
SUBSTITUTE HOUSE BILL 2725

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Government Administration (originally sponsored by Representatives Dunn, Koster, Sump, Mielke, Boldt, Honeyford and Buck)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to subpoena power of the public disclosure
2 commission; amending RCW 42.17.370; and adding new sections to chapter
3 42.17 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 42.17.370 and 1995 c 397 s 17 are each amended to read
6 as follows:

7 The commission is empowered to:

8 (1) Adopt, promulgate, amend, and rescind suitable administrative
9 rules to carry out the policies and purposes of this chapter, which
10 rules shall be adopted under chapter 34.05 RCW. Any rule relating to
11 campaign finance, political advertising, or related forms that would
12 otherwise take effect after June 30th of a general election year shall
13 take effect no earlier than the day following the general election in
14 that year;

15 (2) Appoint and set, within the limits established by the committee
16 on agency officials' salaries under RCW 43.03.028, the compensation of
17 an executive director who shall perform such duties and have such
18 powers as the commission may prescribe and delegate to implement and
19 enforce this chapter efficiently and effectively. The commission shall

1 not delegate its authority to adopt, amend, or rescind rules nor shall
2 it delegate authority to determine whether an actual violation of this
3 chapter has occurred or to assess penalties for such violations;

4 (3) Prepare and publish such reports and technical studies as in
5 its judgment will tend to promote the purposes of this chapter,
6 including reports and statistics concerning campaign financing,
7 lobbying, financial interests of elected officials, and enforcement of
8 this chapter;

9 (4) Make from time to time, on its own motion, audits and field
10 investigations;

11 (5) Make public the time and date of any formal hearing set to
12 determine whether a violation has occurred, the question or questions
13 to be considered, and the results thereof;

14 (6) Administer oaths and affirmations, (~~issue subpoenas, and~~
15 ~~compel attendance,~~) and take evidence (~~and require the production of~~
16 ~~any books, papers, correspondence, memorandums, or other records~~
17 ~~relevant or material for the purpose of any investigation authorized~~
18 ~~under this chapter, or any other~~) in connection with a proceeding
19 authorized under this chapter;

20 (7) Issue subpoenas to compel attendance and require the production
21 of books, papers, correspondence, memorandums, or other records
22 relevant or material for the purpose of an investigation authorized
23 under this chapter according to section 2 of this act;

24 (8) Adopt and promulgate a code of fair campaign practices;

25 (~~(8)~~) (9) Relieve, by rule, candidates or political committees of
26 obligations to comply with the provisions of this chapter relating to
27 election campaigns, if they have not received contributions nor made
28 expenditures in connection with any election campaign of more than one
29 thousand dollars;

30 (~~(9)~~) (10) Adopt rules prescribing reasonable requirements for
31 keeping accounts of and reporting on a quarterly basis costs incurred
32 by state agencies, counties, cities, and other municipalities and
33 political subdivisions in preparing, publishing, and distributing
34 legislative information. The term "legislative information," for the
35 purposes of this subsection, means books, pamphlets, reports, and other
36 materials prepared, published, or distributed at substantial cost, a
37 substantial purpose of which is to influence the passage or defeat of
38 any legislation. The state auditor in his or her regular examination
39 of each agency under chapter 43.09 RCW shall review the rules,

1 accounts, and reports and make appropriate findings, comments, and
2 recommendations in his or her examination reports concerning those
3 agencies;

4 (~~(10)~~) (11) After hearing, by order approved and ratified by a
5 majority of the membership of the commission, suspend or modify any of
6 the reporting requirements of this chapter in a particular case if it
7 finds that literal application of this chapter works a manifestly
8 unreasonable hardship and if it also finds that the suspension or
9 modification will not frustrate the purposes of the chapter. The
10 commission shall find that a manifestly unreasonable hardship exists if
11 reporting the name of an entity required to be reported under RCW
12 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive
13 position of any entity in which the person filing the report or any
14 member of his or her immediate family holds any office, directorship,
15 general partnership interest, or an ownership interest of ten percent
16 or more. Any suspension or modification shall be only to the extent
17 necessary to substantially relieve the hardship. The commission shall
18 act to suspend or modify any reporting requirements only if it
19 determines that facts exist that are clear and convincing proof of the
20 findings required under this section. Requests for renewals of
21 reporting modifications may be heard in a brief adjudicative proceeding
22 as set forth in RCW 34.05.482 through 34.05.494 and in accordance with
23 the standards established in this section. No initial request may be
24 heard in a brief adjudicative proceeding and no request for renewal may
25 be heard in a brief adjudicative proceeding if the initial request was
26 granted more than three years previously or if the applicant is holding
27 an office or position of employment different from the office or
28 position held when the initial request was granted. The commission
29 shall adopt administrative rules governing the proceedings. Any
30 citizen has standing to bring an action in Thurston county superior
31 court to contest the propriety of any order entered under this section
32 within one year from the date of the entry of the order; and

33 (~~(11)~~) (12) Revise, at least once every five years but no more
34 often than every two years, the monetary reporting thresholds and
35 reporting code values of this chapter. The revisions shall be only for
36 the purpose of recognizing economic changes as reflected by an
37 inflationary index recommended by the office of financial management.
38 The revisions shall be guided by the change in the index for the period
39 commencing with the month of December preceding the last revision and

1 concluding with the month of December preceding the month the revision
2 is adopted. As to each of the three general categories of this chapter
3 (reports of campaign finance, reports of lobbyist activity, and reports
4 of the financial affairs of elected and appointed officials), the
5 revisions shall equally affect all thresholds within each category.
6 Revisions shall be adopted as rules under chapter 34.05 RCW. The first
7 revision authorized by this subsection shall reflect economic changes
8 from the time of the last legislative enactment affecting the
9 respective code or threshold through December 1985;

10 ~~((12))~~ (13) Develop and provide to filers a system for
11 certification of reports required under this chapter which are
12 transmitted by facsimile or electronically to the commission.
13 Implementation of the program is contingent on the availability of
14 funds.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.17 RCW
16 to read as follows:

17 (1) During the course of an audit or investigation, the commission
18 may issue a subpoena directed to a person believed to possess
19 information that is relevant and material to the audit or the
20 investigation and that is within the scope of the investigation as
21 provided in subsection (2) of this section.

22 (2) The commission may issue a subpoena for the purposes specified
23 in RCW 42.17.370(7) if:

24 (a) The information sought by the subpoena is necessary for an
25 investigation arising from a complaint filed under section 3 of this
26 act or an investigation instituted by the commission upon motion;

27 (b) The information sought by the subpoena is relevant and material
28 to the investigation upon which the subpoena is based;

29 (c) The information sought by the subpoena does not exceed the
30 scope of the investigation upon which the subpoena is based; and

31 (d) The subpoena includes the information specified in subsection
32 (3) of this section.

33 (3) All subpoenas issued by the commission must include the
34 following information:

35 (a) A concise statement of the scope and nature of the
36 investigation;

37 (b) A brief statement of the facts upon which the investigation is
38 based;

1 (c) A specific description of the information sought by the
2 subpoena;

3 (d) A notice of a reasonable time and place for the production of
4 the information sought by the subpoena; and

5 (e) A notice that if the information sought by the subpoena is not
6 produced, the commission will apply to the superior court for an
7 appropriate order or other remedy.

8 (4) The subpoena issued by the commission may be served either by
9 personal service or certified mail.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 42.17 RCW
11 to read as follows:

12 (1) A complaint upon which an investigation is based must be in
13 writing and signed by the complainant under oath. The complaint must
14 include:

15 (a) A statement:

16 (i) Describing the nature of the alleged violation or violations;

17 (ii) Listing the date, time, and place, or a reasonable
18 approximation thereof, of each violation; and

19 (iii) Identifying the person or persons responsible for each
20 violation; and

21 (b) Copies of all available documentation and any other evidence
22 that the complainant can supply to demonstrate a basis for
23 investigating whether a violation of this chapter has occurred.

24 (2) The commission shall notify the respondent that a complaint has
25 been filed within ten days of receipt by the commission. The notice
26 must contain a concise statement of the nature of the complaint and
27 must identify the origin of the complaint and the statutory provision
28 alleged to have been violated.

29 (3) The commission shall review the complaint and determine whether
30 to conduct an investigation. The commission shall initiate an
31 enforcement hearing whenever an investigation reveals facts that are
32 believed to constitute a material violation of this chapter and that do
33 not constitute substantial compliance with this chapter.

34 (4) The commission shall notify the respondent of a hearing
35 initiated under subsection (3) of this section at least ten days before
36 the scheduled hearing date.

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