
SENATE BILL 5899

State of Washington

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1999 Regular Session

By Senators Patterson, Bauer, Franklin, Rasmussen, B. Sheldon, Haugen, Kohl-Welles, McAuliffe, Fraser, Prentice, Thibaudeau and Spanel

Read first time 02/15/1999. Referred to Committee on State & Local Government.

1 AN ACT Relating to penalties for violation of the public disclosure
2 act; amending RCW 42.17.390 and 42.17.395; and prescribing penalties.

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

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

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

9 (1) (~~If the court finds that the violation of any provision of~~
10 ~~this chapter by any candidate or political committee probably affected~~
11 ~~the outcome of any election, the result of said election may be held~~)
12 The court or the legislature, as applicable, shall presume that a
13 material and substantial violation of this chapter has affected the
14 outcome of the election. Unless the presumption is defeated by clear,
15 cogent, and convincing evidence, the court or the legislature, as
16 applicable, shall declare the election void and a special election held
17 within sixty days of such finding. Any action to void an election
18 shall be commenced within one year of the date of the election in
19 question. It is intended that this remedy be imposed freely in all

1 appropriate cases to protect the right of the electorate to an informed
2 and knowledgeable vote.

3 (2) If any lobbyist or sponsor of any grass roots lobbying campaign
4 violates any of the provisions of this chapter, his registration may be
5 revoked or suspended and he may be enjoined from receiving compensation
6 or making expenditures for lobbying: PROVIDED, HOWEVER, That
7 imposition of such sanction shall not excuse said lobbyist from filing
8 statements and reports required by this chapter.

9 (3) Any person who violates any of the provisions of this chapter
10 may be subject to a civil penalty of not more than (~~ten~~) forty
11 thousand dollars for each such violation. However, a person or entity
12 who violates RCW 42.17.640 may be ordered to return a contribution
13 illegally accepted and may be subject to a civil penalty of (~~ten~~)
14 twenty thousand dollars or three times the amount of the contribution
15 illegally made or accepted, whichever is greater.

16 (4) Any person who fails to file a properly completed statement or
17 report within the time required by this chapter may be subject to a
18 civil penalty of (~~ten~~) forty dollars per day for each day each such
19 delinquency continues.

20 (5) Any person who fails to report a contribution or expenditure
21 may be subject to a civil penalty equivalent to the amount he failed to
22 report.

23 (6) A person who makes an independent expenditure that is unlawful
24 because of the encouragement, approval, or collaboration of a candidate
25 is subject to a penalty of up to three times the amount of the unlawful
26 expenditure.

27 (7) If a candidate or an officer of a candidate's authorized
28 committee or of a political committee is found to have intentionally
29 violated this chapter, he or she may be ordered to pay any civil
30 penalty that is imposed from personal funds.

31 (8) The court may enjoin any person to prevent the doing of any act
32 (~~herein~~) prohibited by this chapter, or to compel the performance of
33 any act required (~~herein~~) by this chapter.

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

36 (1) The commission may (a) determine whether an actual violation of
37 this chapter has occurred; and (b) issue and enforce an appropriate
38 order following such determination.

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

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

9 (4) The person against whom an order is directed under this section
10 shall be designated as the respondent. The order may require the
11 respondent to cease and desist from the activity that constitutes a
12 violation and in addition, or alternatively, may impose one or more of
13 the remedies provided in RCW 42.17.390(~~((1) (b), (c), (d), or (e))~~)
14 (2), (3), (4), or (5): PROVIDED, That no individual penalty assessed
15 by the commission may exceed (~~(one)~~) two thousand dollars, and in any
16 case where multiple violations are involved in a single complaint or
17 hearing, the maximum aggregate penalty may not exceed (~~(two)~~) five
18 thousand (~~(five hundred)~~) dollars.

19 (5) An order issued by the commission under this section shall be
20 subject to judicial review under the Administrative Procedure Act,
21 chapter 34.05 RCW. If the commission's order is not satisfied and no
22 petition for review is filed within thirty days as provided in RCW
23 34.05.542, the commission may petition a court of competent
24 jurisdiction of any county in which a petition for review could be
25 filed under that section, for an order of enforcement. Proceedings in
26 connection with the commission's petition shall be in accordance with
27 RCW 42.17.397.

28 (6) A candidate who has not complied with an order issued under RCW
29 42.17.390 or this section, and the remedies imposed thereunder, shall
30 not solicit or accept contributions or make expenditures until the
31 candidate has complied with the order and the remedies so imposed.

32 (7)(a) A political committee that has not complied with an order
33 issued under RCW 42.17.390 or this section, and the remedies imposed
34 thereunder, shall not solicit or accept contributions or make
35 expenditures until it has complied with the order and the remedies so
36 imposed. This restriction applies to the political committee against
37 whom the order and remedies were issued as well as a political
38 committee that has a majority of the same officers as the committee
39 that is subject to the order.

1 (b) If an officer of a political committee has not complied with an
2 order issued under RCW 42.17.390 or this section, and the remedies
3 imposed thereunder, then the political committee shall not solicit or
4 accept contributions or make expenditures until the officer has
5 complied with the order and the remedies so imposed. This restriction
6 applies to the committee of which the individual subject to the order
7 was an officer at the time of the violation as well as any other
8 political committee of which the individual is an officer.

9 (8) A person who has not complied with an order issued under RCW
10 42.17.390 or this section, and the remedies imposed thereunder, shall
11 not register as a lobbyist, receive compensation as a lobbyist, or make
12 expenditures for lobbying expenses until the person has complied with
13 the order and the remedies so imposed. If the person is presently
14 registered as a lobbyist or a lobbyist employer, the commission may
15 suspend or revoke the person's registration.

16 (9) A sponsor of a grass roots lobbying campaign that has not
17 complied with an order issued under RCW 42.17.390 or this section, and
18 the remedies imposed thereunder, may not receive contributions or make
19 expenditures for grass roots lobbying purposes until the sponsor has
20 complied with the order and the remedies so imposed.

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