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HOUSE BILL 2358

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State of Washington

59th Legislature

2006 Regular Session

By Representatives Haigh, Hunt, Nixon, McDermott, Miloscia, Moeller, Chase, Morrell, Springer, Wallace, Ormsby and Schual-Berke; by request of Public Disclosure Commission

Prefiled 12/21/2005. Read first time 01/09/2006. Referred to Committee on State Government Operations & Accountability.

1 AN ACT Relating to penalties for violation of chapter 42.17 RCW,  
2 the public disclosure and fair campaign practices act; amending RCW  
3 42.17.390 and 42.17.395; adding a new section to chapter 42.17 RCW; and  
4 prescribing penalties.

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

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

8 It is the intent of the legislature to increase the authority of  
9 the public disclosure commission to more effectively foster compliance  
10 with our state's public disclosure and fair campaign practices act. It  
11 is the intent of the legislature to make the agency's penalty authority  
12 for violations of this chapter more consistent with other agencies that  
13 enforce state ethics laws and more commensurate with the level of  
14 political spending in the state of Washington.

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

17 One or more of the following civil remedies and sanctions may be

1 imposed by court order in addition to any other remedies provided by  
2 law:

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

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

17 (3) Any person who violates any of the provisions of this chapter  
18 may be subject to a civil penalty of not more than ten thousand dollars  
19 for each such violation. However, a person or entity who violates RCW  
20 42.17.640 may be subject to a civil penalty of ten thousand dollars or  
21 three times the amount of the contribution illegally made or accepted,  
22 whichever is greater.

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

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

30 (6) The court may enjoin any person to prevent the doing of any act  
31 herein prohibited, or to compel the performance of any act required  
32 herein.

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

35 (1) The commission may (a) determine whether an actual violation of  
36 this chapter has occurred; and (b) issue and enforce an appropriate  
37 order following such determination.

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

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

9 (4) The person against whom an order is directed under this section  
10 shall be designated as the respondent. The order may require the  
11 respondent to cease and desist from the activity that constitutes a  
12 violation and in addition, or alternatively, may impose one or more of  
13 the remedies provided in RCW 42.17.390(~~((1) (b), (c), (d), or (e):~~  
14 ~~PROVIDED, That)) (2) through (5).~~

15 (a) No individual penalty assessed by the commission may exceed one  
16 thousand seven hundred dollars, and in any case where multiple  
17 violations are involved in a single complaint or hearing, the maximum  
18 aggregate penalty may not exceed (~~(two))~~ four thousand (~~(five))~~ two  
19 hundred dollars.

20 (b) At the beginning of each even-numbered calendar year, the  
21 commission shall increase or decrease dollar amounts in (a) of this  
22 subsection in accordance with RCW 42.17.690.

23 (5) An order issued by the commission under this section shall be  
24 subject to judicial review under the Administrative Procedure Act,  
25 chapter 34.05 RCW. If the commission's order is not satisfied and no  
26 petition for review is filed within thirty days as provided in RCW  
27 34.05.542, the commission may petition a court of competent  
28 jurisdiction of any county in which a petition for review could be  
29 filed under that section, for an order of enforcement. Proceedings in  
30 connection with the commission's petition shall be in accordance with  
31 RCW 42.17.397.

32 NEW SECTION. Sec. 4. If any provision of this act or its  
33 application to any person or circumstance is held invalid, the  
34 remainder of the act or the application of the provision to other  
35 persons or circumstances is not affected.

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