

HOUSE OF REPRESENTATIVES

Olympia, Washington

Bil Analysis

Bil No. HB 1427

Adjusting penalties for violations of public disclosure laws.

Brief title

Hearing Date 2/5/99

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Sponsor (s)

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State Government Committee

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BACKGROUND:

State was approved in 1972. Initial prohibited of public facilities campaign required campaign expenditures reported by public officials for the financial affairs required by the Legislature for state agencies and report the expenditures, required public records to be open for public inspection and created the public disclosure commission (PDC) as the agency to receive reports and enforce these provisions. These provisions were codified in a single chapter laws.

Additional provisions were added to this chapter laws, including Initiative Measure 34 which was approved by state voters in 1992 that restricted political advertising and campaign contributions.

1. Public Disclosure Commission.

The PDC receives campaign financial and lobbyist reports, investigates whether any violations of the public disclosure laws have occurred, for the public disclosure laws and prepares annual reports on the effectiveness of the public disclosure laws and any results taken by law enforcement agencies.

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

- o Report the apparent violation to the Attorney General or other appropriate law enforcement authorities;
- o Investigate the apparent violation and if it determines that a violation has occurred, the PDC may issue an order directing the person or persons and desist from certain actions may issue a civil fine 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 a superior court.

If a court determines that a violation of the public disclosure laws has occurred, it may impose a civil penalty of not to exceed \$10,000 for each violation. Where a violation of the public disclosure laws is a campaign contribution has occurred, the maximum civil penalty shall be the greater of \$10,000 or three times the amount of the contribution.

2. Enforcement.

Public disclosure laws may be enforced by government action or PDC attorney general, or prosecuting attorney, may be enforced by private actions.

a. Government enforcement.

The attorney general or the prosecuting attorney of a political subdivision may bring a civil action against a violator of public disclosure laws. In addition, any person may bring an action to enforce the public disclosure laws.

The attorney general or a prosecuting attorney of a political subdivision may investigate persons if there is reasonable belief that the persons violated the public disclosure laws and issue an order requiring persons to appear and give information and to produce documents relevant to the investigation. An order has the same force and effect as a subpoena. The superior court may enforce the orders.

The court may award the state the costs of investigation and trial, including a reasonable attorney's fee. If the violation is found to be intentional, the amount of the judgment may be trebled. If the defendant prevails, the defendant shall be awarded attorney's fees and may be awarded a reasonable attorney's fee.

2. Private enforcement.

Any person may notify the attorney general, local county prosecuting attorney, or the person believes a violation of the public disclosure laws has occurred. The person may bring an enforcement action in superior court if the attorney general or prosecuting attorney fails to bring an enforcement action in superior court within 45 days of the notice being filed.

If the action prevails, the judgment awards the state the costs of the action and the person bringing the action paid for a reasonable attorney's fee by the state. If the action is dismissed, the court finds that the action was brought without reasonable cause, the court may order the person who brought the action to pay trial costs and a reasonable attorney's fee to the defendant.

SUMMARY:

Penalties for violating public disclosure laws are increased and certain activities of a person or entity are prohibited by an order relating to public disclosure laws.

1. Fines.

The maximum fine that a superior court may impose for a violation of the public disclosure laws is increased from \$10,000 to \$40,000. The maximum fine that a superior court may impose for a violation of contribution limitations is increased to the greater of \$10,000 or three times the contribution, but not greater than \$40,000 or three times the contribution. A candidate or officer of a political committee may be ordered to pay a fine from personal funds.

The maximum fine that the PDC may impose is increased from \$1,000 to \$4,000 on a single violation and from \$2,500 to \$10,000 on multiple violations.

2. Restrictions on activities.

A candidate who fails to comply with an order issued by the PDC or a superior court may not solicit or accept contributions or make expenditures if the candidate has not complied with the order.

A political committee that has not complied with an order issued by the PDC or a superior court may not solicit or accept contributions or make expenditures if the candidate has not complied with the order. These restrictions also apply to a political committee with a majority of the same officers as the committee that is subject to the order.

If an officer or prior officer of a political committee has not complied with an order issued by the PDC or a superior court, the political committee shall not solicit contributions or make expenditures if the officer or prior officer has not complied with the order.

A person who has not complied with an order issued by the PDC or a superior court may not register as a lobbyist or receive compensation as a lobbyist or make expenditures as a lobbyist in the person's household if the person has not complied with the order. The PDC may revoke the registration of a lobbyist who fails to comply with such an order.

A sponsor of a grassroots lobbying organization that has not complied with an order issued by the PDC or a superior court may not compensate or make expenditures as a grassroots lobbyist in the person's household if the person has not complied with the order.

3. Private enforcement.

The process of private enforcement of public disclosure laws is altered: (a) Requiring notification of the PDC of the alleged violation within 15 days after notification has been made before private enforcement may be maintained; (b) providing a defendant 15 days to answer a complaint; and (c) providing a defendant 15 days to answer a motion to dismiss. A party who loses in such an enforcement action must pay the cost and attorney fees of the prevailing party.

4. Type of mail by which an order is sent.

An order issued by the attorney general, a prosecuting attorney, or the public disclosure laws on a person's behalf and given in format under oath and produced documents, to be sent by certified mail rather than registered mail.

FISCANOTE: Not requested.

EFFECTIVE DATE: Ninety days after adjournment session which bill passed.