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ENGROSSED SUBSTITUTE SENATE BILL 5899

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State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on State & Local Government (originally sponsored by Senators Patterson, Bauer, Franklin, Rasmussen, B. Sheldon, Haugen, Kohl-Welles, McAuliffe, Fraser, Prentice, Thibaudeau and Spanel)

Read first time 03/03/1999.

1 AN ACT Relating to penalties for violation of the public disclosure  
2 act; amending RCW 42.17.390 and 42.17.395; and prescribing penalties.

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

4 **Sec. 1.** RCW 42.17.390 and 1993 c 2 s 28 are each amended to read  
5 as follows:

6 One or more of the following civil remedies and sanctions may be  
7 imposed by court order in addition to any other remedies provided by  
8 law:

9 (1) (~~If the court finds that the violation of any provision of~~  
10 ~~this chapter by any candidate or political committee probably affected~~  
11 ~~the outcome of any election, the result of said election may be held))  
12 The court shall presume that a material and substantial violation of  
13 this chapter has affected the outcome of the election. Unless the  
14 presumption is defeated by a preponderance of the evidence, the court  
15 shall declare the election void and a special election held within  
16 sixty days of such finding. Any action to void an election shall be  
17 commenced within one year of the date of the election in question. It  
18 is intended that this remedy be imposed freely in all appropriate cases~~

1 to protect the right of the electorate to an informed and knowledgeable  
2 vote.

3 (2) If any lobbyist or sponsor of any grass roots lobbying campaign  
4 violates any of the provisions of this chapter, his registration may be  
5 revoked or suspended and he may be enjoined from receiving compensation  
6 or making expenditures for lobbying: PROVIDED, HOWEVER, That  
7 imposition of such sanction shall not excuse said lobbyist from filing  
8 statements and reports required by this chapter.

9 (3) Any person who violates any of the provisions of this chapter  
10 may be subject to a civil penalty of not more than (~~ten~~) forty  
11 thousand dollars for each such violation. However, a person or entity  
12 who violates RCW 42.17.640 may be ordered to return a contribution  
13 illegally accepted and may be subject to a civil penalty of (~~ten~~)  
14 twenty thousand dollars or three times the amount of the contribution  
15 illegally made or accepted, whichever is greater.

16 (4) Any person who fails to file a properly completed statement or  
17 report within the time required by this chapter may be subject to a  
18 civil penalty of ten dollars per day for each day each such delinquency  
19 continues.

20 (5) Any person who fails to report a contribution or expenditure  
21 may be subject to a civil penalty equivalent to the amount he failed to  
22 report.

23 (6) A person who makes an unreported contribution that exceeds the  
24 amount required to be reported when that contribution would otherwise  
25 have been an independent expenditure but for the fact that it was made  
26 because of the encouragement, approval, or collaboration of a candidate  
27 is subject to a penalty of up to three times the amount of the unlawful  
28 expenditure.

29 (7) If a candidate or an officer of a candidate's authorized  
30 committee or of a political committee is found to have intentionally  
31 violated this chapter, he or she may be ordered to pay any civil  
32 penalty that is imposed from personal funds.

33 (8) The court may enjoin any person to prevent the doing of any act  
34 (~~herein~~) prohibited by this chapter, or to compel the performance of  
35 any act required (~~herein~~) by this chapter.

36 **Sec. 2.** RCW 42.17.395 and 1989 c 175 s 91 are each amended to read  
37 as follows:

1 (1) The commission may (a) determine whether an actual violation of  
2 this chapter has occurred; and (b) issue and enforce an appropriate  
3 order following such determination.

4 (2) The commission, in cases where it chooses to determine whether  
5 an actual violation of this chapter has occurred, shall hold a hearing  
6 pursuant to the Administrative Procedure Act, chapter 34.05 RCW, to  
7 make such determination. Any order that the commission issues under  
8 this section shall be pursuant to such hearing.

9 (3) In lieu of holding a hearing or issuing an order under this  
10 section, the commission may refer the matter to the attorney general or  
11 other enforcement agency as provided in RCW 42.17.360.

12 (4) The person against whom an order is directed under this section  
13 shall be designated as the respondent. The order may require the  
14 respondent to cease and desist from the activity that constitutes a  
15 violation and in addition, or alternatively, may impose one or more of  
16 the remedies provided in RCW 42.17.390(~~((1) (b), (c), (d), or (e))~~)  
17 (2), (3), (4), or (5): PROVIDED, That no individual penalty assessed  
18 by the commission may exceed (~~one~~) two thousand dollars, and in any  
19 case where multiple violations are involved in a single complaint or  
20 hearing, the maximum aggregate penalty may not exceed (~~two~~) five  
21 thousand (~~(five hundred)~~) dollars.

22 (5) An order issued by the commission under this section shall be  
23 subject to judicial review under the Administrative Procedure Act,  
24 chapter 34.05 RCW. If the commission's order is not satisfied and no  
25 petition for review is filed within thirty days as provided in RCW  
26 34.05.542, the commission may petition a court of competent  
27 jurisdiction of any county in which a petition for review could be  
28 filed under that section, for an order of enforcement. Proceedings in  
29 connection with the commission's petition shall be in accordance with  
30 RCW 42.17.397.

31 (6) Beginning on the first day of an election cycle, a candidate  
32 who has not complied with an order issued under RCW 42.17.390 or this  
33 section during the previous election cycle, and the remedies imposed  
34 thereunder, shall not solicit or accept contributions or make  
35 expenditures until the candidate has complied with the order and the  
36 remedies so imposed.

37 (7)(a) Beginning on the first day of an election cycle, a political  
38 committee that has not complied with an order issued under RCW  
39 42.17.390 or this section during the previous election cycle, and the

1 remedies imposed thereunder, shall not solicit or accept contributions  
2 or make expenditures until it has complied with the order and the  
3 remedies so imposed. This restriction applies to the political  
4 committee against whom the order and remedies were issued as well as a  
5 political committee that has a majority of the same officers as the  
6 committee that is subject to the order.

7 (b) Beginning on the first day of an election cycle, a political  
8 committee that has an officer who has not complied with an order issued  
9 under RCW 42.17.390 or this section during the previous election cycle,  
10 and the remedies imposed thereunder, shall not solicit or accept  
11 contributions or make expenditures until the officer has complied with  
12 the order and the remedies so imposed. This restriction applies to the  
13 committee of which the individual subject to the order was an officer  
14 at the time of the violation as well as any other political committee  
15 of which the individual is an officer.

16 (8) Beginning on January 1 of each year, a person who has not  
17 complied with an order issued under RCW 42.17.390 or this section  
18 during the previous year, and the remedies imposed thereunder, shall  
19 not register as a lobbyist, receive compensation as a lobbyist, or make  
20 expenditures for lobbying expenses until the person has complied with  
21 the order and the remedies so imposed. If the person is presently  
22 registered as a lobbyist or a lobbyist employer, the commission may  
23 suspend or revoke the person's registration.

24 (9) Beginning on January 1 of each year, a sponsor of a grass roots  
25 lobbying campaign that has not complied with an order issued under RCW  
26 42.17.390 or this section during the previous year, and the remedies  
27 imposed thereunder, may not receive contributions or make expenditures  
28 for grass roots lobbying purposes until the sponsor has complied with  
29 the order and the remedies so imposed.

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