

HOUSE BILL REPORT

ESHB 2986

As Passed House

March 2, 1992

Title: An act relating to campaign financing.

Brief Description: Regulating campaign financing.

Sponsor(s): Representatives Anderson, Hine, Pruitt, Rayburn, Dellwo, R. Fisher, Bray, Ludwig, Rasmussen and Nelson.

Brief History:

Reported by House Committee on:

State Government, February 18, 1992, DPS;

Passed House, March 2, 1992, 58-38.

**HOUSE COMMITTEE ON
STATE GOVERNMENT**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 6 members: Representatives Anderson, Chair; Pruitt, Vice Chair; R. Fisher; Grant; O'Brien; and Sheldon.

Minority Report: *Do not pass.* Signed by 4 members: Representatives McLean, Ranking Minority Member; Bowman, Assistant Ranking Minority Member; Chandler; and Moyer.

Staff: Kenneth Hirst (786-7105).

Background: In 1972, the voters approved Initiative Measure No. 276 regarding public disclosure. One section of the initiative established mandatory expenditure limits on campaigns for elective office. In 1974, the state's Supreme Court found that section to be unconstitutional.

A series of federal court cases has identified a number of constitutional limitations on the regulation of campaign financing. Certain constitutionally permissible restrictions on such financing have also been identified in those decisions. In those cases, the courts found the following to be permissible: (1) limitations on contributions by individuals or organizations to candidates for federal office; (2) limitations on contributions by individuals or organizations to political action committees; (3) limitations on contributions by political action committees to candidates for federal office; (4) limitations

on total contributions by individuals in a calendar year to candidates for federal office; (5) public financing for presidential elections; and (6) federal public disclosure requirements.

Found to be impermissible were ceilings on candidate expenditures or on "independent expenditures" (that is, campaign expenditures not subject to the control of a candidate). Upheld, however, were ceilings on candidate expenditures which become effective as part of a public financing agreement under which a candidate agrees to abide by the limits in exchange for public financing. Also found to be impermissible were any ceilings on contributions or expenditures in ballot proposition campaigns.

Summary of Bill:

CONTRIBUTION AND SPENDING LIMITS

Contribution Limits. Limits are established on the aggregate of contributions which may be made to or accepted by a candidate for public office. These limits apply to candidates for any state office. Beginning July 1, 1995, the limits also apply to candidates for any local office except an office of a local government which: has fewer than 5,000 registered voters within it and does not encompass an entire county; or has set campaign contribution and spending limits for its offices.

<u>Contributor</u>	<u>Limit</u>
Political Party Organization or Caucus of Legislature	\$200/primary or election
Any Other Person or Entity	\$100/primary or election

The total of all of the contributions that a candidate receives from political action committees (PACs) cannot exceed 25 percent of the total of all contributions received by the candidate by the end of the election. A corporation or labor organization may make political contributions only: for or against ballot propositions; to political parties for uses other than the support of or opposition to candidates; or to its own PAC (it may have only one PAC). An out-of-state political committee may make contributions to candidates or political committees in this state, other than ballot proposition committees, only if the out-of-state committee received in the previous or current year contributions of \$10 or more from each of at least 100 registered voters in this state. A person's contributions to a public office fund may not exceed \$200/year.

Contribution Period Limited. Contributions may be made to or accepted by candidates for public office only during a "campaign period." The campaign period begins on Labor Day of the year prior to an election year for an office and ends with the election.

Spending Limits. Limitations on the total expenditures that a candidate for state office may make during the two or four year election cycle for the office are established. They are:

<u>Office Sought</u>	<u>Spending Limit</u>
Governor	\$ 2,000,000
Other State Executive Office	\$ 500,000
Supreme Court Judge	\$ 500,000
Court of Appeals or Superior Court Judge	\$ 80,000
State Senate	\$ 80,000
State Representative	\$ 50,000

Any candidate for a state office who spends or receives in contributions more than the amount listed for the office must notify the Public Disclosure Commission (PDC) and any other candidate for that office within 24 hours of that occurrence.

Within 30 days of becoming a candidate for state office or within three business days of filing for office, whichever is earlier, a candidate must sign and file with the PDC a statement of acceptance or rejection of a spending limit agreement. A candidate filing a statement of acceptance must agree to abide by the spending limit and comply with the Fair Campaign Practices Code adopted by the commission. A candidate agreeing to the spending limits must also limit expenditures of his or her personal funds in the campaign to the following:

<u>Office Sought</u>	<u>Limit on Personal Funds</u>
Governor	\$ 75,000
Other State Executive Office	\$ 25,000
Supreme Court Judge	\$ 25,000
Court of Appeals or Superior Court Judge	\$ 8,000
State Senate	\$ 8,000
State Representative	\$ 5,000

The secretary of state must prominently place in the state's official candidates' pamphlet the following notice following the statement of a candidate who has signed and abided by a spending limit for a state office: "This candidate has agreed to the campaign spending limit." Next to all other

candidates, the prominent notice must read: "This candidate has not agreed to the campaign spending limit of \$(amount)."

There are no spending limits for a candidate for one of these offices if: (1) the candidate filed a statement agreeing to the limits but another candidate for the office enters a spending limit agreement but spends more than the limit, or does not enter such an agreement and accepts contributions or makes expenditures which in the aggregate exceed the spending limit for the office; or (2) the commission determines that the sum of the expenditures of or contributions to another candidate for the office plus certain independent expenditures exceeds the spending limit for the office.

Alternative Contribution Limits. Contribution limits to a candidate for state office who signs and files a statement accepting the spending limits are as follows:

<u>Contributor</u>	<u>Limit</u>
Political Party Organization or Caucus of State Legislature	\$0.20 times the number of registered voters in the jurisdiction (per campaign period).
Multicandidate Political Committee	\$750/primary or election
Any Other Person or Entity	\$250/primary or election

The total of all of the contributions that such a candidate receives from PAC's cannot exceed 50 percent of the total of all contributions received by the candidate by the end of the election.

Penalty. The penalty for violating a contribution limit is the greater of \$10,000 or three times the amount of the contribution illegally made or accepted. A violation of a spending limit by a person who has agreed to the limit is the greater of \$10,000 or three times the amount of the expenditures in excess of the applicable spending limit.

Other Effects of Agreement. After an election involving a spending limit, a candidate who enters and abides by a spending limit agreement may retain in his or her campaign fund up to 10 percent of the amount of the specified spending limit for the office in surplus funds. All other candidates must dispose of all surplus funds within 90 days of the end of that election cycle for the office. A

candidate agreeing to the spending limits may also use the commission's good campaign practices seal.

Contributions During Session. A state-wide elected state official or state legislator cannot solicit or accept contributions to any campaign fund or political committee during a period which begins on the 15th day before a Regular Session and ending the 30th day after the session.

Other. The contribution and expenditure limits also apply during a special election to fill a vacancy and to recall campaigns; however contributions and expenditures made for such a special election or recall campaign do not count toward the limits for any other primary or election. Special rules apply to repaying loans and rules are established and authorized for determining the effect of contributions made by entities controlled by others.

OTHER

Independent Expenditures. Independent expenditures of more than \$500 (rather than \$100, as currently) must be reported to the commission and the local elections officer within two business days (rather than five). A copy of the report must be transmitted to each candidate for the offices for which the expenditure was made. If a person makes an independent expenditure by mailing 1,000 or more nearly identical pieces of political advertising in a year, a copy of the mailing must also be transmitted to the commission, the local elections officer, and such candidates. If the expenditure is made by any entity other than a political party organization, the entity must list the names of up to five of its top contributors.

Mailings by Incumbents. During the "campaign period" for a state legislative office, a state legislator may make only two mailings to constituents at public expense: one near the beginning of a Regular Session and one within 60 days of the end of that session. Other mailings or similar transmissions at public expense are prohibited during this period; however, this limitation does not apply to direct responses to constituent requests.

Multicandidate Committee's Annual Report. Each multicandidate political committee must file an annual report with the commission summarizing its expenditures and contributions, including a breakdown by candidate and ballot proposition. The report must also be sent by the committee to each person who contributed more than \$25 to it during the period covered by the report.

Transfers of Surplus Funds. Surplus funds of a candidate may no longer be transferred to another candidate or to a

political committee; however, they may be transferred to a political party organization or to a caucus of the state Legislature.

Honoraria; Other. The Legislature's joint rule banning certain honoraria is codified as law. Contributions or expenditures made before the effective date of this act do not count toward the limits set by the act. The commission is directed to: adjust the dollar values of the contribution and spending limits every two years to reflect changes in economic indices, and make certain audits and field investigations. Reports regarding public office funds must be reported quarterly.

Alternative to Initiative 134. This act constitutes an alternative to Initiative 134 and is to be placed on the ballot as an alternative as prescribed by the Constitution.

Fiscal Note: Requested February 10, 1992.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (1) This bill establishes reasonable limits on both contributions and spending. Limiting only one will not bring about real reform. (2) The bill limits the influence of PAC's by limiting the amount that a candidate can receive from all PAC's combined. (3) NOW uses a PAC to help women challengers overcome the advantage held by incumbents. PAC's should have a role to play in financing campaigns, but that role should be limited as in this bill. (3) By limiting the amount of surplus funds that can be carried over from one campaign to the next, the bill limits the ability of incumbents to build war chests which discourage potential challengers from filing for office. (4) Campaign reform will assist citizen groups such as environmental groups. (5) Local governments should be given the opportunity to tailor campaign contribution and spending limits to their own, diverse needs; the bill gives them such an opportunity.

Testimony Against: (1) Base contribution limits should not be so low that the courts will find that candidates are coerced into "voluntarily" agreeing to spending limits in order to wage effective campaigns; if the courts find coercion, they will invalidate the system. (2) No surplus funds should be carried-over from one campaign to the next. (3) Smaller jurisdictions should be included in the contributions limiting program; undo influence may be acute in these smaller jurisdictions. (4) The disclosure commission's "Fair Campaign Practices Code" is too vague to be enforced.

Witnesses: Representative Cal Anderson (in favor); Lonnie Johns-Brown, NOW (in favor); George Tyler (in favor); Margaret Colony, CURES and League of Women Voters of Washington; Norman Turrill, CURES and Common Cause; Bruce Wishart, Sierra Club; Graham Johnson, Public Disclosure Commission; and Jim Justin, Washington Association of Cities.