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**SUBSTITUTE SENATE BILL 5033**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senate State Government, Tribal Relations & Elections (originally sponsored by Senators Carlyle, Hunt, Kuderer, Rolfes, Conway, Keiser, Lias, and Wellman; by request of Attorney General)

READ FIRST TIME 01/23/20.

1 AN ACT Relating to paid employment related to public service for  
2 statewide elected officials and state legislators; amending RCW  
3 42.52.080 and 42.52.900; adding a new section to chapter 42.52 RCW;  
4 creating new sections; and providing an effective date.

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

6 **Sec. 1.** RCW 42.52.080 and 1999 c 299 s 3 are each amended to  
7 read as follows:

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

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

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

19 (c) The duties of the employment with the employer or the  
20 activities for which the compensation would be received include  
21 fulfilling or implementing, in whole or in part, the provisions of

1 such a contract or contracts or include the supervision or control of  
2 actions taken to fulfill or implement, in whole or in part, the  
3 provisions of such a contract or contracts. This subsection shall not  
4 be construed to prohibit a state officer or state employee from  
5 accepting employment with a state employee organization.

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

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

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

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

34 (6)(a) Statewide elected officials and state legislators shall  
35 file a postemployment disclosure statement under section 3 of this  
36 act.

37 (b) Statewide elected officials and state legislators, within one  
38 year after leaving office, may not receive compensation for:

39 (i) Serving as a lobbyist as defined in RCW 42.17A.005 for  
40 others;

1 (ii) Practicing or appearing before any state agency; or  
2 (iii) Attempting, on behalf of another, to influence a state  
3 action by any state agency.

4 (c) This subsection (6) does not apply to persons receiving  
5 compensation for the following activities:

6 (i) Performing official duties as a current state officer or  
7 state employee;

8 (ii) Leaving a state agency to take another state agency, local  
9 agency, or federal government position;

10 (iii) Representing a person in a judicial or quasi-judicial  
11 proceeding including administrative hearings;

12 (iv) Being called or requested to testify in any judicial or  
13 quasi-judicial proceeding, or in public sessions of the committees of  
14 the legislature;

15 (v) Participating in rule making at the request of an agency  
16 under RCW 34.05.310;

17 (vi) Assisting a natural person or corporation in obtaining or  
18 completing application forms or other forms required by a state  
19 agency for the conduct of business, or similar ministerial activities  
20 defined in rule by the ethics boards; or

21 (vii) Activities approved by a waiver under the relevant ethics  
22 boards.

23 (7) The ethics boards shall adopt rules at each of their agencies  
24 describing a process for a person to seek a waiver from the  
25 postemployment requirements in subsection (6)(b) of this section.  
26 Rules must be adopted by July 1, 2021. No waiver may be granted from  
27 the requirement to file a postemployment disclosure statement in  
28 subsection (6)(a) of this section. The ethics boards are authorized  
29 to delegate waiver approval to the chair or the chair's designee,  
30 including the executive director. Before granting a waiver, the board  
31 must find that:

32 (a) The postemployment activity presents no conflict with the  
33 state's interest;

34 (b) A need for the former officer's compensated service outweighs  
35 any potential or perceived conflict with the state's interest; or

36 (c) Extraordinary, emergency, or unique circumstances otherwise  
37 warrant granting a waiver.

38 (8) As used in this section, "employer" means a person as defined  
39 in RCW 42.52.010 or any other entity or business that the person owns  
40 or in which the person has a controlling interest. For purposes of

1 subsection (1) of this section, the term "employer" does not include  
2 a successor organization to the rural development council under  
3 chapter 43.31 RCW.

4 **Sec. 2.** RCW 42.52.900 and 1994 c 154 s 1 are each amended to  
5 read as follows:

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

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

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

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

37 Furthermore, the legislature finds that the state has a  
38 compelling interest in preserving the public trust in the integrity  
39 of our government and ensuring that the actions of statewide elected

1 officials and state legislators are free from improper influence. The  
2 ability of a former public officer to be paid to influence state  
3 government actions immediately after leaving state service creates  
4 the appearance to the public of special favor, unfair access, and  
5 conflicts of interest. The practice of paying former public servants  
6 in state government to use their special knowledge of internal agency  
7 process and personal relationships with former colleagues to gain  
8 influence for private and special interests should be tempered for a  
9 period of time to protect the public interest.

10 A majority of states, as well as the federal government, have  
11 enacted laws requiring a cooling off period or other postgovernment  
12 employment laws addressing when a former public officer may lobby  
13 government or seek to influence his or her former employer. These  
14 laws impose anywhere from a one-year to a lifetime ban on certain  
15 postemployment activities. A cooling off period can effectively  
16 reduce the leverage a former officer has when he or she is paid to  
17 influence policy decisions within the authority of his or her former  
18 duties, until that influence is mitigated through the passage of  
19 time.

20 The disclosure by former state officers of their postemployment  
21 income sources will strengthen transparency and confidence in the  
22 integrity of government.

23 NEW SECTION. Sec. 3. A new section is added to chapter 42.52  
24 RCW to read as follows:

25 (1) The postemployment disclosure statement required under RCW  
26 42.52.080(6) must include the following information:

27 (a) The name of the person leaving state service;

28 (b) The position held in state government before leaving state  
29 service; and

30 (c) An acknowledgment that the person has reviewed RCW 42.52.080  
31 and 42.52.090, and for former executive branch employees, RCW  
32 42.52.100.

33 (2) If, following state service, the person leaving state service  
34 receives compensation from an employer or other entity that does  
35 business with the state or takes action to influence any state  
36 policy, rule, legislative matter, or action, the postemployment  
37 disclosure statement required under RCW 42.52.080(6) must also  
38 include the following information:

1 (a) The name and address of the new employer or source of  
2 compensation following state service;

3 (b) The name of the supervisor at the new employer, if any, or  
4 other identifying information of the principal of the employing or  
5 contracting entity;

6 (c) The date such new employment begins or began; and

7 (d) A description of anticipated postemployment duties at the new  
8 employer or employing business or provided by a contract.

9 (3) The person must date the statement and sign it under oath. An  
10 electronic signature is permitted if the form is filed  
11 electronically.

12 (4)(a) The statement is required during the twelve-month period  
13 after the date the person leaves state service and takes a new  
14 employment position or receives compensation during that same period.  
15 The information in the statement is public information.

16 (b) The person shall submit the statement to the respective  
17 ethics board no later than fourteen days after the person leaves  
18 state service to take a compensated employment position or takes the  
19 compensated employment position, whichever occurs earlier.

20 (c) If during the twelve-month period a person changes employers  
21 or sources of employment compensation to another employer that does  
22 business with the state or takes action to influence any state  
23 policy, rule, legislative matter, or action, he or she shall submit a  
24 new statement within forty-five days.

25 (d) For the purposes of this section and the statement required  
26 by it, compensation does not mean income received through the  
27 person's retirement or investment accounts, social security, or  
28 similar sources.

29 (5) The ethics boards shall collaborate as necessary to design a  
30 uniform postemployment statement that permits online filing and on a  
31 process to send copies of filed statements to the executive ethics  
32 board. The ethics boards may adopt the statement and filing process  
33 by rule.

34 (6) The legislative ethics board and the commission on judicial  
35 conduct shall provide a copy of filed postemployment statements to  
36 the executive ethics board. Postemployment statements must be made  
37 available online in a searchable database on the executive ethics  
38 board web site. The other ethics boards and the public disclosure  
39 commission shall link to the database on their respective web sites.  
40 "Searchable database" means copies of statements are posted on the

1 executive ethics board's web site and can be searched by the names of  
2 the employee or state officer, former employer, and if required to be  
3 disclosed under subsection (2) of this section, the new employer.

4 (7) The ethics boards may adopt rules to implement this section  
5 with any initial rules adopted by July 1, 2021.

6 NEW SECTION. **Sec. 4.** The ethics boards may begin the  
7 rule-making process under sections 1 and 3 of this act on the  
8 effective date of this section.

9 NEW SECTION. **Sec. 5.** This act applies to statewide elected  
10 officials and state legislators who were employed in state positions  
11 on or after the effective date of this section.

12 NEW SECTION. **Sec. 6.** Sections 1 through 3 and 5 of this act  
13 take effect July 1, 2021.

14 NEW SECTION. **Sec. 7.** If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected.

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