

2 **E2SSB 5931** - H COMM AMD **NOT CONSIDERED 04/14/99**
3 By Committee on State Government

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.17 RCW
8 to read as follows:

9 (1) It is the intent of the legislature to ensure that the
10 commission provide the general public timely access to all contribution
11 and expenditure reports submitted by candidates, continuing political
12 committees, bona fide political parties, lobbyists, and lobbyists'
13 employers. The legislature finds that failure to comply with this
14 chapter's requirements for full and timely disclosure threatens to
15 undermine our electoral process.

16 (2) Beginning January 1, 2001, the commission shall establish goals
17 that all reports, copies of reports, or copies of the data or
18 information included in reports, filed under RCW 42.17.040, 42.17.065,
19 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and
20 42.17.180, that are:

21 (a) Submitted electronically via modem, satellite, or the Internet,
22 shall be accessible in the commission's office and via the commission's
23 web site within two business days of the commission's receipt of the
24 report; and

25 (b) Submitted in any format or via any method other than those
26 listed in (a) of this subsection, shall be accessible in the
27 commission's office and via the commission's web site within four
28 business days of the actual physical receipt of the report and not the
29 technical date of filing as provided under RCW 42.17.420.

30 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.17 RCW
31 to read as follows:

32 (1) The commission shall appoint an executive director who shall
33 perform such duties and have such powers as the commission, consistent
34 with this chapter, may prescribe and delegate to implement and enforce
35 this chapter efficiently and effectively. The commission shall set the

1 compensation of the executive director within the limits established by
2 the committee on agency officials' salaries under RCW 43.03.028. The
3 commission may not delegate its authority to adopt, amend, or rescind
4 rules; nor may it delegate authority to determine whether an actual
5 violation of this chapter has occurred or to assess penalties for such
6 violations. The commission shall prepare an annual performance review
7 of the executive director.

8 (2) The executive director shall appoint an assistant executive
9 director for information services, who is responsible for maintaining
10 and enhancing the collection of and public access to information
11 through electronic means.

12 (3) The executive director and the assistant executive director for
13 information services are responsible for ensuring that the requirements
14 regarding public disclosure set forth in section 1 of this act are met.

15 **Sec. 3.** RCW 42.17.370 and 1995 c 397 s 17 are each amended to read
16 as follows:

17 The commission is empowered to:

18 (1) Adopt, (~~promulgate,~~) amend, and rescind suitable
19 administrative rules to carry out the policies and purposes of this
20 chapter, which rules shall be adopted under chapter 34.05 RCW. Any
21 rule relating to campaign finance, political advertising, or related
22 forms that would otherwise take effect after June 30th of a general
23 election year shall take effect no earlier than the day following the
24 general election in that year;

25 (~~(2) ((Appoint and set, within the limits established by the~~
26 ~~committee on agency officials' salaries under RCW 43.03.028, the~~
27 ~~compensation of an executive director who shall perform such duties and~~
28 ~~have such powers as the commission may prescribe and delegate to~~
29 ~~implement and enforce this chapter efficiently and effectively. The~~
30 ~~commission shall not delegate its authority to adopt, amend, or rescind~~
31 ~~rules nor shall it delegate authority to determine whether an actual~~
32 ~~violation of this chapter has occurred or to assess penalties for such~~
33 ~~violations;~~

34 (3)) Prepare and publish such reports and technical studies as in
35 its judgment will tend to promote the purposes of this chapter,
36 including reports and statistics concerning campaign financing,
37 lobbying, financial interests of elected officials, and enforcement of
38 this chapter;

1 ~~((+4))~~ (3) Make from time to time, on its own motion, audits and
2 field investigations;

3 ~~((+5))~~ (4) Make public the time and date of any formal hearing set
4 to determine whether a violation has occurred, the question or
5 questions to be considered, and the results thereof;

6 ~~((+6))~~ (5) Administer oaths and affirmations, issue subpoenas, and
7 compel attendance, take evidence and require the production of any
8 books, papers, correspondence, memorandums, or other records relevant
9 or material for the purpose of any investigation authorized under this
10 chapter, or any other proceeding under this chapter;

11 ~~((+7))~~ (6) Adopt and promulgate a code of fair campaign practices;

12 ~~((+8))~~ (7) Relieve, by rule, candidates or political committees of
13 obligations to comply with the provisions of this chapter relating to
14 election campaigns, if they have not received contributions nor made
15 expenditures in connection with any election campaign of more than one
16 thousand dollars;

17 ~~((+9))~~ (8) Adopt rules prescribing reasonable requirements for
18 keeping accounts of and reporting on a quarterly basis costs incurred
19 by state agencies, counties, cities, and other municipalities and
20 political subdivisions in preparing, publishing, and distributing
21 legislative information. The term "legislative information," for the
22 purposes of this subsection, means books, pamphlets, reports, and other
23 materials prepared, published, or distributed at substantial cost, a
24 substantial purpose of which is to influence the passage or defeat of
25 any legislation. The state auditor in his or her regular examination
26 of each agency under chapter 43.09 RCW shall review the rules,
27 accounts, and reports and make appropriate findings, comments, and
28 recommendations in his or her examination reports concerning those
29 agencies;

30 ~~((+10))~~ (9) After hearing, by order approved and ratified by a
31 majority of the membership of the commission, suspend or modify any of
32 the reporting requirements of this chapter in a particular case if it
33 finds that literal application of this chapter works a manifestly
34 unreasonable hardship and if it also finds that the suspension or
35 modification will not frustrate the purposes of the chapter. The
36 commission shall find that a manifestly unreasonable hardship exists if
37 reporting the name of an entity required to be reported under RCW
38 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive
39 position of any entity in which the person filing the report or any

1 member of his or her immediate family holds any office, directorship,
2 general partnership interest, or an ownership interest of ten percent
3 or more. Any suspension or modification shall be only to the extent
4 necessary to substantially relieve the hardship. The commission shall
5 act to suspend or modify any reporting requirements only if it
6 determines that facts exist that are clear and convincing proof of the
7 findings required under this section. Requests for renewals of
8 reporting modifications may be heard in a brief adjudicative proceeding
9 as set forth in RCW 34.05.482 through 34.05.494 and in accordance with
10 the standards established in this section. No initial request may be
11 heard in a brief adjudicative proceeding and no request for renewal may
12 be heard in a brief adjudicative proceeding if the initial request was
13 granted more than three years previously or if the applicant is holding
14 an office or position of employment different from the office or
15 position held when the initial request was granted. The commission
16 shall adopt administrative rules governing the proceedings. Any
17 citizen has standing to bring an action in Thurston county superior
18 court to contest the propriety of any order entered under this section
19 within one year from the date of the entry of the order; ((and

20 ~~(11))~~ (10) Revise, at least once every five years but no more
21 often than every two years, the monetary reporting thresholds and
22 reporting code values of this chapter. The revisions shall be only for
23 the purpose of recognizing economic changes as reflected by an
24 inflationary index recommended by the office of financial management.
25 The revisions shall be guided by the change in the index for the period
26 commencing with the month of December preceding the last revision and
27 concluding with the month of December preceding the month the revision
28 is adopted. As to each of the three general categories of this chapter
29 (reports of campaign finance, reports of lobbyist activity, and reports
30 of the financial affairs of elected and appointed officials), the
31 revisions shall equally affect all thresholds within each category.
32 Revisions shall be adopted as rules under chapter 34.05 RCW. The first
33 revision authorized by this subsection shall reflect economic changes
34 from the time of the last legislative enactment affecting the
35 respective code or threshold through December 1985;

36 ~~((12))~~ (11) Develop and provide to filers a system for
37 certification of reports required under this chapter which are
38 transmitted by facsimile or electronically to the commission.

1 (~~Implementation of the program is contingent on the availability of~~
2 ~~funds.~~)

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.17 RCW
4 to read as follows:

5 By July 1st of each year, the commission shall calculate the
6 following performance measures, provide a copy of the performance
7 measures to the governor and appropriate legislative committees, and
8 make the performance measures available to the public:

9 (1) The average number of days that elapse between the commission's
10 receipt of reports filed under RCW 42.17.040, 42.17.065, 42.17.080, and
11 42.17.100 and the time that the report, a copy of the report, or a copy
12 of the data or information included in the report, is first accessible
13 to the general public (a) in the commission's office, and (b) via the
14 commission's web site;

15 (2) The average number of days that elapse between the commission's
16 receipt of reports filed under RCW 42.17.105 and the time that the
17 report, a copy of the report, or a copy of the data or information
18 included in the report, is first accessible to the general public (a)
19 in the commission's office, and (b) via the commission's web site;

20 (3) The average number of days that elapse between the commission's
21 receipt of reports filed under RCW 42.17.150, 42.17.170, 42.17.175, and
22 42.17.180 and the time that the report, a copy of the report, or a copy
23 of the data or information included in the report, is first accessible
24 to the general public (a) in the commission's office, and (b) via the
25 commission's web site;

26 (4) The percentage of candidates, categorized as state-wide, state
27 legislative, or local, that have used each of the following methods to
28 file reports under RCW 42.17.080 or 42.17.105: (a) Hard copy paper
29 format; (b) electronic format via diskette; (c) electronic format via
30 modem or satellite; (d) electronic format via the Internet; and (e) any
31 other format or method;

32 (5) The percentage of continuing political committees that have
33 used each of the following methods to file reports under RCW 42.17.065
34 or 42.17.105: (a) Hard copy paper format; (b) electronic format via
35 diskette; (c) electronic format via modem or satellite; (d) electronic
36 format via the Internet; and (e) any other format or method; and

37 (6) The percentage of lobbyists and lobbyists' employers that have
38 used each of the following methods to file reports under RCW 42.17.150,

1 42.17.170, 42.17.175, or 42.17.180: (a) Hard copy paper format; (b)
2 electronic format via diskette; (c) electronic format via modem or
3 satellite; (d) electronic format via the Internet; and (e) any other
4 format or method.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 42.17 RCW
6 to read as follows:

7 (1) The commission shall develop an information technology plan
8 consistent with plans or portfolios required by chapter 43.105 RCW.

9 (2) The plan must include, but not be limited to, the following:

10 (a) A baseline assessment of the agency's information technology
11 resources and capabilities that will serve as the benchmark for
12 subsequent planning and performance measures;

13 (b) A statement of the agency's mission, goals, and objectives for
14 information technology, including goals and objectives for achieving
15 electronic access to agency records, information, and services for at
16 least the next five years;

17 (c) An explanation of how the agency's mission, goals, and
18 objectives for information technology support and conform to the state
19 strategic information technology plan;

20 (d) An implementation strategy to enhance electronic access to
21 public records and information required to be filed with and disclosed
22 by the commission. This implementation strategy must be assembled to
23 include:

24 (i) Adequate public notice and opportunity for comment;

25 (ii) Consideration of a variety of electronic technologies,
26 including those that help to transcend geographic locations, standard
27 business hours, economic conditions of users, and disabilities;

28 (iii) Methods to educate agency employees, the public, and the news
29 media in the effective use of agency technology;

30 (iv) Ways to simplify and improve public access to information held
31 by the commission through electronic means;

32 (e) Projects and resources required to meet the objectives of the
33 plan; and

34 (f) If feasible, estimated schedules and funding required to
35 implement identified projects.

36 NEW SECTION. **Sec. 6.** A new section is added to chapter 42.17 RCW
37 to read as follows:

1 In preparing the information technology plan, the commission shall
2 consult with affected state agencies, the department of information
3 services, and stakeholders in the commission's work, including
4 representatives of political committees, bona fide political parties,
5 news media, and the general public.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 42.17 RCW
7 to read as follows:

8 The commission shall submit the information technology plan to the
9 senate and house fiscal committees, the governor, the senate's state
10 and local government committee, the house's state government committee,
11 and the department of information services by January 1, 2000. It is
12 the intent of the legislature that the commission thereafter comply
13 with the requirements of chapter 43.105 RCW with respect to preparation
14 and submission of biennial performance reports on the commission's
15 information technology.

16 NEW SECTION. **Sec. 8.** A new section is added to chapter 42.17 RCW
17 to read as follows:

18 The commission shall prepare and submit to the department of
19 information services a biennial performance report in accordance with
20 chapter 43.105 RCW.

21 The report must include:

22 (1) An evaluation of the agency's performance relating to
23 information technology;

24 (2) An assessment of progress made toward implementing the agency
25 information technology plan;

26 (3) An analysis of the commission's performance measures, set forth
27 in section 4 of this act, that relate to the electronic filing of
28 reports and timely public access to those reports via the commission's
29 web site;

30 (4) A comprehensive description of the methods by which citizens
31 may interact with the agency in order to obtain information and
32 services from the commission; and

33 (5) An inventory of agency information services, equipment, and
34 proprietary software.

35 **Sec. 9.** RCW 42.17.365 and 1993 c 2 s 29 are each amended to read
36 as follows:

1 The commission shall conduct a sufficient number of audits and
2 field investigations so as to provide a statistically valid finding
3 regarding the degree of compliance with the provisions of this chapter
4 by all required filers. Any documents, records, reports, computer
5 files, papers, or materials provided to the commission for use in
6 conducting audits and investigations must be returned to the candidate,
7 campaign, or political committee from which they were received within
8 two weeks of the commission's receipt.

9 **Sec. 10.** RCW 42.17.367 and 1994 c 40 s 2 are each amended to read
10 as follows:

11 By January 1, ~~((1995))~~ 2000, the ~~((public disclosure))~~ commission
12 shall ~~((design a program for electronic access to public documents~~
13 ~~filed with the commission. The program may include on-line access to~~
14 ~~the commission's magic and electronic bulletin board systems, providing~~
15 ~~information for the internet system, fax request service, automated~~
16 ~~telephone service, electronic filing of reports, and other service~~
17 ~~delivery options. Documents available in the program shall include,~~
18 ~~but are not limited to, public documents filed with the public~~
19 ~~disclosure commission, including, but not limited to, commission~~
20 ~~meeting schedules, financial affairs reports, contribution reports,~~
21 ~~expenditure reports, and gift reports. Implementation of the program~~
22 ~~is contingent on the availability of funds))~~ operate a web site or
23 contract for the operation of a web site that allows access to reports,
24 copies of reports, or copies of data and information submitted in
25 reports, filed with the commission under RCW 42.17.040, 42.17.065,
26 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and
27 42.17.180. In addition, the commission shall attempt to make available
28 via the web site other public records submitted to or generated by the
29 commission that are required by this chapter to be available for public
30 use or inspection.

31 **Sec. 11.** RCW 42.17.420 and 1995 c 397 s 18 are each amended to
32 read as follows:

33 (1) Except as provided in subsection (2) of this section, when any
34 application, report, statement, notice, or payment required to be made
35 under the provisions of this chapter has been deposited postpaid in the
36 United States mail properly addressed, it shall be deemed to have been
37 received on the date of mailing. It shall be presumed that the date

1 shown by the post office cancellation mark on the envelope is the date
2 of mailing. The provisions of this section do not apply to reports
3 required to be delivered under RCW 42.17.105 and 42.17.175.

4 (2) When a report is filed electronically with the commission, it
5 is deemed to have been received on the file transfer date. The
6 commission shall notify the filer of receipt of the electronically
7 filed report. Such notification may be sent by mail, facsimile, or
8 electronic mail. If the notification of receipt of the electronically
9 filed report is not received by the filer, the filer may offer his or
10 her own proof of sending the report, and such proof shall be treated as
11 if it were a receipt sent by the commission. Electronic filing may be
12 used for purposes of filing the special reports required to be
13 delivered under RCW 42.17.105 and 42.17.175.

14 NEW SECTION. Sec. 12. A new section is added to chapter 42.17 RCW
15 to read as follows:

16 (1) By July 1, 1999, the commission shall offer every candidate,
17 public official, political committee, and party organization that is
18 required to file reports under this chapter the option of filing
19 financial affairs reports, contribution reports, and expenditure
20 reports electronically by diskette or via modem, satellite, or the
21 Internet.

22 (2) By January 1, 2001, the commission shall offer all lobbyists
23 and lobbyists' employers required to file reports under RCW 42.17.150,
24 42.17.170, 42.17.175, or 42.17.180 the option of filing these reports
25 electronically by diskette or via modem, satellite, or the Internet.

26 (3) The commission shall make available to each candidate, public
27 official, political committee, lobbyist, lobbyist employer, and party
28 organization an electronic copy of the appropriate reporting forms at
29 no charge.

30 NEW SECTION. Sec. 13. A new section is added to chapter 42.17 RCW
31 to read as follows:

32 Beginning January 1, 2000, each continuing political committee
33 shall file all contribution reports and expenditure reports required by
34 this chapter electronically by diskette or via modem, satellite, or the
35 Internet. Failure by a continuing political committee to comply with
36 this section is a violation of this chapter."

1 Correct the title.

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