

HOUSE BILL REPORT

HB 2725

As Reported By House Committee On:
Government Administration

Title: An act relating to subpoena power of the public disclosure commission.

Brief Description: Requiring a court order for the public disclosure commission to issue a subpoena.

Sponsors: Representatives Dunn, Koster, Sump, Mielke, Boldt, Honeyford and Buck.

Brief History:

Committee Activity:

Government Administration: 2/3/98, 2/5/98 [DPS].

HOUSE COMMITTEE ON GOVERNMENT ADMINISTRATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives D. Schmidt, Chairman; D. Sommers, Vice Chairman; Dunn; Reams; Smith; L. Thomas and Wensman.

Minority Report: Do not pass. Signed by 6 members: Representatives Scott, Ranking Minority Member; Gardner, Assistant Ranking Minority Member; Doumit; Dunshee; Murray and Wolfe.

Staff: Caroleen Dineen (786-7156).

Background: The Public Disclosure Commission (PDC) is a five-member board appointed by the Governor with the consent of the Senate. PDC members are appointed for five-year terms.

The PDC is charged with enforcing laws related to public records, campaign financing, lobbyist registration and reporting, political advertising, financial reporting of public officials, and campaign contribution limitations. The PDC is also charged with investigating whether reporting requirements have been satisfied and whether public disclosure laws have been violated.

The PDC is authorized to issue subpoenas in connection with the investigations and hearings it conducts.

Summary of Substitute Bill: The provision authorizing the PDC to issue subpoenas is revised, and substantive and procedural provisions regarding PDC subpoenas are added.

The PDC may issue subpoenas for information within the scope of its investigations. Information sought by subpoena must be necessary, relevant and material to the investigation and must not exceed the scope of the investigation. The subpoena must include:

- a statement of the nature and scope of the investigation;
- a statement of facts upon which the investigation is based;
- notice of the time and place for production of the information sought; and
- notice that the PDC will seek a court order if the information is not produced.

Service requirements for the subpoena are also added.

Certain information must be provided in the complaint upon which a PDC investigation is based, including a description of alleged public disclosure violations and the dates on which the violations occurred; identification of persons responsible for the violations; and copies of all supporting documentation and evidence.

Provisions are added regarding notice of complaints and enforcement hearings and PDC review of complaints.

Substitute Bill Compared to Original Bill: Requirement that PDC obtain a court order before issuing a subpoena is eliminated. Provisions are added regarding the type of information which may be sought by a PDC subpoena and the information a PDC subpoena must require. Procedural notice, review and service provisions are added. Requirements are added regarding information to be included in a complaint.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (Original bill) PDC subpoena power creates a perception of impropriety for a candidate being investigated regardless of the PDC's ruling. This bill ensures that due process is afforded.

Testimony Against: (Original bill) Requiring the PDC to obtain a court order to issue each subpoena will significantly stall PDC process, add substantial cost and make timely enforcement impossible. The subpoena power in current law is not unique to the PDC. This bill raises issues about the respondents' ability to issue subpoenas and the venue for

seeking subpoenas. The process works well now, and the courts are available to those who do not like the PDC system.

Testified: Representative Dunn, prime sponsor (pro); Melissa Warheit, Public Disclosure Commission (con); and Chuck Sauvage, Common Cause of Washington (con).