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SENATE BILL 6667

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State of Washington

54th Legislature

1996 Regular Session

By Senators Quigley, Smith and Goings

Read first time 01/23/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to enforcement of public disclosure laws; amending  
2 RCW 42.17.390, 42.17.400, 29.15.025, and 42.17.360; and prescribing  
3 penalties.

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

5 **Sec. 1.** RCW 42.17.390 and 1993 c 2 s 28 are each amended to read  
6 as follows:

7 One or more of the following civil remedies and sanctions may be  
8 imposed by court order in addition to any other remedies provided by  
9 law:

10 (1) If the court finds that the violation of any provision of this  
11 chapter by any candidate or political committee probably affected the  
12 outcome of any election, the result of said election may be held void  
13 and a special election held within sixty days of such finding. Any  
14 action to void an election shall be commenced within one year of the  
15 date of the election in question. It is intended that this remedy be  
16 imposed freely in all appropriate cases to protect the right of the  
17 electorate to an informed and knowledgeable vote.

18 (2) If any lobbyist or sponsor of any grass roots lobbying campaign  
19 violates any of the provisions of this chapter, his registration may be

1 revoked or suspended and he may be enjoined from receiving compensation  
2 or making expenditures for lobbying: PROVIDED, HOWEVER, That  
3 imposition of such sanction shall not excuse said lobbyist from filing  
4 statements and reports required by this chapter.

5 (3) Any person who violates any of the provisions of this chapter  
6 may be subject to a civil penalty of not more than ten thousand dollars  
7 for each such violation. However, a person or entity who violates RCW  
8 42.17.640 may be subject to a civil penalty of ten thousand dollars or  
9 three times the amount of the contribution illegally made or accepted,  
10 whichever is greater.

11 (4) Any person who fails to file a properly completed statement or  
12 report within the time required by this chapter may be subject to a  
13 civil penalty of ten dollars per day for each day each such delinquency  
14 continues.

15 (5) Any person who fails to report a contribution or expenditure  
16 may be subject to a civil penalty equivalent to the amount he failed to  
17 report.

18 (6) Upon failure to pay within ninety days a civil penalty imposed  
19 under this section, the court may impose a penalty for late payment of  
20 up to one hundred percent of the underlying penalty. In addition,  
21 interest on the underlying civil penalty begins to accrue at the rate  
22 prescribed for interest on civil judgments after ninety days. In an  
23 action to enforce and collect a civil penalty, a late penalty, and  
24 interest when the underlying civil penalty has been unpaid for one  
25 year, the court shall award the state of Washington reasonable costs  
26 and attorneys' fees incurred in the action.

27 (7) A person who has not complied with a court order under this  
28 section is not qualified to appear on a ballot, as provided in RCW  
29 29.15.025.

30 (8) A person who has not complied with a court order entered under  
31 this section is prohibited from registering as a lobbyist, receiving  
32 compensation as a lobbyist, and making expenditures for lobbying  
33 expenses. If presently registered as a lobbyist or lobbyist employer,  
34 the commission may suspend or revoke his or her registration.

35 (9) A political committee that has not complied with a court order  
36 entered under this section, or a committee that has an officer who has  
37 not complied with such an order, may not solicit or accept  
38 contributions, or make expenditures, until the committee or officer has  
39 complied with the order.

1       (10) The court may enjoin any person to prevent the doing of any  
2 act herein prohibited, or to compel the performance of any act required  
3 herein.

4       **Sec. 2.** RCW 42.17.400 and 1975 1st ex.s. c 294 s 27 are each  
5 amended to read as follows:

6       (1) The ((attorney general and the)) prosecuting authorities of  
7 political subdivisions of this state may bring civil actions in the  
8 name of the state for any appropriate civil remedy, including but not  
9 limited to the special remedies provided in RCW 42.17.390. In any  
10 instance where the prosecuting authority of a political subdivision  
11 fails to bring a civil action within ninety days, the attorney general  
12 shall bring a civil action in the name of the state for any appropriate  
13 remedy.

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

25       (3) When the attorney general or the prosecuting authority of any  
26 political subdivision of this state requires the attendance of any  
27 person to obtain such information or the production of the accounts,  
28 bills, receipts, books, papers, and documents which may be relevant or  
29 material to any investigation authorized under this chapter, he shall  
30 issue an order setting forth the time when and the place where  
31 attendance is required and shall cause the same to be delivered to or  
32 sent by registered mail to the person at least fourteen days before the  
33 date fixed for attendance. Such order shall have the same force and  
34 effect as a subpoena, shall be effective state-wide, and, upon  
35 application of the attorney general or said prosecuting authority,  
36 obedience to the order may be enforced by any superior court judge in  
37 the county where the person receiving it resides or is found, in the  
38 same manner as though the order were a subpoena. The court, after

1 hearing, for good cause, and upon application of any person aggrieved  
2 by the order, shall have the right to alter, amend, revise, suspend, or  
3 postpone all or any part of its provisions. In any case where the  
4 order is not enforced by the court according to its terms, the reasons  
5 for the court's actions shall be clearly stated in writing, and such  
6 action shall be subject to review by the appellate courts by certiorari  
7 or other appropriate proceeding.

8 (4) Any person who has notified the attorney general and the  
9 prosecuting attorney in the county in which the violation occurred in  
10 writing that there is reason to believe that some provision of this  
11 chapter is being or has been violated may himself bring in the name of  
12 the state any of the actions (hereinafter referred to as a citizen's  
13 action) authorized under this chapter. This citizen action may be  
14 brought only if the attorney general and the prosecuting attorney have  
15 failed to commence an action hereunder within forty-five days after  
16 such notice and such person has thereafter further notified the  
17 attorney general and prosecuting attorney that said person will  
18 commence a citizen's action within ten days upon their failure so to  
19 do, and the attorney general and the prosecuting attorney have in fact  
20 failed to bring such action within ten days of receipt of said second  
21 notice. If the person who brings the citizen's action prevails, the  
22 judgment awarded shall escheat to the state, but he shall be entitled  
23 to be reimbursed by the state of Washington for costs and attorney's  
24 fees he has incurred: PROVIDED, That in the case of a citizen's action  
25 which is dismissed and which the court also finds was brought without  
26 reasonable cause, the court may order the person commencing the action  
27 to pay all costs of trial and reasonable attorney's fees incurred by  
28 the defendant.

29 (5) In any action brought under this section, the court may award  
30 to the state all costs of investigation and trial, including a  
31 reasonable attorney's fee to be fixed by the court. If the violation  
32 is found to have been intentional, the amount of the judgment, which  
33 shall for this purpose include the costs, may be trebled as punitive  
34 damages. If damages or trebled damages are awarded in such an action  
35 brought against a lobbyist, the judgment may be awarded against the  
36 lobbyist, and the lobbyist's employer or employers joined as  
37 defendants, jointly, severally, or both. If the defendant prevails, he  
38 shall be awarded all costs of trial, and may be awarded a reasonable

1 attorney's fee to be fixed by the court to be paid by the state of  
2 Washington.

3 **Sec. 3.** RCW 29.15.025 and 1993 c 317 s 10 are each amended to read  
4 as follows:

5 (1) A person filing a declaration and affidavit of candidacy for an  
6 office shall, at the time of filing, possess the qualifications  
7 specified by law for persons who may be elected to the office.

8 (2) The name of a candidate for an office shall not appear on a  
9 ballot for that office unless, except as provided in RCW 3.46.067 and  
10 3.50.057, the following requirements are satisfied:

11 (a) The candidate is, at the time the candidate's declaration and  
12 affidavit of candidacy is filed, properly registered to vote in the  
13 geographic area represented by the office. For the purposes of this  
14 section, each geographic area in which registered voters may cast  
15 ballots for an office is represented by that office. If a person  
16 elected to an office must be nominated from a district or similar  
17 division of the geographic area represented by the office, the name of  
18 a candidate for the office shall not appear on a primary ballot for  
19 that office unless the candidate is, at the time the candidate's  
20 declaration and affidavit of candidacy is filed, properly registered to  
21 vote in that district or division.

22 (b) The candidate or the candidate's committee is in compliance  
23 with any court order that has been entered under RCW 42.17.390. The  
24 officer with whom declarations and affidavits of candidacy must be  
25 filed under this title shall review each such declaration filed  
26 regarding compliance with this subsection (2).

27 (3) This section does not apply to the office of a member of the  
28 United States congress.

29 **Sec. 4.** RCW 42.17.360 and 1973 c 1 s 36 are each amended to read  
30 as follows:

31 The commission shall:

32 (1) Develop and provide forms for the reports and statements  
33 required to be made under this chapter((+));

34 (2) Prepare and publish a manual setting forth recommended uniform  
35 methods of bookkeeping and reporting for use by persons required to  
36 make reports and statements under this chapter;

1 (3) Compile and maintain a current list of all filed reports and  
2 statements;

3 (4) Investigate whether properly completed statements and reports  
4 have been filed within the times required by this chapter;

5 (5) Upon complaint or upon its own motion, investigate and report  
6 apparent violations of this chapter to the appropriate law enforcement  
7 authorities;

8 (6) Prepare and publish an annual report to the governor (~~as to~~)  
9 and the legislature by February 1st that describes the following: The  
10 disposition of complaints received from the public or initiated by the  
11 commission; enforcement actions taken by the commission; and an  
12 analysis of the effectiveness of this chapter and its enforcement by  
13 appropriate law enforcement authorities; and

14 (7) Enforce this chapter according to the powers granted it by law.

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