

HOUSE BILL REPORT

HB 1005

As Reported by House Committee On: Government Operations & Elections

Title: An act relating to the public disclosure commission concerning responsibilities and funding.

Brief Description: Concerning responsibilities and funding of the public disclosure commission.

Sponsors: Representatives Moeller, Wylie, Reykdal, Appleton, Ryu, Morrell, McCoy, Seaquist, Moscoso, Hudgins, Ormsby and Pollet.

Brief History:

Committee Activity:

Government Operations & Elections: 1/22/13, 2/5/13, 2/12/13 [DPS].

Brief Summary of Substitute Bill

- Eliminates the Executive Ethics Board and transfers duties to the Public Disclosure Commission.
- Requires lobbyists, lobbyist employers, and government entities to file lobbying reports over the Internet.
- Assesses a yearly fee to political committees, lobbyists, lobbyist employers, government entities, and elected officials that receive a salary and file personal financial disclosure statements.

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Hunt, Chair; Bergquist, Vice Chair; Carlyle, Fitzgibbon, Orwall and Van De Wege.

Minority Report: Do not pass. Signed by 5 members: Representatives Buys, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Alexander, Kristiansen and Manweller.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Marsha Reilly (786-7135).

Background:

Campaign Finance Disclosure and Reporting.

The Public Disclosure Commission (PDC) was created and empowered by an initiative of the people to provide timely and meaningful public access to information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates, and to ensure compliance with contribution limits and other campaign finance restrictions.

In 1999 electronic filing was made available to candidates, public officials, and political committees for filing financial affairs reports, contribution reports, and expenditure reports. By 2002 electronic filing was mandatory. Electronic filing was made available to lobbyists and lobbyist employers for submitting their reports in 2002, although it is not mandatory. Electronic filing includes, but is not limited to, filing by diskette, modem, satellite, or over the Internet. Funding was made available to the PDC in the fiscal year 2008 budget for a feasibility study to determine the cost to design, develop, implement, and maintain an application to accommodate electronic filing by lobbyists, lobbyist employers, public agencies, and a database and query system compatible with current computer architecture, technology, and operating systems.

Ethics Enforcement.

In 1993 the Legislature created the Commission on Ethics in Government and Campaign Practices (Commission). The Commission issued a detailed report recommending enactment of new ethics rules governing state officials and state employees, as well as numerous changes to the Public Disclosure Act and to other laws dealing with political campaigns. The Commission recommended that: new or revised ethics rules be adopted; the new rules be consolidated into a single code of ethics; the new code apply to all state officials and employees of the executive, legislative, and judicial branches of state government; and each branch have its own ethics commission which would hear and determine complaints, impose sanctions, recommend disciplinary action, and issue advisory opinions.

In response to the Commission's recommendation, the Legislature enacted the Ethics in Public Service Act in 1994. The law: established new and revised ethics rules; consolidated ethics rules in a single Revised Code of Washington chapter; and applied the new chapter to all state officials and employees of the executive, legislative, and judicial branches of state government. New ethics boards in the executive and legislative branches were created and the authority of the Commission on Judicial Conduct was expanded. Each of these entities, as well as the Attorney General, have broad powers to enforce the ethics chapter.

The Executive Ethics Board (Board) is composed of five members, each appointed by the Governor. The members must include: one classified civil service employee; one state officer or state employee in an exempt position; one citizen selected from a list of three persons submitted by the Attorney General; one citizen selected from a list of names of three persons submitted by the State Auditor; and one citizen member selected by the Governor.

Members serve a single five-year term. No more than three members may be identified with the same political party. The members elect a chair who could be any member of the Board. The Attorney General provides staff to the Board.

The PDC is composed of five members appointed by the Governor, with the consent of the Senate. No more than three members may be identified with the same political party. Members of the PDC are prohibited from participating in political activities through holding office, supporting a candidate or proposition, making contributions to a candidate or proposition, participating in any election campaign, and lobbying. The PDC enforces campaign finance and disclosure laws, including lobbying activities, use of public resources for campaigns, and disclosure of personal financial affairs of state officers.

Summary of Substitute Bill:

Campaign Finance Disclosure and Reporting.

Agencies required to report lobbying expenditures must file all required reports to the PDC electronically over the Internet. Beginning January 1, 2014, all lobbyists and lobbyists' employers required to report lobbying activities must file the required reports electronically over the Internet.

Annual Fees: Beginning January 1, 2014, an annual fee must be paid to the PDC for data development costs and purchase and maintenance of computer hardware and software to maintain electronic filing of reports required by the PDC. The fees are as follows:

- \$200 for political committees required to file reports;
- \$200 for every lobbyist who has a total reportable accrued compensation of \$10,000 or more from the previous calendar year;
- \$200 for every lobbyist employer who has a total reportable accrued expenses and payments for lobbying of \$10,000 or more from the previous calendar year;
- \$150 for government entities that employ more than 50 full time equivalent employees;
- \$150 for local governments that employ a lobbyist;
- \$200 for every elected official required to file personal financial affairs statements and who receives a salary or compensation of \$10,000 or more for each calendar year for duties performed related to that office; and
- no person or individual must pay more than one fee in a calendar year.

Account Created: The Public Disclosure Electronic Filing Account (Account) is created in the custody of the State Treasurer. Receipts collected under the act must be deposited into the Account and may be used only for costs incurred as a result of the design, development, implementation, and maintenance of computer hardware and software to accommodate electronic filing and a database and query system compatible with current systems that result in readily available data to the public for review and analysis. Only the Executive Director of the PDC, or his or her designee, may authorize expenditures from the Account. The

Account is subject to allotment procedures, but an appropriation is not required for expenditures.

Ethics Enforcement.

The Executive Ethics Board is eliminated and their responsibilities for enforcement and training of ethics laws are transferred to the PDC. The composition of the PDC is changed from five members to seven members under the same appointment procedures. No more than four members may be from the same political party. Commission members are no longer barred from making contributions to a candidate or to a ballot proposition, but must report such contributions to the PDC at the time the contribution is made and such contributions must be posted on the PDC's website.

Substitute Bill Compared to Original Bill:

The Legislative Ethics Board is not eliminated. An elected official's salary only, and not other compensation, is used to determine the \$10,000 threshold for the payment of a fee.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect July 1, 2013, except for sections 2 through 4 relating to transfer of duties of the Executive Ethics Board to the PDC which take effect January 1, 2014.

Staff Summary of Public Testimony:

(In support) The bill assigns the duties of the ethics commissions to the PDC. The fees raise about \$1.2 million over the biennium. The PDC is an excellent commission. It is important that all contributions are reported, including those by lobbyists and lobbyist employers. The fees will help upgrade and maintain the electronic filing system that makes this information available to the public. Lobbying reports must be filed over the Internet, and personal financial affairs statements are for elected officials that receive a salary of \$10,000 or more. The merger of the ethics commissions with the PDC is a good step forward, and is appropriate. It will result in more efficiencies and a leaner government. The PDC was created because of an initiative by the people who wanted to ensure an open government. The more access that citizens and the press have is good. It is imperative to know who is paying for what, and this information will be readily available. For someone who has to use the system, it is difficult to file online if you are a contract lobbyist, and there are ways to make lobbyist filing more efficient. It will also be more usable for citizens interested in looking at lobbyist reporting. The PDC needs a pool of resources outside the State General Fund to run its website and update its software. The website and access to information is better than the federal system. The PDC website is aging and has problems that require more work and more money. Some of the problems will require minor fixes, and some require major fixes. The PDC has the expertise for oversight of ethics. There are remedies available

in the law, and transparency provided by an independent review under the State Auditor. The bill has been perfected over the past few years. Thousands of people file reports, including legislative staffers. The system used for campaigns is efficient, but the lobbyist system is "clunky." The public needs to have confidence in government and more access to information regarding lobbyist activities will help with that confidence. It is now difficult for the public to find out what lobbyists are doing. The \$200 fee basically is the cost of about two tanks of gas. Combining the ethics commissions with the PDC is a good move. Putting it under one roof would be helpful.

(Opposed) The Associated General Contractors has no problems with the values of transparency and ease of use of the PDC website. Philosophically, this bill is of public benefit and the base of people who pay fees could be broader by lowering the \$10,000 threshold for lobbying. The fees should be the same for everyone. The PDC system does need vast improvement. The interface for lobbyist filing does not work for everyone. Providing this information is a general function of government, and the fee-based system is a problem. This specific fee is a tax on the right to petition government. To put a fee on the ability to petition government is the wrong way to finance the system. In a fee-based system, the fee is normally attached to the person getting the information.

Persons Testifying: (In support) Representative Moeller, prime sponsor; Michael Temple, Washington State Association for Justice; Mike Moran; and Steve Gano, Gano and Associates.

(Opposed) Jerry Vanderwood, Associated General Contractors; and Bob Cooper.

Persons Signed In To Testify But Not Testifying: None.