

# FINAL BILL REPORT

## SHB 1195

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### PARTIAL VETO C 428 L 19 Synopsis as Enacted

**Brief Description:** Concerning the efficient administration of campaign finance and public disclosure reporting and enforcement.

**Sponsors:** House Committee on State Government & Tribal Relations (originally sponsored by Representatives Hudgins, Walsh, Dolan, Wylie and Pollet; by request of Public Disclosure Commission).

**House Committee on State Government & Tribal Relations**  
**Senate Committee on State Government, Tribal Relations & Elections**

#### **Background:**

##### The Public Disclosure Commission.

Washington's campaign finance and disclosure law requires the disclosure of campaign finance and lobbyist activity, as well as the financial affairs of elective officers, candidates, and executive state officers.

The Public Disclosure Commission (PDC) enforces the provisions of the campaign finance disclosure law and has authority to develop procedures, adopt rules, investigate complaints, and impose civil penalties for violations. The PDC may provide access to information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates.

The PDC is composed of five commissioners, appointed for single five-year terms by the Governor with the consent of the Senate.

##### Reporting Requirements.

*Reporting Thresholds.* The PDC must, at the beginning of each even-numbered year, and based on inflation, change the monetary thresholds in contribution limit provisions specified under law, provisions related to the use of contributions to reimburse a candidate for certain loan amounts, requirements for when a contribution must be by written instrument for contributions of certain amounts, and reporting thresholds for employers of registered lobbyists. The PDC must revise, at least once every five years, but no more than every two

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years, the monetary reporting thresholds and assigned code values under campaign finance laws.

*Political Committees and Candidates.* All political committees and candidates are required to file a statement of organization with the PDC. An initial report is due the same day the statement of organization is filed. A political committee and candidate must also periodically report to the PDC on their contribution and expenditure activities for each election in which a candidate or political committee is participating. Reports are due 21 days and seven days before the election, on the tenth day one month after the election, and monthly if the committee spends or receives more than \$200.

*Incidental Committees.* An incidental committee is a nonprofit organization not otherwise reporting as a political committee, that makes political contributions or expenditures in political campaigns. An incidental committee must file a statement of organization with the PDC within two weeks after expecting to make *contributions or expenditures* of at least \$25,000 in a calendar year in any election campaign or to a political committee. Subsequent reports are due 21 days and seven days before the election, and on the tenth day one month after the election. When the incidental committee is not otherwise required to report, the incidental committee must report to the PDC on the tenth day of each month that the source of the top 10 largest payments of \$10,000 or greater that it received that year from a single source changes, as well as when any campaign expenditures exceeds \$200 in the period since its last report.

A treasurer of a committee must disclose and certify as correct certain information in the required contribution and expenditure reporting. The PDC may modify this requirement for an incidental committee in cases of manifesting unreasonable hardship.

*Independent Expenditures.* Independent expenditures in the context of political advertising are expenditures made independently of a candidate or that candidate's authorized committee that pays for political advertising in support of or in opposition to that candidate, and has an aggregate value of at least one-half the contribution limit from an individual per election. Under certain circumstances, these independent expenditures are separately reportable to the PDC if it has a fair market value of at least \$1,000.

*Personal Financial Affairs Reporting.* Every elected official and executive state officer must file with the PDC a statement of financial affairs, known as an F-1 statement, for the preceding calendar year between January 1 and April 15. New appointees or elected officials must file the F-1 statement within two weeks of the appointment or of taking office. The F-1 statement requires disclosure of financial and personal information relating to the filer and the filer's immediate family.

Required items for disclosure include certain information on the filer and filer's immediate family members including, but not limited to:

- occupation, name of employer, and business address;
- bank accounts, savings accounts, certain insurance policies and other intangible personal property holdings, and real estate property holdings;
- debt to each creditor, to whom \$2,000 or more was owed;
- every public or private office, directorship, and position held as a trustee; and

- any gifts of food or beverage in excess of \$50.

In certain instances, such financial matters must be reported only if the value exceeds a specified amount. The dollar value of personal finances may be reported by range of value, rather than specific dollar amounts. The current reporting ranges include: less than \$4,000; between \$4,000 and \$20,000; between \$20,000 and \$40,000; between \$40,000 and \$100,000; and \$100,000 or more.

*Modification of Reporting Requirements.* The PDC may suspend or modify any of the reporting requirements upon request where the majority of the commissioners find that literal application causes a manifestly unreasonable hardship in a particular case and the suspension or modification will not frustrate the purpose of the campaign finance laws. Initial requests for modifications may not be heard in a brief adjudicative proceeding. However, renewals for reporting modifications may be heard in a brief adjudicative proceeding, unless the initial request was granted more than three years prior or if the applicant is holding a different position.

#### Commercial Advertiser and Books of Accounts.

Commercial advertisers sell the service of communicating messages to the public through a variety of media. Any commercial advertiser that accepts or provides political advertising or electioneering communications during the election campaign must maintain books of account, which must specify:

- sponsor names and addresses;
- the exact nature and extent of services rendered; and
- the total cost and manner of payment for services.

This information must be delivered to the PDC on request, and is open for public inspection during regular business hours during the campaign and for at least three years after the election.

#### Enforcement Authority.

*The PDC Authority.* The PDC may initiate its own investigations of campaign finance and disclosure law violations or investigate complaints filed by any person. The PDC may conduct audits and field investigations as it deems appropriate and issue subpoenas.

Upon receiving a complaint, the PDC may:

- dismiss or otherwise resolve the complaint as appropriate after conducting a preliminary review;
- initiate an investigation to determine if a violation has occurred, conduct hearings, and issue and enforce an appropriate order, in accordance with the administrative procedure process; or
- refer the matter to the Attorney General (AG).

If the PDC initiates an investigation, the initial hearing must occur within 90 days of the complaint being filed.

*Attorney General Authority.* The AG may bring a civil action only if a matter is referred from the PDC. Within 45 days of such referral, the AG must provide notice whether to

commence an action, which constitutes state action. The AG is directed to use enforcement authority in a consistent manner that provides guidance in complying with the law.

*Citizen's Action.* A person may file a citizen's action by first filing a complaint with the PDC. If the PDC takes certain action to dismiss or resolve a complaint, initiate an investigation and hold a hearing within 90 days of receiving the complaint, or refer the complaint to the AG, then the person may not go forward in the process. If the PDC refers the matter to the AG within 90 days of receiving the complaint, a citizen's action may only proceed if the AG does not commence an action within 45 days of receiving the referral. Before commencing a citizen's action, a person must notify the AG and the PDC that he or she will file a citizen's action if the AG or the PDC does not commence action within 10 days. A citizen's action must be filed within two years after an alleged violation occurred, and may not be filed against a committee that has received an acknowledgment of dissolution.

The judgment awarded in a citizen's action to the prevailing party are transferred to the state, but the state reimburses a successful plaintiff for legal costs and attorney fees incurred.

#### Other.

With exceptions, the PDC reporting requirements do not apply to candidates, elected officials, and agencies in political subdivisions with fewer than 1,000 registered voters as of the date of the most recent general election in that jurisdiction.

Each candidate and each political committee must designate and file with the PDC and the appropriate county elections officer certain information regarding the depository for each county in which the campaign is conducted and the candidate's or political committee's accounts are maintained.

A person may not make a contribution of more than \$80, other than an in-kind contribution, except by a written instrument.

#### **Summary:**

##### The Public Disclosure Commission.

The term of a PDC commissioner may be extended until a successor is appointed, for up to 12 additional months.

##### Reporting Requirements.

*Electronic Reporting.* Reports to the PDC must be filed electronically where the PDC has provided an electronic filing option, unless an exception is made for a filer who lacks the technological ability to file electronically. Committees must provide the committee treasurer's electronic contact information to the commission and any change to the electronic contact information within 10 days of the change. The PDC must attempt to make available on its website public records submitted to or generated by the PDC, except that the PDC is prohibited from posting statements of financial affairs filed by any person.

*Incidental Committees.* Incidental committees must only make or expect to make expenditures in political campaigns of at least \$25,000 in a calendar year to trigger the reporting requirements for filing a statement of organization. The information in required

contribution and expenditure reports that an incidental committee must disclose and certify as correct is narrowed to only information relating to the top 10 largest source of payments and the payment if the payment from any single source is in the amount of \$10,000 or greater, and information relating to expenditures in excess of \$50.

*Independent Expenditure.* In the context of political advertising, an expenditure constitutes an independent expenditure if it has the aggregate value of \$1,000 or more.

*Financial Affairs Statement Reporting.* Filers who leave office may file an F-1 statement for that calendar year within 60 days of leaving office. New filers who take office in December may file an F-1 for that year between January 1 and 15 of the following year.

The content of an F-1 is modified. Information for every public or private office, directorship, and position held as a trustee does not need to be reported if service on a governmental board, commission, association, or functional equivalent is part of an elected officials or executive state officer's official duties.

The dollar value of the reporting ranges on statements of financial affairs is changed and may be reported as follows:

- code A is less than \$30,000;
- code B is at least \$30,000 but less than \$60,000;
- code C is at least \$60,000 but less than \$100,000;
- code D is at least \$100,000 but less than \$200,000;
- code E is at least \$200,000 but less than \$500,000;
- code F is at least \$500,000 but less than \$750,000;
- code G is at least \$750,000 but less than \$1,000,000; and
- code H is \$1,000,000 or more.

For disclosure of real property, judges, sheriffs, prosecutors, and their immediate family members may substitute the city or town and type of residence in lieu of the full address of any residence required to be reported on the F-1.

The PDC may suspend or modify reporting requirements for the length of an elected official's term of office or, in the case of an executive state officer, for up to three years. If a material change in the applicant's circumstance or relevant information occurs, the request for modification must be made at least one month prior to the next filing deadline.

*Modification of Reporting Requirements.* A request for modification of a reporting requirement may be granted by the Commission, the Commission Chair acting as presiding officer, or another Commissioner appointed by the Chair to serve as presiding officer. All requests for reporting modifications may be heard in a brief adjudicative proceeding. If the filer requested a modification because of a concern for personal safety, the information submitted regarding that safety concern cannot be made public prior to, or at, the modification hearing. Any information must remain exempt from disclosure to the extent it is determined at the hearing that disclosure of the information would present a personal safety risk to a reasonable person. Modification requests, if granted, may be applied retroactively to previous filings and are also exempt from public disclosure.

### Commercial Advertiser and Books of Account.

The definition of a commercial advertiser is expanded to include entities that sell advertisement or produce material for broadcast to the public through brochures, fliers, paid internet or digital communications, or any other means of mass communications used for appeals for votes or for financial or other support in any election campaign. A commercial advertiser's books of account must be open for inspection for five years after the election to which the books refer.

### Enforcement Authority.

*The PDC's Authority.* The process for the PDC's subpoena authority is specified. Before the issuance of a subpoena, the PDC may apply for and obtain a superior court order approving and authorizing a subpoena. The application for a subpoena must specify the documents, record, evidence, or testimony and include a declaration under oath that an investigation is being conducted for a lawful purpose within the PDC's authority. A subpoena may be sought and approved without notice to any person.

*The Attorney General's Authority and Citizen Action.* Before a person files a citizen's action, the person who has filed a complaint with the commission must, if the commission does not take action within 90 days, notify the AG in writing and the PDC simultaneously. The AG may bring a civil action upon receipt of a notice that the PDC has not taken action within the 90 days. If the AG does not commence an action within 45 days of receiving a written notice that the PDC has not taken action within the 90 days, the person who filed the complaint may initiate a citizen's action in accordance with the law.

The AG may also bring a civil action upon receipt of a notice of intent to commence a citizen's action. A citizen's action claim is precluded if, within the statutory 10 days of receiving a notice of a citizen's action, the PDC or the AG takes action.

Receipts from sanctions, other remedies, or judgments paid to the state as part of campaign finance enforcement actions must be deposited into the Public Disclosure Transparency Account (Account). Any fees and costs awarded pursuant to a citizen's action may not be deposited into the Account or reimbursed from the Account or otherwise by the state. Payment and collection of any such fees and costs are the responsibility of the person commencing the action and the defendant.

### Other.

The threshold is modified for when the PDC reporting requirements do not apply to candidates, elected officials, and agencies, to those in political subdivisions with fewer than 2,000 registered voters.

Each candidate and each political committee must designate and file information regarding depositories with only the PDC.

A person may make a contribution of more than \$100 without doing so by written instrument.

The prohibition on closing a continuing political committee's or a political committee's bank account before the committee dissolves is removed.

**Votes on Final Passage:**

House	95	2	
Senate	34	14	(Senate amended)
House			(House refused to concur)
Senate	34	14	(Senate receded/amended)
House	92	5	(House concurred)

**Effective:** May 21, 2019  
January 1, 2020 (Section 35 and 36)

**Partial Veto Summary:** The Governor vetoed the section that: removed the requirement for the PDC to adopt rules related to the management of reports required to be filed with the county auditor or county elections official; required the PDC to operate a website that allows access to reports filed with the PDC and other public records subject to disclosure, prohibited the PDC from posting statements of financial affairs on any website; required the PDC to publish a calendar on its website of significant reporting dates; and required the PDC to establish access goals for certain reports and related contents filed with the PDC. The Governor also vetoed the section that: included a reference to a provision that was previously removed which made the reimbursement of fees and costs to a prevailing party in a citizen's action claim a matter between the prevailing party and the defendant; and required receipts from sanctions and judgements (including fees and costs awarded to the state) to be deposited into the Public Disclosure Transparency Account.