
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5931

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Patterson, Horn, Gardner, McCaslin, Haugen, Kline, Brown, Costa, Hale, Kohl-Welles, B. Sheldon and Bauer)

Read first time 03/08/1999.

1 AN ACT Relating to electronic filing and publication of campaign
2 finance and lobbyist reports; amending RCW 42.17.370, 42.17.365,
3 42.17.367, and 42.17.420; and adding new sections to chapter 42.17 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.17 RCW
6 to read as follows:

7 (1) It is the intent of the legislature to ensure that the
8 commission provide the general public timely access to all contribution
9 and expenditure reports submitted by candidates, continuing political
10 committees, bona fide political parties, lobbyists, and lobbyists'
11 employers. The legislature finds that failure to comply with this
12 chapter's requirements for full and timely disclosure threatens to
13 undermine our electoral process.

14 (2) Beginning January 1, 2001, the commission shall establish goals
15 that all reports, copies of reports, or copies of the data or
16 information included in reports, filed under RCW 42.17.040, 42.17.065,
17 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and
18 42.17.180, that are:

1 (a) Submitted electronically via modem, satellite, or the Internet,
2 shall be accessible in the commission's office and via the commission's
3 web site within two business days of the commission's receipt of the
4 report; and

5 (b) Submitted in any format or via any method other than those
6 listed in (a) of this subsection, shall be accessible in the
7 commission's office and via the commission's web site within four
8 business days of the commission's receipt of the report.

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

11 (1) The commission shall appoint an executive director who shall
12 perform such duties and have such powers as the commission, consistent
13 with this chapter, may prescribe and delegate to implement and enforce
14 this chapter efficiently and effectively. The commission shall set the
15 compensation of the executive director within the limits established by
16 the committee on agency officials' salaries under RCW 43.03.028. The
17 commission may not delegate its authority to adopt, amend, or rescind
18 rules; nor may it delegate authority to determine whether an actual
19 violation of this chapter has occurred or to assess penalties for such
20 violations.

21 (2) The executive director shall appoint an assistant executive
22 director for information services, who is responsible for maintaining
23 and enhancing the collection of and public access to information
24 through electronic means.

25 (3) The executive director and the assistant executive director for
26 information services are responsible for ensuring that the requirements
27 regarding public disclosure set forth in section 1 of this act are met.

28 **Sec. 3.** RCW 42.17.370 and 1995 c 397 s 17 are each amended to read
29 as follows:

30 The commission is empowered to:

31 (1) Adopt, (~~promulgate,~~) amend, and rescind suitable
32 administrative rules to carry out the policies and purposes of this
33 chapter, which rules shall be adopted under chapter 34.05 RCW. Any
34 rule relating to campaign finance, political advertising, or related
35 forms that would otherwise take effect after June 30th of a general
36 election year shall take effect no earlier than the day following the
37 general election in that year;

1 (2) (~~Appoint and set, within the limits established by the~~
2 ~~committee on agency officials' salaries under RCW 43.03.028, the~~
3 ~~compensation of an executive director who shall perform such duties and~~
4 ~~have such powers as the commission may prescribe and delegate to~~
5 ~~implement and enforce this chapter efficiently and effectively. The~~
6 ~~commission shall not delegate its authority to adopt, amend, or rescind~~
7 ~~rules nor shall it delegate authority to determine whether an actual~~
8 ~~violation of this chapter has occurred or to assess penalties for such~~
9 ~~violations;~~

10 (3)) Prepare and publish such reports and technical studies as in
11 its judgment will tend to promote the purposes of this chapter,
12 including reports and statistics concerning campaign financing,
13 lobbying, financial interests of elected officials, and enforcement of
14 this chapter;

15 (~~(4)~~) (3) Make from time to time, on its own motion, audits and
16 field investigations;

17 (~~(5)~~) (4) Make public the time and date of any formal hearing set
18 to determine whether a violation has occurred, the question or
19 questions to be considered, and the results thereof;

20 (~~(6)~~) (5) Administer oaths and affirmations, issue subpoenas, and
21 compel attendance, take evidence and require the production of any
22 books, papers, correspondence, memorandums, or other records relevant
23 or material for the purpose of any investigation authorized under this
24 chapter, or any other proceeding under this chapter;

25 (~~(7)~~) (6) Adopt and promulgate a code of fair campaign practices;

26 (~~(8)~~) (7) Relieve, by rule, candidates or political committees of
27 obligations to comply with the provisions of this chapter relating to
28 election campaigns, if they have not received contributions nor made
29 expenditures in connection with any election campaign of more than one
30 thousand dollars;

31 (~~(9)~~) (8) Adopt rules prescribing reasonable requirements for
32 keeping accounts of and reporting on a quarterly basis costs incurred
33 by state agencies, counties, cities, and other municipalities and
34 political subdivisions in preparing, publishing, and distributing
35 legislative information. The term "legislative information," for the
36 purposes of this subsection, means books, pamphlets, reports, and other
37 materials prepared, published, or distributed at substantial cost, a
38 substantial purpose of which is to influence the passage or defeat of
39 any legislation. The state auditor in his or her regular examination

1 of each agency under chapter 43.09 RCW shall review the rules,
2 accounts, and reports and make appropriate findings, comments, and
3 recommendations in his or her examination reports concerning those
4 agencies;

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

34 ~~(11))~~ (10) Revise, at least once every five years but no more
35 often than every two years, the monetary reporting thresholds and
36 reporting code values of this chapter. The revisions shall be only for
37 the purpose of recognizing economic changes as reflected by an
38 inflationary index recommended by the office of financial management.
39 The revisions shall be guided by the change in the index for the period

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

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

16 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.17 RCW
17 to read as follows:

18 By July 1st of each year, the commission shall calculate and make
19 available to the public the following performance measures:

20 (1) The average number of days that elapse between the commission's
21 receipt of reports filed under RCW 42.17.065, 42.17.080, and 42.17.100
22 and the time that the report, a copy of the report, or a copy of the
23 data or information included in the report, is first accessible to the
24 general public (a) in the commission's office, and (b) via the
25 commission's web site;

26 (2) The average number of days that elapse between the commission's
27 receipt of reports filed under RCW 42.17.105 and the time that the
28 report, a copy of the report, or a copy of the data or information
29 included in the report, is first accessible to the general public (a)
30 in the commission's office, and (b) via the commission's web site;

31 (3) The average number of days that elapse between the commission's
32 receipt of reports filed under RCW 42.17.150, 42.17.170, 42.17.175, and
33 42.17.180 and the time that the report, a copy of the report, or a copy
34 of the data or information included in the report, is first accessible
35 to the general public (a) in the commission's office, and (b) via the
36 commission's web site;

37 (4) The percentage of candidates, categorized as state-wide, state
38 legislative, or local, that have used each of the following methods to

1 file reports under RCW 42.17.080 or 42.17.105: (a) Hard copy paper
2 format; (b) electronic format via diskette; (c) electronic format via
3 modem or satellite; (d) electronic format via the Internet; and (e) any
4 other format or method;

5 (5) The percentage of continuing political committees that have
6 used each of the following methods to file reports under RCW 42.17.065
7 or 42.17.105: (a) Hard copy paper format; (b) electronic format via
8 diskette; (c) electronic format via modem or satellite; (d) electronic
9 format via the Internet; and (e) any other format or method; and

10 (6) The percentage of lobbyists and lobbyists' employers that have
11 used each of the following methods to file reports under RCW 42.17.150,
12 42.17.170, 42.17.175, or 42.17.180: (a) Hard copy paper format; (b)
13 electronic format via diskette; (c) electronic format via modem or
14 satellite; (d) electronic format via the Internet; and (e) any other
15 format or method.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 42.17 RCW
17 to read as follows:

18 (1) The commission shall develop an information technology plan
19 consistent with plans or portfolios required by chapter 43.105 RCW.

20 (2) The plan must include, but not be limited to, the following:

21 (a) A baseline assessment of the agency's information technology
22 resources and capabilities that will serve as the benchmark for
23 subsequent planning and performance measures;

24 (b) A statement of the agency's mission, goals, and objectives for
25 information technology, including goals and objectives for achieving
26 electronic access to agency records, information, and services for at
27 least the next five years;

28 (c) An explanation of how the agency's mission, goals, and
29 objectives for information technology support and conform to the state
30 strategic information technology plan;

31 (d) An implementation strategy to enhance electronic access to
32 public records and information required to be filed with and disclosed
33 by the commission. This implementation strategy must be assembled to
34 include:

35 (i) Adequate public notice and opportunity for comment;

36 (ii) Consideration of a variety of electronic technologies,
37 including those that help to transcend geographic locations, standard
38 business hours, economic conditions of users, and disabilities;

1 (iii) Methods to educate agency employees, the public, and the news
2 media in the effective use of agency technology;

3 (iv) Ways to simplify and improve public access to information held
4 by the commission through electronic means;

5 (e) Projects and resources required to meet the objectives of the
6 plan; and

7 (f) If feasible, estimated schedules and funding required to
8 implement identified projects.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 42.17 RCW
10 to read as follows:

11 In preparing the information technology plan, the commission shall
12 consult with affected state agencies, the department of information
13 services, and stakeholders in the commission's work, including
14 representatives of political committees, bona fide political parties,
15 news media, and the general public.

16 NEW SECTION. **Sec. 7.** A new section is added to chapter 42.17 RCW
17 to read as follows:

18 The commission shall submit the information technology plan to the
19 senate and house fiscal committees, the governor, the senate's state
20 and local government committee, the house's state government committee,
21 and the department of information services by January 1, 2000. It is
22 the intent of the legislature that the commission thereafter comply
23 with the requirements of chapter 43.105 RCW with respect to preparation
24 and submission of biennial performance reports on the commission's
25 information technology.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 42.17 RCW
27 to read as follows:

28 The commission shall prepare and submit to the department of
29 information services a biennial performance report in accordance with
30 chapter 43.105 RCW.

31 The report must include:

32 (1) An evaluation of the agency's performance relating to
33 information technology;

34 (2) An assessment of progress made toward implementing the agency
35 information technology plan;

1 (3) An analysis of the commission's performance measures, set forth
2 in section 4 of this act, that relate to the electronic filing of
3 reports and timely public access to those reports via the commission's
4 web site;

5 (4) A comprehensive description of the methods by which citizens
6 may interact with the agency in order to obtain information and
7 services from the commission; and

8 (5) An inventory of agency information services, equipment, and
9 proprietary software.

10 **Sec. 9.** RCW 42.17.365 and 1993 c 2 s 29 are each amended to read
11 as follows:

12 The commission shall conduct a sufficient number of audits and
13 field investigations so as to provide a statistically valid finding
14 regarding the degree of compliance with the provisions of this chapter
15 by all required filers. Any documents, records, reports, computer
16 files, papers, or materials provided to the commission for use in
17 conducting audits and investigations must be returned to the candidate,
18 campaign, or political committee from which they were received within
19 two weeks of the commission's receipt.

20 **Sec. 10.** RCW 42.17.367 and 1994 c 40 s 2 are each amended to read
21 as follows:

22 By January 1, ~~((1995))~~ 2000, the ~~((public disclosure))~~ commission
23 shall ~~((design a program for electronic access to public documents~~
24 ~~filed with the commission. The program may include on-line access to~~
25 ~~the commission's magic and electronic bulletin board systems, providing~~
26 ~~information for the internet system, fax request service, automated~~
27 ~~telephone service, electronic filing of reports, and other service~~
28 ~~delivery options. Documents available in the program shall include,~~
29 ~~but are not limited to, public documents filed with the public~~
30 ~~disclosure commission, including, but not limited to, commission~~
31 ~~meeting schedules, financial affairs reports, contribution reports,~~
32 ~~expenditure reports, and gift reports. Implementation of the program~~
33 ~~is contingent on the availability of funds))~~ operate a web site or
34 contract for the operation of a web site that allows access to reports,
35 copies of reports, or copies of data and information submitted in
36 reports, filed with the commission under RCW 42.17.040, 42.17.065,
37 42.17.080, 42.17.100, 42.17.105, 42.17.170, 42.17.175, and 42.17.180.

1 In addition, the commission shall attempt to make available via the web
2 site other public records submitted to or generated by the commission
3 that are required by this chapter to be available for public use or
4 inspection.

5 **Sec. 11.** RCW 42.17.420 and 1995 c 397 s 18 are each amended to
6 read as follows:

7 (1) Except as provided in subsection (2) of this section, when any
8 application, report, statement, notice, or payment required to be made
9 under the provisions of this chapter has been deposited postpaid in the
10 United States mail properly addressed, it shall be deemed to have been
11 received on the date of mailing. It shall be presumed that the date
12 shown by the post office cancellation mark on the envelope is the date
13 of mailing. The provisions of this section do not apply to reports
14 required to be delivered under RCW 42.17.105 and 42.17.175.

15 (2) When a report is filed electronically with the commission, it
16 is deemed to have been received on the file transfer date. The
17 commission shall notify the filer of receipt of the electronically
18 filed report. Such notification may be sent by mail, facsimile, or
19 electronic mail. If the notification of receipt of the electronically
20 filed report is not received by the filer, the filer may offer his or
21 her own proof of sending the report, and such proof shall be treated as
22 if it were a receipt sent by the commission. Electronic filing may be
23 used for purposes of filing the special reports required to be
24 delivered under RCW 42.17.105 and 42.17.175.

25 NEW SECTION. **Sec. 12.** A new section is added to chapter 42.17 RCW
26 to read as follows:

27 (1) By July 1, 1999, the commission shall offer every candidate,
28 political committee, and party organization that is required to file
29 reports under this chapter the option of filing financial affairs
30 reports, contribution reports, and expenditure reports electronically
31 by diskette or via modem, satellite, or the Internet. The commission
32 shall make available to each candidate, political committee, and party
33 organization an electronic copy of the appropriate reporting forms at
34 no charge.

35 (2) By January 1, 2001, the commission shall offer all lobbyists
36 and lobbyists' employers required to file reports under RCW 42.17.150,

1 42.17.170, 42.17.175, or 42.17.180 the option of filing these reports
2 electronically by diskette or via modem, satellite, or the Internet.

3 NEW SECTION. **Sec. 13.** A new section is added to chapter 42.17 RCW
4 to read as follows:

5 Beginning January 1, 2000, each continuing political committee
6 shall file all contribution reports and expenditure reports required by
7 this chapter electronically by diskette or via modem, satellite, or the
8 Internet. Failure by a continuing political committee to comply with
9 this section is a violation of this chapter.

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