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HOUSE BILL 2525

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By Representatives Carlyle, S. Hunt, Lias, Orwall, Farrell, Kagi, Roberts, Bergquist, Goodman, Freeman, Walkinshaw, and Gregerson

Read first time 01/20/14. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to public funding for supreme court campaigns;  
2 amending RCW 42.17A.750 and 2.48.130; adding new sections to chapter  
3 42.17A RCW; creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** INTENT. The intent of this act is to  
6 protect the fairness of elections for the highest court in Washington  
7 state - the supreme court. Doing so will foster the public's trust in  
8 the integrity and independence of the court in the face of increasingly  
9 large sums of money raised and spent by special interest groups. That  
10 flood of money threatens the impartiality, independence, and  
11 credibility of our judiciary. To maintain public confidence in the  
12 judiciary, we must prevent not only corruption, but the appearance of  
13 corruption, for the judiciary is the one branch of government that must  
14 be uniquely impartial, independent, and unbiased in order to best serve  
15 the residents of Washington. It is destructive for our democracy to  
16 allow the court to become influenced by large amounts of money, and for  
17 our citizens to think that judicial decisions are influenced by those  
18 large amounts of money. This act is necessary to ensure that our

1 highest courts continue to be unbiased and insulated from special  
2 interests.

3 Therefore, this act, the judicial election reform act, introduces  
4 a voluntary pilot project to provide an alternative source of financing  
5 candidates for the Washington supreme court who demonstrate public  
6 support and voluntarily accept strict fundraising and spending limits.

7 The provisions of this act shall be broadly interpreted to carry  
8 out the purpose and intent of this act.

9 NEW SECTION. **Sec. 2.** DEFINITIONS. In addition to the definitions  
10 in RCW 42.17A.005, the definitions in this section apply throughout  
11 sections 1 through 19 of this act unless the context clearly requires  
12 otherwise.

13 (1) "Contested election" means an election in which there are two  
14 or more candidates running for the same office whose names will appear  
15 on the ballot.

16 (2) "Nonparticipating candidate" means a candidate for supreme  
17 court justice who is on the ballot but has chosen not to apply for  
18 public funds from the judicial election reform act fund or a candidate  
19 who is on the ballot and has applied but has not been certified to  
20 receive public funds from the judicial election reform act fund.

21 (3) "Publicly financed candidate" means a candidate who becomes  
22 certified to receive public campaign funds under section 6 of this act.

23 (4) "Qualifying contribution" means a contribution in an amount of  
24 at least ten dollars, but no more than twenty-five percent of the  
25 maximum contribution limit allowed under RCW 42.17A.410, made by a  
26 registered voter of the state, and is received during the qualifying  
27 period.

28 (5) "Qualifying period" means the period beginning February 1st of  
29 the election year and ending one week after the close of the regular  
30 filing period for the office.

31 (6) "Uncontested election" means an election in which a candidate  
32 running for a specified office has no opponent on the ballot.

33 NEW SECTION. **Sec. 3.** JUDICIAL ELECTION REFORM ACT FUND. (1) The  
34 judicial election reform act fund is created in the custody of the  
35 state treasurer. All receipts under sections 4 through 19 of this act  
36 required to be deposited into the fund must be deposited into the fund.

1 Expenditures from the fund may be used only for the purposes of the  
2 judicial election reform act, sections 1 through 19 of this act. Only  
3 the commission may authorize expenditures from the fund. The fund is  
4 subject to allotment procedures under chapter 43.88 RCW, but an  
5 appropriation is not required for expenditures.

6 (2) When the funds in the account have been fully distributed, the  
7 commission and treasurer shall cease making any public funds  
8 disbursements under section 12 of this act. No candidate may receive  
9 any disbursement of funds beyond those authorized under section 12 of  
10 this act, nor may any candidate receive any further disbursements of  
11 funds under section 12 of this act when the appropriation has been  
12 exhausted. The commission may adopt rules to address distribution of  
13 remaining funds in the account for pending requests.

14 NEW SECTION. **Sec. 4.** VOLUNTARY LIMITATIONS ON CONTRIBUTIONS FOR  
15 JUDICIAL CAMPAIGNS. A publicly financed candidate and a publicly  
16 financed candidate's authorized committee shall:

17 (1) Only accept contributions from individuals, and only as  
18 qualifying contributions under section 5 of this act;

19 (2) During the qualifying period for the purpose of raising  
20 qualifying contributions, accept no more than two times the  
21 contribution limit under RCW 42.17A.410 of the candidate's personal  
22 funds;

23 (3) Collect at least five hundred qualifying contributions that, in  
24 the aggregate total at least twenty-five times the filing fee for the  
25 office of supreme court justice in accordance with section 5 of this  
26 act;

27 (4) File the required reports regarding qualifying and expenditures  
28 to the commission;

29 (5) Expend only funds received from the judicial election reform  
30 act fund after being certified as a publicly funded candidate;

31 (6) Sign a joint statement with the treasurer of the publicly  
32 financed candidate's authorized committee, under oath, promising to  
33 comply with the provisions of this chapter; and

34 (7) Comply with the provisions of this chapter to the extent  
35 required for publicly funded candidates as prescribed by the  
36 commission.

1        NEW SECTION.    **Sec. 5.**    APPLICATION FOR CERTIFICATION.    A candidate  
2 who wishes to receive public campaign funds must:

3        (1) File an application with the commission declaring his or her  
4 intent to participate in the program as a candidate for the supreme  
5 court. The application must be filed before or during the qualifying  
6 period. In the application, the candidate shall affirm that only one  
7 political committee, identified with its treasurer, shall handle all  
8 contributions, expenditures, and obligations for the publicly financed  
9 candidate and that the candidate will comply with the provisions in  
10 sections 1 through 19 of this act and rules adopted by the commission;  
11 and

12        (2) Obtain at least five hundred qualifying contributions that, in  
13 the aggregate total at least twenty-five times the filing fee for the  
14 office by the end of the qualifying period. No payment, gift, or  
15 anything of value may be given in exchange for a qualifying  
16 contribution. A qualifying contribution must be:

17        (a) Made by a registered voter of the state;

18        (b) Made by a person who is not given anything of value in exchange  
19 for the qualifying contribution;

20        (c) In an amount of at least ten dollars but not more than twenty-  
21 five percent of the contribution limit allowed under RCW 42.17A.410;

22        (d) Received during the qualifying period by the candidate or on  
23 behalf of the candidate; and

24        (e) Made by check, money order, or credit card.

25        NEW SECTION.    **Sec. 6.**    CERTIFICATION AS A PUBLICLY FINANCED  
26 CANDIDATE. (1) Upon receipt of an application, the commission shall  
27 determine whether or not the candidate has complied with the following  
28 requirements:

29        (a) Signed and filed an application to participate;

30        (b) Submitted a report itemizing the qualifying contributions  
31 received. The report must include the name, home address, telephone  
32 number, and county of residence for each person who made a contribution  
33 and the date the contribution was received, and any other information  
34 required by the commission;

35        (c) Submitted a check or money order equal to the total qualifying  
36 contributions, less money expended for the purpose of raising

1 qualifying contributions received by the candidate in accordance with  
2 section 7 of this act, made out to the judicial election reform act  
3 fund; and

4 (d) Submitted affidavits signed by persons collecting qualifying  
5 contributions stating that, to the best of his or her knowledge, the  
6 contribution was made by a registered voter of the state.

7 (2) Once the requirements in subsection (1) of this section are  
8 met, the commission must verify that pursuant to section 5 of this act,  
9 a sufficient number of qualifying contributions were made by registered  
10 voters of the state at the time the contribution was made.

11 (3) The commission must determine if a candidate meets the  
12 requirements for public financing within seven calendar days of the  
13 filing of an application. If the requirements of subsection (2) of  
14 this section are met, the commission must certify the candidate for  
15 public financing. If the commission denies certification, it must  
16 provide written reasons why certification is denied. Any candidate who  
17 is denied certification may reapply one time by submitting the required  
18 information or the number of qualifying contributions needed to  
19 complete the certification within fourteen calendar days of the date of  
20 the commission's decision.

21 (4) A candidate who is certified as a publicly financed candidate  
22 may use that designation in campaign materials and will be so  
23 designated in the state voters' pamphlet.

24 NEW SECTION. **Sec. 7.** QUALIFYING CONTRIBUTIONS. A publicly  
25 financed candidate may expend money received as qualifying  
26 contributions, as well as the allowed amount of the candidate's  
27 personal funds under section 4 of this act, to pay for expenses related  
28 to raising qualifying contributions. The amount of qualifying  
29 contributions used for this purpose may not exceed twenty-five percent  
30 of the minimum dollar amount of qualifying contributions required under  
31 section 5 of this act. Expenditures made for the purpose of this  
32 section must be reported as required under RCW 42.17A.235 and  
33 42.17A.240 or as determined by the commission by rule.

34 NEW SECTION. **Sec. 8.** CONTROLS ON A PUBLICLY FINANCED CANDIDATE'S  
35 AUTHORIZED COMMITTEE. A publicly financed candidate and the publicly

1 financed candidate's authorized committee shall file the reports  
2 required pursuant to this chapter as determined by the commission.

3 NEW SECTION. **Sec. 9.** USES OF PUBLIC FUNDS. (1) Money in the  
4 account of a publicly financed candidate's authorized committee may  
5 only be used for purposes directly related to the candidate's campaign.

6 (2) Money in the account of a publicly financed candidate's  
7 authorized committee may not be used to pay fines or civil penalties,  
8 for costs or legal fees related to representation before the  
9 commission, or for defense of an enforcement action under this chapter.  
10 Nothing in this chapter prevents a publicly financed candidate from  
11 having a legal defense fund.

12 NEW SECTION. **Sec. 10.** RETURN OF FUNDS. (1) If a candidate  
13 attempts to qualify for public funding but does not meet the threshold  
14 for qualification, withdraws from the program before certification, is  
15 denied certification under section 6 of this act, or revokes  
16 participation under section 11 of this act, the candidate must pay to  
17 the fund the total dollar amount of qualifying contributions received  
18 during the qualifying period, less money expended for the purpose of  
19 raising qualifying contributions in accordance with section 7 of this  
20 act.

21 (2) Publicly financed candidates must return all unused funds to  
22 the judicial election reform act fund within thirty calendar days of  
23 the date they are no longer a candidate.

24 NEW SECTION. **Sec. 11.** REVOCATION. (1) A publicly financed  
25 candidate may revoke in writing to the commission a decision to  
26 participate in the public financing program no later than June 30th in  
27 the year of the election. After a timely revocation, that candidate  
28 may accept and expend money outside the provisions of this act. Within  
29 thirty days after revocation, a candidate must return to the commission  
30 all money received from the judicial election reform act fund.

31 (2) A publicly financed candidate who revokes a decision to  
32 participate in the public financing program after the time period  
33 established in subsection (1) of this section must return all money  
34 received from the judicial election reform act fund and pay a fine of

1 one thousand dollars per day for each day beyond the allowed revocation  
2 period and the day the candidate revokes.

3 NEW SECTION. **Sec. 12.** CAMPAIGN FUNDING. (1)(a) Within five  
4 business days after a publicly financed candidate's name is approved to  
5 appear on the primary ballot by the appropriate elections officer, the  
6 commission shall authorize the state treasurer to distribute to the  
7 account of the authorized committee of each certified publicly financed  
8 candidate an amount set, by rule, based on the number of participating  
9 candidates filing for office. No candidate may receive an amount  
10 greater than one hundred times the filing fee as established in RCW  
11 29A.24.091 for the primary.

12 (b) Within five business days after a publicly financed candidate's  
13 name is approved to appear on the general election ballot, the  
14 commission shall authorize the state treasurer to distribute funds to  
15 the account of the authorized committee of each certified publicly  
16 financed candidate in an amount equal to one hundred twenty-five times  
17 the filing fee for the office as established in RCW 29A.24.091.

18 (c) Participating candidates in uncontested elections shall receive  
19 four times the filing fee as established in RCW 29A.24.091, plus the  
20 net amount of qualifying contributions previously remitted to the  
21 commission pursuant to section 6(1)(c) of this act.

22 (2) A publicly financed candidate shall return within ten calendar  
23 days to the judicial election reform act fund any amount distributed  
24 for an election that is unspent and uncommitted as of the date the  
25 candidate ceases to be a candidate or as of the date of the election,  
26 whichever occurs first.

27 (3) The commission shall authorize and the state treasurer shall  
28 distribute funds to publicly financed candidates in a manner that  
29 ensures accountability and safeguards the integrity of the fund.

30 NEW SECTION. **Sec. 13.** DISQUALIFICATION FROM PROGRAM. If the  
31 commission finds that a publicly financed candidate or the publicly  
32 financed candidate's committee is accepting or expending money outside  
33 the provisions of section 4 of this act, the candidate shall be  
34 disqualified from the program, shall be subject to a civil penalty  
35 under RCW 42.17A.750, and shall return all money received from the  
36 judicial election reform act fund.

1        NEW SECTION.    **Sec. 14.**    IMPLEMENTATION AND ENFORCEMENT DUTIES.    In  
2    implementing the provisions of the judicial election reform act, the  
3    commission shall:

4        (1) Prescribe forms for reports, statements, notices, and other  
5    documents as required by sections 1 through 19 of this act;

6        (2) Prepare and publish instructions to facilitate compliance with  
7    sections 1 through 19 of this act and explaining the duties of persons  
8    and committees under sections 1 through 19 of this act;

9        (3) Adopt rules to carry out the policies of sections 1 through 19  
10   of this act. These rules are not subject to the time restrictions of  
11   RCW 42.17A.110(1); and

12       (4) Enforce the provisions of sections 1 through 19 of this act,  
13   ensure that money transferred from the judicial election reform act  
14   fund into the account of an authorized committee of a publicly financed  
15   candidate is spent as specified, and monitor reports filed and  
16   financial records of candidates.

17       NEW SECTION.    **Sec. 15.**    EXPEDITED ADMINISTRATIVE REVIEW.    (1) The  
18   commission shall develop an expedited administrative review process  
19   that is not subject to the adjudicative proceedings of chapter 34.05  
20   RCW. However, commission findings are subject to judicial review under  
21   RCW 34.05.570(4).

22       (2) Candidates and potential candidates whom the commission finds  
23   ineligible to participate in the program may seek expedited  
24   administrative review of commission decisions.

25       (3) In an expedited administrative review process, the commission  
26   shall issue a final decision no more than five calendar days after  
27   review is requested.

28       (4) The commission may adopt rules to implement this section.

29       (5) Any petition for judicial review of a final decision in an  
30   expedited administrative review must be filed within five calendar days  
31   of the final decision. In any judicial review, the court shall not  
32   grant a stay or temporary relief unless it finds the conditions  
33   specified in RCW 34.05.550(3) (a), (b), and (c).

34       NEW SECTION.    **Sec. 16.**    The commission shall not offer the program  
35   in sections 1 through 19 of this act until one million dollars is in  
36   the judicial election reform act fund.





1 receiving compensation or making expenditures for lobbying. The  
2 imposition of a sanction shall not excuse the lobbyist from filing  
3 statements and reports required by this chapter.

4 (c) A person who violates any of the provisions of this chapter may  
5 be subject to a civil penalty of not more than ten thousand dollars for  
6 each violation. However, a person or entity who violates RCW  
7 42.17A.405 may be subject to a civil penalty of ten thousand dollars or  
8 three times the amount of the contribution illegally made or accepted,  
9 whichever is greater.

10 (d) A person who fails to file a properly completed statement or  
11 report within the time required by this chapter may be subject to a  
12 civil penalty of ten dollars per day for each day each delinquency  
13 continues.

14 (e) Each state agency director who knowingly fails to file  
15 statements required by RCW 42.17A.635 shall be subject to personal  
16 liability in the form of a civil penalty in the amount of one hundred  
17 dollars per statement. These penalties are in addition to any other  
18 civil remedies or sanctions imposed on the agency.

19 (f) A person who fails to report a contribution or expenditure as  
20 required by this chapter may be subject to a civil penalty equivalent  
21 to the amount not reported as required.

22 (g) Any state agency official, officer, or employee who is  
23 responsible for or knowingly directs or expends public funds in  
24 violation of RCW 42.17A.635 (2) or (3) may be subject to personal  
25 liability in the form of a civil penalty in an amount that is at least  
26 equivalent to the amount of public funds expended in the violation.

27 (h) The court may enjoin any person to prevent the doing of any act  
28 herein prohibited, or to compel the performance of any act required  
29 herein.

30 (2)(a) The civil penalty for a violation of a contribution or  
31 expenditure limit established under section 4 of this act by or on  
32 behalf of a publicly financed candidate is ten times the amount by  
33 which the expenditures or contributions exceed the applicable limit.  
34 If the violation occurs within five days of an election, the civil  
35 penalty is twenty times the amount by which the expenditures or  
36 contributions exceed the applicable limit. A publicly financed  
37 candidate found to have knowingly committed a violation of the  
38 expenditure or contribution limits under section 4 of this act shall

1 pay the applicable fines, surrender all money in the candidate's  
2 authorized committee account to the judicial election reform act fund,  
3 and will cease to be a publicly financed candidate.

4 (b) In addition to any other penalties imposed by law, the civil  
5 penalty for a violation by or on behalf of a publicly financed  
6 candidate of a reporting requirement imposed by this chapter is one  
7 hundred dollars per day. A civil penalty imposed under this subsection  
8 (2)(b) may not exceed twice the amount of expenditures or contributions  
9 not reported in a timely manner. The candidate and the candidate's  
10 authorized committee are jointly and severally responsible for a civil  
11 penalty imposed under this subsection.

12 (c) The civil penalty for a violation of the revocation requirement  
13 imposed by section 11 of this act is one thousand dollars per day for  
14 each day past the period allowed for a timely revocation.

15 (d) All civil penalties collected under this subsection must be  
16 deposited into the judicial election reform act fund.

17 (3) The commission may refer the following violations for criminal  
18 prosecution:

19 (a) A person who, with actual malice, violates a provision of this  
20 chapter is guilty of a misdemeanor under chapter 9.92 RCW;

21 (b) A person who, within a five-year period, with actual malice,  
22 violates three or more provisions of this chapter is guilty of a gross  
23 misdemeanor under chapter 9.92 RCW; and

24 (c) A person who, with actual malice, procures or offers any false  
25 or forged document to be filed, registered, or recorded with the  
26 commission under this chapter is guilty of a class C felony under  
27 chapter 9.94A RCW.

28 **Sec. 21.** RCW 2.48.130 and 1957 c 138 s 1 are each amended to read  
29 as follows:

30 (1) The annual membership fees for active members shall be payable  
31 on or before February 1st of each year. The board of governors may  
32 establish the amount of such annual membership fee to be effective each  
33 year: PROVIDED, That written notice of any proposed increase in  
34 membership fee shall be sent to active members not less than sixty days  
35 prior to the effective date of such increase: PROVIDED FURTHER, That  
36 the board of governors may establish the fee at a reduced rate for

1 those who have been active members for less than five years in this  
2 state or elsewhere.

3 (2) Effective January 1, 2015, an amount of ten dollars of each  
4 active member's annual membership fees shall be remitted to the state  
5 treasurer for deposit in the judicial election reform act fund created  
6 in section 3 of this act.

7 NEW SECTION. Sec. 22. Sections 1 through 19 of this act may be  
8 known and cited as the judicial election reform act.

9 NEW SECTION. Sec. 23. Sections 1 through 19 of this act are each  
10 added to chapter 42.17A RCW and codified with the subchapter heading of  
11 "public funding for supreme court campaigns."

12 NEW SECTION. Sec. 24. If any provision of this act or its  
13 application to any person or circumstance is held invalid, the  
14 remainder of the act or the application of the provision to other  
15 persons or circumstances is not affected.

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