

# HOUSE BILL REPORT

## ESSB 5284

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### As Passed House - Amended:

April 7, 2023

**Title:** An act relating to improving transparency in campaign finance disclosure.

**Brief Description:** Concerning campaign finance disclosure.

**Sponsors:** Senate Committee on State Government & Elections (originally sponsored by Senators Nguyen, Billig, Frame, Hunt, Keiser, Kuderer, Shewmake and Wilson, C.; by request of Public Disclosure Commission).

### Brief History:

#### Committee Activity:

State Government & Tribal Relations: 3/10/23, 3/28/23 [DPA].

#### Floor Activity:

Passed House: 4/7/23, 97-0.

### Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Requires candidates and political and incidental committees to file an additional contributions and expenditures report 34 days before a general election.
- Increases the threshold for contributions to trigger a special report from \$1,000 to be tied to the contribution limit for state officers, which is currently \$2,000, and increases the special reporting period for large contributions from 21 days before an election to the beginning of the last full month before an election.
- Provides that a certification that no foreign nationals were involved in campaign contributions is required only when the donor gives an amount in an election cycle that exceeds the sum of the contribution limits to a candidate for legislative office for the primary plus the general election, which is currently \$2,400.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

- Requires purchasers of political advertising or electioneering communications to disclose to commercial advertisers that the purchase includes political advertising or electioneering communications, upon request of the commercial advertiser.
- Requires political and incidental committees formed after the first day of the last full month before an election, rather than the last three weeks, to file statements of organization within three business days of organization.

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## HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

**Majority Report:** Do pass as amended. Signed by 7 members: Representatives Ramos, Chair; Stearns, Vice Chair; Abbarno, Ranking Minority Member; Christian, Assistant Ranking Minority Member; Gregerson, Low and Mena.

**Staff:** Jason Zolle (786-7124).

### **Background:**

#### *Public Disclosure Commission.*

The Public Disclosure Commission (PDC) was created in 1972 by Initiative 276. The PDC regulates many financial aspects of political campaigns, including contributions to candidates and expenditures related to ballot measures, as well as political advertisements and electioneering communications.

#### *Political and Incidental Committees.*

Among the entities that the PDC regulates are political committees, which are groups, except for candidates, that have the expectation of receiving contributions or making expenditures in support of or in opposition to any candidate or ballot measure. The PDC also regulates incidental committees, which are nonprofit organizations that incidentally make contributions or expenditures in excess of \$25,000 and receive at least \$10,000 from a single source.

Political committees and incidental committees must file a statement of organization with the PDC that includes names, addresses, and contact information for certain people associated with the committee. For political committees, this statement is generally due within two weeks after organization or two weeks after the committee first expects to receive contributions or make expenditures, whichever is earlier. For incidental committees, the statement is generally due within two weeks after the committee first expects to make expenditures above \$25,000, and the committee is required to disclose any payment received. However, if a political committee is formed, or an incidental committee is first required to file, beginning in the last three weeks before an election, they must file a

statement of organization within three business days.

*Contributions and Expenditures Reports.*

Candidates and political committees must file reports with the PDC detailing all contributions received and expenditures made as of the end of one business day before the report is filed. Incidental committees must also file such reports on the day they file a statement of organization. These reports are due 21 and 7 days immediately preceding an election, and the tenth day of the first full month after an election. This timeline applies to primaries and general and special elections. Sponsors of independent expenditures must also file expenditure reports on those dates. Reports also must be filed each month a candidate or committee spends at least \$200.

*Special Reports.*

Special reports are also required for many types of election-related activity in the days immediately preceding an election. For example, the sponsor of political advertising must file a special report to the PDC within a working day of the ad's first presentation to the public. Special reports are also required when a candidate receives, or a political committee makes, contributions of \$1,000 or more from or to a single entity in the 21 days preceding a general election.

*Restrictions on Contributions by Foreign Nationals.*

Under both state and federal law, foreign nationals are prohibited from making campaign contributions and expenditures, and from sponsoring electioneering communications and political advertising in Washington. All candidates and political committees engaging in Washington elections, including out-of-state committees, must obtain from any partnership, association, corporation, or other group that makes a contribution to the candidate or committee a certification that foreign nationals were not involved in any way in the financing or decision making regarding the contribution. Candidates and committees are required to retain these certifications for at least three years after the election, and copies of the certifications must be provided to the PDC upon request. Each contributions and expenditures report filed with the PDC by a candidate or political committee must include a statement that the candidate or committee has received a certification from each partnership, association, corporation, or other group that made a contribution.

*Commercial Advertisers.*

Any person or entity who sells the service of communicating messages or producing material for the general public is considered a commercial advertiser and is subject to regulation by the PDC. A commercial advertiser who has accepted or provided political advertising or electioneering communications during an election campaign must maintain current books of account that are open for public inspection. The documents must specify information about the sponsors of political advertising or electioneering communications, including their identity and the cost of the services. A commercial advertiser must provide this information to the PDC upon request.

## **Summary of Amended Bill:**

### *Statements of Organization.*

A political or incidental committee must file its statement of organization with the PDC within three business days if it is organized or first required to file within the period beginning the first day of the last full month before an election, rather than the three weeks before the election.

### *Contributions and Expenditures Reports.*

Contributions and expenditures reports for candidates and political committees are due 20 and 6 days preceding any election, rather than 21 and 7, and an additional report is due 34 days before a general election. Those reports must include all contributions received and expenditures made through the end of two calendar days before the filing, rather than one business day. The same date changes are made to independent expenditure reports.

### *Special Reports.*

The threshold contribution amount to trigger the requirement to file a special report is increased to more than the contribution limit to a candidate for state office other than legislative office, which is currently \$2,000, rather than \$1,000 or more. The special reporting period is modified to the beginning of the last full month preceding an election, rather than the 21 days preceding an election. Special reports are no longer required for political advertising if the advertising is otherwise required to be reported in a contributions and expenditures report.

### *Foreign Nationals Certifications.*

Candidates and political committees are required to receive a certification that no foreign nationals were involved in campaign contributions only when the donor gives an amount in an election cycle that exceeds a specified threshold: the sum of the contribution limit to a candidate for legislative office for the primary plus the general election, which is currently \$2,400. Candidates and committees must certify in their contributions and expenditures reports that they received a certification only for contributions that exceed that threshold, or they must state that no contributions were large enough to require a certification.

### *Commercial Advertisers.*

Any person who purchases political advertising or electioneering communications from a commercial advertiser must disclose, upon request from the commercial advertiser, that the purchase includes political advertising or electioneering communications, as well as any other information that the commercial advertiser is required by the PDC to maintain. A sponsor's failure to provide this information is a violation punishable by the PDC, but it does not relieve the commercial advertiser of its own responsibilities under the law.

Other minor technical changes are made.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The parts of this bill requested by the PDC are designed to increase transparency and public trust in elections. The adjustments to the reporting deadlines will bring more information to voters earlier in the process, and it has been negotiated to be workable with campaign treasurers. The provisions related to commercial advertising are a win-win by making it easier for social media companies to comply with state disclosure laws while also increasing transparency in advertising. Provisions that were in House Bill 1677 about allowing the PDC to have greater control over its account funds should be added back into the bill. The provisions about foreign-influenced corporations were not requested by the PDC. The previous law related to foreign nationals prohibited noncitizens from participation in state politics and this would remove that barrier.

(Opposed) This bill about transparency was hijacked by the Senate to add an unpopular provision to keep businesses out of the political process. A local family business that does all of its business in-state is suddenly considered a foreign-influenced corporation if a mere 1 percent of its stock is purchased by a foreign hedge fund. The bill effectively creates a presumption that a business is foreign-influenced that the business must rebut by certifying otherwise. That is a bad standard to put into state law. Any business would be terrified about contributing to a candidate because they may not be able to figure out whether they are foreign-influenced under the standard in the bill. The requirements in this bill affect every corporation, not just large multinational corporations. It would create additional bureaucracy for corporations because every time they make a donation, they must recheck to see whether just 1 percent of their stock ownership has changed. The previous law was much more workable because organizations that had foreign members would just prohibit the members from participating in their political activity.

(Other) The PDC-requested provisions in this bill are supported by campaign treasurers. The provisions in this bill about foreign-influenced corporations create concern. The 1 percent threshold for a corporation to be considered foreign-influenced is too low. Requiring the CEO to certify citizenship information about the corporation's ownership is problematic because companies do not have mechanisms to check the citizenship of their shareholders. It will also increase the work of volunteer campaign treasurers if they have to verify that corporations do not have foreign ownership before accepting contributions.

**Persons Testifying:** (In support) Cindy Black, Fix Democracy First; Cindy Madigan, League of Women Voters of Washington; Kathy Sakahara, Northwest Progressive Institute; Sean Flynn, Public Disclosure Commission; and Eli Goss, OneAmerica.

(Opposed) Laurie Layne; Joshua Hardwick; Tim Eyman; Dave Mastin, Association of Washington Business; Jerry VanderWood, Associated General Contractors; and Nathan Gorton, Washington Realtors.

(Other) Eric Pratt; and Conner Edwards.

**Persons Signed In To Testify But Not Testifying:** None.