

# HOUSE BILL ANALYSIS

## HB 1427

**Title:** AN ACT Relating to penalties or violations of public disclosure laws.

**Brief Description:** Adjusting penalties for violations of public disclosure laws.

**Sponsors:** Miloscia, Romero.

### BRIEF SUMMARY

- Increases the penalties for violations of the public disclosure laws.
- Restricts certain activities for persons and organizations who fail to comply with orders enforcing the public disclosure laws.
- Alters the procedures for private enforcement of the public disclosure laws.

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### HOUSE STATE GOVERNMENT COMMITTEE

**Staff:** Jim Morishima (786-7191)

#### BACKGROUND:

The state's public disclosure laws require, among other things, individuals or organizations involved in political campaigns to report campaign expenditures, public officials to report their financial affairs, and persons lobbying the Legislature to register and report their expenditures. Campaign contributions and political advertising are also restricted. The Public Disclosure Commission receives and compiles the campaign, financial, and lobbying reports and investigates possible violations of the public disclosure laws.

The public disclosure laws can be enforced in four ways: 1) By the PDC, 2) by the Attorney General (AG) and prosecutors, 3) by the courts and 4) by private citizens.

#### 1) Enforcement by the PDC

The PDC investigates possible violations of the public disclosure laws on its own initiative or in response to complaints. The PDC has the authority to determine whether a violation has taken place. The PDC can also refer the case to the AG or other law enforcement agency. If the PDC finds that a violation has taken place, it

can issue cease and desist orders and civil fines not to exceed \$1,000 for a single violation or \$2,500 for multiple violations. If a person sanctioned by the PDC does not follow the PDC sanctions, the PDC may petition the Superior Court to enforce the sanctions.

## 2) Enforcement by the AG and Prosecutors

The AG or the "prosecuting authority of political subdivisions" may also investigate possible violations of the public disclosure laws. The AG or prosecutor may issue an order, by registered mail, requiring a person to appear or disclose information to aid in the investigation. The AG or prosecutor may bring a civil action against apparent violators of the public disclosure laws.

## 3) Enforcement by the Courts

A court in a civil action may impose a civil penalty of up to \$10,000 or, in cases where a violation of campaign contribution limits has occurred, the greater of \$10,000 or three times the contribution. If the court finds the violation to be intentional, the court may treble the amount of the judgment as punitive damages.

## 4) Enforcement by Private Citizens

In order to bring a private enforcement action, a person must notify the AG or prosecutor that a violation of the public disclosure laws has occurred. The person may bring a private enforcement action if the AG or prosecutor fails to bring an enforcement action within 45 days. The amount of the judgment in such an action goes to the state. However, the state must pay the person bringing the action costs and attorneys fees.

## **SUMMARY:**

Penalties for violating the public disclosure laws are increased and certain activities are limited if a person or entity fails to comply with an order relating to the public disclosure laws:

### 1) Enforcement by the PDC

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

### 2) Enforcement by the AG or Prosecutors

In the course of an investigation, the AG or prosecutor may issue an order by certified mail (instead of registered mail), requiring a person to appear or disclose

information to aid in the investigation.

### 3) Enforcement by the Courts

The civil penalty that can be imposed by a court in a civil action is increased to \$40,000 (from \$10,000) or, in cases where a violation of campaign contribution limits has occurred, to the greater of \$40,000 (from \$10,000) 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.

### 4) Enforcement by Private Citizens

In order to bring a private enforcement action, a person must notify the PDC as well as the AG or prosecutor that a violation of the public disclosure law has occurred. The time period that the person must wait before bringing the action is increased to 120 days (from 45 days). A losing defendant (instead of the state), pays the person's costs and attorneys fees.

### 5) Miscellaneous Enforcement Provisions

A candidate, political committee, or officer (or prior officer) of a political committee who fails to comply with an order issued by the PDC or a court may not solicit or accept contributions or make expenditures until the candidate, political committee, or officer complies with the order. In the case of a political committee, the restrictions apply to a political committee with a majority of the same officers as the committee that is subject to the order.

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

A sponsor of a grass roots lobbying organization who fails to comply with an order issued by the PDC or a court order may not receive compensation or make expenditures as a grass roots lobbyist until he or she complies with the order.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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