

HOUSE BILL REPORT

HB 2317

As Reported By House Committee On:
State Government

Title: An act relating to fair campaign practices.

Brief Description: Making changes to the campaign practices law.

Sponsors: Representatives Peery, Anderson, Ebersole, Pruitt, Johanson, Patterson, Rust, Dunshee, Jones, Valle, King, Cothorn, Campbell, Basich, Quall, Springer, J. Kohl and H. Myers; by request of Commission on Ethics in Government & Campaign Financing, Governor Lowry and Attorney General.

Brief History:

Reported by House Committee on:
State Government, February 2, 1994, DPS.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Anderson, Chair; Veloria, Vice Chair; Conway; King and Pruitt.

Minority Report: Do not pass. Signed by 4 members: Representatives Reams, Ranking Minority Member; L. Thomas, Assistant Ranking Minority Member; Campbell and Dyer.

Staff: Kenneth Hirst (786-7105).

Background:

Election Campaigns. Initiative 134 set limits on the amount that a state political party, a county or legislative district committee of a state political party, and a caucus of the state Legislature may contribute to a candidate for state legislative or executive office. For a state political party or caucus of the state Legislature, the limit is 50 cents times the number of eligible registered voters in the jurisdiction for which the candidate is elected. For a county or legislative district committee of a political party, the limit is half that amount; however, a candidate may not accept contributions from such committees which aggregate more than the limit from one such committee.

The initiative also prohibits the use of public funds to finance political campaigns for state or local office.

The name and address of each person who contributes more than \$25 to an election campaign must be listed in the reports filed by the recipient under the public disclosure laws. Special limits have been established by the disclosure law for contributions made within 21 days of a general election.

The state's Election Code prohibits any person from directly or indirectly offering a bribe to a voter in exchange for the voter's vote for or against any person or ballot measure.

Voters' Pamphlet. The Secretary of State must publish a state voters' pamphlet regarding state ballot measures and a state candidates' pamphlet regarding state offices for each state general election in which such offices or measures are voted upon.

Commission; Other Disclosure Reports. The Public Disclosure Commission (PDC) administers the state's disclosure and contribution limitation law. The PDC is composed of five members appointed by the Governor with the advice and consent of the Senate. Not more than three members may be identified with the same political party. Members serve a maximum of one full five-year term. Actions taken against violators of the disclosure and contribution limitation law must be taken within five years.

Lobbyists must register with the commission and must file monthly disclosure reports. Employers of lobbyists must file disclosure reports with the commission annually.

Candidates, elected officials and certain appointed state officials must file with the commission statements of financial affairs for themselves and for their spouses and dependents. Candidates and elected officials in smaller voting jurisdictions are exempted from this requirement by statute. These statements and the reports filed by lobbyists must disclose the receipt or giving of certain gifts.

Use of Public Facilities. With certain exceptions, a public official or employee is prohibited by the disclosure law from using or authorizing the use of any of a public facility directly or indirectly for the purpose of assisting an election campaign or promoting or opposing a ballot measure.

Public Office Funds. Initiative 134 repealed the provisions of the disclosure law which had provided for the reporting of contributions to and expenditures from public office funds used to pay for nonreimbursed public-office related expenses. It also repealed a provision of the disclosure law which expressly authorized the use of surplus campaign monies for such reimbursements.

Ethics Commission. The Commission on Ethics in Government and Campaign Practices was established by law to study and make recommendations to: (a) promote public trust and confidence in government; (b) promote fair campaign practices; and (c) ensure the effective administration of public disclosure, conflict of interest and ethics laws. The commission submitted its report on January 6, 1993. This bill has been introduced at the request of the commission.

Summary of Substitute Bill:

Election Campaigns. The limits set by Initiative 134 on contributions by political parties and caucuses of the state Legislature are revised. The limits for contributions by state political parties and by county and legislative committees of those parties are now one-fifth of the limits set by the Initiative. Rather than being the same as those of political parties, contribution limits for a caucus of the state Legislature are now \$1,000 for a candidate for legislative office and \$2,000 for a candidate for state-wide office. Activities of caucuses of the state Legislature which are authorized or regulated under Initiative 134 are now restricted to activities of a political committee of such a caucus. A candidate may receive contributions from only one such committee per caucus during an election cycle.

The prohibition established by Initiative 134 against using public funds for financing political campaigns for local office is repealed. Local entities are expressly authorized to enact regulations for fair campaign practices for local elections not prohibited by the state.

The Senate Committee on Law and Justice and the House Committee on State Government are directed to study the issue of campaign spending limits and to report to the Legislature by December 1, 1995. The committees must also examine matters regarding the initiative process and the financing of state ballot measures.

Advertising done by a candidate's political committee must be personally endorsed and approved by the candidate. A person conducting a telephone poll for the purposes of a candidate's campaign must identify the sponsor of the poll.

Exempted from the definition of "independent expenditures" are internal political communications and volunteer services. Special reports for independent expenditures are now uniformly required for expenditures of \$500 or more.

A candidate's campaign reports filed under the state's public disclosure law must identify the occupation, employer and spouse's employer for each person who contributes more than \$100. This requirement does not apply to contributions to ballot measure committees. If the information which must be reported regarding a contributor of a contribution is not provided in campaign reports, the candidate or committee receiving the contribution cannot use the contribution. If the information is not obtained within 30 days of the receipt of the contribution or the end of the election cycle (whichever is first), the contribution must be returned to the contributor.

All persons (entities), not just individuals, who contribute more than \$50 must do so by written instrument, except for in-kind contributions.

An exemption provided by law to major state political parties from limits established on the size of contributions that may be made within 21 days of a general election is now provided to minor state political parties as well.

In-kind services which enable a voter to get to his or her polling place, but are not intended to influence the voter's vote, are expressly authorized under the election laws. A state official and the official's agents are expressly prohibited from knowingly soliciting from the official's employees contributions for political parties. A loan which is exempted from the contribution limits in Initiative 134 no longer needs to be secured or guaranteed. A person's surplus campaign contributions are expressly subject to the limitation provided by Initiative 134 that campaign funds cannot be used by the person for a campaign for another office without the written approval of the contributor.

Voters' Pamphlet. Official state candidates' pamphlets are required for primaries. In addition to the written pamphlet that must be prepared for a primary or general election, the Secretary of State may produce the pamphlet in an electronic format. Each candidates' pamphlet must contain a description of the services available through the PDC.

Administration & Enforcement. The membership of the PDC is expanded to seven members (from five members) appointed by the Governor. Confirmation of a gubernatorial appointment by the Senate is required only if such proceedings are requested by the appropriate standing committee of the

Senate within 60 days of the date the Senate is notified regarding the appointment. Members of the commission may serve two full terms (rather than one, under current law). Not more than four may be from the same political party.

Each candidate, committee and lobbyist required to register or file reports with the PDC must pay a fee set by the commission of not more than \$50. The fee must be paid once per campaign cycle by candidates and committees and once per year by lobbyists. The fees are to be deposited in a Public Disclosure Education Fund to be used to develop and support a campaign education program. Use of the fund is not subject to appropriation.

Actions taken against violators of the public disclosure and contribution limitation law must be taken within seven years (rather than five years, under current law).

Lobbying. Two new categories are created for lobbyists who must register with the commission: contract lobbyists and employee lobbyists. Lobbyists must register with the commission annually. If a lobbyist receives compensation from more than one employer with respect to the same legislation or subject of rule-making, the lobbyist must file a separate registration for each employer. Exempted from the lobby registration and reporting requirements are activities by persons whose participation has been solicited by an agency under the Administrative Procedure Act for reaching pre-rule-making agreements.

Reports filed by employers of lobbyists must be filed semi-annually (rather than annually, under current law). The employer's report must now identify: each political committee associated, affiliated or sponsored by the employer and the total contributions made; contributions made to candidates for local offices and campaigns and for grass roots lobbying; the total amount spent for "special lobbying activities"; the total of reimbursements of the expenses of lobbyists incurred for lobbying; total of amounts spent for entertainment by lobbyists; amounts of \$500 or more paid to persons for lobbying or to assist lobbying, other than that supplied by appointment or by written request to participate in a study or to provide expertise, and the names of the persons so paid; and the name and address of each person retained or assigned to lobbying (not just employed for lobbying). Expenditures to be reported by an employer are those for which the principal purpose is lobbying and those that would not have been made but for lobbying.

Lobbyists and employers of lobbyists must report expenditures made for political advertising and for public

relations, telemarketing, polling or similar activities to influence legislation or rule-making. In their reports, lobbyists must identify the monies actually spent for entertaining a person, where calculable. Lobbyists must now report the contributions they deliver or transmit for others. The commission may adopt rules to vary the content of lobbyist reports to address specific circumstances.

A new report is required for a person who spends \$2,500 or more to sponsor a "special lobbying activity" (other than grass roots lobbying) in the form of a single event. The report is required for activities such as rallies, receptions, dinners and mailings. The report must be filed with the commission within two weeks of the activity.

Gifts & Other Reporting. Although employers of lobbyists must report the total amount expended during the reporting period for gifts to legislators; legislative staff; and state officers, employees and members of their immediate families; the receipt of gifts is, in general, no longer reported to the PDC with elected and appointed officials' statements of financial affairs. However, a person's statement of financial affairs must now include a listing of each of the following: (a) payments of more than \$50 by a nongovernmental entity for reasonable expenses incurred in connection with a speech, presentation, appearance or trade mission made in an official capacity; (b) payments of more than \$50 by nongovernmental entity for seminars and educational programs sponsored by a bona fide nonprofit professional, educational, or trade association or charitable institution; and (c) each occasion attended in an official capacity in which food and beverage in excess of \$50 was accepted. In lieu of reporting gifts as currently required, lobbyists must also provide a listing of payments of more than \$50 made for these items.

The public disclosure law no longer defines "gift." The definition of "gift" provided in SHB 2316 is used by reference.

The House of Representatives and the Senate must report annually the total budget, the portion attributable to staff, the number of full-time and part-time positions occupied by nonpartisan staff and those by partisan staff (by caucus). Dollar figures as well as number of positions must be reported and comparable figures must be provided for the preceding 10 years.

Statements of financial affairs must now be filed with regard to political jurisdictions of less than 1,000 registered voters.

Use of Public Facilities for Campaigns. The provisions of current public disclosure law prohibiting the use of public facilities for assisting, directly or indirectly, an election or ballot measure campaign now apply only to units of local government. (Note: The use of state facilities for such purposes is regulated in SHB 2316, regarding governmental ethics.) Knowing acquiescence by a person with authority to direct, control or influence actions which are prohibited is a violation of the prohibitions. It is not a violation for an elected local official to respond to an inquiry regarding a ballot proposition, to make incidental remarks concerning a ballot proposition in an official communication, or otherwise to comment on a ballot proposition without an actual, measurable expenditure of public funds.

With his or her statement of financial affairs, an elected official or executive state officer must file a statement that he or she has read and is familiar with the provisions of law regarding the use of public facilities.

Public Office Funds. No state official may receive contributions or gifts for the purpose of making expenditures for nonreimbursed public-office-related expenses except as provided by statutes governing the use of surplus and other campaign funds, the Office of International Trade and Protocol (OIT&P), the Pacific Northwest Economic Region, and certain gift limitations in SHB 2316. The use of surplus campaign funds for nonreimbursed public office related expenses is expressly authorized. The use of funds secured by the OIT&P is expressly authorized for certain international hosting activities and the office is directed to establish written guidelines for requests by state officials to use such funds. Contributions and expenses for such protocol and hosting must be reported to the PDC quarterly.

Substitute Bill Compared to Original Bill: The substitute bill: consolidates the definitions of independent expenditures provided by current law and establishes more uniform reporting requirements for these expenditures; removes a provision of the original bill which prohibits a candidate from making both contributions to and independent expenditures for candidates or ballot measures; clarifies lobbyists' fee requirements; requires the names of employers to be reported for contributions greater than \$100 (rather than \$25 in the original bill) and no longer requires such reporting by ballot measure committees; permits no more than four (rather than three) members of the PDC to be from one political party; restricts contributions from multiple political committees of a caucus of the Legislature; makes technical changes which no longer expand the applicability

of portions of Initiative 134 to local offices; and applies certain definitions unique to Initiative 134 only to the provisions of the Initiative.

Fiscal Note: Available.

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

Testimony For: The bill clarifies many of the provisions of Initiative 134 and re-establishes the local option of providing a public financing system for local elections. Campaigns for many state offices may be settled in the primary; a voters' pamphlet for the primary is needed. Elected officials should be entitled to speak out on the issues raised by ballot measures. Information regarding laws restricting the use of public facilities for campaign purposes should be provided to candidates when they file for office or should be provided to public employees with their January paychecks. The bill clarifies the hosting that can be done through the protocol office. All of the records of the Legislature should be preserved as public documents. A seven member Public Disclosure Commission (PDC) would operate more efficiently than a five member commission. The effectiveness of government rests on the confidence people have in their elected officials.

Testimony Against: A person elected to one office should be required to resign before being permitted to file as a candidate for another office. The fair campaign practices and political advertising portions of the disclosure law should be repealed. Do not make campaign reporting more difficult than is actually necessary. Requiring employer information from those who make contributions will reduce the number of small contributions given. County auditors should collect the \$50 dollars required by the bill from those who file or register with the PDC. Partisan staff should not be just counted in reports to the PDC; their positions should be eliminated. Officials should not be permitted to use public funds to respond to ballot measure issues. Information about candidates that is not prepared by the candidates should be provided in voters pamphlets. Conference committee meetings of the Legislature should be open to the public. Public office funds should be maintained separately from campaign funds. A hosted reception should be considered a campaign contribution.

Witnesses: In favor of the recommendations of the Ethics Commission: Governor Lowry; Christine Gregoire, Attorney General; Delores Teutsch; Senator Kathleen Drew; Tsuguo Ikeda; Judge Herbert A. Swanson; Sarah Chandler; William Asberry; Representative Kim W. Peery, Commission on Ethics

in Government and Campaign Practices; and Chuck Sauvage, Common Cause. Commented: Ralph Munro, Secretary of State; and Irene Henigner and David Clark, Public Disclosure Commission. Opposed: Shawn Newman and Cheri Bockwinkle, LIMIT; and Jim Campton, Libertarian Party.