

(Revised)

HOUSE OF REPRESENTATIVES

Olympia Washington

Bil Analysis

Bil No. HB 2495

Adjust Penalties/Violations Public Disclosure Laws  
Brief title

Hrg Date: 1/28/98

Reps. Pennington/Appelwick  
Sponsor

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**BACKGROUND:**

State voters approved Initiative 276 in 1972. Initiative 276 prohibited the use of public facilities for campaign purposes, required campaign expenditures to be reported, required public officials to report their financial affairs, required persons lobbying the Legislature and state agencies to register and report their expenditures, required public records to be open for public inspection and copying, and created the public disclosure commission (PDC) as the agency to receive these reports and enforce these provisions.

Additional provisions were later added to this chapter of laws, including Initiative Measure 134, which was approved by state voters in 1992, that restricted political advertising and campaign contributions.

1. Public disclosure commission.

The PDC receives these campaign, financial, and lobbying reports; investigates whether any violation of the public disclosure laws has occurred; enforces the public disclosure laws; and prepares annual reports on the effectiveness of the public disclosure laws and any resulting action taken by law enforcement agencies.

If the PDC determines that an apparent violation of public disclosure laws has occurred, it may either:

- o Report the apparent violation to the Attorney General or other appropriate law enforcement authorities;
- o Investigate the apparent violation and if it determines that a violation has occurred, the PDC may issue an order directing that a person cease and desist from certain actions or may issue civil fines not to exceed \$1,000 for a single violation or not to exceed \$2,500 if multiple violations have occurred.

An order issued by the PDC may be appealed to superior court.

If a court determines that a violation of the public disclosure law has occurred, it may impose a civil penalty not to exceed \$10,000 for each violation. Where a violation of limitations on campaign contributions has occurred, the maximum civil penalty is the greater of either \$10,000 or three times the amount of the contribution.

2. Actions by the Attorney General or local prosecuting authority.

The Attorney General or the prosecuting authority of political subdivisions may bring a civil action against violations of public disclosure laws.

The Attorney General and a prosecuting authority of a political subdivision may investigate a person if there is reason to believe that the person is violating public disclosure laws and may issue an order requiring a person to appear and give information under oath and produce documents relevant to the investigation. An order has the same force and effect as a subpoena. The superior court enforces an order.

The court may award the state all costs of investigation and trial, including reasonable attorney's fee. If the violation is found to be intentional, the amount of the judgment may be trebled as punitive damages. If the defendant prevails, the defendant shall be awarded all trial costs and may be awarded a reasonable attorney's fee.

3. Citizen actions to enforce public disclosure laws.

A person may bring an action in the name of the state to enforce the public disclosure laws if the Attorney General or local prosecuting attorney fails to bring an action to enforce these laws within 45 days of being notified by the person of the alleged violation. If the person who brings the action prevails, the state reimburses the person for costs and attorney fees she or she incurred. If the defendant prevails, the court may order the person who brought the action to pay all costs of the trial and reasonable attorney fees incurred by the defendant.

**SUMMARY:**

Penalties for violating public disclosure laws are increased, a person or entity who fails to comply with an order relating to public disclosure laws is restricted from engaging in certain campaign activities, and changes are made to citizen enforcement actions.

1. Penalties.

The maximum fine that a superior court may impose for a violation of the public disclosure laws is increased from \$10,000 to \$40,000. The maximum fine that a superior court may impose for a violation of contribution limitations is increased from the greater of \$10,000 or three times the contribution, the greater of \$40,000 or three times the contribution. A candidate or officer of an authorized committee or political committee may be ordered to pay a fine from personal funds.

The maximum fine that the PDC may impose is increased from \$1,000 to \$4,000 for a single violation and from \$2,500 to \$10,000 for multiple violations.

2. Limitation on campaign activities

A candidate who fails to comply with an order issued by the PDC or a superior court may not solicit or accept contributions or make expenditures until the candidate has complied with the order.

A political committee that has not complied with an order issued by the PDC or a superior court may not solicit or accept contributions or make expenditures until the candidate has complied with the order. These restrictions also apply to a political committee with a majority of the same officers as the committee that is subject to the order.

If an officer or prior officer of a political committee has not complied with an order issued by the PDC or a superior court, the political committee shall not solicit contributions or make expenditures until the officer or prior officer has complied with the order.

A person who has not complied with an order issued by the PDC or a superior court may not register as a lobbyist, receive compensation as a lobbyist or make expenditures as a lobbyist until he or she has complied with the order. The PDC may revoke the registration of a lobbyist who fails to comply with such an order.

A sponsor of a grassroots lobbying organization who has not complied with an order issued by the PDC or a superior court may not compensate or make expenditures as a grassroots lobbyist until he or she has complied with the order.

An order for a person to appear and file information under oath and produce documents related to public disclosure laws must be delivered by certified mail rather than registered mail.

3. Citizen actions to enforce public disclosure laws.

The public disclosure commission must be notified of an alleged violation of public disclosure laws initiated by a citizen. The authority to bring a citizen enforcement action is altered by extending the number of days after notice is made before the citizen action may be brought from 45 days to 120 days after the notice of an alleged violation is made and by allowing the public disclosure commission to bring such an enforcement action. The defendant must pay the citizen's attorney fees rather than the state if the citizen's action prevails.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** Ninety days after adjournment of session in which bill passed.