
HOUSE BILL 3040

State of Washington

60th Legislature

2008 Regular Session

By Representatives Roach and McCune

Read first time 01/21/08. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to request for closing candidate, campaign, or
2 political committee books of account; and amending RCW 42.17.365 and
3 42.17.400.

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

5 **Sec. 1.** RCW 42.17.365 and 1999 c 401 s 8 are each amended to read
6 as follows:

7 (1) The commission shall conduct a sufficient number of audits and
8 field investigations so as to provide a statistically valid finding
9 regarding the degree of compliance with the provisions of this chapter
10 by all required filers. Any documents, records, reports, computer
11 files, papers, or materials provided to the commission for use in
12 conducting audits and investigations must be returned to the candidate,
13 campaign, or political committee from which they were received within
14 one week of the commission's completion of an audit or field
15 investigation.

16 (2) The commission shall audit the books of account of any
17 candidate, campaign, or political committee that has made a request.
18 The request for an audit must be made at least thirty days prior to
19 closing the accounts and thereby closing the campaign. The audit must

1 be completed within six months of the request. If no audit findings
2 are made, the candidate, campaign, or political committee is exempt
3 from any citizen action pursuant to RCW 42.17.400. For a candidate,
4 campaign, or political committee that has spent and received less than
5 fifty thousand dollars, the audit shall be conducted at no cost. For
6 a candidate, campaign, or political committee that has spent and
7 received more than fifty thousand dollars, the audit shall be conducted
8 at a cost of one hundred dollars.

9 **Sec. 2.** RCW 42.17.400 and 2007 c 455 s 1 are each amended to read
10 as follows:

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

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

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

1 the county where the person receiving it resides or is found, in the
2 same manner as though the order were a subpoena. The court, after
3 hearing, for good cause, and upon application of any person aggrieved
4 by the order, shall have the right to alter, amend, revise, suspend, or
5 postpone all or any part of its provisions. In any case where the
6 order is not enforced by the court according to its terms, the reasons
7 for the court's actions shall be clearly stated in writing, and such
8 action shall be subject to review by the appellate courts by certiorari
9 or other appropriate proceeding.

10 (4) Any person who has notified the attorney general and the
11 prosecuting attorney in the county in which the violation occurred in
12 writing that there is reason to believe that some provision of this
13 chapter is being or has been violated may himself bring in the name of
14 the state any of the actions (hereinafter referred to as a citizen's
15 action) authorized under this chapter.

16 (a) This citizen action may be brought only if:

17 (i) The attorney general and the prosecuting attorney have failed
18 to commence an action hereunder within forty-five days after such
19 notice;

20 (ii) Such person has thereafter further notified the attorney
21 general and prosecuting attorney that said person will commence a
22 citizen's action within ten days upon their failure so to do;

23 (iii) The attorney general and the prosecuting attorney have in
24 fact failed to bring such action within ten days of receipt of said
25 second notice; and

26 (iv) The citizen's action is filed within two years after the date
27 when the alleged violation occurred.

28 (b) If the person who brings the citizen's action prevails, the
29 judgment awarded shall escheat to the state, but he shall be entitled
30 to be reimbursed by the state of Washington for costs and attorney's
31 fees he has incurred: PROVIDED, That in the case of a citizen's action
32 which is dismissed and which the court also finds was brought without
33 reasonable cause, the court may order the person commencing the action
34 to pay all costs of trial and reasonable attorney's fees incurred by
35 the defendant.

36 (c) No citizen action may be brought against any candidate,
37 campaign, or political committee if that candidate, campaign, or

1 political committee has requested an audit under RCW 42.17.365(2) and
2 the audit has produced no findings.

3 (5) In any action brought under this section, the court may award
4 to the state all costs of investigation and trial, including a
5 reasonable attorney's fee to be fixed by the court. If the violation
6 is found to have been intentional, the amount of the judgment, which
7 shall for this purpose include the costs, may be trebled as punitive
8 damages. If damages or trebled damages are awarded in such an action
9 brought against a lobbyist, the judgment may be awarded against the
10 lobbyist, and the lobbyist's employer or employers joined as
11 defendants, jointly, severally, or both. If the defendant prevails, he
12 shall be awarded all costs of trial, and may be awarded a reasonable
13 attorney's fee to be fixed by the court to be paid by the state of
14 Washington.

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