HOUSE BILL REPORT
HB 2321

As Reported by House Committee On:
State Government

Title: An act relating to penalties for violation of the campaign finance and contribution limits, lobbying, political advertising, and public officials' financial affairs reporting subdivisions of the public disclosure act.

Brief Description: Regarding penalties for violations of the public disclosure act.

Sponsors: Representatives McDermott, Schmidt, Romero, Miloscia, Kessler, Mulliken, Benson, Alexander, Haigh, Holmquist and Edwards; by request of Public Disclosure Commission.

Brief History:
Committee Activity:
State Government: 1/24/02, 1/29/02 [DP].

Brief Summary of Bill

- Increases the Public Disclosure Commission's (PDC) maximum penalties from $1,000 to $4,000 for a single violation and from $2,500 to $10,000 for multiple violations.
- Public officials and employees who are found to have used public resources to assist campaigns may be ordered to pay restitution and penalties with non-public funds.
- Authorizes the PDC to order persons subject to the Public Disclosure Act to take all action necessary for full compliance, e.g., refunding excessive contributions.
- Allows 60 business days, rather than 45 calendar days, for the Attorney General or a county prosecutor to initiate court proceedings regarding citizen action complaints.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Romero, Chair;

Miloscia, Vice Chair; McMorris, Ranking Minority Member; McDermott, Schindler, Schmidt and Upthegrove.

Staff: Marsha Reilly (786-7135).

Background:

The Public Disclosure Act (PDA) requires that political campaign and lobbying contributions and expenditures be fully disclosed, as well as the financial affairs of elected officials and candidates. The PDA covers campaign financing, maximum campaign contribution limits, political advertising, lobbying, and the financial affairs of public officials. Once the Public Disclosure Commission (PDC) is aware of a possible PDA violation, it may pursue administrative remedies or may refer the matter to the Office of the Attorney General (AG) or other law enforcement agencies.

If the remedy or sanction is imposed by a court, the maximum penalty is $10,000 for each violation. A party who violates the maximum campaign contribution limits may be subject to a penalty of either $10,000 or three times the amount of the illegal contribution, whichever is greater. If a court finds that a violation probably affected the outcome of an election, the court may declare the election void and a special election must be held within 60 days. If a lobbyist violates the PDA, the court may revoke or suspend the lobbyist’s registration and may prohibit the person from receiving compensation or making expenditures for lobbying. A court can issue a penalty of $10 a day for each day that a statement or report is not filed beyond the proper deadline. Failure to report a contribution or expenditure can result in a penalty equivalent to the amount of contribution or expenditure. A court may use injunctive relief or may compel any action necessary to enforce compliance with the disclosure requirements.

If the PDC handles a violation administratively, it must hold a hearing, pursuant to the PDA, to determine if a violation occurred, and any order issued pursuant to the hearing is subject to judicial review. If the PDC does find a violation, it may order the respondent to cease and desist from the violating activity, and may impose a civil penalty of up to $1,000 for an individual violation, and an aggregate penalty of up to $2,500 for multiple violations included in a single complaint or hearing. The PDC may order any other remedies available to a court. If the respondent does not comply with the order or petition for review, the PDC may seek enforcement through a court.

Summary of Bill:

Several changes are made to the PDA regarding penalties and enforcement issues.

Any person who accepts excessive campaign contributions may be required to return the illegal contribution and any person failing to report a contribution or expenditure may be fined an amount equal to the amount not reported.

The penalty for using public funds or facilities to assist an election campaign, or promote or oppose a ballot measure, may include an order to pay restitution in addition to any civil penalty. Neither the restitution nor the civil penalty may be paid with public funds. A court may order any action necessary to compel compliance with the disclosure regulations, including the return of late or excessive contributions.

The maximum limit for PDC issued penalties increases from $1,000 to $4,000 for a single violation, and from $2,500 to $10,000 for multiple violations included in one complaint.

Citizens may report violations to the PDC, in addition to the AG and the county prosecuting attorney. The number of days that the AG or county prosecutor has to initiate court proceedings regarding citizen action complaints is changed from 45 calendar days to 60 business days.

Technical changes are made to: 1) omit the public records section of the PDA from the violation procedures and penalty provisions; and 2) to reflect female gender in the language of the bill.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: Money has become a vital part of campaigns. The maximum fine amounts reflect the role expected of the commission. The Public Disclosure Commission (PDC) currently does not have the authority to require the return of illegal contributions.

The PDC has requested this bill. The PDC believes that the $1000 and $2500 levels need to be adjusted because they were first established 17 years ago. When the Public Disclosure Act (PDA) was first enacted, the PDC did not have penalty authority and all cases were referred to the county prosecutors or the Office of the Attorney General (AG). That system did not work because those agencies had other priorities beyond political campaign and finance issues. In 1985, the Legislature granted the PDC the authority to issue penalties.

Other comparable agencies have a $5000 per violation maximum. The thresholds suggested today are in line with other agencies and ethics boards. The total spending that the PDC monitors has increased from $21 million in 1986 to $87 million in 2000. Since 1996, at least six cases would have stayed with the PDC had it been able to issue stiffer penalties. If the PDC believes that the new penalties are not high enough, it will continue to refer these cases to the AG.

The 45-day provision is needed to allow more time to thoroughly investigate complaints. The respondents must have enough time to respond to the allegations and to mount a defense. Even the Joint Legislative Audit and Review Committee recognized that the PDC needs more time to handle citizen action complaints.

The AG supports the bill, particularly the change in the 45-day limit for investigations. The change affects the amount of time the PDC has to review claims, which is currently constraining in complex cases. Taking holidays and weekends into account, 45 days is not much time.

Testimony Against: There are two major concerns with this bill. First, the PDC both determines if a violation has occurred and rules on the case. The judge should be independent, especially if the maximum fine is $10,000, akin to a Class B or Class C felony. Before broadening the power of the PDC to impose high fines, structural changes should be made.

Second, the extension of 45 days to 60 days for investigations of citizen complaints is too long. The PDC has five years under the statute of limitations to pursue a case. An extension is an impediment to citizens unless you impose other time limits.

Testified: (In support) Representative McDermott, prime sponsor; Vicki Rippie, Public Disclosure Commission; and Linda Dalton, Office of the Attorney General.

(Opposed) Shawn Newman, Citizens for Leaders with Ethics and Accountability Now.