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**ENGROSSED SUBSTITUTE SENATE BILL 5108**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate State Government, Tribal Relations & Elections (originally sponsored by Senators Billig, Miloscia, Hunt, Palumbo, Liias, Fain, Saldaña, Pedersen, Carlyle, Keiser, Cleveland, Mullet, Conway, and Kuderer)

AN ACT Relating to disclosure of contributions from political committees to other political committees; amending RCW 42.17A.320; adding a new section to chapter 42.17A RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that the public has the right to know who is contributing to election campaigns in Washington state and that campaign finance disclosure deters corruption, increases public confidence in Washington state elections, raises the level of debate, and strengthens our representative democracy.

The legislature finds that campaign finance disclosure is overwhelmingly supported by the citizens of Washington state as evidenced by the two initiatives that largely established Washington's current system. Both passed with more than seventy-two percent of the popular vote, as well as winning margins in every county in the state.

One of the cornerstones of Washington state's campaign finance disclosure laws is the requirement that political advertisements disclose the sponsor and the sponsor's top five donors. Many political action committees have avoided this important transparency requirement by funneling money from political action committee to political action committee so the top five donors listed are deceptive political action committee names rather than the real donors. The legislature finds that this practice, sometimes called "gray money" or "donor washing," undermines the intent of Washington state's campaign finance laws and impairs the transparency required for fair elections and a healthy democracy.

Therefore, the legislature intends to close this disclosure loophole, increase transparency and accountability, raise the level of discourse, deter corruption, and strengthen confidence in the election process by prohibiting political committees from receiving an overwhelming majority of their funds from one or a combination of political committees.

NEW SECTION. **Sec.**  A new section is added to chapter 42.17A RCW to read as follows:

(1) For any requirement of including "top five contributors" information under RCW 42.17A.320 or any other provision of this chapter, the persons or entities making the largest contributions shall be determined solely as follows:

(a) The sponsor must first identify the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period preceding the date on which the advertisement is initially to be published or otherwise presented to the public;

(b) For any political committee that qualifies as one of the top five contributors identified under (a) of this subsection, the top five contributors to that political committee during the same period must then be identified, and so on, until the individuals or entities other than political committees that have contributed the most to all political committees involved with the advertisement have been identified; and

(c) The sponsor's advertisement must then list the top five individuals or entities other than political committees contributing in excess of seven hundred dollars and making the largest aggregate contributions among all those identified under (a) and (b) of this subsection.

(2) Contributions to the sponsor that are earmarked, tracked, and used for purposes other than the advertisement in question should not be counted in identifying the top five contributors under subsection (1) of this section.

(3) The sponsor shall not be liable for a violation of this section where the persons or entities making the largest contributions to the advertisement fail to report to the commission contributions to the sponsor.

(4) The commission is authorized to adopt rules, as needed, to prevent circumvention and effectuate the purposes of top five contributors information requirements, which are intended to inform voters about the individuals and entities sponsoring political advertisements.

**Sec.**  RCW 42.17A.320 and 2013 c 138 s 1 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

(2) In addition to the information required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party must include as part of the communication:

(a) The statement: "No candidate authorized this ad. It is paid for by (name, address, city, state)";

(b) If the sponsor is a political committee, the statement: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement or communication; and

(c) If the sponsor 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.

(3) The information required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process; and

(c) Be set apart from any other printed matter.

(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height on a solid black background on the entire bottom one-third of the television or visual display screen, or bottom one-fourth of the screen if the sponsor does not have or is otherwise not required to list its top five contributors, and have a reasonable color contrast with the background: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period preceding the date on which the advertisement is initially published or otherwise presented to the public. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period preceding the date on which the advertisement is initially published or otherwise presented to the public. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political advertising costing one thousand dollars or more supporting or opposing ballot measures sponsored by a political committee must include the information on the "Top Five Contributors" consistent with subsections (2), (4), and (5) of this section. A series of political advertising sponsored by the same political committee, each of which is under one thousand dollars, must include the "Top Five Contributors" information required by this section once their cumulative value reaches one thousand dollars or more.

(7) Political yard signs are exempt from the requirements of this section that the sponsor's name and address, and "Top Five Contributor" information, be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(8) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

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