
State Government & Tribal Relations Committee

SSB 6152

Brief Description: Concerning the level of foreign national ownership and control of entities that participate in Washington state elections.

Sponsors: Senate Committee on State Government, Tribal Relations & Elections (originally sponsored by Senators Salomon, Billig, Hunt, Nguyen, McCoy, Lovelett, Kuderer, Rolfes, Liias, Van De Wege, Das and Wilson, C.).

Brief Summary of Substitute Bill

- Requires candidates, political committees, and incidental committees to include in their campaign contribution and expenditure reports a certification from each entity that made a reportable contribution to them that the entity is not owned or controlled by 50 percent or more foreign nationals.
- Requires entities that make independent expenditures to certify in their expenditure reports that they are not owned or controlled by 50 percent or more foreign nationals.

Hearing Date: 2/21/20

Staff: Jason Zolle (786-7124).

Background:

State Campaign Finance Regulation in General.

In 1972 the people passed Initiative 276 to create a framework for public disclosure in several aspects of state government, including the financing of political campaigns. This law created the Public Disclosure Commission (PDC) to oversee newly enacted campaign finance laws. Current law requires candidates and political committees to disclose certain information about the contributions they receive and expenditures they make.

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.

For purposes of these requirements, a political committee is an individual (except for a candidate) or group of people, however organized, that expects to receive contributions or make expenditures in support of or in opposition to a candidate or ballot proposition. An incidental committee is a non-profit organization that is not a political committee but incidentally makes a campaign contribution or expenditure of \$25,000 in a calendar year and receives at least \$10,000 from a single source.

Contributions and Expenditure Reports.

Political committees, candidates, and incidental committees must file periodic reports with the PDC that detail all contributions received and expenditures made as a committee. Required information includes the name and address of each person who has made one or more contributions during the reporting period, subject to exceptions for small pledges or contributions and certain payments to incidental committees. The reports must also include information about expenditures of more than \$50.

Out-of-State Political Committees.

Political committees based outside of Washington that are organized for the purpose of supporting or opposing campaigns in another state are required to file a statement with the PDC when they make an expenditure supporting or opposing a Washington candidate or political committee. That statement must include:

- the name and address of each Washington resident or corporation that has contributed more than \$25 in the calendar year; and
- the name, address, and employer of each person or corporation outside of Washington that has contributed more than \$2,680 in the calendar year.

Independent Expenditure Reports.

When a person or entity makes an independent expenditure over \$50 in support of or in opposition to a candidate or ballot proposition, and that expenditure does not need to be reported in a contributions and expenditures report discussed above, the person or entity must file a report with the PDC detailing the expenditure.

Federal Restrictions on Campaign Contributions from Foreign Nationals.

Under federal law, foreign nationals are prohibited from directly or indirectly contributing or donating money in connection with a federal, state, or local election or to a committee of a political party. It is unlawful for a person to solicit, accept, or receive such a contribution or donation. Foreign nationals also may not make an expenditure, independent expenditure, or disbursement for an electioneering communication.

"Foreign national" is defined as:

- an individual who is not a citizen or lawful permanent resident of the United States (U.S.);
- a government or political party of a foreign government; and
- any entity or combination of persons organized under the laws of, or having its principal place of business in, a foreign country.

In *Bluman v. Federal Election Commission* (2011), a three-judge panel of the U.S. District Court for the District of Columbia held that these restrictions do not violate the U.S. Constitution. The court stated that "foreign citizens do not have a constitutional right to participate in, and thus

may be excluded from, activities of democratic self-government." The Supreme Court summarily affirmed the District Court's decision without writing an opinion, which means that the Supreme Court agreed with the lower court's result dismissing the lawsuit but expressed no opinion about the reasoning by which the decision was reached.

In *United States v. Singh* (2019), the U.S. Court of Appeals for the Ninth Circuit (which has jurisdiction over Washington) concluded that it was bound by the result in the *Bluman* case.

Summary of Bill:

Each contributions and expenditures report filed with the PDC by a candidate, political committee, and incidental committee must include a certification from each entity making a reportable contribution to the candidate or committee that the entity is not owned or controlled by 50 percent or more foreign nationals. The statement required for an out-of-state committee must also include such certifications.

Each report filed by an entity making an independent expenditure must contain a certification that the entity is not owned or controlled by 50 percent or more foreign nationals.

"Foreign national" is defined to include:

- an individual who is not a citizen or lawful permanent resident of the U.S.;
- a government or political party of a foreign government; and
- any entity or combination of persons organized under the laws of, or having its principal place of business in, a foreign country.

Appropriation: None.

Fiscal Note: Requested on February 17, 2020.

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