

FINAL BILL REPORT

SHB 1673

C 304 L 99

Synopsis as Enacted

Brief Description: Penalizing false political advertising.

Sponsors: By House Committee on State Government (Originally sponsored by Representatives Lambert, O'Brien, Thomas and Sullivan).

House Committee on State Government
Senate Committee on State & Local Government

Background:

It is a violation of the state's public disclosure laws for a person to sponsor false political advertising in support of or opposition to a candidate, or a campaign in support of or opposition to a ballot proposition, if:

- The false political advertising is made with actual malice; and
- The violation is proven by clear and convincing evidence.

A person who is found by the superior court to be in violation of the public disclosure laws is subject to a civil penalty of not more than \$10,000 for each violation. In addition, the superior court may void an election if it finds that a violation of the public disclosure laws by a candidate or political committee probably affected the outcome of an election. If such a finding is made, a special election is held within 60 days of the finding.

The Washington Supreme Court, in split decisions, recently found this statute relating to false political advertising to be unconstitutional. Four separate decisions were issued, none of which had a majority of the court. Three justices found the statute to be facially unconstitutional. Two justices found the portion of the statute relating to false advertising about ballot propositions to be facially unconstitutional but indicated that constitutional legislation could be crafted relating to false advertising about candidates. Four justices indicated in two separate decisions that the statute was constitutional as it applied to both ballot measures and candidates.

Summary:

The general prohibition on false political advertising is limited to campaigns involving candidates and does not apply to statements made by a candidate or the candidate's agent about the candidate himself or herself.

Votes on Final Passage:

House 93 0
Senate 41 7 (Senate amended)
House (House refused to concur)
Senate 41 3 (Senate amended)
House 96 0 (House concurred)

Effective: July 25, 1999