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HOUSE BILL 1143

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State of Washington

59th Legislature

2005 Regular Session

By Representatives Green, Nixon, Haigh, McDermott, Hunt and Morrell;  
by request of Public Disclosure Commission

Read first time 01/17/2005. Referred to Committee on State  
Government Operations & Accountability.

1 AN ACT Relating to penalties for violation of the campaign finance  
2 and contribution limits, lobbying, political advertising, and public  
3 officials' financial affairs reporting subdivisions of the public  
4 disclosure act; amending RCW 42.17.390, 42.17.395, and 42.17.400;  
5 adding a new section to chapter 42.17 RCW; and prescribing penalties.

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

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

9 It is the intent of the legislature to increase the authority of  
10 the public disclosure commission to more effectively foster compliance  
11 with our state's requirements regarding campaign finance and  
12 contribution limits, lobbying, political advertising, and reporting of  
13 public officials' financial affairs. It is the intent of the  
14 legislature to make the agency's penalty authority for violations of  
15 the campaign, lobbying, political advertising, and public officials'  
16 financial affairs provisions in RCW 42.17.010 through 42.17.245 and  
17 42.17.350 through 42.17.790 more consistent with other agencies that  
18 enforce state ethics laws and more commensurate with the level of  
19 political spending in the state of Washington.

1       **Sec. 2.** RCW 42.17.390 and 1993 c 2 s 28 are each amended to read  
2 as follows:

3       One or more of the following civil remedies and sanctions may be  
4 imposed by court order in addition to any other remedies provided by  
5 law:

6       (1) If the court finds that the violation of any provision of this  
7 chapter by any candidate or political committee probably affected the  
8 outcome of any election, the result of said election may be held void  
9 and a special election held within sixty days of such finding. Any  
10 action to void an election shall be commenced within one year of the  
11 date of the election in question. It is intended that this remedy be  
12 imposed freely in all appropriate cases to protect the right of the  
13 electorate to an informed and knowledgeable vote.

14       (2) If any lobbyist or sponsor of any grass roots lobbying campaign  
15 violates any of the provisions of this chapter, his or her registration  
16 may be revoked or suspended and he or she may be enjoined from  
17 receiving compensation or making expenditures for lobbying: PROVIDED,  
18 HOWEVER, That imposition of such sanction shall not excuse said  
19 lobbyist from filing statements and reports required by this chapter.

20       (3) Any person who violates any of the provisions of (~~this~~  
21 ~~chapter~~) RCW 42.17.010 through 42.17.245 and 42.17.350 through  
22 42.17.790 may be subject to a civil penalty of not more than ten  
23 thousand dollars for each such violation. However, a person or entity  
24 who violates RCW 42.17.640 may be subject to a civil penalty of ten  
25 thousand dollars or three times the amount of the contribution  
26 illegally made or accepted, whichever is greater.

27       (4) Any person who fails to file a properly completed statement or  
28 report within the time required by this chapter may be subject to a  
29 civil penalty of ten dollars per day for each day each such delinquency  
30 continues.

31       (5) Any person who fails to report a contribution or expenditure as  
32 required by this chapter may be subject to a civil penalty equivalent  
33 to the amount (~~he failed to report~~) not reported as required.

34       (6) The court may enjoin any person to prevent the doing of any act  
35 herein prohibited, or to compel the performance of any act required  
36 herein.

1       **Sec. 3.** RCW 42.17.395 and 1989 c 175 s 91 are each amended to read  
2 as follows:

3       (1) The commission may (a) determine whether an actual violation of  
4 (~~(this chapter)~~) RCW 42.17.010 through 42.17.245 or 42.17.350 through  
5 42.17.790 has occurred; and (b) issue and enforce an appropriate order  
6 following such determination.

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

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

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

25       (5) An order issued by the commission under this section shall be  
26 subject to judicial review under the Administrative Procedure Act,  
27 chapter 34.05 RCW. If the commission's order is not satisfied and no  
28 petition for review is filed within thirty days as provided in RCW  
29 34.05.542, the commission may petition a court of competent  
30 jurisdiction of any county in which a petition for review could be  
31 filed under that section, for an order of enforcement. Proceedings in  
32 connection with the commission's petition shall be in accordance with  
33 RCW 42.17.397.

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

36       (1) The attorney general and the prosecuting authorities of

1 political subdivisions of this state may bring civil actions in the  
2 name of the state for any appropriate civil remedy, including but not  
3 limited to the special remedies provided in RCW 42.17.390.

4 (2) The attorney general and the prosecuting authorities of  
5 political subdivisions of this state may investigate or cause to be  
6 investigated the activities of any person who there is reason to  
7 believe is or has been acting in violation of this chapter, and may  
8 require any such person or any other person reasonably believed to have  
9 information concerning the activities of such person to appear at a  
10 time and place designated in the county in which such person resides or  
11 is found, to give such information under oath and to produce all  
12 accounts, bills, receipts, books, paper and documents which may be  
13 relevant or material to any investigation authorized under this  
14 chapter.

15 (3) When the attorney general or the prosecuting authority of any  
16 political subdivision of this state requires the attendance of any  
17 person to obtain such information or the production of the accounts,  
18 bills, receipts, books, papers, and documents which may be relevant or  
19 material to any investigation authorized under this chapter, he shall  
20 issue an order setting forth the time when and the place where  
21 attendance is required and shall cause the same to be delivered to or  
22 sent by registered mail to the person at least fourteen days before the  
23 date fixed for attendance. Such order shall have the same force and  
24 effect as a subpoena, shall be effective statewide, and, upon  
25 application of the attorney general or said prosecuting authority,  
26 obedience to the order may be enforced by any superior court judge in  
27 the county where the person receiving it resides or is found, in the  
28 same manner as though the order were a subpoena. The court, after  
29 hearing, for good cause, and upon application of any person aggrieved  
30 by the order, shall have the right to alter, amend, revise, suspend, or  
31 postpone all or any part of its provisions. In any case where the  
32 order is not enforced by the court according to its terms, the reasons  
33 for the court's actions shall be clearly stated in writing, and such  
34 action shall be subject to review by the appellate courts by certiorari  
35 or other appropriate proceeding.

36 (4) Any person who has notified the attorney general and the  
37 prosecuting attorney in the county in which the violation occurred in  
38 writing that there is reason to believe that some provision of this

1 chapter is being or has been violated may himself bring in the name of  
2 the state any of the actions (hereinafter referred to as a citizen's  
3 action) authorized under this chapter. This citizen action may be  
4 brought only if the attorney general and the prosecuting attorney have  
5 failed to commence an action hereunder within (~~forty-five~~) sixty  
6 business days after such notice and such person has thereafter further  
7 notified the attorney general and prosecuting attorney that (~~said~~)  
8 the person will commence a citizen's action within ten business days  
9 upon their failure so to do, and the attorney general and the  
10 prosecuting attorney have in fact failed to bring such action within  
11 ten business days of receipt of (~~said~~) the second notice. If the  
12 person who brings the citizen's action prevails, the judgment awarded  
13 shall escheat to the state, but he shall be entitled to be reimbursed  
14 by the state of Washington for costs and attorney's fees he has  
15 incurred: PROVIDED, That in the case of a citizen's action which is  
16 dismissed and which the court also finds was brought without reasonable  
17 cause, the court may order the person commencing the action to pay all  
18 costs of trial and reasonable attorney's fees incurred by the  
19 defendant.

20 (5) In any action brought under this section, the court may award  
21 to the state all costs of investigation and trial, including a  
22 reasonable attorney's fee to be fixed by the court. If the violation  
23 is found to have been intentional, the amount of the judgment, which  
24 shall for this purpose include the costs, may be trebled as punitive  
25 damages. If damages or trebled damages are awarded in such an action  
26 brought against a lobbyist, the judgment may be awarded against the  
27 lobbyist, and the lobbyist's employer or employers joined as  
28 defendants, jointly, severally, or both. If the defendant prevails, he  
29 shall be awarded all costs of trial, and may be awarded a reasonable  
30 attorney's fee to be fixed by the court to be paid by the state of  
31 Washington.

32 NEW SECTION. **Sec. 5.** If any provision of this act or its  
33 application to any person or circumstance is held invalid, the  
34 remainder of the act or the application of the provision to other  
35 persons or circumstances is not affected.

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