HOUSE BILL REPORT
HB 1377

As Reported by House Committee On:
Government Operations & Elections

Title: An act relating to modifying time frames applicable to certain public disclosure commission requirements.

Brief Description: Modifying time frames applicable to certain public disclosure commission requirements.

Sponsors: Representatives Bergquist, Buys, Hunt, Fitzgibbon, Van De Wege and Carlyle; by request of Public Disclosure Commission.

Brief History:
Committee Activity:
Government Operations & Elections: 2/7/13, 2/14/13 [DPS].

Brief Summary of Substitute Bill

- Allows the Public Disclosure Commission to readopt certain emergency rules and to adopt emergency rules to implement legislation that takes effect after June 30.
- Changes special reporting requirements from six days to 21 days before a primary election.
- Allows for suspension of personal financial affairs reporting for the term of office of an elected official and up to three years for an executive state officer.
- Repeals provisions that prohibit large contributions within 21 days of a general election.

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Hunt, Chair; Bergquist, Vice Chair; Buys, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Alexander, Carlyle, Fitzgibbon, Kristiansen, Manweller, Orwall and Van De Wege.

Staff: Marsha Reilly (786-7135).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

In 1972 the voters passed Initiative 276, which required the disclosure of campaign finances, lobbyist activities, financial affairs of elective officers and candidates, and access to public records. The initiative created the Public Disclosure Commission (PDC), a five-member, bipartisan citizen commission, to enforce the provisions of the campaign finance disclosure law.

The Fair Campaign Practices Act was enacted following the passage of Initiative 134. The initiative imposed campaign contribution limits on elections for statewide and legislative office, further regulated independent expenditures, restricted the use of public funds for political purposes, and required public officials to report gifts received in excess of $50.

Rulemaking.
The PDC has the authority to adopt, amend, and rescind administrative rules following the procedures of the Administrative Procedures Act (APA). However, certain rules that would normally take effect after June 30 may not take effect until the day after the general election in that year in order to provide consistency during an election cycle. The PDC may also suspend or modify any of the campaign finance reporting requirements when it finds that such reporting is an unreasonable hardship in a particular case. Reporting modifications may only be made for a single report.

Reporting.
There are various reporting provisions under campaign finance laws. Political committees must report contributions and expenditures to the PDC on a monthly basis as long as contributions or expenditures exceed $200 since the last report. In addition to the regular, monthly reports, special reports are required six days before a primary election and 21 days before a general election to report contributions of $1,000 or more in the aggregate from a single source. The reports may be filed electronically, in written form, including mailgram, telegram, or nightletter, or by telephone.

Conflict of Interest Reporting.
Elected officials, candidates, and executive state officers, including legislative and gubernatorial professional staff, certain state agency heads, and board and commission members, are required to file personal financial affairs statements before April 15 for the previous calendar year. Filers must report financial information in order to disclose possible conflicts of interest.

Pre-election Contribution Limits.
Contributions exceeding $50,000 for any campaign for statewide office, or exceeding $5,000 for any other campaign made within 21 days of a general election, are prohibited. This, however, does not apply to contributions made by, or accepted from, a bona fide political party, excluding the county central committee or legislative district committee. However, a recent court decision held that this provision is an unconstitutional violation of the first amendment, noting that large contributions are required to be disclosed within 24 to 48 hours under the special reporting provisions of the law.

Summary of Substitute Bill:

Rulemaking.
Emergency rules adopted by the PDC prior to June 30 may be readopted when necessary to enable the rule to remain in effect through the next general election. The PDC may also adopt emergency rules to implement legislation that takes effect after June 30 in a general election year.

Reporting.
The special reporting required to report contributions of $1,000 or more received or made six days before a primary election is extended to 21 days. All special reporting must be made electronically or in written form by electronic mail or facsimile.

Conflict of Interest Reporting.
The PDC may suspend or modify personal financial affairs reporting requirements from yearly to the term of office for an elected official and up to three years for an executive state officer when no material change in financial circumstances are anticipated.

Pre-election Contribution Limits.
The provisions that prohibit receipt of large contributions within 21 days of a general election are repealed.

Substitute Bill Compared to Original Bill:

The substitute bill preserves the ability for the special reports required for contributions of $1,000 or more to be submitted by telephone to the PDC as long as the written or electronic reports are mailed or transmitted within 48 hours.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The PDC believes modifying time frames will improve public disclosure of time-sensitive campaign finance information, promote compliance, and improve efficiency in the reporting process. The change in rulemaking is to fix a disconnect between the specific dates for PDC rulemaking and the APA. When the PDC needs to adopt rules to implement new legislation, it is usually with emergency rule-making in order for the rules to be in place before the June 30 date to comply with the law to have rules in place for an entire election cycle.

The interplay between the PDC rule requirement and the 120-day duration of an emergency rule under the APA, causes PDC rules to expire shortly before the general election in November. While the APA allows for readoption of an emergency rule, statute precludes the PDC from extending the temporary emergency rule or adopting a permanent rule until after the general election, which leaves a gap of up to two weeks immediately before the election. Giving the PDC the authority to adopt or readopt emergency rules solves this problem.

A process is available for those who file personal financial affairs statements to request a modification to those rules. Current law allows a reporting modification for a single report, which means that those who receive a modification must come back the following year to request a renewal. Applicants and the PDC staff spend hours preparing and processing the modification requests. Since there is usually very little modification to these reports, the PDC would like to allow certain modifications to be granted for the elected officials' term of office, or up to three years for executive state officers.

Six days before the primary and 21 days before the general election is a special reporting period in which campaigns must disclose contributions of $1,000 or more. The reporting period for the primary needs to be extended to 21 days to align with the time frame that voters receive their ballots.

A recent Ninth Circuit Court of Appeals decision held that the prohibition of certain large contributions made within 21 days of a general election is an unconstitutional violation of the first amendment. The PDC is requesting, therefore, that this provision of law be repealed.

(Opposed) None.

Persons Testifying: Andrea McNamara Doyle, Public Disclosure Commission.

Persons Signed In To Testify But Not Testifying: None.