does the City Council have an interest in updating this document? If so, does the Council want to work on it as a committee of the whole or as a subcommittee?**

Codes of Ethics

Municipal codes of ethics provide ethical guidelines for municipal officials and employees. Links to examples of ethics codes from some Washington cities are provided below. Most of the codes deal with city councils and city employees together. Boards and commissions are included in several. One code addresses the conduct expected from the city council separately.

What these codes of ethics have in common is setting forth principles of conduct that guide decision making and behavior. The stated purposes are generally to ensure public confidence and to provide councilmembers and employees with guidelines for making ethical choices in the performance of their duties. The codes typically divide into three distinct elements: 1) a statement of purpose and values, 2) specific rules of conduct, and 3) implementation, which defines administrative processes for reporting, investigating, and sanctioning violations of the codes. Not all of the codes have each of the elements.

The various codes include a range of topics including: conflicts of interest; limitations on gifts; rules relating to disclosure of confidential information; employment after public service; use of public office or property for personal gain; and limitations on campaign activities. Administrative implementation of the codes and sanctions against code violations widely vary. There are no uniform procedures for filing, investigating, and resolving complaints for unethical conduct. An office or commission may be charged with responsibility for handling ethics code violations. Some cities have ethics boards. Others use hearings examiners or a combination of both. Seattle has an Ethics and Elections Commission with a paid, professional staff. At least one city has a Council Ethics and Administrative Committee which is responsible for enforcement of the ethics code.

Process for Developing a Code of Ethics

In early discussion, some councilmembers expressed an interest in having a citizen group or task force participate in the development of an ethics code. In this way the ethical values and expectations of the community may be addressed along with the expectations identified by the Council. Staff suggests that the Council appoint three to five persons to assist in developing the code. The City Manager's Office and City Attorney's Office can provide whatever level of support the Council requests in this regard. It may be useful for Council to discuss the types of skills and background that would be helpful for a taskforce to possess and how they would interface with the City Council.

Examples of Codes of Ethics

Bremerton Municipal Code Ch.2.96 – Code of Ethics

<http://www.codepublishing.com/wa/Bremerton/html/Bremerton02/Bremerton0296.html#2.96>

Federal Way Code of Ethics for City Councilmembers, City Managers and City Employees

<http://www.mrsc.org/GovDocs/F4CodeEthics.pdf>

Fircrest Municipal Code Ch. 2.46 – Conduct of Public Officials

http://nt5.scbbs.com/cgi-bin/om_isapi.dll?clientID=502665086&infobase=fircrest.nfo&jump=2.46&softpage=PL_frame#JUMPDEST_2.46

Grandview Municipal Code 2.90 – Conduct of Public Employees – Board of Ethics

http://nt5.scbbs.com/cgi-bin/om_isapi.dll?clientID=352537&infobase=grndvw42.nfo&jump=2.90&softpage=PL_frame#JUMPDEST_2.90

Lynnwood Municipal Code 2.94 – Code of Ethics

<http://www.mrsc.org/mc/lynnwood/Lynnwood02/lynnwood0294.html>

Richland Municipal Code Ch. 2.26 – Conduct of Public Officials and Public Employees – Code of Ethics

http://www.mrsc.org/ords/r5c2_26.aspx

Seattle Municipal Code Ch. 4.16 – Code of Ethics

<http://clerk.ci.seattle.wa.us/~scripts/nph-brs.exe?s1=4.16&s2=&S3=&Sect4=AND&l=20&Sect3=PLURON&Sect5=CODE1&d=CODE&p=1&u=%2F%7Epublic%2Fcode1.htm&r=1&Sect6=HITOFF&f=G>

Sumner Code of Ethics/Conflicts of Interest

<http://www.mrsc.org/policyprocedures/S93o2256.pdf>

Tacoma Municipal Code, Ch. 1.46- Code of Ethics

<http://cms.cityoftacoma.org/cityclerk/Files/MunicipalCode/Title01-AdministrationAndPersonnel.PDF>

Yakima Code of Ethics for City Council Members

<http://www.mrsc.org/policyprocedures/Y33CCethics.pdf>

Appendix

A -- Kirkland Ethics Code

B -- Kirkland Code on the Acceptance of Gifts, KMC 3.80.140

C -- Kirkland Code on the Limitation on Campaign Contributions, Ch. 3.12 KMC

D -- Ethics Code for Washington State Officers, Ch. 42.52 RCW

Chapter 3.82 CODE OF ETHICS

Sections:

| | |
|--------------------------|-------------------------|
| 3.82.010 | Declaration of policy. |
| 3.82.020 | Definitions. |
| 3.82.030 | Use of public property. |
| 3.82.040 | Conflict of interest. |

3.82.010 Declaration of policy.

This chapter is enacted to establish guidelines for ethical standards of conduct which shall govern the performance of city employees in the conduct of public project work and other city business, and to prevent potential conflicts of interest. (Ord. 2824 § 1, 1984)

3.82.020 Definitions.

Definitions, as used in this chapter, unless additional meaning clearly appears from the content, shall have the meaning subscribed:

(1) "Employee" means any person holding a regularly compensated position of employment with the city, but does not include members of the city council and persons who serve without compensation on city boards and commissions.

(2) "Interest" means direct or indirect monetary or material benefit accruing to a city employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with the city, except for such contracts or transactions which confer similar benefits to all other persons and/or property similarly situated. For the purpose of this chapter, an employee shall have an interest in the affairs of:

(A) Any person of the employee's family or any person with whom the employee has a close or ongoing business or social relationship;

(B) Any business entity in which the city employee is an officer, director or employee;

(C) Any business entity in which the stock, or legal or beneficial ownership, in excess of five percent of the total stock, legal or beneficial ownership, is controlled or owned directly or indirectly by the employee;

(D) Any person or business entity with whom a contractual relationship exists with the employee, provided that a contractual obligation of less than five hundred dollars, or a commercially reasonable loan made in the ordinary course of business or a contract for a commercial retail sale shall not create an interest in violation of this chapter. (Ord. 2824 § 2, 1984)

3.82.030 Use of public property.

No city employee shall request or permit the use of city-owned vehicles, equipment, materials or property for personal convenience or profit. Use is to be restricted to such services as are available to the public generally or for the authorized conduct of official business, and for such purposes and under such conditions as directed by the city manager. (Ord. 2824 § 3, 1984)

3.82.040 Conflict of interest.

No city employee shall engage in any act which is in conflict with, or creates an appearance of conflict with, the performance of official duties. An employee is deemed to have a conflict of interest if the employee:

(1) Receives or has any financial interest in any sale to the city of any service or property when such financial interest was received with prior knowledge that the city intended to purchase such property or obtain such service;

(2) Solicits, accepts or seeks anything of economic value as a gift, gratuity, or favor from any person, firm or corporation involved in a contract or transaction which is or may be the subject of official action of the city; provided, that the prohibition against gifts or favors shall not apply to:

(A) Attendance of an employee at a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of city business or where official attendance by the employee as a staff representative is appropriate.

(B) An award publicly presented in recognition of public service; or

(C) Any gift which would have been offered or given to the employee if he or she were not a city employee;

(3) Participates in his or her capacity as a city employee in the making of a contract in which he or she has a private pecuniary interest, direct or indirect, or performs in regard to such a contract some function requiring the exercise of discretion on behalf of the city;

(4) Influences the city's selection of, or its conduct of business with, a corporation, person or firm having business with the city if the employee has financial interest in or with the corporation, person or firm;

(5) Engages in, accepts private employment from or renders services for private interest when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties;

(6) Appears on behalf of a private person, other than his or herself or an immediate family member or except as a witness under subpoena, before any regulatory governmental agency or court of law in an action or proceeding to which the city or a city officer in an official capacity is a party, or accepts a retainer or compensation that is contingent upon a specific action by the city;

(7) Discloses or uses, without legal authorization, confidential information concerning the property or affairs of the city to advance a private interest with respect to any contract or transaction which is or may be the subject of official action of the city;

(8) Has a financial or personal interest in any legislation coming before the city council, participates in discussion with or gives an official opinion to the city council, unless the employee discloses on the record of the council, the nature and extent of such interest;

(9) Holds, directly or indirectly, for purposes of personal financial gain, investment or speculation, any interest in real property situated within the city, if such employee in the course of his or her official duties performs any function requiring the exercise of discretion on behalf of the city in regard to the regulation of land use or development; provided, that this prohibition shall not apply to:

(A) Real property devoted to the personal use or residence of the employee or member of the employee's immediate family; or

(B) Any other interest in real property held by the employee on the date of enactment of this chapter. (Ord. 2824 § 4, 1984)

KIRKLAND MUNICIPAL CODE

3.80.140 Limitations on gifts.

(1) No city officer or city employee may accept gifts, other than those specified in subsection (2) 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 in excess of fifty dollars in accordance with RCW 42.52.150(1); provided, that if the fifty dollar limit in RCW 42.52.150(1) is amended, this section shall be deemed to reflect the amended amount. For purposes of this section, "single source" means any person, corporation, or entity, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under Section [3.80.030\(16\)](#). The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(2) The following items are presumed not to influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction, and may be accepted without regard to the limit established by subsection (1) of this section:

- (a) Unsolicited flowers, plants, and floral arrangements;
- (b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- (c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- (d) Unsolicited items received by a city officer or city 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;
- (e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;
- (f) Food and beverages consumed at hosted receptions where attendance is related to the city officer's or city employee's official duties;
- (g) 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;
- (h) Unsolicited gifts from dignitaries from another state or a foreign country which are intended to be personal in nature; and
- (i) Food and beverages on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties.

(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. (Ord. 4108 § 2, 2007)

Chapter 3.12

LIMITS ON CAMPAIGN CONTRIBUTIONS

Sections:

| | |
|--------------------------|--|
| 3.12.010 | Definitions. |
| 3.12.020 | Application. |
| 3.12.030 | Contribution limits. |
| 3.12.040 | Adjustment of dollar amounts in chapter—Adherence to Public Disclosure Commission established limits and schedule. |
| 3.12.050 | Complaint process. |
| 3.12.060 | Appeal from the imposition of a penalty. |
| 3.12.070 | Hearing examiner dismissal. |
| 3.12.080 | Penalties. |

3.12.010 Definitions.

For purposes of this chapter, the definitions found in RCW 42.17.020 as currently enacted or as hereafter amended or recodified are hereby adopted by reference. In adopting these definitions by reference, the city also adopts the interpretation of these definitions published in Chapter 390-05 WAC or otherwise issued by the Washington State Public Disclosure Commission through declaratory orders, policy statements, and commission interpretations, except that:

(a) “Election cycle” means the combination of the general or special election and the primary election for the office in question and begins on the date an individual becomes a candidate for such office as defined in subsection (e) of this section and ends on the date that candidate files his or her final report pursuant to RCW 42.17.080(2).

(b) To “accept” or “receive” a contribution means the receipt of a contribution, deposit of funds with other campaign funds, and report of the contribution on required Public Disclosure Commission report(s). These terms do not apply to a situation in which a candidate receives a contribution and returns the contribution to the contributor within five business days of the date on which it is received by the candidate or political committee. This definition does not in any way affect the determination of the date a contribution is received, which is defined by Public Disclosure Commission policies.

(c) “Person” includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

(d) “Public Disclosure Commission” means the Washington State Public Disclosure Commission, established under RCW 42.17.350, or its successor.

(e) “Candidate” means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first: (1) receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office; (2) announces publicly or files for office; (3) purchases commercial advertising space or broadcast time to promote his or her candidacy; or (4) gives his or her consent to another person to take on behalf of the individual any of the actions in subsection (e)(1), (2) or (3) of this section. This is the

definition of “candidate” in RCW 42.17.020 at the time of enactment of the ordinance codified in this chapter. The city also adopts amended or recodified definitions of “candidate” along with interpretations of this definition published in Chapter 390-05 WAC or otherwise issued by the Public Disclosure Commission through declaratory orders, policy statements, and commission interpretations. (Ord. 4190 § 2 (part), 2009)

3.12.020 Application.

These limits shall apply to candidates in any primary, general or special election for the Kirkland city council. (Ord. 4190 § 2 (part), 2009)

3.12.030 Contribution limits.

(a) No candidate for city council shall accept or receive during the election cycle campaign contributions totaling more than the contribution limit established by the Public Disclosure Commission for county office candidates in King County in the aggregate from any person.

(b) The per-election contribution limit established by the Public Disclosure Commission for county office candidates in King County shall be the election-cycle contribution limit on candidates for the Kirkland city council.

(c) The limitations in this section shall not apply to:

(1) A candidate’s contributions of his/her own resources to his/her own campaign;

(2) The value of volunteer services;

(3) Any publicly donated funds under provisions authorizing public funding of local campaigns; and

(4) Surplus funds, as defined in RCW 42.17.020(48), from a candidate’s prior campaign and contributions received by a candidate in connection with a campaign for another office may be used by that candidate for the candidate’s current campaign only to the extent that such funds are derived from contributions that were within the dollar limitations imposed by this chapter. If such funds are from a campaign not governed by this chapter, a candidate may use only so much of each contribution previously received as would have been allowable as a contribution under this chapter if it had applied to that campaign. The source of a candidate’s surplus funds shall be determined to be derived from the most recent contributions received by such candidate or that candidate’s political committee which in total equal the amount of the surplus funds.

(d) The limitations imposed by this section shall apply to all other contributions. (Ord. 4190 § 2 (part), 2009)

3.12.040 Adjustment of dollar amounts in chapter—Adherence to Public Disclosure Commission established limits and schedule.

The amount of the contribution limit is adjusted to reflect periodic adjustments made by the Public Disclosure Commission for county office candidates in King County. The timing of the limitation changes shall take place as published by the Public Disclosure Commission and shall, from that time forward, form a new limit on contributions. (Ord. 4190 § 2 (part), 2009)

3.12.050 Complaint process.

(a) Any person who has knowledge of a violation of this chapter committed by any candidate or committee may file a complaint, in writing, under oath of the same with the

city clerk. "Under oath" means that the complaint includes a statement substantially as follows: "I declare under penalty of perjury of the laws of the State of Washington that the information in this complaint is true and correct," or that the complaint is subscribed and sworn to before a notary public or other official authorized to administer oaths. The complaint must set forth specific facts detailing the alleged violation, including: the amounts of the contributions accepted or received; the name of the candidate or committee receiving the contribution(s); and the name(s) and address(es) of the contributor(s), if known or reported; and the names and telephone numbers of persons having knowledge of the alleged violation. The complaint must include the name, address, and telephone number of the person submitting the complaint.

(b) The city clerk shall refer the complaint to the hearing examiner. The city clerk shall also send a copy of the complaint to the candidate or committee named in the complaint as the alleged violator. Within five calendar days of receiving the complaint, the hearing examiner shall make a determination that the complaint appears to have merit or is frivolous and without merit and communicate his or her decision in writing to the person who made the complaint, to the candidate or committee named in the complaint as the alleged violator, and to the city clerk.

(1) The hearing examiner shall dismiss the complaint if the hearing examiner determines that all of the alleged facts, if true, do not constitute a violation; or

(2) The hearing examiner determines that there are no reasonable grounds to believe that a violation has occurred; or

(3) The hearing examiner determines that the violation was inadvertent and minor and has been largely corrected to the satisfaction of the hearing examiner.

(c) If the hearing examiner determines the complaint appears to have merit and the complaint relates to conduct during the pending election and is received at least 30 days before the final election for the office, the hearing examiner shall provide expedited review and a public hearing on the complaint shall be set not less than fifteen days of the determination, absent a showing of good cause for a different date or a stipulation of the parties.

(1) In other instances, the public hearing shall be set within thirty days of the determination.

(d) At least fifteen days prior to the date set for hearing, the hearing examiner will notify, in writing, the person who made the complaint and candidate and/or committee complained against of the public hearing which will be held to determine if a violation has occurred. The candidate and/or committee complained against shall have the right to file a written answer to the complaint and to appear at the hearing with or without legal counsel, submit testimony, be fully heard and to examine and cross-examine witnesses.

(e) Hearings conducted by the hearing examiner shall be informal, meaning that the hearing examiner shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The hearing examiner may call witnesses on his or her own motion and compel the production of books, records, papers, or other evidence needed by the parties. To that end, the hearing examiner shall issue subpoenas and subpoenas duces tecum on his or her own. All testimony shall be under oath administered by the hearing examiner. The hearing examiner may adjourn the hearing from time to time in order to allow for the orderly presentation of evidence. The hearing examiner shall prepare an

official record of the hearing including all testimony, which shall be recorded by mechanical or electronic device, and exhibits; provided, that the hearing examiner shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.

(f) Not more than ten calendar days after the conclusion of the hearing, the hearing examiner shall, based upon a preponderance of the evidence, make and fully record in his or her permanent records findings of fact, conclusions of law, determination of a recommended disposition, and order shall be forwarded by certified mail, or personal service, to the person who made the initial report, the candidate and/or committee complained against at the addresses as given by these persons to the hearing examiner, and the city clerk. (Ord. 4190 § 2 (part), 2009)

3.12.060 Appeal from the imposition of a penalty.

Any candidate and/or committee found, by final written order of the hearing examiner, to be in violation of this chapter may seek review of the hearing examiner's order and any other decision based upon that order in the following manner:

(1) **Civil Penalty Ordered at Least Fifteen Days Before the Final Election for Office.** If the hearing examiner orders a candidate and/or a committee to pay a civil penalty at least fifteen days before the final election for office, the candidate and/or committee may seek a writ of review from the superior court pursuant to Chapter 7.16 RCW, within fourteen days of the date of the hearing examiner's order.

(2) **Civil Penalty Ordered in Other Instances.** If the hearing examiner orders a candidate and/or a committee to pay a civil penalty in any other instances, the candidate and/or committee may seek a writ of review from the superior court pursuant to Chapter 7.16 RCW, within thirty days of the hearing examiner's order. (Ord. 4190 § 2 (part), 2009)

3.12.070 Hearing examiner dismissal.

If the hearing examiner dismisses the complaint, the person who filed the complaint may seek a writ of review from the superior court pursuant to Chapter 7.16 RCW, within fourteen days of the date of the hearing examiner's dismissal. (Ord. 4190 § 2 (part), 2009)

3.12.080 Penalties.

The violation or failure to comply with the provisions of this chapter shall constitute a civil violation for which a monetary fine of up to three times the amount of the illegal contribution in violation of KMC [3.12.030\(a\)](#) may be imposed on the candidate and/or committee that accepted the contribution. (Ord. 4190 § 2 (part), 2009)

Chapter 42.52 RCW

Ethics in public service

[Chapter Listing](#) | [RCW Dispositions](#)

RCW Sections

- [42.52.010](#) Definitions.
- [42.52.020](#) Activities incompatible with public duties.
- [42.52.030](#) Financial interests in transactions.
- [42.52.040](#) Assisting in transactions.
- [42.52.050](#) Confidential information -- Improperly concealed records.
- [42.52.060](#) Testimony of state officers and state employees.
- [42.52.070](#) Special privileges.
- [42.52.080](#) Employment after public service.
- [42.52.090](#) Limited assistance by former state officers and employees.
- [42.52.100](#) Conditions on appearance before state agencies or doing business with the state -- Hearing -- Judicial review.
- [42.52.110](#) Compensation for official duties or nonperformance.
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- [42.52.130](#) Honoraria.
- [42.52.140](#) Gifts.
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- [42.52.160](#) Use of persons, money, or property for private gain.
- [42.52.170](#) Giving, paying, loaning, etc., any thing of economic value to state employee.
- [42.52.180](#) Use of public resources for political campaigns.
- [42.52.185](#) Restrictions on mailings by legislators.
- [42.52.190](#) Investments.
- [42.52.200](#) Agency rules.
- [42.52.220](#) Universities -- Administrative processes.
- [42.52.310](#) Legislative ethics board.
- [42.52.320](#) Authority of legislative ethics board.
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- [42.52.550](#) Compensation of ethics boards.
- [42.52.560](#) Communications from an employee organization or charitable organization -- Distribution by state employee.
- [42.52.570](#) Private business activity policy -- Department of fish and wildlife -- Parks and recreation commission.
- [42.52.800](#) Exemptions -- Solicitation for state capitol historic furnishings and preservation and restoration of state legislative building.
- [42.52.801](#) Exemption -- Solicitation to promote tourism.
- [42.52.802](#) Exemption -- Solicitation for Washington state legacy project, state library, and archives account.
- [42.52.8021](#) Exemption -- Solicitation for Washington state flag account.
- [42.52.803](#) Exemption -- Solicitation for legislative oral history account.

- 42.52.804 Exemption -- Health profession board or commission -- Professional opinions.
- 42.52.805 Solicitation for charitable activities of executive branch state employees -- Limitations -- Definitions.
- 42.52.810 Solicitation for the legislative international trade account -- Report.
- 42.52.820 Solicitation for hosting national legislative association conference.
- 42.52.900 Legislative declaration.
- 42.52.901 Liberal construction.
- 42.52.902 Parts and captions not law -- 1994 c 154.
- 42.52.903 Serving on board, committee, or commission not prevented.
- 42.52.904 Effective date -- 1994 c 154.
- 42.52.905 Severability -- 1994 c 154.
- 42.52.906 Construction -- Chapter applicable to state registered domestic partnerships -- 2009 c 521.

42.52.010

Definitions.

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

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

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

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

(4) "Beneficial interest" has the meaning ascribed to it under the Washington case law. However, an ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.

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

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

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

(8) "Ethics boards" means the commission on judicial conduct, the legislative ethics board, and the executive

ethics board.

(9) "Family" has the same meaning as "immediate family" in RCW [42.17.020](#).

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

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

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

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

(d) 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. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

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

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

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

(h) Campaign contributions reported under chapter [42.17](#) RCW;

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

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

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

(12) "Official duty" means those duties within the specific scope of employment of the state officer or state employee as defined by the officer's or employee's agency or by statute or the state Constitution.

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

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

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

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

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

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

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

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

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

(20) "University" includes "state universities" and "regional universities" as defined in RCW [28B.10.016](#) and also includes any research or technology institute affiliated with a university, including without limitation, the Spokane Intercollegiate Research and Technology Institute and the Washington Technology Center.

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

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

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

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

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

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

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

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

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

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

[2005 c 106 § 1; 1998 c 7 § 1; 1996 c 213 § 1; 1994 c 154 § 101.]

42.52.020

Activities incompatible with public duties.

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

[1996 c 213 § 2; 1994 c 154 § 102.]

42.52.030

Financial interests in transactions.

(1) No state officer or state employee, except as provided in subsection (2) of this section, may be beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract, sale, lease, purchase, or grant.

(2) No state officer or state employee may participate in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest, except that an officer or employee of an institution of higher education or the Spokane intercollegiate research and technology institute may serve as an officer, agent, employee, or member, or on the board of directors, board of trustees, advisory board, or committee or review panel for any nonprofit institute, foundation, or fundraising entity; and may serve as a member of an advisory board, committee, or review panel for a governmental or other nonprofit entity.

[2005 c 106 § 2; 1996 c 213 § 3; 1994 c 154 § 103.]

42.52.040

Assisting in transactions.

(1) Except in the course of official duties or incident to official duties, no state officer or state employee may assist another person, directly or indirectly, whether or not for compensation, in a transaction involving the state:

(a) In which the state officer or state employee has at any time participated; or

(b) If the transaction involving the state is or has been under the official responsibility of the state officer or state employee within a period of two years preceding such assistance.

(2) No state officer or state employee may share in compensation received by another for assistance that the officer or employee is prohibited from providing under subsection (1) or (3) of this section.

(3) A business entity of which a state officer or state employee is a partner, managing officer, or employee shall not assist another person in a transaction involving the state if the state officer or state employee is prohibited from doing so by subsection (1) of this section.

(4) This chapter does not prevent a state officer or state employee from assisting, in a transaction involving the state:

(a) The state officer's or state employee's parent, spouse or domestic partner, or child, or a child thereof for whom the officer or employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary, if the state officer or state employee did not participate in the transaction; or

(b) Another state employee involved in disciplinary or other personnel administration proceedings.

[2008 c 6 § 203; 1994 c 154 § 104.]

Notes:

Part headings not law -- Severability -- 2008 c 6: See RCW [26.60.900](#) and [26.60.901](#).

42.52.050

Confidential information — Improperly concealed records.

(1) No state officer or state employee may accept employment or engage in any business or professional activity that the officer or employee might reasonably expect would require or induce him or her to make an unauthorized disclosure of confidential information acquired by the official or employee by reason of the official's or employee's official position.

(2) No state officer or state employee may make a disclosure of confidential information gained by reason of the officer's or employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by statute or by the terms of a contract involving (a) the state officer's or state employee's agency and (b) the person or persons who have authority to waive the confidentiality of the information.

(3) No state officer or state employee may disclose confidential information to any person not entitled or authorized to receive the information.

(4) No state officer or state employee may intentionally conceal a record if the officer or employee knew the record was required to be released under chapter [42.56](#) RCW, was under a personal obligation to release the record, and failed to do so. This subsection does not apply where the decision to withhold the record was made in good faith.

[2005 c 274 § 292; 1996 c 213 § 4; 1994 c 154 § 105.]

Notes:

Part headings not law -- Effective date -- 2005 c 274: See RCW [42.56.901](#) and [42.56.902](#).

42.52.060

Testimony of state officers and state employees.

This chapter does not prevent a state officer or state employee from giving testimony under oath or from making statements required to be made under penalty of perjury or contempt.

[1994 c 154 § 106.]

42.52.070

Special privileges.

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

[1994 c 154 § 107.]

42.52.080

Employment after public service.

(1) No former state officer or state employee may, within a period of one year from the date of termination of state employment, accept employment or receive compensation from an employer if:

(a) The officer or employee, during the two years immediately preceding termination of state employment, was engaged in the negotiation or administration on behalf of the state or agency of one or more contracts with that employer and was in a position to make discretionary decisions affecting the outcome of such negotiation or the nature of such administration;

(b) Such a contract or contracts have a total value of more than ten thousand dollars; and

(c) The duties of the employment with the employer or the activities for which the compensation would be received include fulfilling or implementing, in whole or in part, the provisions of such a contract or contracts or include the supervision or control of actions taken to fulfill or implement, in whole or in part, the provisions of such a contract or contracts. This subsection shall not be construed to prohibit a state officer or state employee from accepting employment with a state employee organization.

(2) No person who has served as a state officer or state employee may, within a period of two years following the termination of state employment, have a direct or indirect beneficial interest in a contract or grant that was expressly authorized or funded by specific legislative or executive action in which the former state officer or state employee participated.

(3) No former state officer or state employee may accept an offer of employment or receive compensation from an employer if the officer or employee knows or has reason to believe that the offer of employment or compensation was intended, in whole or in part, directly or indirectly, to influence the officer or employee or as compensation or reward for the performance or nonperformance of a duty by the officer or employee during the course of state employment.

(4) No former state officer or state employee may accept an offer of employment or receive compensation from an employer if the circumstances would lead a reasonable person to believe the offer has been made, or compensation given, for the purpose of influencing the performance or nonperformance of duties by the officer or employee during the course of state employment.

(5) No former state officer or state employee may at any time subsequent to his or her state employment assist another person, whether or not for compensation, in any transaction involving the state in which the former state officer or state employee at any time participated during state employment. This subsection shall not be construed to prohibit any employee or officer of a state employee organization from rendering assistance to state officers or state employees in the course of employee organization business.

(6) As used in this section, "employer" means a person as defined in RCW [42.52.010](#) or any other entity or business that the person owns or in which the person has a controlling interest. For purposes of subsection (1) of this section, the term "employer" does not include a successor organization to the rural development council under chapter [43.31](#) RCW.

[1999 c 299 § 3; 1994 c 154 § 108.]

42.52.090

Limited assistance by former state officers and employees.

This chapter shall not be construed to prevent a former state officer or state employee from rendering assistance to others if the assistance is provided without compensation in any form and is limited to one or more of the following:

- (1) Providing the names, addresses, and telephone numbers of state agencies or state employees;
- (2) Providing free transportation to another for the purpose of conducting business with a state agency;
- (3) Assisting a natural person or nonprofit corporation in obtaining or completing application forms or other forms required by a state agency for the conduct of a state business; or
- (4) Providing assistance to the poor and infirm.

[1994 c 154 § 109.]

42.52.100

Conditions on appearance before state agencies or doing business with the state — Hearing — Judicial review.

(1) The head of an agency, upon finding that any former state officer or state employee of such agency or any other person has violated any provision of this chapter or rules adopted under it, may, in addition to any other powers the head of such agency may have, bar or impose reasonable conditions upon:

- (a) The appearance before such agency of such former state officer or state employee or other person; and
 - (b) The conduct of, or negotiation or competition for, business with such agency by such former state officer or state employee or other person, such period of time as may reasonably be necessary or appropriate to effectuate the purposes of this chapter.
- (2) Findings of violations referred to in subsection (1)(b) of this section shall be made on record after notice and hearing, conducted in accordance with the Washington Administrative Procedure Act, chapter [34.05](#) RCW. Such findings and orders are subject to judicial review.
- (3) This section does not apply to the legislative or judicial branches of government.

[1994 c 154 § 110; 1969 ex.s. c 234 § 27. Formerly RCW [42.18.270](#).]

42.52.110

Compensation for official duties or nonperformance.

No state officer or state employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law except: (1) The state of Washington; or (2) in the case of officers or employees of institutions of higher education or of the Spokane intercollegiate research and technology institute, a governmental entity, an agency or instrumentality of a governmental entity, or a nonprofit corporation organized for the benefit and support of the state employee's agency or other state agencies pursuant to an agreement with the state employee's agency.

42.52.120

Compensation for outside activities.

(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 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](#)(4) 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;

(f) The contract or grant would not require unauthorized disclosure of confidential information.

(2) In addition to satisfying the requirements of subsection (1) of this section, a state officer or state employee may have a beneficial interest in a grant or contract or a series of substantially identical contracts or grants with a state agency only 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 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.

[1997 c 318 § 1; 1996 c 213 § 6; 1994 c 154 § 112.]

Notes:

***Reviser's note:** RCW [42.52.030](#) was amended by 2005 c 106 § 2, deleting subsection (2).

42.52.130

Honoraria.

(1) No state officer or state employee may receive honoraria unless specifically authorized by the agency where they serve as state officer or state employee.

(2) An agency may not permit honoraria under the following circumstances:

(a) The person offering the honorarium is seeking or is reasonably expected to seek contractual relations with or a grant from the employer of the state officer or state employee, and the officer or employee is in a position to participate in the terms or the award of the contract or grant;

(b) The person offering the honorarium is regulated by the employer of the state officer or state employee and the officer or employee is in a position to participate in the regulation; or

(c) The person offering the honorarium (i) is seeking or opposing or is reasonably likely to seek or oppose enactment of legislation or adoption of administrative rules or actions, or policy changes by the state officer's or state employee's agency; and (ii) the officer or employee may participate in the enactment or adoption.

[1994 c 154 § 113.]

42.52.140

Gifts.

No state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction.

[1994 c 154 § 114.]

42.52.150

Limitations on gifts.

(1) No state officer or state employee may accept gifts, other than those specified in subsections (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 in excess of fifty dollars. For purposes of this section, "single source" means any

person, as defined in RCW [42.52.010](#), whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and 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 family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(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 subsection (1) of this section:

- (a) Unsolicited flowers, plants, and floral arrangements;
- (b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- (c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- (d) 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;
- (e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;
- (f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;
- (g) 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 [44.04.270](#);
- (h) 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](#);
- (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) 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; and
- (k) Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature.

(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 subsections (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;
- (b) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- (c) 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;
- (d) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

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

(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; and

(g) Those items excluded from the definition of gift in 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;

(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 [42.17](#) RCW.

[2006 c 5 § 3; 2003 1st sp.s. c 23 § 2. Prior: 2003 c 265 § 3; 2003 c 153 § 6; 1998 c 7 § 2; 1994 c 154 § 115.]

Notes:

Reviser's note: *(1) RCW [44.04.270](#) was recodified as RCW [43.15.050](#) pursuant to 2006 c 317 § 5.

** (2) RCW [43.330.090](#) was amended by 2007 c 228 § 201, deleting subsection (2) which directly related to "expansion of tourism."

Findings -- 2006 c 5: "The legislature finds that due to the massive devastation inflicted on the city of New Orleans by hurricane Katrina on August 29, 2005, the city of New Orleans will not be able to meet its obligation to host the national lieutenant governors' association's annual conference scheduled for July 17 through July 19, 2006. As a result of this unfortunate situation, the members of the national lieutenant governors' association officially pressed to have Washington state host the next annual conference in Seattle, Washington, and lieutenant governor Brad Owen has agreed to do so. The legislature further finds, in recognition of the unprecedented situation created by this natural disaster, the high national visibility of this important event, and due to the limited amount of time remaining for planning and fund-raising, it is necessary to initiate fund-raising activities for this national conference as soon as possible." [2006 c 5 § 1.]

Effective date -- 2006 c 5: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 7, 2006]." [2006 c 5 § 4.]

Findings -- 2003 c 153: See note following RCW [43.330.090](#).

42.52.160

Use of persons, money, or property for private gain.

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

(2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties.

(3) The appropriate ethics boards may adopt rules providing exceptions to this section for occasional use of the state officer or state employee, of de minimis cost and value, if the activity does not result in interference with the proper performance of public duties.

[1996 c 213 § 7; 1994 c 154 § 116; 1987 c 426 § 3. Formerly RCW [42.18.217](#).]

42.52.170

Giving, paying, loaning, etc., any thing of economic value to state employee.

No person shall give, pay, loan, transfer, or deliver, directly or indirectly, to any other person any thing of economic value believing or having reason to believe that there exist circumstances making the receipt thereof a violation of RCW [42.52.040](#), [42.52.110](#), [42.52.120](#), [42.52.140](#), or [42.52.150](#).

[1994 c 154 § 117; 1987 c 426 § 5; 1969 ex.s. c 234 § 23. Formerly RCW [42.18.230](#).]

42.52.180

Use of public resources for political campaigns.

(1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) This section shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition as long as (i) required notice of the meeting includes the title and number of the ballot proposition, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry. For the purposes of this subsection, it is not a violation of this section for an elected official to respond to an inquiry regarding a ballot proposition, to make incidental remarks concerning a ballot proposition in an official communication, or otherwise comment on a ballot proposition without an actual,

measurable expenditure of public funds. The ethics boards shall adopt by rule a definition of measurable expenditure;

(c) Activities that are part of the normal and regular conduct of the office or agency; and

(d) De minimis use of public facilities by statewide elected officials and legislators incidental to the preparation or delivery of permissible communications, including written and verbal communications initiated by them of their views on ballot propositions that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities.

(3) As to state officers and employees, this section operates to the exclusion of RCW [42.17.130](#).

[1995 c 397 § 30; 1994 c 154 § 118.]

Notes:

Effective date -- Captions -- Severability -- 1995 c 397: See RCW [42.17.960](#) through [42.17.962](#).

42.52.185

Restrictions on mailings by legislators.

(1) During the twelve-month period beginning on December 1st of the year before a general election for a state legislator's election to office and continuing through November 30th immediately after the general election, the legislator may not mail, either by regular mail or electronic mail, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except as follows:

(a) The legislator may mail two mailings of newsletters to constituents. All newsletters within each mailing of newsletters must be identical as to their content but not as to the constituent name or address. One such mailing may be mailed no later than thirty days after the start of a regular legislative session, except that a legislator appointed during a regular legislative session to fill a vacant seat may have up to thirty days from the date of appointment to send out the first mailing. The other mailing may be mailed no later than sixty days after the end of a regular legislative session.

(b) The legislator may mail an individual letter to (i) an individual constituent who has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office; (ii) an individual constituent who holds a governmental office with jurisdiction over the subject matter of the letter; or (iii) an individual constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person, including, but not limited to: (A) An international or national award such as the Nobel prize or the Pulitzer prize; (B) a state award such as Washington scholar; (C) an Eagle Scout award; and (D) a Medal of Honor.

(c) In those cases where constituents have specifically indicated that they would like to be contacted to receive regular or periodic updates on legislative matters, legislators may provide such updates by electronic mail throughout the legislative session and up until thirty days from the conclusion of a legislative session.

(2) For purposes of subsection (1) of this section, "legislator" means a legislator who is a "candidate," as defined by RCW [42.17.020](#), for any public office.

(3) A violation of this section constitutes use of the facilities of a public office for the purpose of assisting a campaign under RCW [42.52.180](#).

(4) The house of representatives and senate shall specifically limit expenditures per member for the total cost of mailings. Those costs include, but are not limited to, production costs, printing costs, and postage costs. The limits imposed under this subsection apply only to the total expenditures on mailings per member and not to any categorical

cost within the total.

(5) For purposes of this section, persons residing outside the legislative district represented by the legislator are not considered to be constituents, but students, military personnel, or others temporarily employed outside of the district who normally reside in the district are considered to be constituents.

[2008 c 39 § 2; 1997 c 320 § 1; 1995 c 397 § 5; 1993 c 2 § 25 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW [42.17.132.](#)]

Notes:

Findings -- Intent -- 2008 c 39: "The legislature finds that the legislature's ability to communicate with its constituency is of the utmost importance in having a healthy representative democracy. It is the intent of the legislature to provide important information to constituents on an ongoing basis in order to truly be a government of the people and for the people. The legislature finds that this communication will only increase citizen access to legislative issues." [2008 c 39 § 1.]

42.52.190

Investments.

(1) Except for permissible investments as defined in this section, no state officer or state employee of any agency responsible for the investment of funds, who acts in a decision-making, advisory, or policy-influencing capacity with respect to investments, may have a direct or indirect interest in any property, security, equity, or debt instrument of a person, without prior written approval of the agency.

(2) Agencies responsible for the investment of funds shall adopt policies governing approval of investments and establishing criteria to be considered in the approval process. Criteria shall include the relationship between the proposed investment and investments held or under consideration by the state, the size and timing of the proposed investment, access by the state officer or state employee to nonpublic information relative to the proposed investment, and the availability of the investment in the public market. Agencies responsible for the investment of funds also shall adopt policies consistent with this chapter governing use by their officers and employees of financial information acquired by virtue of their state positions. A violation of such policies adopted to implement this subsection shall constitute a violation of this chapter.

(3) As used in this section, "permissible investments" means any mutual fund, deposit account, certificate of deposit, or money market fund maintained with a bank, broker, or other financial institution, a security publicly traded in an organized market if the interest in the security at acquisition is ten thousand dollars or less, or an interest in real estate, except if the real estate interest is in or with a party in whom the agency holds an investment.

[1994 c 154 § 119.]

42.52.200

Agency rules.

(1) Each agency may adopt rules consistent with law, for use within the agency to protect against violations of this chapter.

(2) Each agency proposing to adopt rules under this section shall forward the rules to the appropriate ethics board before they may take effect. The board may submit comments to the agency regarding the proposed rules.

(3) This section applies to universities only to the extent their activities are not subject to RCW [42.52.220](#).

[2005 c 106 § 3; 1994 c 154 § 120.]

42.52.220

Universities — Administrative processes.

(1) Consistent with the state policy to encourage basic and applied scientific research by the state's research universities as stated in RCW [28B.140.005](#), each university may develop, adopt, and implement one or more written administrative processes that shall, upon approval by the governor, apply in place of the obligations imposed on universities and university research employees under RCW [42.52.030](#), [42.52.040](#), [42.52.080](#), [42.52.110](#), [42.52.120](#), [42.52.130](#), [42.52.140](#), [42.52.150](#), and [42.52.160](#). The universities shall coordinate on the development of administrative processes to ensure the processes are comparable. A university research employee in compliance with the processes authorized in this section shall be deemed to be in compliance with RCW [42.52.030](#), [42.52.040](#), [42.52.080](#), [42.52.110](#), [42.52.120](#), [42.52.130](#), [42.52.140](#), [42.52.150](#), and [42.52.160](#).

(2) The executive ethics board shall enforce activity subject to the written approval processes under this section, as provided in RCW [42.52.360](#).

[2005 c 106 § 4.]

42.52.310

Legislative ethics board.

(1) The legislative ethics board is created, composed of nine members, selected as follows:

(a) Two senators, one from each of the two largest caucuses, appointed by the president of the senate;

(b) Two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;

(c) Five citizen members:

(i) One citizen member chosen by the governor from a list of three individuals submitted by each of the four legislative caucuses; and

(ii) One citizen member selected by three of the four other citizen members of the legislative ethics board.

(2) Except for initial members and members completing partial terms, nonlegislative members shall serve a single five-year term.

(3) No more than three of the public members may be identified with the same political party.

(4) Terms of initial nonlegislative board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a three-year term; one member shall be appointed to a four-year term; and one member shall be appointed for a five-year term.

(5) A vacancy on the board shall be filled in the same manner as the original appointment.

(6) Legislative members shall serve two-year terms, from January 31st of an odd-numbered year until January 31st of the next odd-numbered year.

(7) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.

(8) The citizen members shall annually select a chair from among themselves.

[1994 c 154 § 201.]

42.52.320

Authority of legislative ethics board.

(1) The legislative ethics board shall enforce this chapter and rules adopted under it with respect to members and employees of the legislature.

(2) The legislative ethics board shall:

(a) Develop educational materials and training with regard to legislative ethics for legislators and legislative employees;

(b) Issue advisory opinions;

(c) Adopt rules or policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW [42.52.180](#) and where otherwise authorized under chapter 154, Laws of 1994;

(d) Investigate, hear, and determine complaints by any person or on its own motion;

(e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend suspension or removal to the appropriate legislative entity, or recommend prosecution to the appropriate authority; and

(g) Establish criteria regarding the levels of civil penalties appropriate for different types of violations of this chapter and rules adopted under it.

(3) The board may:

(a) 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;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(4) Subject to RCW [42.52.540](#), the board has jurisdiction over any alleged violation that occurred before January 1, 1995, and that was within the jurisdiction of any of the boards established under *chapter [44.60](#) RCW. The board's jurisdiction with respect to any such alleged violation shall be based on the statutes and rules in effect at [the] time of the violation.

[1994 c 154 § 202.]

Notes:

***Reviser's note:** Chapter [44.60](#) RCW was repealed by 1994 c 154 § 304, effective January 1, 1995.

42.52.330

Interpretation.

By constitutional design, the legislature consists of citizen-legislators who bring to bear on the legislative process their individual experience and expertise. The provisions of this chapter shall be interpreted in light of this constitutional principle.

[1994 c 154 § 203.]

42.52.340

Transfer of jurisdiction.

On January 1, 1995, any complaints or other matters under investigation or consideration by the boards of legislative ethics in the house of representatives and the senate operating pursuant to *chapter [44.60](#) RCW shall be transferred to the legislative ethics board created by RCW [42.52.310](#). All files, including but not limited to minutes of meetings, investigative files, records of proceedings, exhibits, and expense records, shall be transferred to the legislative ethics board created in RCW [42.52.310](#) pursuant to their direction and the legislative ethics board created in RCW [42.52.310](#) shall assume full jurisdiction over all pending complaints, investigations, and proceedings.

[1994 c 154 § 204.]

Notes:

***Reviser's note:** Chapter [44.60](#) RCW was repealed by 1994 c 154 § 304, effective January 1, 1995.

42.52.350

Executive ethics board.

(1) The executive ethics board is created, composed of five members, appointed by the governor as follows:

- (a) One member shall be a classified service employee as defined in chapter [41.06](#) RCW;
- (b) One member shall be a state officer or state employee in an exempt position;
- (c) One member shall be a citizen selected from a list of three names submitted by the attorney general;
- (d) One member shall be a citizen selected from a list of three names submitted by the state auditor; and

- (e) One member shall be a citizen selected at large by the governor.
- (2) Except for initial members and members completing partial terms, members shall serve a single five-year term.
- (3) No more than three members may be identified with the same political party.
- (4) Terms of initial board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a three-year term; one member shall be appointed to a four-year term; and one member shall be appointed to a five-year term.
- (5) A vacancy on the board shall be filled in the same manner as the original appointment.
- (6) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.
- (7) The members shall annually select a chair from among themselves.
- (8) Staff shall be provided by the office of the attorney general.

[1994 c 154 § 205.]

42.52.360

Authority of executive ethics board.

(1) The executive ethics board shall enforce this chapter and rules adopted under it with respect to statewide elected officers and all other officers and employees in the executive branch, boards and commissions, and institutions of higher education.

(2) The executive ethics board shall enforce this chapter with regard to the activities of university research employees as provided in this subsection.

(a) With respect to compliance with RCW [42.52.030](#), [42.52.110](#), [42.52.130](#), [42.52.140](#), and [42.52.150](#), the administrative process shall be consistent with and adhere to no less than the current standards in regulations of the United States public health service and the office of the secretary of the department of health and human services in Title 42 C.F.R. Part 50, Subpart F relating to promotion of objectivity in research.

(b) With respect to compliance with RCW [42.52.040](#), [42.52.080](#), and [42.52.120](#), the administrative process shall include a comprehensive system for the disclosure, review, and approval of outside work activities by university research employees while assuring that such employees are fulfilling their employment obligations to the university.

(c) With respect to compliance with RCW [42.52.160](#), the administrative process shall include a reasonable determination by the university of acceptable private uses having de minimis costs to the university and a method for establishing fair and reasonable reimbursement charges for private uses the costs of which are in excess of de minimis.

(3) The executive ethics board shall:

- (a) Develop educational materials and training;
- (b) Adopt rules and policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW [42.52.180](#) and where otherwise authorized under chapter 154, Laws of 1994;
- (c) Issue advisory opinions;
- (d) Investigate, hear, and determine complaints by any person or on its own motion;
- (e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend to the appropriate authorities suspension, removal from position, prosecution, or other appropriate remedy; and

(g) Establish criteria regarding the levels of civil penalties appropriate for violations of this chapter and rules adopted under it.

(4) The board may:

(a) 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;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(5) Except as provided in RCW [42.52.220](#), the executive ethics board may review and approve agency policies as provided for in this chapter.

(6) This section does not apply to state officers and state employees of the judicial branch.

[2005 c 106 § 5; 1994 c 154 § 206.]

42.52.370

Authority of commission on judicial conduct.

The commission on judicial conduct shall enforce this chapter and rules adopted under it with respect to state officers and employees of the judicial branch and may do so according to procedures prescribed in Article IV, section 31 of the state Constitution. In addition to the sanctions authorized in Article IV, section 31 of the state Constitution, the commission may impose sanctions authorized by this chapter.

[1994 c 154 § 207.]

42.52.380

Political activities of board members.

(1) No member of the executive ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in chapter [42.17](#) RCW other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any state candidate or state ballot measure; or (d) lobby or control, direct, or assist a lobbyist except that such member may appear before any committee of the legislature on matters pertaining to this chapter.

(2) No citizen member of the legislative ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in chapter [42.17](#) RCW, other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any legislative candidate, any legislative caucus campaign committee that supports or opposes legislative candidates, or any political action committee that supports or opposes legislative candidates; or (d) engage in lobbying in the legislative branch under circumstances not exempt, under RCW [42.17.160](#), from lobbyist registration and reporting.

(3) No citizen member of the legislative ethics board may hold or campaign for a seat in the state house of representatives or the state senate within two years of serving on the board if the citizen member opposes an incumbent who has been the respondent in a complaint before the board.

[1997 c 11 § 1; 1994 c 154 § 208.]

42.52.390

Hearing and subpoena authority.

Except as otherwise provided by law, the ethics boards may hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of a person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the ethics board. The ethics board may make rules as to the issuance of subpoenas by individual members, as to service of complaints, decisions, orders, recommendations, and other process or papers of the ethics board.

[1994 c 154 § 209.]

42.52.400

Enforcement of subpoena authority.

In case of refusal to obey a subpoena issued to a person, the superior court of a county within the jurisdiction of which the investigation, proceeding, or hearing under this chapter is carried on or within the jurisdiction of which the person refusing to obey is found or resides or transacts business, upon application by the appropriate ethics board shall have jurisdiction to issue to the person an order requiring the person to appear before the ethics board or its member to produce evidence if so ordered, or to give testimony touching the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as contempt.

[1994 c 154 § 210.]

42.52.410

Filing complaint.

(1) A person may, personally or by his or her attorney, make, sign, and file with the appropriate ethics board a complaint on a form provided by the appropriate ethics board. The complaint shall state the name of the person alleged to have violated this chapter or rules adopted under it and the particulars thereof, and contain such other information as may be required by the appropriate ethics board.

(2) If it has reason to believe that any person has been engaged or is engaging in a violation of this chapter or rules adopted under it, an ethics board may issue a complaint.

[1994 c 154 § 211.]

42.52.420

Investigation.

(1) After the filing of any complaint, except as provided in RCW [42.52.450](#), the staff of the appropriate ethics board shall investigate the complaint. The investigation shall be limited to the allegations contained in the complaint.

(2) The results of the investigation shall be reduced to writing and the staff shall either make a determination that the complaint should be dismissed pursuant to RCW [42.52.425](#), or recommend to the board that there is or that there is not reasonable cause to believe that a violation of this chapter or rules adopted under it has been or is being committed.

(3) The board's determination on reasonable cause shall be provided to the complainant and to the person named in such complaint.

[2000 c 211 § 1; 1994 c 154 § 212.]

42.52.425

Dismissal of complaint.

(1) Based on the investigation conducted under RCW [42.52.420](#) or [42.52.450](#), and subject to rules issued by each board, the board or the staff of the appropriate ethics board may issue an order of dismissal based on any of the following findings:

(a) Any violation that may have occurred is not within the jurisdiction of the board;

(b) The complaint is obviously unfounded or frivolous; or

(c) Any violation that may have occurred does not constitute a material violation because it was inadvertent and minor, or has been cured, and, after consideration of all of the circumstances, further proceedings would not serve the purposes of this chapter.

(2) Written notice of the determination under subsection (1) of this section shall be provided to the complainant, respondent, and the board. The written notice to the complainant shall include a statement of the complainant's right to appeal to the board under subsection (3) of this section if the dismissal order was issued by staff.

(3) In the event that a complaint is dismissed by staff under this section, the complainant may request that the board review the action. Following review, the board shall:

(a) Affirm the staff dismissal;

(b) Direct the staff to conduct further investigation; or

(c) Issue a determination that there is reasonable cause to believe that a violation has been or is being committed.

(4) The board's decision under subsection (3) of this section shall be reduced to writing and provided to the complainant and the respondent.

[2005 c 116 § 1; 2000 c 211 § 2.]

42.52.430

Public hearing — Findings.

(1) If the ethics board determines there is reasonable cause under RCW [42.52.420](#) that a violation of this chapter or rules adopted under it occurred, a public hearing on the merits of the complaint shall be held.

(2) The ethics board shall designate the location of the hearing. The case in support of the complaint shall be presented at the hearing by staff of the ethics board.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine witnesses.

(4) Testimony taken at the hearing shall be under oath and recorded.

(5) If, based upon a preponderance of the evidence, the ethics board finds that the respondent has violated this chapter or rules adopted under it, the board shall file an order stating findings of fact and enforcement action as authorized under this chapter.

(6) If, upon all the evidence, the ethics board finds that the respondent has not engaged in an alleged violation of this chapter or rules adopted under it, the ethics board shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

(7) If the board makes a determination that there is not reasonable cause to believe that a violation has been or is being committed or has made a finding under subsection (6) of this section, the attorney general shall represent the officer or employee in any action subsequently commenced based on the alleged facts in the complaint.

[1994 c 154 § 213.]

42.52.440

Review of order.

Except as otherwise provided by law, reconsideration or judicial review of an ethics board's order that a violation of this chapter or rules adopted under it has occurred shall be governed by the provisions of chapter [34.05](#) RCW applicable to review of adjudicative proceedings.

[1994 c 154 § 214.]

42.52.450

Complaint against legislator or statewide elected official.

(1) If a complaint alleges a violation of RCW [42.52.180](#) by a legislator or statewide elected official other than the attorney general, the attorney general shall, if requested by the appropriate ethics board, conduct the investigation under RCW [42.52.420](#) and recommend action.

(2) If a complaint alleges a violation of RCW [42.52.180](#) by the attorney general, the state auditor shall conduct the investigation under RCW [42.52.420](#) and recommend action to the appropriate ethics board.

[2005 c 116 § 2; 1994 c 154 § 215.]

42.52.460

Citizen actions.

Any person who has notified the appropriate ethics board and the attorney general in writing that there is reason to believe that RCW [42.52.180](#) is being or has been violated may, in the name of the state, bring a citizen action for any of the actions authorized under this chapter. A citizen action may be brought only if the appropriate ethics board or the attorney general have failed to commence an action under this chapter within forty-five days after notice from the person, the person has thereafter notified the appropriate ethics board and the attorney general that the person will commence a citizen's action within ten days upon their failure to commence an action, and the appropriate ethics board and the attorney general have in fact failed to bring an action within ten days of receipt of the second notice.

If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but the person shall be entitled to be reimbursed by the state of Washington for costs and attorneys' fees incurred. If a citizen's action that the court finds was brought without reasonable cause is dismissed, the court may order the person commencing the action to pay all costs of trial and reasonable attorneys' fees incurred by the defendant.

Upon commencement of a citizen action under this section, at the request of a state officer or state employee who is a defendant, the office of the attorney general shall represent the defendant if the attorney general finds that the defendant's conduct complied with this chapter and was within the scope of employment.

[1994 c 154 § 216.]

42.52.470

Referral for enforcement.

As appropriate, an ethics board may refer a complaint:

(1) To an agency for initial investigation and proposed resolution which shall be referred back to the appropriate ethics board for action; or

(2) To the attorney general's office or prosecutor for appropriate action.

[1994 c 154 § 217.]

42.52.480

Action by boards.

(1) Except as otherwise provided by law, an ethics board may order payment of the following amounts if it finds a violation of this chapter or rules adopted under it after a hearing under RCW [42.52.370](#) or other applicable law:

(a) Any damages sustained by the state that are caused by the conduct constituting the violation;

(b) From each such person, a civil penalty of up to five thousand dollars per violation or three times the economic value of any thing received or sought in violation of this chapter or rules adopted under it, whichever is greater; and

(c) Costs, including reasonable investigative costs, which shall be included as part of the limit under (b) of this subsection. The costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.

(2) Damages under this section may be enforced in the same manner as a judgment in a civil case.

[1994 c 154 § 218.]

42.52.490

Action by attorney general.

(1) Upon a written determination by the attorney general that the action of an ethics board was clearly erroneous or if requested by an ethics board, the attorney general may bring a civil action in the superior court of the county in which the violation is alleged to have occurred against a state officer, state employee, former state officer, former state employee, or other person who has violated or knowingly assisted another person in violating any of the provisions of this chapter or the rules adopted under it. In such action the attorney general may recover the following amounts on behalf of the state of Washington:

(a) Any damages sustained by the state that are caused by the conduct constituting the violation;

(b) From each such person, a civil penalty of up to five thousand dollars per violation or three times the economic value of any thing received or sought in violation of this chapter or the rules adopted under it, whichever is greater; and

(c) Costs, including reasonable investigative costs, which shall be included as part of the limit under (b) of this subsection. The costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.

(2) In any civil action brought by the attorney general upon the basis that the attorney general has determined that the board's action was clearly erroneous, the court shall not proceed with the action unless the attorney general has first shown, and the court has found, that the action of the board was clearly erroneous.

[1994 c 154 § 219.]

42.52.500

Optional hearings by administrative law judge.

If an ethics board finds that there is reasonable cause to believe that a violation has occurred, the board shall consider the possibility of the alleged violator having to pay a total amount of penalty and costs of more than five hundred dollars. Based on such consideration, the board may give the person who is the subject of the complaint the option to have an administrative law judge conduct the hearing and rule on procedural and evidentiary matters. The board may also, on its own initiative, provide for retaining an administrative law judge. An ethics board may not require total payment of more than five hundred dollars in penalty and costs in any case where an administrative law judge is not used and the board did not give such option to the person who is the subject of the complaint.

[1994 c 154 § 220.]

42.52.510

Rescission of state action.

(1) The attorney general may, on request of the governor or the appropriate agency, and in addition to other available rights of rescission, bring an action in the superior court of Thurston county to cancel or rescind state action taken by a state officer or state employee, without liability to the state of Washington, contractual or otherwise, if the governor

or ethics board has reason to believe that: (a) A violation of this chapter or rules adopted under it has substantially influenced the state action, and (b) the interest of the state requires the cancellation or rescission. The governor may suspend state action pending the determination of the merits of the controversy under this section. The court may permit persons affected by the governor's actions to post an adequate bond pending such resolution to ensure compliance by the defendant with the final judgment, decree, or other order of the court.

(2) This section does not limit other available remedies.

[1994 c 154 § 221.]

42.52.520

Disciplinary action.

(1) A violation of this chapter or rules adopted under it is grounds for disciplinary action.

(2) The procedures for any such action shall correspond to those applicable for disciplinary action for employee misconduct generally; for those state officers and state employees not specifically exempted in chapter [41.06](#) RCW, the rules set forth in chapter [41.06](#) RCW shall apply. Any action against the state officer or state employee shall be subject to judicial review to the extent provided by law for disciplinary action for misconduct of state officers and state employees of the same category and grade.

[1994 c 154 § 222; 1969 ex.s. c 234 § 26. Formerly RCW [42.18.260](#).]

42.52.530

Additional investigative authority.

In addition to other authority under this chapter, the attorney general may investigate persons not under the jurisdiction of an ethics board whom the attorney general has reason to believe were involved in transactions in violation of this chapter or rules adopted under it.

[1994 c 154 § 223.]

42.52.540

Limitations period.

Any action taken under this chapter must be commenced within five years from the date of the violation. However, if it is shown that the violation was not discovered because of concealment by the person charged, then the action must be commenced within two years from the date the violation was discovered or reasonably should have been discovered: (1) By any person with direct or indirect supervisory responsibilities over the person who allegedly committed the violation; or (2) if no person has direct or indirect supervisory authority over the person who committed the violation, by the appropriate ethics board.

[1994 c 154 § 224.]

42.52.550

Compensation of ethics boards.

The citizen members of the legislative ethics board and the members of the executive ethics board shall be compensated as provided in RCW [43.03.250](#) and reimbursed for travel expenses as provided in RCW [43.03.050](#) and [43.03.060](#). Legislator members of the legislative ethics board shall be reimbursed as provided in RCW [44.04.120](#).

[1994 c 154 § 227.]

42.52.560

Communications from an employee organization or charitable organization — Distribution by state employee.

(1) Nothing in this chapter prohibits a state employee from distributing communications from an employee organization or charitable organization to other state employees if the communications do not support or oppose a ballot proposition or candidate for federal, state, or local public office. Nothing in this section shall be construed to authorize any lobbying activity with public funds beyond the activity permitted by RCW [42.17.190](#).

(2) "Employee organization," for purposes of this section, means any organization, union, or association in which employees participate and that exists for the purpose of collective bargaining with employers or for the purpose of opposing collective bargaining or certification of a union.

[2006 c 217 § 1.]

42.52.570

Private business activity policy — Department of fish and wildlife — Parks and recreation commission.

(1) The department of fish and wildlife and the parks and recreation commission may approve private business activity in state-owned housing provided under Title [77](#) RCW or chapter [79A.05](#) RCW.

(2) Prior to granting approval of private business activity in state-owned housing, the department of fish and wildlife and the parks and recreation commission must adopt a private business activity policy that is approved by the executive ethics board.

(a) The private business activity policy may only authorize private business activity by the resident state employee while the employee is off duty or the employee's spouse who is approved for residency in the agency housing or the employee's children.

(b) The private business activity policy may not allow private business activity that negatively impacts the agency's operations. For the purposes of this section, "negatively impacts" includes but is not limited to: (i) Negative impacts to visitors' services or access; (ii) in-person visits to state-owned housing for the purpose of transacting business that negatively impacts agency operations; (iii) the incurrence of additional expenses by the state; (iv) the use of signage in the state-owned residence; (v) advertising on state-owned property; or (vi) an appearance of state endorsement of the private business activity.

(3) The private business activity must comply with all other local, state, and federal laws.

(4) All approvals of a private business activity in state-owned housing must be by the agency director or designee in writing.

(5) A state employee is presumed not to be in violation of RCW [42.52.070](#) or [42.52.160](#) if the employee or the employee's spouse or child complies with this section.

[2008 c 247 § 1.]

42.52.800

Exemptions — Solicitation for state capitol historic furnishings and preservation and restoration of state legislative building.

(1) When soliciting charitable gifts, grants, or donations solely for the limited purposes of RCW [27.48.040](#), members of the capitol furnishings preservation committee are exempt from the laws of this chapter.

(2) When soliciting charitable gifts, grants, or donations solely for the limited purposes of RCW [27.48.050](#) or when assisting a nonprofit foundation established for the purposes of RCW [27.48.050](#), state officers and state employees are exempt from the laws of this chapter.

[2002 c 167 § 3; 1999 c 343 § 4.]

Notes:

Findings -- Effective date -- 2002 c 167: See notes following RCW [27.48.050](#).

Findings -- Purpose -- 1999 c 343: See note following RCW [27.48.040](#).

42.52.801

Exemption — Solicitation to promote tourism.

When soliciting charitable gifts, grants, or donations solely for the purposes of promoting the *expansion of tourism as provided for in RCW [43.330.090](#), state officers and state employees are presumed not to be in violation of the solicitation and receipt of gift provisions in RCW [42.52.140](#).

[2003 c 153 § 5.]

Notes:

***Reviser's note:** RCW [43.330.090](#) was amended by 2007 c 228 § 201, deleting subsection (2) which directly related to "expansion of tourism."

Findings -- 2003 c 153: See note following RCW [43.330.090](#).

42.52.802

Exemption — Solicitation for Washington state legacy project, state library, and archives account.

This chapter does not prohibit the secretary of state or a designee from soliciting and accepting contributions to the Washington state legacy project, state library, and archives account created in RCW [43.07.380](#).

[2008 c 222 § 14; 2003 c 164 § 4.]

Notes:

Purpose -- 2008 c 222: See note following RCW [44.04.320](#).

42.52.8021

Exemption — Solicitation for Washington state flag account.

This chapter does not prohibit the secretary of state or the secretary of state's designee from soliciting and accepting contributions to the Washington state flag account created in RCW [43.07.388](#).

[2009 c 71 § 3.]

42.52.803

Exemption — Solicitation for legislative oral history account.

This chapter does not prohibit the secretary of the senate, the chief clerk of the house of representatives, or their designee from soliciting and accepting contributions to the legislative oral history account created in RCW [44.04.345](#).

[2008 c 222 § 2.]

Notes:

Purpose -- 2008 c 222: See note following RCW [44.04.320](#).

42.52.804

Exemption — Health profession board or commission — Professional opinions.

Members of a health profession board or commission as identified in RCW [18.130.040\(2\)\(b\)](#) may express their professional opinions to an elected official about the work of the board or commission on which the member serves, even if those opinions differ from the department of health's official position. Such communication shall be to inform the elected official and not to lobby in support or opposition to any initiative to the legislature.

[2008 c 134 § 15.]

Notes:

Finding -- Intent -- Severability -- 2008 c 134: See notes following RCW [18.130.020](#).

42.52.805

Solicitation for charitable activities of executive branch state employees — Limitations — Definitions.

(1) When soliciting gifts, grants, or donations solely to support the charitable activities of executive branch state employees conducted pursuant to RCW [9.46.0209](#), the executive branch state officers and executive branch state employees are presumed not to be in violation of the solicitation and receipt of gift provisions in RCW [42.52.140](#). However, the gifts, grants, or donations must only be solicited from state employees or businesses and organizations that have no business dealings with the soliciting employee's agency. For the purposes of this subsection, "business dealings" includes being subject to regulation by the agency, having a contractual relationship with the agency, and purchasing goods or services from the agency.

(2) For purposes of this section, activities are deemed to be charitable if the activities are devoted to the purposes authorized under RCW [9.46.0209](#) for charitable and nonprofit organizations listed in that section, or are in support of the activities of those charitable or nonprofit organizations.

[2007 c 452 § 2.]

42.52.810

Solicitation for the legislative international trade account — Report.

(1) When soliciting charitable gifts, grants, or donations solely for the legislative international trade account created in *RCW [44.04.270](#), the president of the senate is presumed not to be in violation of the solicitation and receipt of gift provisions in RCW [42.52.140](#).

(2) When soliciting charitable gifts, grants, or donations solely for the legislative international trade account created in *RCW [44.04.270](#), state officers and state employees are presumed not to be in violation of the solicitation and receipt of gift provisions in RCW [42.52.140](#).

(3) An annual report of the legislative international trade account activities, including a list of receipts and expenditures, shall be published by the president of the senate and submitted to the house of representatives and the senate and be a public record for the purposes of RCW [42.56.070](#).

[2005 c 274 § 293; 2003 c 265 § 2.]

Notes:

***Reviser's note:** RCW [44.04.270](#) was recodified as RCW [43.15.050](#) pursuant to 2006 c 317 § 5.

Part headings not law -- Effective date -- 2005 c 274: See RCW [42.56.901](#) and [42.56.902](#).

42.52.820

Solicitation for hosting national legislative association conference.

When soliciting gifts, grants, or donations to host an official conference within the state of Washington of a national legislative association as approved by both the chief clerk and the secretary of the senate, designated legislative officials and designated legislative employees are presumed not to be in violation of the solicitation and receipt of gift provisions in this chapter. For the purposes of this section, any legislative association must include among its membership the Washington state legislature or individual legislators or legislative staff.

[2003 1st sp.s. c 23 § 1.]

42.52.900

Legislative declaration.

Government derives its powers from the people. Ethics in government are the foundation on which the structure of government rests. State officials and employees of government hold a public trust that obligates them, in a special way, to honesty and integrity in fulfilling the responsibilities to which they are elected and appointed. Paramount in that trust is the principle that public office, whether elected or appointed, may not be used for personal gain or private advantage.

The citizens of the state expect all state officials and employees to perform their public responsibilities in accordance with the highest ethical and moral standards and to conduct the business of the state only in a manner that advances the public's interest. State officials and employees are subject to the sanctions of law and scrutiny of the media; ultimately, however, they are accountable to the people and must consider this public accountability as a particular obligation of the public service. Only when affairs of government are conducted, at all levels, with openness as provided by law and an unswerving commitment to the public good does government work as it should.

The obligations of government rest equally on the state's citizenry. The effectiveness of government depends, fundamentally, on the confidence citizens can have in the judgments and decisions of their elected representatives. Citizens, therefore, should honor and respect the principles and the spirit of representative democracy, recognizing that both elected and appointed officials, together with state employees, seek to carry out their public duties with professional skill and dedication to the public interest. Such service merits public recognition and support.

All who have the privilege of working for the people of Washington state can have but one aim: To give the highest public service to its citizens.

[1994 c 154 § 1.]

42.52.901

Liberal construction.

This chapter shall be construed liberally to effectuate its purposes and policy and to supplement existing laws as may relate to the same subject.

[1994 c 154 § 301.]

42.52.902

Parts and captions not law — 1994 c 154.

Parts and captions used in this act do not constitute any part of the law.

[1994 c 154 § 302.]

42.52.903

Serving on board, committee, or commission not prevented.

Nothing in this chapter shall be interpreted to prevent a member of a board, committee, advisory commission, or other body required or permitted by statute to be appointed from any identifiable group or interest, from serving on such body in accordance with the intent of the legislature in establishing such body.

[1969 ex.s. c 234 § 33. Formerly RCW [42.18.330](#).]

42.52.904

Effective date — 1994 c 154.

Sections 101 through 121, 203, 204, 207 through 224, and 301 through 317 of this act shall take effect January 1, 1995.

[1994 c 154 § 319.]

42.52.905

Severability — 1994 c 154.

If any provision of this 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.

[1994 c 154 § 320.]

42.52.906

Construction — Chapter applicable to state registered domestic partnerships — 2009 c 521.

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.

[2009 c 521 § 105.]