SENATE BILL REPORT
SB 5257

As Reported by Senate Committee On:
Governmental Operations, January 31, 2013

Title: An act relating to modifying time frames applicable to certain public disclosure commission requirements.

Brief Description: Modifying time frames applicable to certain public disclosure commission requirements.

Sponsors: Senators Roach, Benton, Rivers, Conway and Fraser; by request of Public Disclosure Commission.

Brief History:
Committee Activity: Governmental Operations: 1/31/13 [DP].

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Majority Report: Do pass.
Signed by Senators Roach, Chair; Benton, Vice Chair; Braun, Conway, Fraser and Rivers.

Staff: Samuel Brown (786-7470)

Background: The Public Disclosure Commission (PDC) was created and empowered by an initiative of the people to provide timely 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 a year with a general election, any administrative PDC rule regarding campaign finance, political advertising, or related forms must take effect on or before June 30. The Administrative Procedures Act (APA) allows state agencies to adopt, amend, or repeal agency rules on an emergency basis upon a showing of good cause. Rules adopted pursuant to the APA's emergency rulemaking process may not be in effect for more than 120 days.

Elected officials and executive state officers, including legislative and gubernatorial professional staff, certain state agency heads, and select board and commission members, are required to disclose to the PDC personal financial information. Reports are filed annually and cover the previous calendar year. The PDC has the authority to suspend or modify the

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reporting requirement upon a finding that disclosure presents a manifestly unreasonable hardship for the filer and that suspension or modification will not frustrate the purposes for disclosure. A reporting modification request must be approved by a majority of the PDC and may be granted for a single report.

There are two special reporting periods where candidates and campaign committees have an accelerated reporting schedule for disclosing aggregate contributions of at least $1,000 from a single source. These special reporting periods are six days before the primary election and 21 days before the general election.

These special reports are in addition to the regular contribution and expenditure reports candidates and committees must otherwise file. Contributors subject to statutory reporting provisions, such as political committees, lobbyists, and lobbyist employers, must report such contributions to the PDC within 24 hours during the special reporting period. Recipients must disclose qualifying contributions to the PDC within 48 hours during the special reporting period. Filing the regular contribution report during this 48-hour window satisfies the special reporting requirement. Special reports may be filed by e-mail, fax, mailgram, telegram, nightletter, and telephone calls, if supplemented with a written or electronic copy of the report.

State law prohibits aggregate contributions of more than $50,000 to any campaign for statewide office or $5,000 for any other campaign within 21 days of a general election, except by a bona fide political party. However, in *Family PAC v. McKenna*, 685 F.3d 300 in 2012, the Ninth Circuit Court of Appeals held that this statute was not closely drawn to match the state's sufficiently important interest in giving voters access to contributor information, and declared it unconstitutional.

Summary of Bill: Four timing provisions related to the PDC are modified.

<u>Emergency Rulemaking.</u> The PDC may readopt an emergency rule adopted before June 30 when necessary to allow the rule to remain in effect through the next general election. The PDC may also adopt emergency rules to implement legislation taking effect after June 30 in a general election year.

<u>Personal Financial Affairs Reporting.</u> The PDC may approve a personal financial affairs reporting modification for an elected official's term of office, or for up to three years for an executive state officer where no material change in the applicant's circumstances is anticipated.

<u>Special Reports.</u> The special reporting period before a primary election is increased to 21 days. A recipient of a contribution during the special reporting period must report the contribution within 24 hours of receipt. Special reports must be delivered electronically or in written form by e-mail or fax, and may no longer be delivered by mailgram, telegram, nightletter, or orally by telephone.

<u>Large Contributions.</u> The prohibition on aggregate contributions of more than $50,000 to any campaign for statewide office or $5,000 for any other campaign within 21 days of a general election, except by a bona fide political party, is removed.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There is a disconnect between the PDC-specific rulemaking moratorium and the APA. This bill would allow the PDC to fill the short gap between the end of October, when emergency rules expire, and the general election. If circumstances supporting a reporting modification are going to exist year after year, it does not make sense to process reporting modifications year after year. This saves staff time, filers' time, and doesn't sacrifice disclosure goals.

The special reporting periods statute has not kept pace with changes in the primary system, with mail-in ballots, and technological updates. The voters deserve the same amount of information for the primary election as they do for the general election. Making time frames consistent would clear up confusion in the filing community. It's appropriate to remove references to antiquated methods of reporting. The Ninth Circuit's opinion rendered the section of law on large contributions within 21 days of the election unenforceable, so it makes sense to repeal it.

Persons Testifying: PRO: Andrea McNamara Doyle, PDC.