

HOUSE BILL REPORT

ESHB 1268

As Passed House
March 16, 1993

Title: An act relating to spending in election campaigns.

Brief Description: Creating a program of voluntary campaign spending limits for state offices.

Sponsors: By House Committee on State Government (originally sponsored by Representatives Dunshee, Wolfe, Linville, Riley, Quall, Grant, Pruitt, Romero, R. Meyers, Zellinsky, Eide, Veloria, Karahalios, Brough, Brown, Kessler, Edmondson and Finkbeiner.)

Brief History:

Reported by House Committee on:
State Government, March 3, 1993, DPS;
Appropriations, March 6, 1993, DPS(SG);
Passed House, March 16, 1993, 97-0.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Anderson, Chair; Veloria, Vice Chair; Campbell; Conway; King; and Pruitt.

Minority Report: Do not pass. Signed by 3 members: Representatives Reams, Ranking Minority Member; Vance, Assistant Ranking Minority Member; and Dyer.

Staff: Kenneth Hirst (786-7105).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on State Government be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Locke, Chair; Valle, Vice Chair; Appelwick; Basich; Dellwo; Dorn; Dunshee; G. Fisher; Jacobsen; Lemmon; Linville; Peery; Rust; Sommers; Talcott; Wang; Wineberry; and Wolfe.

Minority Report: Do not pass. Signed by 7 members: Representatives Silver, Ranking Minority Member; Carlson,

Assistant Ranking Minority Member; Ballasiotes; Cooke; Sehlin; Sheahan; and Stevens.

Staff: Dwight Edwards (786-7118).

Background: In 1972, the voters of this state approved Initiative Measure No. 276 regarding public disclosure. One section of the initiative established mandatory expenditure limits on campaigns for elective office. In 1974, the state's Supreme Court found that section to be unconstitutional.

A series of federal court cases have identified a number of constitutional limitations on the regulation of campaign financing. Among the governmental restrictions found in those cases to be impermissible were ceilings on campaign spending by candidates. However, upheld were ceilings on candidate expenditures which become effective as part of a public financing agreement, under which a candidate agrees to abide by the limits in exchange for public financing. Last November, the voters of this state approved Initiative to the Legislature No. 134. The initiative contains a statutory prohibition against the use of public monies in financing campaigns for state or local office.

The state's Public Disclosure Commission administers state laws which require disclosure of information regarding election and lobbying campaigns and the disclosure of the financial affairs of public officials. The commission also administers state laws regulating campaign contributions and related activities.

Before each general election in an even-numbered year and before each election in an odd-numbered year held for certain federal or state offices, the secretary of state publishes a candidates' pamphlet. The pamphlet is sent to each individual residence in the state. In general, it contains the photograph and statement of each candidate for state or federal office who submits them for publication. It does not contain entries for any person who is the sole nominee for a nonpartisan office.

Summary of Bill:

Spending Limits. The Public Disclosure Commission must adopt recommended spending limits for candidates for state executive and legislative offices. The commission must base its recommended spending limits for offices on the average spending amounts for the top two candidates for the offices in the 1992 general election, unless it finds that: basing the limits on these amounts would be inappropriate or unrealistic; or adjustments to reflect geographic

differences in legislative districts are warranted. The commission must adjust its recommended limits biennially beginning in 1995 to reflect inflationary changes.

Each candidate for an office for which a recommended spending limit has been established may file with the commission a promise that the candidate will stay within the limit. The promise must be filed not later than the 10th day after the close of the filing period for the office. The commission must establish, by rule, the form to be used for filing such a promise. The promise is binding; a candidate who violates the promise is in violation of the public disclosure law. The commission must announce the availability of a list of candidates who have filed promises in a timely manner and must periodically publish a list identifying candidates who have executed, but not violated, a binding promise.

Candidates' Pamphlet. The secretary of state must add to each candidates' pamphlet a list of the spending limits recommended by the commission for the offices which appear in the pamphlet. The secretary must also include in the pamphlet a brief explanation of the effect of a promise filed with the commission regarding those limits.

With the statement or photograph of each candidate in the pamphlet who is on the commission's list regarding spending limit promises, the secretary must add a prominent notice stating: "Has promised to abide by the voluntary spending limit for this campaign."

With the statement or photograph of each other candidate for an office with a recommended limit, the secretary must add a prominent notice stating: "Has **NOT** promised to abide by the voluntary spending limit for this campaign."

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void if not funded in the budget.

Testimony For: (State Government) (1) Spending limits provide a stronger democracy. They will help to restore confidence in the elections process; the current system creates an appearance of unfairness by favoring incumbents. (2) Growth in campaign spending creates an arms race that cannot be won.

(Appropriations) None.

Testimony Against: (State Government) (1) The only spending limits that will work require an amendment to the United States Constitution. (2) Basing limits on averages is likely to provide a very low limit that will not attract volunteers for spending limits. (3) The voters' pamphlet is published in various editions by regions. In an early edition for Spokane, a candidate for state office may be listed as promising to abide by a limit but, in a later edition for the Seattle area, the same candidate might not be so listed if the candidate violated the limit. (4) The voters' pamphlet is itself a form of campaign reform; it should not be used to punish candidates. (5) Only the federal government can limit spending by congressional candidates. (6) Different limits should be set for the primary and the general election. (7) Although this is a voluntary program, it may nonetheless constitute intimidation by the state. (8) The Legislature should be allowed to override the commission's recommended limits.

(Appropriations) None.

Witnesses: (State Government) Representative Dunshee (in favor); Chuck Sauvage, Common Cause (in favor with suggested changes); Lonnie Johns Brown, CURES and National Coalition of Women - Washington (in favor of concept but not bill); Mary Murphy, League of Women Voters of Washington (in favor of idea); Ralph Munro, Secretary of State; and Alma Kimura and Graham Johnson, Public Disclosure Commission.

(Appropriations) None.