
ENGROSSED SUBSTITUTE SENATE BILL 6667

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Quigley, Smith and Goings)

Read first time 02/01/96.

1 AN ACT Relating to enforcement of public disclosure laws; amending
2 RCW 42.17.390, 42.17.395, 42.17.397, 42.17.400, 29.15.025, and
3 42.17.360; and prescribing 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 employing a lobbyist, registering as a
32 lobbyist, receiving compensation as a lobbyist, and making expenditures
33 for lobbying expenses. If presently registered as a lobbyist, the
34 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 remedies available under subsections (6), (7), (8), and
2 (9) of this section for failure to comply with a court order under this
3 section or a court's order of enforcement entered under RCW 42.17.397
4 may not be enforced until the expiration of all applicable time periods
5 for appeal.

6 (11) The court may enjoin any person to prevent the doing of any
7 act herein prohibited, or to compel the performance of any act required
8 herein.

9 **Sec. 2.** RCW 42.17.395 and 1989 c 175 s 91 are each amended to read
10 as follows:

11 (1) The commission may (a) determine whether an actual violation of
12 this chapter has occurred; and (b) issue and enforce an appropriate
13 order following such determination.

14 (2) The commission, in cases where it chooses to determine whether
15 an actual violation of this chapter has occurred, shall hold a hearing
16 pursuant to the Administrative Procedure Act, chapter 34.05 RCW, to
17 make such determination. Any order that the commission issues under
18 this section shall be pursuant to such hearing.

19 (3) In lieu of holding a hearing or issuing an order under this
20 section, the commission may refer the matter to the attorney general or
21 other enforcement agency as provided in RCW 42.17.360.

22 (4) The person against whom an order is directed under this section
23 shall be designated as the respondent. The order may require the
24 respondent to cease and desist from the activity that constitutes a
25 violation and in addition, or alternatively, may impose one or more of
26 the remedies provided in RCW 42.17.390(~~((1) (b), (c), (d), or (e))~~)
27 (2), (3), (4), or (5): PROVIDED, That no individual penalty assessed
28 by the commission may exceed one thousand dollars, and in any case
29 where multiple violations are involved in a single complaint or
30 hearing, the maximum aggregate penalty may not exceed two thousand five
31 hundred dollars.

32 (5) An order issued by the commission under this section shall be
33 subject to judicial review under the Administrative Procedure Act,
34 chapter 34.05 RCW. If the commission's order is not satisfied and no
35 petition for review is filed within thirty days as provided in RCW
36 34.05.542, the commission may petition a court of competent
37 jurisdiction of any county in which a petition for review could be
38 filed under that section, for an order of enforcement. Proceedings in

1 connection with the commission's petition shall be in accordance with
2 RCW 42.17.397.

3 (6) The commission shall maintain a list of persons or political
4 committees that have failed to comply with any civil remedy or sanction
5 imposed under this chapter. The commission shall transmit this list to
6 the office of the secretary of state and to each county auditor as
7 needed.

8 **Sec. 3.** RCW 42.17.397 and 1989 c 175 s 92 are each amended to read
9 as follows:

10 The following procedure shall apply in all cases where the
11 commission has petitioned a court of competent jurisdiction for
12 enforcement of any order it has issued pursuant to this chapter:

13 (1) A copy of the petition shall be served by certified mail
14 directed to the respondent at his last known address. The court shall
15 issue an order directing the respondent to appear at a time designated
16 in the order, not less than five days from the date thereof, and show
17 cause why the commission's order should not be enforced according to
18 its terms.

19 (2) The commission's order shall be enforced by the court if the
20 respondent does not appear, or if the respondent appears and the court
21 finds, pursuant to a hearing held for that purpose:

22 (a) That the commission's order is unsatisfied; and

23 (b) That the order is regular on its face; and

24 (c) That the respondent's answer discloses no valid reason why the
25 commission's order should not be enforced or that the respondent had an
26 appropriate remedy by review under RCW 34.05.570(3) and failed to avail
27 himself of that remedy without valid excuse.

28 (3) Upon appropriate application by the respondent, the court may,
29 after hearing and for good cause, alter, amend, revise, suspend, or
30 postpone all or part of the commission's order. In any case where the
31 order is not enforced by the court according to its terms, the reasons
32 for the court's actions shall be clearly stated in writing, and such
33 action shall be subject to review by the appellate courts by certiorari
34 or other appropriate proceeding.

35 (4) The court's order of enforcement, when entered, shall have the
36 same force and effect as a civil judgment.

37 (5) The remedies provided in RCW 42.17.390(6), (7), (8), and (9)
38 for failure to comply with a court order are also available for failure

1 to comply with a court's order of enforcement entered under this
2 section.

3 (6) Notwithstanding RCW 34.05.578 through 34.05.590, this section
4 is the exclusive method for enforcing an order of the commission.

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

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

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

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

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

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

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

1 shall be awarded all costs of trial, and may be awarded a reasonable
2 attorney's fee to be fixed by the court to be paid by the state of
3 Washington.

4 **Sec. 5.** RCW 29.15.025 and 1993 c 317 s 10 are each amended to read
5 as follows:

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

9 (2) The name of a candidate for an office shall not appear on a
10 ballot for that office unless, except as provided in RCW 3.46.067 and
11 3.50.057, the following requirements are satisfied:

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

23 (b) The candidate or the candidate's committee is in compliance
24 with any court order that has been entered under chapter 42.17 RCW.
25 The officer with whom declarations and affidavits of candidacy must be
26 filed under this title shall review each such declaration filed
27 regarding compliance with this subsection (2).

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

30 **Sec. 6.** RCW 42.17.360 and 1973 c 1 s 36 are each amended to read
31 as follows:

32 The commission shall:

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

35 (2) Prepare and publish a manual setting forth recommended uniform
36 methods of bookkeeping and reporting for use by persons required to
37 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.

--- END ---