

---

## State Government Committee

---

# HB 1916

**Brief Description:** Creating a system of clean elections.

**Sponsors:** Representative Dunshee.

### Brief Summary of Bill

- Creates a voluntary program of campaign financing for candidates for governor and legislative office that provides public funding to those candidates who agree to abide by the requirements of the Citizens' Clean Elections Act.

**Hearing Date:** 1/17/02

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

### Background:

Current campaign finance laws limit individual campaign contributions to a candidate for state legislative office to \$625, and to a candidate for governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor and state treasurer to \$1250. The limit applies for each election that the candidate appears on the ballot. Within 21 days of a general election, no person may make contributions that exceed \$50,000 for a campaign for statewide office or \$5,000 for any other state or local campaign subject to the general reporting requirements.

Mandatory limits on campaign spending have been held to restrict political speech, thereby violating the First Amendment, by the U.S. Supreme Court in *Buckley v. Valeo* (1976) and the state Supreme Court in *Bare v. Gorton* (1974). However, campaign expenditure limits that are voluntary, rather than mandatory, are permitted. Public funds, whether derived through taxes, fees, penalties, or any other sources, may not be used to finance political campaigns for state or local office.

### Summary of Bill:

The Citizens' Clean Elections Act:

Candidates for the office of governor or legislative office are eligible to participate in the

citizens' clean elections program. A candidate receives public money to fund the campaign if he or she promises to comply with the requirements of the program. The public disclosure commission (PDC) monitors the program. A candidate who is certified as a participating candidate may use this designation in campaign materials, and is designated as such in the state voters' pamphlet.

The citizens' clean elections fund is created in the custody of the state treasurer as a fund separate from the state general fund. The fund receives all receipts from business and occupation taxes imposed on public relations and advertising services, a new ten percent surcharge imposed on all civil and criminal fines and penalties collected by the PDC, new fees imposed on lobbyists, amounts returned at the end of the primary and general election periods by participating candidates, and amounts returned by participating candidates who violated the requirements of the program. A new fee of one hundred dollars is imposed on registered lobbyists who represent for-profit entities. The PDC must follow an outlined method to project revenues and expenses, to request an additional appropriation from the legislature if revenues will not meet expenses, and to reduce expenses if the legislature fails to appropriate sufficient funds.

Participating candidates may accept individual early contributions of \$100 or less during the exploratory and qualifying periods. The exploratory period begins the day after the last general election, and ends at the start of the qualifying period. The qualifying period begins, for the office of governor, August 1 of the year before an election and, for a legislative office, January 1 of the election year. The qualifying period ends the day the regular filing period closes. Early contributions from all sources must not exceed \$40,000 for a candidate for governor, and \$2,500 for a candidate for legislative office, but the qualifying \$5 contributions need not be calculated in this maximum. Participating candidates may not spend more than \$1,000 of their own money if running for governor, and not more than \$500 of their own money if running for legislative office. Early contributions and the candidates' personal money may only be spent during the exploratory and qualifying periods. Any early contributions not spent by the end of the qualifying period must be paid to the citizens' clean elections fund.

In order to receive funds from the citizens' clean elections fund, a candidate must provide to the PDC no later than one week after the end of the qualifying period a list of people who made qualifying \$5 contributions, accompanying reporting slips, and the money. Candidates for legislative office must obtain at least 200 qualifying contributions, and candidates for governor must obtain at least 4,000 qualifying contributions. The PDC shall deposit the money into the citizens' clean elections fund, and verify and canvas at least ten percent of the signatures on the reporting slips.

A qualifying contribution must be from a registered voter living in the district, not be given in exchange for anything of value, exactly \$5, accompanied by a reporting slip, and received unsolicited or solicited by a person not employed or retained by the candidate and not compensated for collecting contributions. Each participating candidate must maintain a committee account, and report all moneys spent from the account on goods and services for the campaign. No money from a participating candidate's account may be used to pay fines, civil penalties, costs, or legal fees related to participating in the program. At the end of each primary and general election period, participating candidates must return to the citizens'

clean elections fund all money over the amount necessary to pay remaining unpaid bills incurred during the election period. Any money left in a candidate's campaign account after payment of all bills must be returned promptly.

The PDC must sponsor debates among candidates for governor and legislative office. Candidates participating in the citizens' clean elections program must participate in the debates or be subject to penalty. Nonparticipating candidates are also invited to participate in the debates.

Once approved to receive funds, each candidate shall receive an amount equal to the spending limit for that election. A separate spending limit, and therefore separate disbursement of funds, applies for each election. The primary election spending limit for a candidate for governor is \$380,000 and for a candidate for legislative office is \$10,000. The general election spending limits are 50% greater: \$570,000 and \$15,000 respectively. Candidates may not make expenditures during either election period that exceed the specified spending limits.

During a primary election cycle, once a nonparticipating candidate spends more than the primary election spending limit, the PDC must immediately pay the participating candidate an amount equal to the excess spent by the nonparticipating candidate over the spending limit. The primary election spending limits for all such participating candidates is adjusted accordingly. As of the general election, if a nonparticipating candidate's contributions, less the amount spent during the primary election, exceed the general election spending limit for participating candidates, the PDC must immediately pay the participating candidate an amount equal to the excess over the general election spending limit. The general election spending limit for all such participating candidates is adjusted accordingly. An adjusted spending limit may not exceed three times the original spending limit. Independent expenditures spent on behalf of either participating or nonparticipating candidates are treated as contributions to and expenditures by a nonparticipating candidate.

Procedures are outlined authorizing the PDC to receive complaints, issue notices of violation, publish findings of fact and conclusions of law, and impose civil penalties. A complainant candidate may bring a civil action in Thurston County Superior Court seeking imposition of a civil penalty if the PDC fails to make a finding within thirty days of the original filing of the complaint. The civil penalty for violating the contribution or expenditure limits is ten times the amount of the excess. If a candidate violates the contribution or expenditure limits by more than \$95,000 for the office of governor or more than \$2,500 for legislative office, the candidate is disqualified and must forfeit the office. The civil penalty for a reporting requirement is \$300 per day for candidates for governor and \$100 per day for candidates for legislative office. The penalty for violating the reporting requirements is doubled if the amount not reported is more than ten percent of the spending limit for that election. Joint and several liability to pay a civil penalty applies to a candidate and the candidate's authorized committee. A candidate or person acting on behalf of a candidate who knowingly violates the contribution and spending limits, pays compensation or anything of value for a qualifying contribution, or indicates that a nonparticipating candidate is participating in the program is guilty of a gross misdemeanor. Dollar amounts may be adjusted every two years by the PDC for inflation. Local governments are authorized to establish similar programs for local elections.

Changes to Existing Campaign Finance Laws:

All campaign books and accounts for all candidates for public office must be maintained to reflect contributions and expenditures received or spent within one day, rather than five business days. All reports must be filed with the appropriate county auditor, in addition to the PDC. The notice to voters indicating that political advertising has been provided as an independent expenditure must also state, "There are no limits on the amount of independent expenditures that may be made or on the amount of any contribution for an independent expenditure." The notice must describe the general nature of interests represented by a political committee.

Contributions to committees that sponsor political advertising for a particular candidate are limited during the 40 day period before a primary or general election to \$25,000 for a candidate for statewide office, and \$2,500 for a candidate for any other state or local office. The existing limit on contributions 21 days before the general election also applies to the primary election and no longer exempts contributions from bona fide political committees. All political advertising relating to candidates undertaken as an independent expenditure must be provided to the PDC at least five days before the advertising is aired or distributed. RCW 42.17.128, prohibiting the use of public funds for political purposes, is repealed.

**Rulemaking Authority:** No express authority.

**Appropriation:** None.

**Fiscal Note:** Requested on January 11, 2002.

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