

SENATE BILL REPORT

ESSB 5149

AS PASSED SENATE, JUNE 17, 1991

Brief Description: Regulating political gifts and public office funds.

SPONSORS: Senate Committee on Law & Justice (originally sponsored by Senators Nelson and Rasmussen; by request of Public Disclosure Commission).

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5149 be substituted therefor, and the substitute bill do pass.

Signed by Senators Nelson, Chairman; Erwin, Hayner, L. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

Staff: Richard Rodger (786-7461); Lidia Mori (786-7755)

Hearing Dates: February 7, 1991; February 13, 1991; February 19, 1991; February 22, 1991

BACKGROUND:

The Public Disclosure Act requires elected and appointed officials to file a yearly report detailing contributions received for unreimbursed public office-related expenses. Concern has been expressed to the Public Disclosure Commission (PDC) that the reporting requirements which pertain to public office fund contributions and expenditures are inadequate and infrequent. The reporting requirements do not contain a definition of a "gift" and do not require the reporting of gifts.

SUMMARY:

A separate account shall be established from which all public office fund expenditures are made. Registration with the PDC is required within two weeks of the day the public office fund is created. The official named in the registration statement is required to preserve the financial records of the office fund for not less than five years following the year in which the transaction occurred. The public office fund report is changed from an annual to a quarterly report.

The public office fund may only be used to pay expenses incurred solely because of the person holding a public office. Public office funds may not be used to support or oppose a candidate, political party, political committee, or ballot proposition. An official's public office fund cannot be used to reimburse that official for lost earnings resulting from holding office, nor may such funds be transferred to the public office fund of another person.

Surplus funds of a candidate may be transferred to a public office fund if the candidate becomes an elected official.

The terms "benefit" and "gift" are defined. All gifts in excess of \$50 must be reported. Certain gifts such as intrafamily gifts and gifts not in excess of \$50 in value are not considered reportable. Every official and officer is required to file a statement of financial affairs including a description of any gifts received during the preceding calendar year and any entertainment, meals, or refreshments received which exceed \$100 in value.

Lobbyists are required to report each individual expenditure of more than \$50 for entertainment expenses. Lobbyists are required to provide copies of PDC expenditure reports to candidates, elected officials, professional staff of the Legislature, and officers or employees of any agency named in the report.

Appropriation: none

Revenue: none

Fiscal Note: requested

Effective Date: January 1, 1992

TESTIMONY FOR:

There needs to be a separate account established for public office funds with a PDC registration requirement. There also needs to be more frequent reporting of financial activity for public office expenses. Elected officials and state executive officers should be required to report the receipt of gifts over the value of \$50 and of entertainment valued over \$100.

TESTIMONY AGAINST: None

TESTIFIED: Graham Johnson, Public Disclosure Commission (pro)

HOUSE AMENDMENT(S):

The definition of the term "benefit" is eliminated. The definition of "gift" is amended as follows:

- 1) Includes items "for which reasonable consideration is not given and received;"
- 2) Provides a definition for the term "reasonable consideration;"
- 3) Excludes any payments received from the federal government;
- 4) Clarifies the "informational material" exception to ensure that no monetary consideration or benefit is involved;

5) Clarifies the provision relating to gifts which are returned to the donor or given to charity;

6) Replaces the provisions concerning symbolic presentations, honorariums, intrafamily gifts, and other gifts not related to public policy decisions, with a broad exclusion for gifts given "where it is clear beyond any doubt" the gift was not given for the purpose of influencing an entity or official;

7) Excludes any gifts given prior to the effective date of the act; and

8) Combines the language from other sections regarding the method of determining the "per person" value of a hosted reception.

The provision allowing the transfer of surplus funds of a candidate to a public office fund is eliminated.

The lobbyist reporting requirement for each individual expenditure for entertainment is changed from \$50 back to \$25. If the expenditure exceeds \$100 per person partaking therein, the report shall specify the per person share of the expenditure. Lobbyists are not required to provide copies of gift reports to candidates, professional staff of the Legislature, officers or employees of agencies, or political committees listed in the reports. Further clarifications are made to the gift reporting requirements for lobbyists.

The provisions requiring elected officials and executive state officers to file gift statements with the PDC are clarified. The officer or official must report the nature of the gift, the date it was received, and the name of the donor.

The commission is required to adopt forms for the reporting of gifts by lobbyists and may adopt forms for use by officials and officers.

The following provisions relating to public office accounts are eliminated:

1) The requirement for a separate bank account for all public office funds.

2) The registration requirement with the PDC within two weeks of the day a public office fund is created.

3) The requirement that the official named in the registration statement preserve the financial records of the office fund for not less than five years following the year in which the transaction occurred.

4) The quarterly versus annual reporting requirement.

5) The certification by the official that the report is correct.

6) The use of public office funds only for payment of expenses incurred solely because of the person holding a public office; b) the prohibition against the use to support or oppose a candidate, political party, political committee, or ballot proposition; c) the prohibition against reimbursing an official for lost earnings resulting from holding office; and d) the prohibition against transferring the funds to the public office funds of another person.

The January 1, 1992 effective date is eliminated and replaced with an emergency clause.