
**State Government & Tribal Relations
Committee**

HB 2772

Brief Description: Concerning the administration of election campaign activities and reporting statements of financial affairs.

Sponsors: Representatives Walsh, Hudgins and Pollet; by request of Public Disclosure Commission.

Brief Summary of Bill

- Modifies information required to be included in the statement of financial affairs filed by elected officials, executive state officers, and candidates.
- Permits the Public Disclosure Commission (PDC) to spend money in the Public Disclosure Transparency Account without an appropriation, while limiting expenditures to certain systems and information projects.
- Requires a disclaimer for political advertisements that include an endorsement made for a different election or office from the election or office that is the subject of the advertisement.
- Modifies miscellaneous PDC duties.

Hearing Date: 1/24/20

Staff: Jason Zolle (786-7124).

Background:

The Public Disclosure Commission.

Washington's campaign finance and disclosure law was first enacted by voter initiative in 1972. The law regulates campaign contributions and certain election-related expenditures and requires the disclosure of campaign financing, lobbyist activity, and the financial affairs of elected officials, candidates, and executive state officers.

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.

The Public Disclosure Commission (PDC) enforces campaign finance and disclosure laws and has the authority to develop procedures, adopt rules, investigate complaints, and impose civil penalties for violations. The PDC is empowered to provide access to information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates. The PDC is composed of five commissioners, appointed for single five-year terms by the Governor with consent of the Senate.

Reporting Requirements.

Political committees and candidates must periodically report to the PDC their contribution and expenditure activities for each election. An incidental committee is a nonprofit organization not otherwise reporting as a political committee that makes political contributions or expenditures in political campaigns. Incidental committees must also regularly disclose with the PDC their top 10 largest of sources payments received of at least \$10,000 in aggregate from a single source during the calendar year, as well as any political expenditures that exceed \$200 in the period since its last report.

Independent expenditures, which are expenditures made independently of a candidate or that candidate's authorized committee for political advertising, are also separately reportable to the PDC if the aggregate value of expenditures from the same person is at least one-half the contribution limit from an individual in that campaign.

These reporting requirements apply to expenditures related to ballot propositions in addition to candidates. A ballot proposition is defined as a proposition or question submitted to the voters, or an initiative, recall, or referendum proposition proposed to be submitted to the voters, after it has been filed with an election officer and before its circulation for signatures.

Statements of Financial Affairs.

Every elected official and executive state officer must file a statement of financial affairs, known as an F-1 statement, for the preceding calendar year with the PDC between January 1 and April 15. New appointees or elected officials must file the F-1 statement within two weeks to cover the previous 12 months. Candidates must file the F-1 statement within two weeks of becoming a candidate, and the statement must also cover the previous 12 months. However, a statement of a candidate or appointee filed during the period from January 1 to April 15 must cover the period from January 1 of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

The F-1 statement requires disclosure of financial and personal information relating to the filer and the filer's immediate family. Subject to certain monetary thresholds, required items for disclosure include certain information on the filer and filer's immediate family members' including:

- occupation, name of employer, and business address;
- bank accounts, savings accounts, certain insurance policies and other intangible personal property holdings, and real estate property holdings in Washington;
- debts;
- every public or private office, directorship, and position held as a trustee; and
- acceptance of food, beverage, and gifts.

For current elected officials and executive state officers, the F-1 statement must be filed electronically. For officials and officers that are not in office as of January 1 but served for a portion of the previous year, the F-1 statement may be filed electronically.

Political Advertisement Disclaimers.

Political advertisements must include certain disclaimers. Political advertisements on the radio or television must include the sponsor's name, and written ads must include the sponsor's name and address. It is illegal for the sponsor to use an assumed name. Additional disclaimer requirements apply when the advertisement is an independent expenditure or an electioneering communication sponsored by a person or entity other than a political party: they must include the statement "No candidate authorized this advertisement. It is paid for by [the sponsor's name and address]." Finally, if the sponsor is a political committee, the advertisement must include a statement disclosing the committee's top five contributors and the top three contributors to any of the top five contributors that are also political committees. Detailed requirements for visual and audio presentation are provided.

False Statements in Political Advertisements.

Washington campaign laws also prohibit political advertising that contains certain false statements made when the speaker knows they are false or acts with reckless disregard of their truth or falsity. These statements are:

- false statements of material fact about a candidate for public office;
- false representations that a candidate is the incumbent for the office sought; and
- claims that falsely state or imply the support or endorsement of any person or organization.

To be prohibited, the false statement must also:

- expose a living person to hatred, contempt, ridicule, or obloquy;
- deprive a person of the benefit of public confidence or social intercourse; or
- injure a person, corporation, or association in his, her, or its business or occupation.

Funding.

Penalties collected from all PDC enforcement actions and settlements are deposited in the Public Disclosure Transparency Account (Account) in the state treasury. Account funds may be spent only after they are appropriated by the Legislature, and they may not supplant General Fund appropriations to the PDC. Account funds may be spent only for the PDC's duties under Chapter 42.17A RCW.

Other Duties.

The PDC must:

- prepare and publish a manual setting forth recommended uniform methods of bookkeeping and reporting for use by people required to file campaign finance reports;
- conduct audits and field investigations to provide a statistically valid finding regarding the degree of compliance with filing requirements;
- publish an annual report to the Governor about the effectiveness of campaign finance and disclosure laws and the laws' enforcement by other law enforcement authorities;
- adopt rules related to the keeping and disclosing of reports required to be filed with a county auditor or elections official (at this time, no such filings exist); and

- maintain a toll-free phone number for the public and political committees of the state.

Summary of Bill:

Statements of Financial Affairs.

The information required in F-1 statements is modified and expanded to include:

- government benefits and pension or retirement income, which must now be reported as income;
- income earned or provided from assets held by the filer or immediate family member;
- real property outside of Washington;
- items accepted that the filer was authorized to accept by law; and
- any compensation received by the filer or immediate family members for in-state or out-of-state lobbying.

An F-1 statement no longer needs to report persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation.

Monetary thresholds to trigger specific reporting requirements are increased.

Filing requirements for candidates who were already required to report for the previous year are clarified: a candidate who already has an existing obligation to file a statement for the preceding year must still report for that period.

All F-1 statements must be filed electronically, including for officials and officers that are not in office as of January 1 but served for a portion of the previous year.

Political Advertisement Disclaimer.

A new disclaimer is required for political advertising that includes an endorsement made in support of an individual for a different election or a different office from the election or office that is the subject of the advertisement. The disclaimer must clearly attribute the endorsement to the person or entity who made it, and the person, election, and office for which the endorsement was made.

If the advertisement is first presented after the candidate filing period in May, and the endorsement relates to a person who has not filed a declaration of candidacy, the disclaimer must also state "This person has not declared as a candidate as of (the date of initial publication), and no votes for this person will be counted unless this person files a declaration as a write-in candidate."

The bill specifies the size, color contrast, and placement of visual disclaimers, and audio disclaimers must be clearly spoken immediately before or after the endorsement is spoken.

Ballot Proposition Reporting.

Reporting requirements for expenditures related to a ballot proposition apply when the proposition is filed with the appropriate election officer or initially circulated for signatures, whichever is first. The definition of ballot proposition is simplified.

Funding.

The Account is transferred to the custody of the state treasury. The account is no longer subject to appropriation, and an appropriation is no longer required for the PDC to spend Account funds. Only the PDC may authorize expenditures from the Account. However, funds may be spent only on projects to improve the usability, transparency, and accessibility of campaign financing, lobbying, and financial disclosure systems and information. Funds may not be spent on ongoing operating or enforcement expenses. The PDC must regularly update the list of designated projects as part of its technology and related business projects strategic priorities plan.

Other Duties.

Miscellaneous PDC duties are modified as follows:

- The PDC may provide recommended uniform methods of recordkeeping and reporting for people required to file campaign finance reports, without having to publish a manual.
- The PDC's duty to conduct audits and field investigations to provide a statistically valid finding regarding the degree of compliance with filing requirements is qualified; such activity is required only as staff capacity permits without impacting the timeliness of addressing alleged violations.
- The annual report to the Governor must discuss the work of the PDC rather than the enforcement activities of other law enforcement authorities.
- The PDC no longer needs to adopt rules related to the keeping and disclosing of reports required to be filed with a county auditor or elections official.
- The PDC no longer needs to maintain a toll-free phone number for the public and political committees of the state.

Appropriation: None.

Fiscal Note: Requested on January 21, 2020.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.