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**State Government & Tribal Relations  
Committee**

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**HB 1475**

**Brief Description:** Permitting certain foreign nationals to participate in campaign finance decision making and campaigns for and against ballot measures and initiatives.

**Sponsors:** Representatives Valdez, Lekanoff and Pollet.

**Brief Summary of Bill**

- Removes provisions of state law that prohibit foreign nationals who reside, work, or attend an institution of higher education in the state from participating in decision making regarding contributions, expenditures, political advertising, or electioneering communications.
- Removes provisions of state law that prohibit foreign nationals from making contributions, expenditures, political advertising, or electioneering communications in support of or in opposition to a ballot measure.
- Modifies campaign finance reports and required certifications regarding these regulated activities to reflect these changes in law.
- Changes language that prohibits contributions, expenditures, political advertising, or electioneering communications from being "financed in any part by a foreign national" to being "directly or indirectly made by a foreign national."

**Hearing Date:** 2/11/21

**Staff:** Jason Zolle (786-7124).

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

## **Background:**

### State Campaign Finance Regulation in General.

In 1972 the people passed Initiative Measure No. 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.

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 measure.

Political committees, candidates, and incidental committees must file periodic reports with the PDC that detail all contributions received and expenditures made. 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. Additional reports are also required:

- in the days preceding a general election and primary;
- by certain out-of-state political committees that engage in regulated election-related activity in Washington;
- when a person or entity makes an independent expenditure over \$50 in support of or in opposition to a candidate or ballot proposition that otherwise is not reported; and
- by sponsors of certain political advertising and electioneering communications.

### State Restrictions on Election-related Activity by Foreign Nationals.

In 2020 the Legislature passed Substitute Senate Bill 6152 (the Act), which placed state-law restrictions on certain campaign activities by foreign nationals. Under the Act, foreign nationals are prohibited from making campaign contributions and expenditures and from sponsoring electioneering communications and political advertising. These prohibitions apply to both candidates and ballot measures. People and organizations are also prohibited from making contributions or expenditures or from sponsoring electioneering communications and political advertising if:

- the activity is financed in any part by a foreign national; or
- foreign nationals are involved in making decisions regarding the activity in any way.

"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; or
- any entity or combination of persons organized under the laws of, or having its principal place of business in, a foreign country.

Each contributions and expenditures report filed with the PDC by a candidate or political

committee must include a statement that the candidate or committee has received a certification from each partnership, association, corporation, or other group that made a contribution that foreign nationals were not involved in any way in the financing or decision making regarding the contribution. Sponsors of electioneering communications, political advertising, and independent expenditures must also certify in their PDC reports that foreign nationals were not involved in any way in the financing or decision making regarding the communication, advertising, or expenditure.

#### Federal Restrictions on Election-related Activity by 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.

In 2015 the Federal Election Commission (FEC) was asked to decide whether it interprets federal law as prohibiting foreign nationals from making contributions and expenditures for ballot measures. The FEC issued a 3-3 split decision, with the three Democratic members concluding that the ban applies to ballot measures and the three Republican members concluding that it does not. The result of this deadlock was that no precedential decision was issued. A subsequent attempt by an FEC commissioner to issue guidance on the issue also resulted in another 3-3 deadlock. There does not appear to be any precedential court decision interpreting federal law on this issue.

Federal regulations issued by the FEC prohibit foreign nationals from directing, dictating, controlling, or directly or indirectly participating in the decision making of any person or group with respect to their federal or nonfederal election-related activities, including decision making regarding contributions and expenditures.

#### **Summary of Bill:**

Foreign nationals who reside, work, or attend an institution of higher education in the state are no longer prohibited under state law from participating in decision making regarding contributions, expenditures, political advertising, or electioneering communications.

Foreign nationals are no longer prohibited under state law from making contributions, expenditures, political advertising, or electioneering communications in support of or in opposition to a ballot measure.

The PDC reports and required certifications regarding these regulated activities are modified to reflect these changes. Political committees that do not support or oppose candidates are no longer required to collect foreign national-related certifications.

The bill changes language that prohibits contributions, expenditures, political advertising, or

electioneering communications from being "financed in any part by a foreign national" to being "directly or indirectly made by a foreign national."

**Appropriation:** None.

**Fiscal Note:** Requested on February 4, 2021.

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