ENGROSSED SUBSTITUTE SENATE BILL 5034

Chapter 445, Laws of 2005

59th Legislature
2005 Regular Session

CAMPAIGN FUNDING

EFFECTIVE DATE: 1/1/06 – Except sections 6 and 12, which become effective 7/1/05.

Passed by the Senate April 20, 2005
YEAS 26 NAYS 20

BRAD OWEN
President of the Senate

Passed by the House April 13, 2005
YEAS 56 NAYS 40

FRANK CHOPP
Speaker of the House of Representatives

CERTIFICATE
I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE SENATE BILL 5034 as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN
Secretary

Approved May 13, 2005.

FILED
May 13, 2005 - 2:42 p.m.

CHRISTINE GREGOIRE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to disclosure of and restrictions on campaign funding; amending RCW 42.17.020, 42.17.103, 42.17.110, 42.17.510, 42.17.530, and 42.17.660; reenacting and amending RCW 42.17.640; adding new sections to chapter 42.17 RCW; creating a new section; repealing RCW 42.17.505; providing effective dates; and declaring an emergency.

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

PART I - FINDINGS AND INTENT

NEW SECTION. Sec. 1. The legislature finds that:
(1) Timely disclosure to voters of the identity and sources of funding for electioneering communications is vitally important to the integrity of state, local, and judicial elections.
(2) Electioneering communications that identify political candidates for state, local, or judicial office and that are distributed sixty days before an election for those offices are intended to influence voters and the outcome of those elections.
(3) The state has a compelling interest in providing voters information about electioneering communications in political campaigns concerning candidates for state, local, or judicial office so that
voters can be fully informed as to the: (a) Source of support or opposition to those candidates; and (b) identity of persons attempting to influence the outcome of state, local, and judicial candidate elections.

(4) Nondisclosure of financial information about advertising that masquerades as relating only to issues and not to candidate campaigns fosters corruption or the appearance of corruption. These consequences can be substantially avoided by full disclosure of the identity and funding of those persons paying for such advertising.

(5) The United States supreme court held in McConnell et al. v. Federal Elections Commission, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003) that speakers seeking to influence elections do not possess an inviolable free speech right to engage in electioneering communications regarding elections, including when issue advocacy is the functional equivalent of express advocacy. Therefore, such election campaign communications can be regulated and the source of funding disclosed.

(6) The state also has a sufficiently compelling interest in preventing corruption in political campaigns to justify and restore contribution limits and restrictions on the use of soft money in RCW 42.17.640. Those interests include restoring restrictions on the use of such funds for electioneering communications, as well as the laws preventing circumvention of those limits and restrictions.

NEW SECTION. Sec. 2. Based upon the findings in section 1 of this act, this act is narrowly tailored to accomplish the following and is intended to:

(1) Improve the disclosure to voters of information concerning persons and entities seeking to influence state, local, and judicial campaigns through reasonable and effective mechanisms, including improving disclosure of the source, identity, and funding of electioneering communications concerning state, local, and judicial candidate campaigns;

(2) Regulate electioneering communications that mention state, local, and judicial candidates and that are broadcast, mailed, erected, distributed, or otherwise published right before the election so that the public knows who is paying for such communications;
(3) Reenact and amend the contribution limits in RCW 42.17.640 (6) and (14) and the restrictions on the use of soft money, including as applied to electioneering communications, as those limits and restrictions were in effect following the passage of chapter 2, Laws of 1993 (Initiative No. 134) and before the state supreme court decision in Washington State Republican Party v. Washington State Public Disclosure Commission, 141 Wn.2d 245, 4 P.3d 808 (2000). The commission is authorized to fully restore the implementation of the limits and restrictions of RCW 42.17.640 (6) and (14) in light of McConnell et al. v. Federal Elections Commission, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003). The United States supreme court upheld the disclosure and regulation of electioneering communications in political campaigns, including but not limited to issue advocacy that is the functional equivalent of express advocacy;

(4) Authorize the commission to adopt rules to implement this act.

PART II - ELECTIONEERING COMMUNICATIONS

NEW SECTION. Sec. 3. (1) A payment for or promise to pay for any electioneering communication shall be reported to the commission by the sponsor on forms the commission shall develop by rule to include, at a minimum, the following information:

(a) Name and address of the sponsor;

(b) Source of funds for the communication, including:

(i) General treasury funds. The name and address of businesses, unions, groups, associations, or other organizations using general treasury funds for the communication, however, if a business, union, group, association, or other organization undertakes a special solicitation of its members or other persons for an electioneering communication, or it otherwise receives funds for an electioneering communication, that entity shall report pursuant to (b)(ii) of this subsection;

(ii) Special solicitations and other funds. The name, address, and, for individuals, occupation and employer, of a person whose funds were used to pay for the electioneering communication, along with the amount, if such funds from the person have exceeded two hundred fifty dollars in the aggregate for the electioneering communication; and
(iii) Any other source information required or exempted by the commission by rule;

(c) Name and address of the person to whom an electioneering communication related expenditure was made;

(d) A detailed description of each expenditure of more than one hundred dollars;

(e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published;

(f) The amount of the expenditure;

(g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate; and

(h) Any other information the commission may require or exempt by rule.

(2) Electioneering communications shall be reported as follows: The sponsor of an electioneering communication shall report to the commission within twenty-four hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, or otherwise published.

(3) Electioneering communications shall be reported electronically by the sponsor using software provided or approved by the commission. The commission may make exceptions on a case-by-case basis for a sponsor who lacks the technological ability to file reports using the electronic means provided or approved by the commission.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, and 42.17.100 are subject to the requirements of this section, although the commission may determine by rule that persons filing according to those sections may be exempt from reporting some of the information otherwise required by this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100 and 42.17.103.

(5) Failure of any sponsor to report electronically under this section shall be a violation of this chapter.

NEW SECTION. Sec. 4. (1) An electioneering communication made by
a person in cooperation, consultation, or concert with, or at the
request or suggestion of, a candidate, a candidate's authorized
committee, or their agents is a contribution to the candidate.

(2) An electioneering communication made by a person in
cooperation, consultation, or concert with, or at the request or
suggestion of, a political committee or its agents is a contribution to
the political committee.

(3) If an electioneering communication is not a contribution
pursuant to subsection (1) or (2) of this section, the sponsor shall
file an affidavit or declaration so stating at the time the sponsor is
required to report the electioneering communication expense under
section 3 of this act.

NEW SECTION. Sec. 5. (1) The sponsor of an electioneering
communication shall preserve all financial records relating to the
communication, including books of account, bills, receipts, contributor
information, and ledgers, for not less than five calendar years
following the year in which the communication was broadcast,
transmitted, mailed, erected, or otherwise published.

(2) All reports filed under section 3 of this act shall be
certified as correct by the sponsor. If the sponsor is an individual
using his or her own funds to pay for the communication, the
certification shall be signed by the individual. If the sponsor is a
political committee, the certification shall be signed by the committee
treasurer. If the sponsor is another entity, the certification shall
be signed by the individual responsible for authorizing the expenditure
on the entity's behalf.

PART III - AMENDMENTS TO AND REENACTMENT OF CURRENT LAWS

Sec. 6. RCW 42.17.020 and 2002 c 75 s 1 are each amended to read
as follows:

The definitions in this section apply throughout this chapter
unless the context clearly requires otherwise.

(1) "Actual malice" means to act with knowledge of falsity or with
reckless disregard as to truth or falsity.

(2) "Agency" includes all state agencies and all local agencies.
"State agency" includes every state office, department, division,
bureau, board, commission, or other state agency. "Local agency"
includes every county, city, town, municipal corporation, quasi-
municipal corporation, or special purpose district, or any office,
department, division, bureau, board, commission, or agency thereof, or
other local public agency.

"Authorized committee" means the political committee
authorized by a candidate, or by the public official against whom
recall charges have been filed, to accept contributions or make
expenditures on behalf of the candidate or public official.

"Ballot proposition" means any "measure" as defined by
RCW 29A.04.091, or any initiative, recall, or referendum
proposition proposed to be submitted to the voters of the state or any
municipal corporation, political subdivision, or other voting
constituency from and after the time when the proposition has been
initially filed with the appropriate election officer of that
constituency prior to its circulation for signatures.

"Benefit" means a commercial, proprietary, financial,
economic, or monetary advantage, or the avoidance of a commercial,
proprietary, financial, economic, or monetary disadvantage.

"Bona fide political party" means:
(a) An organization that has filed a valid certificate of
nomination with the secretary of state under chapter 29A.20
RCW;
(b) The governing body of the state organization of a major
political party, as defined in RCW 29A.04.086, that is
the body authorized by the charter or bylaws of the party to exercise
authority on behalf of the state party; or
(c) The county central committee or legislative district committee
of a major political party. There may be only one legislative district
committee for each party in each legislative district.

"Depository" means a bank designated by a candidate or
political committee pursuant to RCW 42.17.050.

"Treasurer" and "deputy treasurer" mean the individuals
appointed by a candidate or political committee, pursuant to RCW
42.17.050, to perform the duties specified in that section.

"Candidate" means any individual who seeks nomination
for election or election to public office. An individual seeks
nomination or election when he or she first:
(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;
(b) Announces publicly or files for office;
(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or
(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(10) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

(11) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

(12) "Commission" means the agency established under RCW 42.17.350.

(13) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: PROVIDED, That for the purpose of compliance with RCW 42.17.241, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

(14) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

(15) (a) "Contribution" includes:
(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;
(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, or their agents;
(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic,
or other form of political advertising or electioneering communication prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person
paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

"Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

"Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: PROVIDED, That an election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

"Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

"Election cycle" means the period beginning on the first day of December after the date of the last previous general election for the office that the candidate seeks and ending on November 30th after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on November 30th after the special election.

"Electioneering communication" means any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that:

(a) Clearly identifies a candidate for a state, local, or judicial
office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;

(b) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

(c) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of five thousand dollars or more.

(21) "Electioneering communication" does not include:

(a) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding his or her becoming a candidate;

(b) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;

(c) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(i) Of primary interest to the general public;

(ii) In a news medium controlled by a person whose business is that news medium; and

(iii) Not a medium controlled by a candidate or a political committee;

(d) Slate cards and sample ballots;

(e) Advertising for books, films, dissertations, or similar works (i) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or (ii) written about a candidate;

(f) Public service announcements;

(g) A mailed internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;
(h) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

(i) Any other communication exempted by the commission through rule consistent with the intent of this chapter.

(22) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. The term "expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.

((20)) (23) "Final report" means the report described as a final report in RCW 42.17.080(2).

((21)) (24) "General election" for the purposes of RCW 42.17.640 means the election that results in the election of a person to a state office. It does not include a primary.

((22)) (25) "Gift," is as defined in RCW 42.52.010.

((23)) (26) "Immediate family" includes the spouse, dependent children, and other dependent relatives, if living in the household. For the purposes of RCW 42.17.640 through 42.17.790, "immediate family" means an individual's spouse, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse and the spouse of any such person.

((24)) (27) "Incumbent" means a person who is in present possession of an elected office.

(28) "Independent expenditure" means an expenditure that has each of the following elements:
(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of five hundred dollars or more. A series of expenditures, each of which is under five hundred dollars, constitutes one independent expenditure if their cumulative value is five hundred dollars or more.

((25)) (29) (a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family as defined for purposes of RCW 42.17.640 through 42.17.790, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

((26)) (30) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of
the legislature and all bills and resolutions that, having passed both
houses, are pending approval by the governor.

("(27+)") (31) "Lobby" and "lobbying" each mean attempting to
influence the passage or defeat of any legislation by the legislature
of the state of Washington, or the adoption or rejection of any rule,
standard, rate, or other legislative enactment of any state agency
under the state Administrative Procedure Act, chapter 34.05 RCW.
Neither "lobby" nor "lobbying" includes an association's or other
organization's act of communicating with the members of that
association or organization.

("(28+)") (32) "Lobbyist" includes any person who lobbies either in
his or her own or another's behalf.

("(29+)") (33) "Lobbyist's employer" means the person or persons by
whom a lobbyist is employed and all persons by whom he or she is
compensated for acting as a lobbyist.

("(30+)") (34) "Participate" means that, with respect to a
particular election, an entity:
(a) Makes either a monetary or in-kind contribution to a candidate;
(b) Makes an independent expenditure or electioneering
communication in support of or opposition to a candidate;
(c) Endorses a candidate prior to contributions being made by a
subsidiary corporation or local unit with respect to that candidate or
that candidate's opponent;
(d) Makes a recommendation regarding whether a candidate should be
supported or opposed prior to a contribution being made by a subsidiary
corporation or local unit with respect to that candidate or that
candidate's opponent; or
(e) Directly or indirectly collaborates or consults with a
subsidiary corporation or local unit on matters relating to the support
of or opposition to a candidate, including, but not limited to, the
amount of a contribution, when a contribution should be given, and what
assistance, services or independent expenditures, or electioneering
communications, if any, will be made or should be made in support of or
opposition to a candidate.

(35) "Person" includes an individual, partnership, joint venture,
public or private corporation, association, federal, state, or local
governmental entity or agency however constituted, candidate,
committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

"Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.

"Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

"Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

"Primary" for the purposes of RCW 42.17.640 means the procedure for nominating a candidate to state office under chapter 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29A.52 RCW.

"Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

"Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated
a public record by any official action of the senate or the house of representatives.

(42) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29A.56.120 and ending thirty days after the recall election.

(43) "Sponsor of an electioneering communications, independent expenditures, or political advertising" means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(44) "State legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

(45) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

(46) "State official" means a person who holds a state office.

(47) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate prior to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065.

(48) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched
cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires.

Sec. 7. RCW 42.17.103 and 2001 c 54 s 1 are each amended to read as follows:

(1) The sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

(2) If a sponsor is required to file a special report under this section, the sponsor shall also deliver to the commission within the delivery period established in subsection (1) of this section a special report for each subsequent independent expenditure of any size supporting or opposing the same candidate who was the subject of the previous independent expenditure, supporting or opposing that candidate's opponent, or supporting or opposing the same ballot proposition that was the subject of the previous independent expenditure.

(3) The special report must include at least:

(a) The name and address of the person making the expenditure;
(b) The name and address of the person to whom the expenditure was made;
(c) A detailed description of the expenditure;
(d) The date the expenditure was made and the date the political advertising was first published or otherwise presented to the public;
(e) The amount of the expenditure;
(f) The name of the candidate supported or opposed by the expenditure, the office being sought by the candidate, and whether the expenditure supports or opposes the candidate; or the name of the
ballot proposition supported or opposed by the expenditure and whether
the expenditure supports or opposes the ballot proposition; and

(g) Any other information the commission may require by rule.

(4) All persons required to report under RCW 42.17.065, 42.17.080,
42.17.090, ((and)) 42.17.100, and section 3 of this act are subject to
the requirements of this section. The commission may determine that
reports filed pursuant to this section also satisfy the requirements of
RCW 42.17.100.

(5) The sponsor of independent expenditures supporting a candidate
or opposing that candidate's opponent required to report under this
section shall file with each required report an affidavit or
declaration of the person responsible for making the independent
expenditure that the expenditure was not made in cooperation,
consultation, or concert with, or at the request or suggestion of, the
candidate, the candidate's authorized committee, or the candidate's
agent, or with the encouragement or approval of the candidate, the
candidate's authorized committee, or the candidate's agent.

Sec. 8. RCW 42.17.110 and 1975-'76 2nd ex.s. c 112 s 5 are each
amended to read as follows:

(1) Each commercial advertiser who has accepted or provided
political advertising or electioneering communications during the
election campaign shall maintain open for public inspection during the
campaign and for a period of no less than three years after the date of
the applicable election, during normal business hours, documents and
books of account which shall specify:

(a) The names and addresses of persons from whom it accepted
political advertising or electioneering communications;

(b) The exact nature and extent of the ((advertising)) services
rendered; and

(c) The consideration and the manner of paying that consideration
for such services.

(2) Each commercial advertiser which must comply with subsection
(1) of this section shall deliver to the commission, upon its request,
copies of such information as must be maintained open for public
inspection pursuant to subsection (1) of this section.
Sec. 9.  RCW 42.17.510 and 1995 c 397 s 19 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. ((The party with which a candidate files)) For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising ((for partisan office)).

(2) In addition to the materials required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure by a person or entity other than a party organization, and all electioneering communications, must include the following statement as part of the communication "NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate. It is paid for by (name, address, city, state)." If the advertisement undertaken as an independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement or communication.

(3) The statements and listings of contributors required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process; and
(c) Be set apart from any other printed matter (and
(d) Be clearly spoken on any broadcast advertisement).

(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height, and have a reasonable color contrast with the background: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons,
balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(5) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

Sec. 10. RCW 42.17.530 and 1999 c 304 s 2 are each amended to read as follows:
(1) It is a violation of this chapter for a person to sponsor with actual malice:
(a) Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office. However, this subsection (1)(a) does not apply to statements made by a candidate or the candidate's agent about the candidate himself or herself;
(b) Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent;
(c) Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.
(2) Any violation of this section shall be proven by clear and convincing evidence.

Sec. 11. RCW 42.17.640 and 2001 c 208 s 1 are each reenacted and amended to read as follows:
(1) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office that in the aggregate exceed ((five)) seven hundred dollars or to a candidate for a state office other than a state legislative office that in the aggregate exceed one thousand four hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has
insufficient funds to pay debts outstanding as of the date of the
primary; and (c) the contributions may only be raised and spent to
satisfy the outstanding debt. Contributions made with respect to a
general election may not be made after the final day of the applicable
election cycle.

(2) No person, other than a bona fide political party or a caucus
political committee, may make contributions to a state official against
whom recall charges have been filed, or to a political committee having
the expectation of making expenditures in support of the recall of the
state official, during a recall campaign that in the aggregate exceed
((five)) seven hundred dollars if for a state legislative office or one
thousand four hundred dollars if for a state office other than a state
legislative office.

(3)(a) Notwithstanding subsection (1) of this section, no bona fide
political party or caucus political committee may make contributions to
a candidate during an election cycle that in the aggregate exceed (i)
((fifty)) seventy cents multiplied by the number of eligible registered
voters in the jurisdiction from which the candidate is elected if the
contributor is a caucus political committee or the governing body of a
state organization, or (ii) ((twenty-five)) thirty-five cents
multiplied by the number of registered voters in the jurisdiction from
which the candidate is elected if the contributor is a county central
committee or a legislative district committee.

(b) No candidate may accept contributions from a county central
committee or a legislative district committee during an election cycle
that when combined with contributions from other county central
committees or legislative district committees would in the aggregate
exceed ((twenty-five)) thirty-five cents times the number of registered
voters in the jurisdiction from which the candidate is elected.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide
political party or caucus political committee may make contributions to
a state official against whom recall charges have been filed, or to a
political committee having the expectation of making expenditures in
support of the state official, during a recall campaign that in the
aggregate exceed (i) ((fifty)) seventy cents multiplied by the number
of eligible registered voters in the jurisdiction entitled to recall
the state official if the contributor is a caucus political committee
or the governing body of a state organization, or (ii) ((twenty-five))
thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No state official against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of a state official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ((twenty-five)) thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(5) For purposes of determining contribution limits under subsections (3) and (4) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(6) Notwithstanding subsections (1) through (4) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed ((five)) seven hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed ((two)) three thousand five hundred dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(7) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate, or of a state official against whom recall charges have been filed, is considered to be a contribution to the candidate or state official.

(8) A contribution received within the twelve-month period after a recall election concerning a state office is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(9) The contributions allowed by subsection (2) of this section are in addition to those allowed by subsection (1) of this section, and the contributions allowed by subsection (4) of this section are in addition to those allowed by subsection (3) of this section.
(10) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in a state office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(11) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(12) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate, state official against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of a state official if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the state official.

(13) No person may accept contributions that exceed the contribution limitations provided in this section.

(14) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates.
Sec. 12. RCW 42.17.660 and 1993 c 2 s 6 are each amended to read as follows:

For purposes of this chapter:

(1) A contribution by a political committee with funds that have all been contributed by one person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(2) Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation that is participating in an election campaign or making contributions, or a local unit or branch of a trade association, labor union, or collective bargaining organization that is participating in an election campaign or making contributions. All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained, or controlled by a trade association, labor union, collective bargaining organization, or the local unit of a trade association, labor union, or collective bargaining organization are considered made by the trade association, labor union, collective bargaining organization, or local unit of a trade association, labor union, or collective bargaining organization.

(3) The commission shall adopt rules to carry out this section and is not subject to the time restrictions of RCW 42.17.370(1).

PART IV - TECHNICAL PROVISIONS

NEW SECTION. Sec. 13. RCW 42.17.505 (Definitions) and 1988 c 199 s 1 are each repealed.

NEW SECTION. Sec. 14. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 15. (1) Sections 1 through 5 of this act are each added to chapter 42.17 RCW to be codified with the subchapter heading of "Reporting of Electioneering Communications."

(2) The code reviser must change the subchapter heading "Political Advertising" to "Political Advertising and Electioneering Communications" in chapter 42.17 RCW.
NEW SECTION. Sec. 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 17. Sections 6 and 12 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2005. The remainder of this act takes effect January 1, 2006.
Passed by the Senate April 20, 2005.
Passed by the House April 13, 2005.
Approved by the Governor May 13, 2005.
Filed in Office of Secretary of State May 13, 2005.