

State Government Committee

HB 1353

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

Sponsors: *Representatives McDermott, Haigh, D. Schmidt and Miloscia; by request of Public Disclosure Commission.*

Brief Summary of Bill

- *Raises the maximum limits for civil penalties.*
- *Eliminates the maximum aggregate penalty for multiple violations.*
- *Allows the return of late or excessive campaign contributions.*
- *Allows for restitution when public funds or facilities are used for a campaign.*
- *Allows courts to prohibit certain activities by lobbyists, candidates, and committees until penalties are paid in full.*

Hearing Date: *2/23/01*

Staff: *Catherine Blinn (786-7114).*

Background:

The Public Disclosure Act (PDA) requires that political campaign and lobbying contributions and expenditures be fully disclosed. The PDA is liberally construed to promote complete disclosure regarding the financing of political campaigns and lobbying, and 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 Attorney General 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 Administrative Procedures Act, 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 \$1000 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:

An intent section emphasizes a need for increased compliance with and enforcement of the disclosure requirements. References to "he" are changed to "he or she". The disclosure requirements for state agencies are omitted from the violation procedures and penalty provisions. The maximum limit for court issued penalties increases from \$10,000 to \$40,000. Anyone who accepts excessive campaign contributions may be required to return the illegal contribution as well as pay a penalty of \$40,000 or three times the amount of the illegal contribution, whichever is greater. The language regarding failing to report a contribution or expenditure is clarified.

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. A court may enjoin a lobbyist who has failed to pay a penalty from registering, receiving compensation as a lobbyist, or making lobbying expenditures until full payment is made. A court may enjoin any candidate or political committee that has failed to pay a penalty from soliciting, raising, accepting, or spending campaign funds until full payment is made.

The maximum limit for PDC issued penalties increases from \$1000 to \$5000. The maximum aggregate penalty for multiple violations included in one complaint or hearing is stricken. A severability clause is included.

Rulemaking Authority: *No express authority.*

Appropriation: None.

Fiscal Note: Available.

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