

SENATE BILL REPORT

ESSB 5284

As Amended by House, April 7, 2023

Title: An act relating to improving transparency in campaign finance disclosure.

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 & Elections: 1/24/23, 1/31/23 [DPS, DNP, w/oRec].

Floor Activity: Passed Senate: 2/15/23, 29-19.
Passed House: 4/7/23, 97-0.

Brief Summary of Engrossed First Substitute Bill

- Requires political and incidental committees formed after the first of the last full month before an election to file statements of organization within three business days of organization.
- Requires that candidates and committees file an additional contribution and expenditure report five weeks before a general election.
- Expands the special reporting period for large contributions.
- Requires that purchasers of political advertising disclose to commercial advertisers when the purchase includes political advertising or electioneering communications.
- Removes requirement that campaigns retain certifications from corporations that foreign nationals were not involved in making contributions received by the campaign.
- Requires corporations to certify no foreign influence when making

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independent expenditures or contributions.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5284 be substituted therefor, and the substitute bill do pass.

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

Minority Report: Do not pass.

Signed by Senators Dozier and Fortunato.

Minority Report: That it be referred without recommendation.

Signed by Senator Wilson, J., Ranking Member.

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 is empowered to provide timely public access to information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates, and to ensure compliance with contribution limits and other campaign finance restrictions.

Filing Requirements. All political committees and candidates that receive contributions and make expenditures must file a statement of organization with the PDC and periodically report to the PDC on their contribution and expenditure activities. An initial report is due the same day the statement of organization is filed. The statement of organization must be filed within two weeks of a political committee's organization, or within three days of organization if within 21 days before an election. Subsequent reports are due 21 days and 7 days before the election, one month after the election, and each month the committee receives or spends at least \$200.

Special Reporting Periods. Political committees must file special reports to the PDC of all contributions received from a single source or made to a single entity with an aggregate value of \$1,000 or more in the period 21 days before a general election or 7 days before a primary election. The special report must be filed within 48-hours, or by the next working day, if the committee is the recipient, and within 24-hours, or the next working day, if the committee is the donor. The special report must include the amount and date of the contributions, the names and addresses of the donor and recipient, and a certification that foreign nationals did not finance or make decisions regarding the contribution.

Commercial Advertisers. Commercial advertisers provide the service of communicating messages to the public through any of a number of media. Any commercial advertiser

which accepts or provides political advertising or electioneering communications must maintain books of account, which must specify:

- sponsor names and addresses;
- the exact nature and extent of services rendered; and
- the total cost and manner of payment for services.

This information must be delivered to the PDC on request, and be open for public inspection during regular business hours during the campaign and for at least three years after the election.

Contributions from Foreign Sources. Under Washington law, no contribution, expenditure, political advertising, or electioneering communication may be made or sponsored by a foreign national, financed in any part by a foreign national, or have a foreign national involved in the decision-making in any way. Each candidate and political committee must include in filings with the PDC that the candidate or committee has received a certification from each partnership, association, corporation, or other group that contributed to the candidate or committee that foreign nationals were not involved in any way in the financing of or decision-making regarding the contribution. Certifications must be retained for three years.

Sponsors of electioneering communications, political advertising, and independent expenditures must certify in PDC reports that foreign nationals were not involved in any way in the financing of or decision-making regarding the activity.

Summary of Engrossed First Substitute Bill: Filing Deadlines. Any political or incidental committee organized within the period between the first day of the last full month before an election and election day must file its statement of organization with the PDC within three business days.

Contribution and expenditure reports must be filed on the 34th, 20th, and 6th day immediately before a general election and the 20th and 6th day immediately before a primary election, rather than the 21st and 7th day immediately before an election.

Special Reporting Periods. The amount of aggregate contributions from a single source triggering a special report is the contribution limit for non-legislative state candidates, currently \$2,000, rather than fixed at \$1,000. The special reporting period is expanded to begin the first day of the first full month before an election.

Commercial Advertisers. Any purchaser of a political advertisement or electioneering communication from a commercial advertiser must disclose to the commercial advertiser upon request that the advertisement is political or an electioneering communication, and the name of the sponsor of the advertisement. The purchaser's failure to provide the information does not relieve the commercial advertiser of its disclosure obligations.

Contributions from Foreign Sources. The requirement that donors certify, and candidates and committees retain certifications, that no foreign nationals were involved in the financing or making of each contribution in any way is removed. When making an independent expenditure or contribution, a corporation must file a statement of certification that it is not foreign-influenced with the PDC and any committee or candidate to which the corporation contributes. A corporation is foreign-influenced if:

- a single foreign owner holds, owns, or controls at least 1 percent or more of the corporation;
- multiple foreign owners hold, own, or control at least 5 percent or more of the corporation; or
- a foreign owner participates in the corporation's decision-making about its United States political activity.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill takes effect on January 1, 2024.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This is a PDC request bill that will help the public access campaign information in a way that is mindful of the technology we use that didn't exist when disclosure laws were passed in 1972. It will require grassroots campaigns to be registered with the PDC a maximum of 24 hours after starting mailings so that people can go to the PDC website and see information about who is sending them campaign information and who is funding it. The current grassroots lobbying reporting system is woefully inadequate to provide any useful oversight. There is a paucity of information on the form and a campaign can be stood up to kill a bill completely anonymously. The bill will add an additional C-4 report, recognizing that many people in Washington vote early and ensure that voters can make more informed decisions. A more informed electorate enhances democracy. Improvements to the reporting system will allow candidates to compete more equitably for public office. The time frame for filing last-minute reports will be expanded to 48 hours from 24 hours to relieve some burden. Turning the Public Disclosure Transparency Account into a non-appropriated account will allow necessary improvements that cannot be achieved by relying on the appropriations cycle.

CON: The job of campaign treasurer is already hard enough, and the additional C-4 report required in this bill will make it harder. There are no reasons to warrant adding an additional C-4 report. This won't help to better inform voters. Treasurers already file C-3 contribution reports on a weekly basis, which contain the information voters are more interested in. Requiring an additional C-4 report will prevent treasurers from doing their core tasks. This is a solution in search of a problem. Campaign treasurers also request a fix

on the foreign certification requirement, which doesn't accomplish anything productive.

OTHER: Campaign treasurers have an overwhelming job. Political committees will have to start hiring professional treasurers to keep up with the work added by this bill. Adding an extra report is a solution in search of a problem.

Persons Testifying: PRO: Senator Joe Nguyen, Prime Sponsor; Cindy Madigan, League of Women Voters of Washington; Paul Queary, The Washington Observer; Peter Lavalley, Public Disclosure Commission; Sean Flynn, Public Disclosure Commission.

CON: Conner Edwards, Campaign Treasurer; Jeff Pack, Me; Jason Michaud.

OTHER: Tim Eyman.

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

EFFECT OF HOUSE AMENDMENT(S):

Contributions from Foreign Sources. Provisions prohibiting foreign-influenced corporations from making contributions and expenditures in state elections, and associated certification requirements, are removed and replaced with current law prohibitions against contributions and expenditures in state elections by foreign nationals and associated certification requirements. When a donor contributes an amount in an election cycle that exceeds the sum of the contribution limits to a candidate for legislative office for the primary plus for the general election, candidates and political committees must:

- receive a certification that no foreign national was involved in the donor's campaign contributions; and
- certify in PDC reports that they have received a certification that no foreign national was involved.