

HOUSE BILL REPORT

HB 2484

As Reported By House Committee On:
Government Administration
Appropriations

Title: An act relating to determining if violations of chapter 42.17 RCW have occurred.

Brief Description: Determining violations of Public Disclosure Law.

Sponsors: Representatives Lisk, Appelwick, Pennington, Dunshee, Kessler, Linville and D. Schmidt.

Brief History:

Committee Activity:

Government Administration: 1/28/98, 2/5/98 [DPS];

Appropriations: 2/7/98 [DPS(GVAD)].

HOUSE COMMITTEE ON GOVERNMENT ADMINISTRATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives D. Schmidt, Chairman; D. Sommers, Vice Chairman; Dunn; Reams; Smith; L. Thomas and Wensman.

Minority Report: Do not pass. Signed by 6 members: Representatives Scott, Ranking Minority Member; Gardner, Assistant Ranking Minority Member; Doumit; Dunshee; Murray and Wolfe.

Staff: Steve Lundin (786-7127).

Background: State voters approved Initiative 276 in 1972. Initiative 276 prohibited the use of public facilities in a campaign, required campaign expenditures to be reported, required public officials to report their financial affairs, required persons lobbying the Legislature or state agencies to register and report their expenditures, required public records to be open for public inspection and copying, and created the Public Disclosure Commission (PDC) as the agency to receive these reports and enforce these provisions.

Additional provisions were later added to this chapter of laws, including Initiative Measure 134, which was approved by state voters in 1992, that restricted political advertising and campaign contributions.

1. Public Disclosure Commission.

The PDC receives these campaign, financial, and lobbying reports, investigates whether any violations of public disclosure laws have occurred, enforces public disclosure laws, and prepares annual reports on the effectiveness of public disclosure laws and any resulting action taken by law enforcement agencies.

If an apparent violation of public disclosure laws has occurred, the PDC may either:

- o Report the apparent violation to the Attorney General or other appropriate law enforcement authorities; or
- o Investigate the apparent violation and if it determines that a violation has occurred, the PDC may issue an order directing that a person cease and desist from certain actions or may issue civil fines of not to exceed \$1,000 for a single violation or not to exceed \$2,500 if multiple violations have occurred.

An order issued by the PDC may be appealed to superior court.

If a court determines that a violation of these provisions has occurred, it may impose a civil penalty of not to exceed \$10,000 for each violation.

2. Office of Administrative Hearings.

The Office of Administrative Hearings is established to provide administrative law judges who preside over hearings for state agencies that are required before an order may be issued if officials of the agency are not authorized to make final decisions. Orders by an administrative law judge may become final or a party to a proceeding may petition the agency head to review the order.

Summary of Substitute Bill: The notice of a hearing before the PDC, that is sent to a respondent, must indicate that the respondent may file a written petition with the PDC at least one working day before the hearing removing its jurisdiction to determine if a violation of public disclosure laws has occurred. If a petition is timely filed, the PDC loses its jurisdiction to determine if the respondent violated PDC laws with regard to the matter identified in the notice. The PDC may refer the matter to an appropriate law enforcement authority or may refer the matter to the Office of Administrative Appeals for a determination by an administrative law judge.

If an administrative law judge determines that a violation of public disclosure laws has occurred, the PDC may issue and enforce an order under its existing authorities.

Substitute Bill Compared to Original Bill: A respondent may remove the authority of the PDC to determine if a violation has occurred, rather than all authority of the PDC being removed to make such a determination.

Appropriation: None.

Fiscal Note: Requested February 6, 1998.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The PDC is prosecutor and judge. This is about due process.

Testimony Against: Voters created the PDC - let them change the laws. Investigative staff are separate from the PDC which holds hearing to make its determination. This will cost more, and extend the time before a final determination is made. The PDC is working. Violators may delay a determination until after the election.

Testified: Representative Lisk, prime sponsor (pro). (All con): Ronda Cahill, Public Disclosure Commission; Chuck Savage, Common Cause; Sherry Bockwinkel, (CLEAN), Citizens for Leaders with Ethics and Accountability Now; and Paul Telford, Citizens for Responsible Government. Art Wang, Office of Administrative Hearings (neutral).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Government Administration be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Cody; Cooke; Crouse; Grant; Kenney; Kessler; Lambert; Lisk; Mastin; McMorris; Parlette; D. Schmidt; Sehlin; Sheahan and Talcott.

Minority Report: Do not pass. Signed by 7 members: Representatives H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Chopp; Keiser; Poulsen; Regala and Tokuda.

Staff: Julie Salvi (786-7349).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Government Administration: No new changes were recommended.

Appropriation: None.

Fiscal Note: Available. Requested on substitute bill on February 6, 1998.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The Public Disclosure Commission currently acts as prosecutor, judge and jury. The substitute bill would give a person accused of violating a public disclosure law the option of having a third party determine if the violation occurred. This bill is not a witch-hunt against the PDC, but a reconsideration of the process.

Testimony Against: None.

Testified: Representative Lisk, prime sponsor; and Representative D. Schmidt.