

HOUSE BILL REPORT

HB 1175

As Reported by House Committee On:
Public Safety
General Government & Information Technology

Title: An act relating to creating a penalty for concealing the source of a campaign contribution.

Brief Description: Creating a penalty for concealing the source of a campaign contribution.

Sponsors: Representatives Van De Wege, S. Hunt, Pettigrew, Moeller, Tharinger, Bergquist, Fitzgibbon, Tarleton, Gregerson, Ormsby, Ryu, Stanford, Walkinshaw and Farrell.

Brief History:

Committee Activity:

Public Safety: 1/28/15, 2/13/15 [DPS];

General Government & Information Technology: 2/23/15 [DPS(PS)].

Brief Summary of Substitute Bill

- Makes it a misdemeanor offense for a first offense and a gross misdemeanor for subsequent offenses to make a campaign contribution in such a way as to conceal the identity of the source of the contribution.
- Requires violations to be reported to the Office of the Attorney General or law enforcement for prosecution.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Moscoso, Pettigrew and Wilson.

Staff: Yvonne Walker (786-7841).

Background:

In 1972 the voters passed Initiative 276, which required the disclosure of campaign finances, lobbyist activities, financial affairs of elective officers and candidates, and access to public

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records. The initiative created the Public Disclosure Commission (PDC), a five-member, bipartisan citizen commission, to enforce the provisions of the campaign finance disclosure law. The PDC has the authority to develop procedures, adopt rules, investigate complaints, and enforce the laws relating to campaign disclosure and contributions, including the imposing of civil penalties.

Subsequently, in 1992 the Fair Campaign Practices Act was enacted following passage of Initiative 134. Initiative 134 imposed campaign contribution limits on elections for statewide and legislative office, further regulated independent expenditures, restricted the use of public funds for political purposes, and required public officials to report gifts.

The Campaign Disclosure and Contribution statute prohibits contributions made or expenditures incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.

A court is authorized to impose civil remedies and sanctions for violations of the Campaign Disclosure and Contribution Reporting statutes. These include civil penalties, generally of not more than \$10,000 for each violation, and a civil penalty of \$10 per day for each day that a person fails to file a properly completed statement or report. A court may also issue an order to prevent a person from violating these requirements.

The PDC has the authority to refer certain cases for prosecution. Pursuant to statute, it is a:

- misdemeanor offense for a person, who, with actual malice, violates the campaign disclosure and contribution laws;
- gross misdemeanor offense for a person, who, within a five-year period, with actual malice, violates three or more of the campaign disclosure and contribution laws; and
- unranked class C felony offense, for a person who, with actual malice, procures or offers any false or forged document to be filed, registered, or recorded with the PDC.

A misdemeanor offense is punishable by a sentence of up to 90 days in jail, or a maximum fine of \$1,000, or both imprisonment and a fine. A gross misdemeanor offense is punishable by a sentence of up to 364 days in jail or a maximum fine of \$5,000, or both imprisonment and a fine. The maximum sentence for unranked felonies is one year of confinement, along with possible community service, legal financial obligations, community supervision, and a fine.

Summary of Substitute Bill:

It is illegal for a person to intentionally violate the campaign disclosure and contribution laws. A person who intentionally makes a contribution or incurs an expenditure, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment is guilty of a misdemeanor offense. A subsequent offense is a gross misdemeanor offense. In lieu of holding a hearing on the matter, the PDC may refer such violations to the Attorney General or other law enforcement

agency when it has reason to believe the PDC's administrative remedies would not be adequate to address the seriousness of the alleged violations. In the event the Attorney General or law enforcement agency declines to bring an action against the person, the PDC may refer the violation for criminal prosecution.

Substitute Bill Compared to Original Bill:

A person who intentionally makes a campaign contribution in such a way as to conceal the identity of the source of the contribution, is guilty of a misdemeanor offense for a first offense and a gross misdemeanor offense for subsequent offenses (instead of a class C felony in all instances). Also, in lieu of a hearing, the PDC may refer such violations to the Office of the Attorney General or local law enforcement to address the seriousness of the violation. Other clarifications are made to the bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Most campaigns that take place in Washington are clean and honest. However, there was a fire levy on the ballot in one district where a wealthy former official concealed campaign contributions to defeat the levy. If the levy would have passed he would have lost business. This man donated money to the campaign in the names of eight of his employees, although the money never touched their hands. This man was caught and fined by the PDC for \$60,000. There are some very wealthy people that choose to get involved in campaigns and do things illegally, this will punish them as a felon.

(Neutral) The PDC has statewide jurisdiction over all campaigns, large and small, and they receive about 130 complaints per year. Concealment violations are the most serious violations that the committee investigates and takes action on. The PDC has the discretion to refer cases for criminal prosecution but to date no criminal action has ever been taken on a campaign violation. However, in order to convict a person for a criminal offense there must be a finding of malice.

Since this bill would require criminal prosecution, there are some questions as to how the PDC's existing civil investigations, administration proceedings, and civil proceedings would be affected by this bill.

(Opposed) None.

Persons Testifying: (In support) Representative Van De Wege, prime sponsor.

(Neutral) Andrea Doyle, Public Disclosure Commission.

Persons Signed In To Testify But Not Testifying: None.

**HOUSE COMMITTEE ON GENERAL GOVERNMENT & INFORMATION
TECHNOLOGY**

Majority Report: The substitute bill by Committee on Public Safety be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Hudgins, Chair; Senn, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; McCabe, Morris and Takko.

Staff: Meghan Bunch (786-7119).

**Summary of Recommendation of Committee On General Government & Information
Technology Compared to Recommendation of Committee On Public Safety:**

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 22, 2015.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.