

HOUSE BILL REPORT

HB 2016

As Reported by House Committee On:
State Government & Tribal Affairs

Title: An act relating to campaign contribution and disclosure laws.

Brief Description: Concerning campaign contribution and disclosure laws.

Sponsors: Representatives Flannigan, Appleton, Hurst, Miloscia and Hunt.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/12/09, 2/19/09 [DPS].

Brief Summary of Substitute Bill

- Reorganizes and recodifies chapter 42.17 RCW.
- Exempts electioneering communications and independent expenditures from contribution limits
- Requires that the original sponsor of a political advertisement be named if one of the top five contributors is a political committee established, maintained, or controlled directly or indirectly through the formation of one or more political committees.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Hunt, Chair; Appleton, Vice Chair; Flannigan, Hurst and Miloscia.

Minority Report: Do not pass. Signed by 2 members: Representatives Armstrong, Ranking Minority Member; Alexander.

Staff: Marsha Reilly (786-7135)

Background:

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

Reorganization.

Initiative 276, passed by the voters in 1972, established disclosure of campaign finances, lobbyist activities, financial affairs of elective officers and candidates, and access to public records. That initiative also created the Public Disclosure Commission (PDC), a five member, bi-partisan citizen commission, to enforce the provisions of the campaign finance disclosure law.

Twenty years later, in 1992, the Fair Campaign Practices Act was enacted following passage of Initiative 134. Initiative 134 imposed campaign contribution limits on elections for statewide and legislative office, further regulated independent expenditures, restricted the use of public funds for political purposes, and required public officials to report gifts received in excess of \$50.

Since the enactment of these initiatives numerous changes and additions have been made, including the enactment of Substitute House Bill 1133 resulting in a recodification of the public records portion of the Public Disclosure Act into a new chapter, chapter 42.56 RCW.

Political Advertising.

Issue advocacy does not oppose or support a candidate. It explains an issue which may be of contention in a political campaign. Advertisements (ad) that contain issue advocacy are not regulated or limited. However, when the issue ad exhorts the audience to the action of voting or not voting for a particular candidate, or attacks a candidate's character, it then becomes *express advocacy*. This causes the issue ad to revert to a political ad, which is regulated. In 2003 the U.S. Supreme Court in *Federal Election Commission v. McConnell* held that issue ads broadcast during the 30-day and 60-day periods preceding federal primary and general elections are the "functional equivalent" of express advocacy.

Provisions for reporting political advertising and electioneering communications were enacted by the Legislature in 2005. Political advertising undertaken as an independent expenditure by a person or entity other than a party organization, and all electioneering communications must include a statement indicating that the ad is not authorized by any candidate, as well as information on who paid for the ad. If an ad is an independent expenditure or electioneering communication sponsored by a political committee, the top five contributors also must be listed.

Summary of Substitute Bill:

Reorganization.

Chapter 42.17 RCW is reorganized and language is clarified. Obsolete provisions relating to the information technology plan and electronic filing are removed. The provisions repealed in RCW 42.17.131, 42.17.362, 42.17.365, 42.17.375, 42.17.562, 42.17.620, and 42.17.647 are included in other statutes. The definition of "person in interest" is moved from chapter 42.17 RCW to chapter 42.56 RCW as the term is applicable to the public records statutes. The contribution dollar amounts are updated and technical changes are made to clarify language.

Political Advertising.

If the sponsor of a political ad is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the full name of that individual or entity must be identified in the ad.

An expenditure or contribution for independent expenditures and electioneering communications are exempt from contribution limits. A minor political party is defined to coincide with election law as a political organization other than a major political party.

Substitute Bill Compared to Original Bill:

The dollar amounts related to independent expenditures and contribution are corrected to coincide with the inflationary adjustments. The definition of minor political party is changed to be a political organization other than a major political party. The definition for "issue advertisement by a bona fide political party" is removed. Contributions and expenditures for independent expenditures and electioneering communications are exempt from contribution limits.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed except for section 505, relating to electioneering communications and political advertising, which contains an emergency clause and takes effect immediately; and sections 102 through 504, 506 through 601, and 603 through 1105, relating to campaign contribution and disclosure law, which take effect January 1, 2011.

Staff Summary of Public Testimony:

None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.