

HOUSE BILL REPORT

3SHB 1226

As Passed Legislature

Title: An act relating to campaign contribution limits.

Brief Description: Adjusting application of campaign contribution limits.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Schual-Berke, Tom, Haigh, Cody, Fromhold, Jarrett, Hudgins, Conway, Appleton, Flannigan, Murray, McCoy, Lantz, Hasegawa, Williams, Kagi, Ormsby, Morrell, Chase, Dickerson, Kenney and Sells).

Brief History:

Committee Activity:

State Government Operations & Accountability: 1/10/06, 1/18/06 [DP2S];

Appropriations: 1/26/06, 2/2/06 [DP3S(w/o 2sub SGOA)].

Floor Activity:

Passed House: 3/8/05, 59-39.

Floor Activity:

Passed House: 2/13/06, 58-40.

Senate Amended.

Passed Senate: 3/1/06, 36-11.

House Concurred.

Passed House: 3/4/06, 56-40.

Passed Legislature.

Brief Summary of Third Substitute Bill

- Extends campaign contribution limits to certain candidates for county office and port district office, and to all judicial offices.
- Requires out-of-state political committees to report contributions of \$2,500 and all required reports must be submitted to the Public Disclosure Commission by the 10th of each month.

HOUSE COMMITTEE ON STATE GOVERNMENT OPERATIONS & ACCOUNTABILITY

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by Representatives Haigh, Chair; Green, Vice Chair; Hunt, McDermott and Miloscia.

Minority Report: Do not pass. Signed by Representatives Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Schindler and Sump.

Staff: Marsha Reilly (786-7135).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass and do not pass the second substitute bill by Committee on State Government Operations and Accountability. Signed by 17 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia, Schual-Berke and P. Sullivan.

Minority Report: Do not pass. Signed by 13 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Hinkle, Pearson, Priest, Talcott and Walsh.

Staff: Elisabeth Donner (786-7137).

Background:

Campaign Contribution Limits

The Fair Campaign Practices Act was enacted following passage of Initiative 134 in 1992. The initiative imposed campaign contribution limits, further regulated independent expenditures, restricted the use of public funds for political purposes, and required public officials to report gifts received in excess of \$50. The contribution limits imposed by Initiative 134 apply only on elections for statewide office and elections for state legislative office. Contribution limits imposed on an individual, a union or business, or a political action committee are an aggregate of \$700 per election to a candidate for state legislative office, and an aggregate of \$1,400 per election to a candidate for statewide office. These limits are adjusted for inflation by the Public Disclosure Commission (PDC) every two years.

Disclosure for In-state Political Committees

The PDC enforces campaign finance laws for political committees participating in state elections. A political committee is any person (except a candidate or an individual dealing with his or her own resources) who expects to receive contributions or make expenditures to support or oppose a candidate or ballot measure. This includes political parties, political action committees, one-issue groups that disband after a single election, and proponents and opponents of state or local ballot measures that raise or spend money to support or oppose that measure.

Within two weeks of forming, or receiving or spending funds, an in-state political committee must file a statement of organization with the PDC and file monthly contribution and expenditure reports, as long as the total expenditures and contributions exceed \$200. If the

committee is involved in an election, weekly reports must be filed beginning four months before a special or general election. Special reports are required 21 days before an election, current to within five business days, and seven days before an election, current to within one business day. Late contributions and expenditures of \$1,000 or more must be reported if made or received within seven days of a primary election or 21 days of a general election.

Disclosure for Out-of-state Political Committees

The Federal Elections Commission (FEC) enforces campaign finance laws for political committees participating in federal elections. Political committees participating in federal elections must file a statement of organization, and detailed quarterly reports of contribution and expenditure activity. During a federal election year, political committees must file monthly reports to the FEC, due on the 20th day of the following month.

An out-of-state political committee that supports or opposes candidates or ballot measures in this state must submit a report to the PDC when it makes an expenditure of \$50 or more supporting or opposing a Washington state candidate or political committee. If an out-of-state committee is required to file campaign reports with the FEC, the committee is exempted from in-state reporting. Out of state political committees must abide by the contribution limits of the state.

Summary of Third Substitute Bill:

Campaign Contribution Limits

Campaign contribution limits are extended to:

- (1) candidates for county office in a county that has over 200,000 registered voters;
- (2) candidates for special purpose district office in districts authorized to provide freight and passenger transfer and terminal facilities and that have over 200,000 registered voters;
and
- (3) candidates for judicial office.

Contribution limits imposed for candidates for county office may not exceed an aggregate of \$700 per election from an individual, a union or business, or a political action committee. Limits imposed for candidates for special purpose district office or judicial office may not exceed an aggregate of \$1,400 per election from an individual, a union or business, or a political action committee. Political party contribution limits also apply. Contributions to candidates for whom the new limits apply that are received before the effective date of the act are considered to be contributions for the purposes of campaign contribution limits statutes. Contributions that exceed the limitations and have not been spent by the recipient by the effective date of this Act must be disposed of in accordance with RCW 42.17.095, disposal of surplus funds, except that it may not be held by the candidate for a future election or be used for non-reimbursed public office-related expenses.

Out-of-State Political Committees

Provisions related to campaign contribution disclosure by out-of-state political committees are changed. Out-of-state committees must report contributions of \$2,500 or more made by out-of-state residents and corporations and the required reports must be submitted to the PDC by the 10th of each month. The exemption that out-of-state political committees reporting to the FEC do not need to report to the PDC is removed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after session in which bill is passed.

Testimony For: (State Government Operations & Accountability) (In support) The bill has received a lot of support. Many newspapers have supported the bill. We have more reason than ever before to expand the will of the people. We have seen money in extraordinary measure flow into the offices covered under this bill in recent years. With events at the federal level we are increasingly aware of the influence of special interests to undermine the public trust. The Superior Court does not seem to have the same scope or impact, in terms of setting legal precedent, as the Supreme and Courts of Appeals have. The King County Bar Association supports Section 2 of the bill. Many states have enacted limits. In fact, only four states have no limits on judicial races. The concept of contribution limits was endorsed by the Walsh Commission. A telling presentation based upon research done by a public interest group was presented at a recent conference. It showed that at least 75 percent of the public believe that contributions to judges make a significant difference in judicial opinions, as well as do 26 percent of judges. In the races for the Supreme and Superior courts, the winner has always raised much more money than the loser. Money talks in judicial elections. For every 10 percent spent, a yield of 3 percent of the votes is realized. This is a crisis in the appearance of fairness. Washington State Trial Lawyers and the Washington State Trial Defense Lawyers also support the bill. The King County Municipal League supports Section 2 of the bill. When limits were originally passed, it was thought that it was not necessary. That is no longer true. The increase in expenditures raises quality, fairness, and the appearance of fairness issues. The person who raises the most money will not necessarily be the best judge, but the better fund raiser. If 26 percent of judges say that campaign contributions have an influence on their decisions, that is a problem. Even if a judge is capable of ignoring the potential implications of their next election, voters need to have confidence that fair decisions are being made in an even fashion.

(In support with amendment) The Washington State Bar Association endorses and supports Section 2 of the bill. In the Supreme Court race last year, more than \$700,000 was spent in one race. The cornerstone of our democracy is an independent judiciary. We are in the era of \$1 million Supreme Court races. The appearance of independence will be adversely affected in the public mind. Good candidates will not run because they do not want to get into an "arms" race of this magnitude.

(With concerns) The Washington Public Ports Association has concerns with the bill. Port races are "down-ticket" races. Sometimes there is as much as a 40 percent drop off by the

time the voter gets to the bottom of the ballot. Port races are nonpartisan and candidates do not receive party contributions. Most of the public do not give money to port candidates. This is an expensive proposition. There are 13 legislative districts in King County. A single mailing to perfect voters cost about \$40,000. There is a low awareness of port district issues. Limiting contributions will encourage only the wealthy to run for these races. We are not hostile to limits, but would like to work with the committee to determine an appropriate limit for a down-ticket office. What problem are we trying to solve? Contributions are disclosed. More analysis needs to be done to determine the correct level of contributions.

Testimony For: (Appropriations) We believe there are two reasons why this bill is important. In 2004, we had a situation where one special interest group gave \$200,000 to one candidate for Supreme Court. In the same election cycle a litigant who lost a case gave \$112,000 to defeat the judge who ruled against him. Without contribution limits, an organization can pick a candidate and give them an extra advantage. It is a terrible message to send to judges, and undermines our confidence and integrity of judges. We need to preserve impartial judges. Washington is one of only four states that has no campaign contribution limits for judges. The U.S. Supreme Court has struck down direct solicitation of campaign contributions (which is not allowed in Washington) and prohibited law that allowed a bipartisan category. A study presented at Seattle University Law School showed that 75 percent of the public believes that substantial donations to judges makes a difference in writing judicial opinions, and 26 percent of judges believe money makes a difference in the campaign and in later decisions. The same study showed that for every 10 percent advantage in fundraising, the candidate will get 3.3 percent more votes. The Seattle Times, Seattle Post-Intelligencer, and the Tacoma News Tribune endorse the bill through specific references in articles. This bill has received five endorsements from organizations in the state including: the American Judicators Society, the King County Bar Association, the Municipal League of King County, the Washington State Trial Lawyers Association, the Washington State Defense Trial Lawyers Association, the Washington State Bar Association, and the Loren Miller Bar Association. The bill preserves the nonpartisan nature of judicial elections, preserves the confidence of people, and helps stop well-funded special interests. The judges can find out through the Public Disclosure Commission who contributed to their campaign. There is a problem with appearance and the way the public perceives the campaign contributions.

Testimony Against: (State Government Operations & Accountability) None.

Testimony Against: (Appropriations) None.

Persons Testifying: (State Government Operations & Accountability) (In support) Representative Schual-Berke, prime sponsor; John Ruhl, King County Bar Association; and David Tarshes, Municipal League of King County.

(In support with amendment) Mark Johnson, Washington State Bar Association.

(With concerns) Pat Jones, Washington Public Ports Association.

Persons Testifying: (Appropriations) John Ruhl, King County Bar Association; and Charlie Wiggins, American Judicature Society of Washington.

Persons Signed In To Testify But Not Testifying: (State Government Operations & Accountability) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.