
HOUSE BILL 2321

State of Washington

57th Legislature

2002 Regular Session

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

Read first time 01/14/2002. Referred to Committee on State Government.

1 AN ACT Relating to penalties for violation of the campaign finance
2 and contribution limits, lobbying, political advertising, and public
3 officials' financial affairs reporting subdivisions of the public
4 disclosure act; amending RCW 42.17.390, 42.17.395, and 42.17.400;
5 adding a new section to chapter 42.17 RCW; and prescribing penalties.

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

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

9 It is the intent of the legislature to increase the authority of
10 the public disclosure commission and the courts to more effectively
11 foster compliance with our state's requirements regarding campaign
12 finance and contribution limits, lobbying, political advertising, and
13 reporting of public officials' financial affairs. It is the intent of
14 the legislature to make the agency's penalty authority for violations
15 of the campaign, lobbying, political advertising, and public officials'
16 financial affairs provisions in RCW 42.17.010 through 42.17.245 and
17 42.17.350 through 42.17.790 more consistent with other agencies that
18 enforce state ethics laws.

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

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

6 (1) If the court finds that the violation of any provision of this
7 chapter by any candidate or political committee probably affected the
8 outcome of any election, the result of said election may be held void
9 and a special election held within sixty days of such finding. Any
10 action to void an election shall be commenced within one year of the
11 date of the election in question. It is intended that this remedy be
12 imposed freely in all appropriate cases to protect the right of the
13 electorate to an informed and knowledgeable vote.

14 (2) If any lobbyist or sponsor of any grass roots lobbying campaign
15 violates any of the provisions of this chapter, his or her registration
16 may be revoked or suspended and he or she may be enjoined from
17 receiving compensation or making expenditures for lobbying: PROVIDED,
18 HOWEVER, That imposition of such sanction shall not excuse said
19 lobbyist from filing statements and reports required by this chapter.

20 (3) Any person who violates any of the provisions of (~~this~~
21 ~~chapter~~) RCW 42.17.010 through 42.17.245 and 42.17.350 through
22 42.17.790 may be subject to a civil penalty of not more than ten
23 thousand dollars for each such violation. However, a person or entity
24 who violates RCW 42.17.640 may be ordered to return a contribution
25 illegally accepted and may be subject to a civil penalty of ten
26 thousand dollars or three times the amount of the contribution
27 illegally made or accepted, whichever is greater.

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

32 (5) Any person who fails to report a contribution or expenditure as
33 required by this chapter may be subject to a civil penalty equivalent
34 to the amount (~~he failed to report~~) not reported as required.

35 (6) Any person found to have violated RCW 42.17.130 may be ordered
36 to pay restitution in addition to paying any penalties imposed.

37 (7) Any person found to have violated RCW 42.17.130 may be ordered
38 to pay any civil penalty and any restitution with funds that are not

1 public funds as defined in RCW 43.88.020 or as derived through taxes,
2 fees, penalties, or other similar sources.

3 (8) Any person subject to RCW 42.17.010 through 42.17.245 or
4 42.17.350 through 42.17.790 may be ordered to take all actions
5 necessary to comply with those sections and Title 390 WAC, including
6 but not limited to the returning of contributions made or received in
7 violation of RCW 42.17.105(8) or 42.17.640.

8 (9) The court may enjoin any person to prevent the doing of any act
9 herein prohibited, or to compel the performance of any act required
10 herein.

11 **Sec. 3.** RCW 42.17.395 and 1989 c 175 s 91 are each amended to read
12 as follows:

13 (1) The commission may (a) determine whether an actual violation of
14 ~~((this chapter))~~ RCW 42.17.010 through 42.17.245 or 42.17.350 through
15 42.17.790 has occurred; and (b) issue and enforce an appropriate order
16 following such determination.

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

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

25 (4) The person against whom an order is directed under this section
26 shall be designated as the respondent. The order may require the
27 respondent to cease and desist from the activity that constitutes a
28 violation and in addition, or alternatively, may impose one or more of
29 the remedies provided in RCW 42.17.390 ~~((1) (b), (c), (d), or (e)))~~ (2)
30 through (8): PROVIDED, That no individual penalty assessed by the
31 commission may exceed ~~((one))~~ four thousand dollars, and in any case
32 where multiple violations are involved in a single complaint or
33 hearing, the maximum aggregate penalty may not exceed ~~((two))~~ ten
34 thousand ~~((five hundred))~~ dollars.

35 (5) An order issued by the commission under this section shall be
36 subject to judicial review under the Administrative Procedure Act,
37 chapter 34.05 RCW. If the commission's order is not satisfied and no
38 petition for review is filed within thirty days as provided in RCW

1 34.05.542, the commission may petition a court of competent
2 jurisdiction of any county in which a petition for review could be
3 filed under that section, for an order of enforcement. Proceedings in
4 connection with the commission's petition shall be in accordance with
5 RCW 42.17.397.

6 **Sec. 4.** RCW 42.17.400 and 1975 1st ex.s. c 294 s 27 are each
7 amended to read as follows:

8 (1) The attorney general and the prosecuting authorities of
9 political subdivisions of this state may bring civil actions in the
10 name of the state for any appropriate civil remedy, including but not
11 limited to the special remedies provided in RCW 42.17.390.

12 (2) The attorney general and the prosecuting authorities of
13 political subdivisions of this state may investigate or cause to be
14 investigated the activities of any person who there is reason to
15 believe is or has been acting in violation of this chapter, and may
16 require any such person or any other person reasonably believed to have
17 information concerning the activities of such person to appear at a
18 time and place designated in the county in which such person resides or
19 is found, to give such information under oath and to produce all
20 accounts, bills, receipts, books, paper and documents which may be
21 relevant or material to any investigation authorized under this
22 chapter.

23 (3) When the attorney general or the prosecuting authority of any
24 political subdivision of this state requires the attendance of any
25 person to obtain such information or the production of the accounts,
26 bills, receipts, books, papers, and documents which may be relevant or
27 material to any investigation authorized under this chapter, he shall
28 issue an order setting forth the time when and the place where
29 attendance is required and shall cause the same to be delivered to or
30 sent by registered mail to the person at least fourteen days before the
31 date fixed for attendance. Such order shall have the same force and
32 effect as a subpoena, shall be effective statewide, and, upon
33 application of the attorney general or said prosecuting authority,
34 obedience to the order may be enforced by any superior court judge in
35 the county where the person receiving it resides or is found, in the
36 same manner as though the order were a subpoena. The court, after
37 hearing, for good cause, and upon application of any person aggrieved
38 by the order, shall have the right to alter, amend, revise, suspend, or

1 postpone all or any part of its provisions. In any case where the
2 order is not enforced by the court according to its terms, the reasons
3 for the court's actions shall be clearly stated in writing, and such
4 action shall be subject to review by the appellate courts by certiorari
5 or other appropriate proceeding.

6 (4) Any person who has notified the public disclosure commission,
7 the attorney general, and the prosecuting attorney in the county in
8 which the violation occurred in writing that there is reason to believe
9 that some provision of this chapter is being or has been violated may
10 himself bring in the name of the state any of the actions (hereinafter
11 referred to as a citizen's action) authorized under this chapter. This
12 citizen action may be brought only if the attorney general and the
13 prosecuting attorney have failed to commence an action hereunder within
14 ~~((forty-five))~~ sixty business days after such notice and such person
15 has thereafter further notified the attorney general and prosecuting
16 attorney that ~~((said))~~ the person will commence a citizen's action
17 within ten business days upon their failure so to do, and the attorney
18 general and the prosecuting attorney have in fact failed to bring such
19 action within ten business days of receipt of ~~((said))~~ the second
20 notice. If the person who brings the citizen's action prevails, the
21 judgment awarded shall escheat to the state, but he shall be entitled
22 to be reimbursed by the state of Washington for costs and attorney's
23 fees he has incurred: PROVIDED, That in the case of a citizen's action
24 which is dismissed and which the court also finds was brought without
25 reasonable cause, the court may order the person commencing the action
26 to pay all costs of trial and reasonable attorney's fees incurred by
27 the defendant.

28 (5) In any action brought under this section, the court may award
29 to the state all costs of investigation and trial, including a
30 reasonable attorney's fee to be fixed by the court. If the violation
31 is found to have been intentional, the amount of the judgment, which
32 shall for this purpose include the costs, may be trebled as punitive
33 damages. If damages or trebled damages are awarded in such an action
34 brought against a lobbyist, the judgment may be awarded against the
35 lobbyist, and the lobbyist's employer or employers joined as
36 defendants, jointly, severally, or both. If the defendant prevails, he
37 shall be awarded all costs of trial, and may be awarded a reasonable
38 attorney's fee to be fixed by the court to be paid by the state of
39 Washington.

1 NEW SECTION. **Sec. 5.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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