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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, Llias, Fain, Saldaña, Pedersen, Carlyle, Keiser, Cleveland, Mullet, Conway, and Kuderer)

READ FIRST TIME 01/29/18.

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

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the public has  
7 the right to know who is contributing to election campaigns in  
8 Washington state and that campaign finance disclosure deters  
9 corruption, increases public confidence in Washington state  
10 elections, raises the level of debate, and strengthens our  
11 representative democracy.

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

18 One of the cornerstones of Washington state's campaign finance  
19 disclosure laws is the requirement that political advertisements  
20 disclose the sponsor and the sponsor's top five donors. Many  
21 political action committees have avoided this important transparency

1 requirement by funneling money from political action committee to  
2 political action committee so the top five donors listed are  
3 deceptive political action committee names rather than the real  
4 donors. The legislature finds that this practice, sometimes called  
5 "gray money" or "donor washing," undermines the intent of Washington  
6 state's campaign finance laws and impairs the transparency required  
7 for fair elections and a healthy democracy.

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

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.17A  
15 RCW to read as follows:

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

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

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

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

37 (2) Contributions to the sponsor that are earmarked, tracked, and  
38 used for purposes other than the advertisement in question should not

1 be counted in identifying the top five contributors under subsection  
2 (1) of this section.

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

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

12 **Sec. 3.** RCW 42.17A.320 and 2013 c 138 s 1 are each amended to  
13 read as follows:

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

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

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

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

1 (c) If the sponsor is a political committee established,  
2 maintained, or controlled directly, or indirectly through the  
3 formation of one or more political committees, by an individual,  
4 corporation, union, association, or other entity, the full name of  
5 that individual or entity.

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

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

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

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

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

35 (5) The following statement shall be clearly spoken in an  
36 independent expenditure or electioneering communication transmitted  
37 by a method that does not include a visual image: "No candidate  
38 authorized this ad. Paid for by (name, city, state)." If the  
39 independent expenditure or electioneering communication is undertaken  
40 by a nonindividual other than a party organization, then the

1 following statement must also be included: "Top Five Contributors"  
2 followed by a listing of the names of the five persons or entities  
3 making the largest contributions in excess of seven hundred dollars  
4 reportable under this chapter during the twelve-month period  
5 preceding the date on which the advertisement is initially published  
6 or otherwise presented to the public. Abbreviations may be used to  
7 describe contributing entities if the full name of the entity has  
8 been clearly spoken previously during the broadcast advertisement.

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

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

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

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