

SENATE BILL REPORT

ESSB 5207

As Passed Senate, February 15, 2023

Title: An act relating to campaign contributions by controlled entities.

Brief Description: Concerning campaign contributions by controlled entities.

Sponsors: Senate Committee on State Government & Elections (originally sponsored by Senators Billig, Valdez, Hunt, Kuderer and Nguyen).

Brief History:

Committee Activity: State Government & Elections: 1/24/23, 1/27/23 [DPS, DNP, w/oRec].

Floor Activity: Passed Senate: 2/15/23, 35-13.

Brief Summary of Engrossed First Substitute Bill

- Aggregates the values of an individual's campaign contributions with contributions made by any entities that individual owns or majority-owns for determining contribution limits.
- Aggregates the values of campaign contributions of entities established, financed, maintained, or controlled by other entities.
- Requires limited liability companies (LLCs) not classified as corporations for tax purposes to file a declaration that the LLC is not created for the sole purpose of making campaign contributions prior to making any contributions.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5207 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hunt, Chair; Valdez, Vice Chair; Hasegawa and Kuderer.

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.

Minority Report: Do not pass.
Signed by Senator Fortunato.

Minority Report: That it be referred without recommendation.
Signed by Senators Wilson, J., Ranking Member; Dozier.

Staff: Samuel Brown (786-7470)

Background: Public Disclosure Commission. The Public Disclosure Commission (PDC) was created by the passage of Initiative 276 in 1972. The PDC, composed of five commissioners appointed by the Governor, is empowered to provide timely public access to information about the financing of political campaigns, lobbyist expenditures, the financial affairs of public officials and candidates, and to ensure compliance with contribution limits and other campaign finance restrictions.

Aggregation of Campaign Contributions. Washington law limits the amount an individual donor may contribute to a particular candidate. A donor may contribute up to \$2,000 in each of the primary and general elections to candidates for statewide office and some special purpose districts; for all other offices, the donor may contribute up to \$1,000 each in the primary and general elections.

In some instances, contributions of multiple persons or entities are aggregated together to determine whether the contribution limit has been reached. A contribution by a political committee whose funds have been provided exclusively by a single individual is considered a contribution by that individual. Contributions of a subsidiary, branch, or department of a corporation are aggregated with the main corporation's contributions, as are contributions of local units or branches of labor organizations with the main organization itself. Contributions of any person or committee whose activities are financed exclusively by any trade association, labor union, or collective bargaining association are considered contributions of that entity.

Summary of Engrossed First Substitute Bill: Aggregation. For the purpose of determining campaign contribution limits, any business entity's campaign contributions must be aggregated with those of each person who owns or has a majority interest in the entity.

The campaign contributions of an entity is aggregated with those of any entities established, financed, maintained, or controlled by that entity for the purpose of determining campaign contribution limits.

Contributions by Limited Liability Companies. A limited liability company (LLC) that has not elected to be classified as a corporation for federal tax purposes may make campaign contributions only if the LLC has:

- existed for at least one year; and

- filed a declaration with the PDC that the LLC was not created for the sole purpose of making campaign contributions.

The PDC must post all declarations from LLCs not classified as corporations for federal tax purposes on its website.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill closes a loophole in campaign contribution limits. People who own LLCs are able to go around the \$1,000 limit by registering each building that they own as a separate LLC, then donating \$1,000 per building. The intention of the campaign contribution limit was to limit how much money each entity owner contributes, not how much the entity contributes. This will aggregate donations and ensure that someone isn't setting up an LLC or a shell company just to make campaign contributions. This will make the campaign funding system stronger and more transparent. Closing this loophole ensures that the contribution limit works as intended.

OTHER: The PDC already has some rules regarding affiliation and requests some work to clarify how the terminology in this bill interacts with existing rules.

Persons Testifying: PRO: Senator Andy Billig, Prime Sponsor; Cindy Madigan, League of Women Voters of Washington; Cindy Black, Fix Democracy First.

OTHER: Sean Flynn, Public Disclosure Commission.

Persons Signed In To Testify But Not Testifying: No one.