BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: I-3432.1/17

ATTY/TYPIST: RB:amh

BRIEF DESCRIPTION: Concerning legislative pay.
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AN ACT Relating to legislative pay; amending RCW 44.04.120 and 44.04.125; adding new sections to chapter 44.04 RCW; creating a new section; and prescribing penalties.

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

Sec. 1. RCW 44.04.120 and 2009 c 549 s 6002 are each amended to read as follows:

(1) Except as proscribed in subsection (2) of this section, each member of the senate or house of representatives when serving on official legislative business shall be entitled to receive, in lieu of per diem or any other payment, for each day or major portion thereof in which he or she is actually engaged in legislative business or business of the committee, commission, or council, notwithstanding any laws to the contrary, an allowance in an amount fixed by the secretary of the senate and chief clerk of the house, respectively, in accordance with applicable rules and resolutions of each body. Such allowance shall be reasonably calculated to reimburse expenses, exclusive of mileage, which are ordinary and necessary in the conduct of legislative business, recognizing cost variances which are encountered in different locales. The allowance authorized shall not exceed the greater of forty-four dollars per day or the maximum daily amount determined under RCW 43.03.050, as now or hereafter amended. In addition, a mileage allowance shall be paid at the rate per mile provided for in RCW 43.03.060, as now or hereafter amended, when authorized by the house, committee, commission, or council of which he or she is a member and on the business of which he or she is engaged.

(2) No member of the senate or house of representatives may collect any reimbursement during any special session unless, prior to the commencement of the special session:

(a) In odd-numbered years, a budget has been passed for the upcoming biennium; or
(b) In even-numbered years, a supplemental budget has been passed for the current biennium.

(3) If a court of competent jurisdiction finds that there has been a violation of this section, any judgment shall include the enforcement of treble damages against the individual found to have violated this section.

(4) All alleged violations of this section shall be investigated by the attorney general or the prosecuting authorities of political subdivisions of this state, and appropriate enforcement shall be commenced in accordance with sections 3 through 5 of this act.

Sec. 2. RCW 44.04.125 and 1975 1st ex.s. c 185 s 1 are each amended to read as follows:

(1) Except as proscribed in subsection (2) of this section, each member-elect of the senate or house of representatives who attends any meeting of the legislature or any of its committees, upon the invitation of the committee on rules of his or her respective house, shall be entitled to receive per diem, mileage, and incidental expense allowances at the rates prescribed in this chapter ((44.04 RCW, as now or hereafter amended)).

(2) No member-elect of the senate or house of representatives may collect any reimbursement during any special session unless, prior to the commencement of the special session:

(a) In odd-numbered years, a budget has been passed for the upcoming biennium; or

(b) In even-numbered years, a supplemental budget has been passed for the current biennium.

(3) If a court of competent jurisdiction finds that there has been a violation of this section, any judgment shall include the enforcement of treble damages against the individual found to have violated this section.

(4) All alleged violations of this section shall be investigated by the attorney general or the prosecuting authorities of political subdivisions of this state, and appropriate enforcement shall be commenced in accordance with sections 3 through 5 of this act.
subdivisions of this state, and appropriate enforcement shall be commenced in accordance with sections 3 through 5 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 44.04 RCW to read as follows:

(1) The attorney general and the prosecuting authorities of political subdivisions of this state may bring civil actions in the name of the state for any appropriate civil remedy for violations of RCW 44.04.120 or 44.04.125.

(2) The attorney general and the prosecuting authorities of political subdivisions of this state may investigate or cause to be investigated the activities of any person who they have reason to believe is or has been acting in violation of RCW 44.04.120 or 44.04.125, and may require any such person, or any other person reasonably believed to have information concerning the activities of such person, to appear at a time and place designated in the county in which such person resides or is found to give such information under oath and to produce all accounts, bills, receipts, books, paper, and documents which may be relevant or material to any investigation authorized under RCW 44.04.120 or 44.04.125.

(3) When the attorney general or the prosecuting authority of any political subdivision of this state requires the attendance of any person to obtain such information or produce the accounts, bills, receipts, books, papers, and documents relevant or material to any investigation authorized under RCW 44.04.120, RCW 44.04.125, or this subsection, he or she shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. The order shall have the same force and effect as a subpoena, shall be effective statewide, and, upon application of the attorney general or the prosecuting authority, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the order were
a subpoena. The court, for good cause and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In cases where the order is not enforced by the court according to its terms, the reasons for the court's actions must be clearly stated in writing, and the action shall be subject to review by the appellate courts, by certiorari, or by other appropriate proceedings.

(4) A person who has notified the attorney general and the prosecuting attorney in the county in which the violation occurred in writing that there is reason to believe that some provision of RCW 44.04.120 or 44.04.125 is being or has been violated may himself or herself bring as a citizen's action, in the name of the state, any of the actions authorized under this chapter.

(a) A citizen's action may be brought only if:

(i) The attorney general and the prosecuting attorney have failed to commence an action under this section within forty-five days after receiving the notice described in this subsection (4);

(ii) The person has thereafter further notified the attorney general and prosecuting attorney that the person will commence a citizen's action within ten days upon their failure to do so;

(iii) The attorney general and the prosecuting attorney have in fact failed to bring such action within ten days of receipt of the notice described in (a)(ii) of this subsection; and

(iv) The citizen's action is filed within two years from the date when the alleged violation occurred.

(b) If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but he or she shall be entitled to be reimbursed by the state of Washington for costs and attorneys' fees he or she has incurred. In the case of a citizen's action that is dismissed and that the court also finds was brought without reasonable cause, the court may order the person commencing the action to pay all costs of trial and reasonable attorneys' fees incurred by the defendant.
NEW SECTION. Sec. 4. A new section is added to chapter 44.04 RCW to read as follows:

(1) Any individual or individuals found to have knowingly concealed a violation of RCW 44.04.120 or 44.04.125 is guilty of a gross misdemeanor under chapter 9.92 RCW.

(2) Any individual or individuals who knowingly prepare or offer any false or forged documents to receive payment in accordance with any provision of this chapter and in violation of RCW 44.04.120 or 44.04.125 is guilty of a class C felony under chapter 9.94A RCW regardless of whether that person received the reimbursement.

NEW SECTION. Sec. 5. A new section is added to chapter 44.04 RCW to read as follows:

Any civil action brought under the provisions of RCW 44.04.120 or 44.04.125 must be commenced within two years from the date when the violation occurred.

NEW SECTION. Sec. 6. If any clause, part, or section of this act shall be adjudged invalid, such judgment shall not affect nor invalidate the remainder of the act, but shall be confined in its operation to the clause, part, or section directly involved in the controversy in which such judgment was rendered. If the operation of any clause, part, or section of this act shall be held to impair the obligation of contract, or to deny to any person any right or protection secured to him or her by the Constitution of the United States of America, or by the Constitution of the state of Washington, it is hereby declared that, had the invalidity of such clause, part, or section been considered at the time of the enactment of this act, the remainder of the act would nevertheless have been adopted without such and any and all such invalid clauses, parts, or sections.

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