

HOUSE BILL REPORT

2ESSB 5284

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to modifying commercial advertising requirements related to the disclosure of political advertising and electioneering communications.

Brief Description: Concerning campaign finance disclosure.

Sponsors: Senate Committee on State Government & Elections (originally sponsored by Senators Nguyen, Billig, Frame, Hunt, Keiser, Kuderer, Shewmake and Wilson, C.; by request of Public Disclosure Commission).

Brief History:

Committee Activity:

State Government & Tribal Relations: 3/10/23, 3/28/23 [DPA], 2/20/24, 2/21/24 [DP].

Brief Summary of Second Engrossed Substitute Bill

- Requires purchasers of political advertising or electioneering communications to disclose to commercial advertisers, upon request, that the purchase includes political advertising or electioneering communications, and any other information required by rule.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass. Signed by 4 members: Representatives Ramos, Chair; Stearns, Vice Chair; Gregerson and Mena.

Minority Report: Without recommendation. Signed by 3 members: Representatives Cheney, Ranking Minority Member; Christian, Assistant Ranking Minority Member; Low.

Staff: Jason Zolle (786-7124).

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:*Public Disclosure Commission.*

The Public Disclosure Commission (PDC) was created in 1972 by Initiative 276. The PDC regulates many financial aspects of political campaigns, including contributions to candidates and expenditures related to ballot measures, as well as political advertisements and electioneering communications.

Commercial Advertisers.

Any person or entity who sells the service of communicating messages or producing material for the general public is considered a commercial advertiser and is subject to regulation by the PDC. A commercial advertiser who has accepted or provided political advertising or electioneering communications during an election campaign must maintain current books of account that are open for public inspection. The documents must specify information about the political advertising or electioneering communications the advertiser has sold, including the sponsor's identity and the cost of the services. Rules enacted by the PDC require books of account to also include information about specific major work components or tasks that were required to provide the advertising or communications services. A commercial advertiser must provide this information to the PDC upon request.

Summary of Bill:

Any person who purchases political advertising or electioneering communications from a commercial advertiser must disclose, upon request of the commercial advertiser, that the purchase includes political advertising or electioneering communications, as well as the name of the sponsor and any other information that the commercial advertiser is required by the PDC to maintain. A purchaser's failure to provide this information is a violation punishable by the PDC, but it does not relieve the commercial advertiser of its own responsibilities under the law.

Appropriation: None.**Fiscal Note:** Available.**Effective Date:** The bill contains an emergency clause and takes effect immediately.**Staff Summary of Public Testimony:**

(In support) Compared to last year's version of this bill, this version contains only the provisions relating to digital advertising. The language included is PDC-requested language. The purpose of this bill is to add flexibility to address the concerns of

commercial advertisers who are unable to account for all political advertisements in their books of account. As the primary means of communications these days are online, the democratic process requires people to be able to use digital advertisements. Grassroots groups are unable to spread their message without digital advertisements. However, the statutory language governing political advertisements has been in place since 1972 and is not suited to deal with digital advertising. The requirements are too restrictive and have caused platforms to opt not to sell in Washington. Now Washington is the only state in which candidates cannot purchase political ads. The bill is a work in progress and would ideally pass with an amendment. However, there is concern about amendments that are not vetted through the public hearing process.

(Opposed) This policy would allow Facebook to use the PDC as a weapon to enforce its policies regarding political advertisements. Facebook should instead follow the law that is already on the books just like all commercial advertisers have. The bill is obviously not ready for prime time and it is not a time-sensitive issue, so the bill should be held until next year.

(Other) The PDC supports the bill in its current form, but it is not sure if the bill will remain in that form. The committee should seek the PDC's advice on any amendments. The bill as written is just a new tool for advertising platforms to use, if they want, to help ascertain whether they are selling political advertisements. Platforms are not required to ask anything of purchasers. The commercial advertiser provisions are a longstanding tenet of law and should remain that way.

Persons Testifying: (In support) Senator Joe Nguyen, prime sponsor; Sean Flynn, Public Disclosure Commission; Cindy Madigan, League of Women Voters of Washington; Michael Charles; and Ryan Hollander, Fuse Washington.

(Opposed) Conner Edwards.

(Other) Peter Frey Lavalley, Public Disclosure Commission.

Persons Signed In To Testify But Not Testifying: None.