

SENATE BILL REPORT

ESB 5153

As Amended by House, April 10, 2015

Title: An act relating to increasing transparency of campaign contributions.

Brief Description: Increasing transparency of campaign contributions.

Sponsors: Senators Billig, Roach, Sheldon, Fain, Liias, Mullet, Fraser, Dandel, McCoy, Rolfes, Cleveland, Darneille, Habib, Padden, Nelson, Benton, Chase, Keiser, Jayapal, Hasegawa and Frockt.

Brief History:

Committee Activity: Government Operations & Security (Note: Senate Resolution 8609 adopted January 27, 2015, renamed the Committee on Government Operations & State Security to Committee on Government Operations & Security): 1/20/15, 1/27/15 [DP].

Passed Senate: 3/11/15, 49-0.

Passed House: 4/10/15, 65-32.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Majority Report: Do pass.

Signed by Senators Roach, Chair; Pearson, Vice Chair; Liias, Ranking Minority Member; Habib and McCoy.

Staff: Samuel Brown (786-7470)

Background: An organization is considered a political committee if one of its primary purposes is to affect governmental decision making by supporting or opposing candidates or ballot measures. Within two weeks after organization or two weeks after the committee first has the expectation of receiving contributions or making expenditures, a political committee must file a statement of organization with the Public Disclosure Commission (PDC) stating the following information:

- the committee's name and address, as well as those of any affiliated committees or persons, and their relationship or affiliation;
- the names, addresses, and titles of its officers or leaders;
- the name and address of the committee's treasurer and depository;
- whether the committee is a continuing political committee;
- the candidates, parties, and ballot measures supported or opposed by the committee;
- how the committee intends to dispose of surplus funds, if any, at dissolution;

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.

- the address of the place and the hours during which the committee will make its account books and reports available for public inspection;
- the name, address, and title of each person who authorizes expenditures or makes decisions on behalf of the committee;
- the name, address, and title of each person who performs ministerial functions on behalf of the committee and another committee or candidate; and
- other information that the PDC may prescribe by rule.

Political committees organized outside Washington must file organizational statements with the PDC, but are required to make more limited disclosures. Political committees must file reports with the PDC detailing contributions of more than \$25 received and expenditures made at the following intervals:

- on the tenth day of the month if the candidate received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last report exceed \$200;
- 21 days before the election;
- seven days before the election; and
- on the tenth day of the month following the election.

Summary of Engrossed Bill: All nonprofit organizations making contributions or expenditures in Washington election campaigns above specified thresholds must file organizational statements with the PDC and disclose certain contributors, regardless of the organization's primary purpose.

Separate reporting standards are created for incidental committees, defined as nonprofit organizations, other than 527 tax-exempt nonprofit organizations currently filing disclosure statements with the PDC, Internal Revenue Service, or Federal Election Commission (FEC), that incidentally make expenditures in political campaigns. Incidental committees must file a statement of organization with the PDC only if the incidental committee receives contributions or makes expenditures of at least \$25,000 for an election campaign and receives a contribution of at least \$10,000. An incidental committee's statement of organization must include the following:

- the name and address of the committee, its officers, its treasurer and depository, and affiliated persons or committees;
- the names of any candidates supported or opposed by the committee;
- any ballot measures supported or opposed by the committee; and
- any other information required by the PDC consistent with the policies and purposes of campaign finance laws.

Incidental committees must disclose specified contributions to the PDC at the following intervals:

- the time the committee files its statement of organization;
- 21 days before an election;
- seven days before an election; and
- by the tenth day of the first month after an election.

Those specified contributions are the ten largest contributions received of at least \$10,000 in aggregate from a single source during the calendar year, including any contributions tied for

tenth largest, and all contributions of at least \$100,000 in aggregate from a single source, if any. An incidental committee must file a monthly contribution and expenditure report only if it has received a specified contribution which has not been previously disclosed.

The PDC must provide a link on its website to a searchable database of 527 tax-exempt organizations from the FEC's website. The PDC may modify incidental committee reporting requirements in cases of manifestly unreasonable hardship. By December 31, 2015, the PDC must adopt rules for the dissolution of incidental committees.

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: This bill is about bringing dark money into the light. Washington has election disclosure laws, but there are some loopholes. Nationally, nonprofit organizations have been spending large amounts of money while hiding donors. In 2013 and 2014, this phenomenon came to Washington, and our laws did not require groups to disclose donor information. Groups across the political spectrum engage in these tactics. This bill levels the playing field by requiring nonprofits to play by the same rules as other political committees. The bill reduces corruption and provides transparency. This is the same bill as last year, but with some refinements. Groups with lots of smaller donors wouldn't have to disclose those donors' identities.

We want to ensure the integrity and transparency of electoral processes in the state, and believe this bill advances that goal. It is good for the state and the electorate to shed light on organizations that have sidestepped legal requirements. The public has a right to know who is spending money. Dark money needs to end; this is not just a Democrat or Republican issue. We also need to look at the funneling of money through front groups. The ability to know what is going on is one of the paramount duties of news organizations, and this will better help us accomplish our goal.

OTHER: While the PDC itself hasn't taken a formal position on the bill, it is generally very supportive of changes that result in disclosure of more meaningful information, respond to changes in how campaigns are conducted, improve clarity, and reduce misunderstanding. It is not unusual for the PDC to receive complaints on a regular basis about unregistered political committee activity, and find after investigation that the group doesn't meet the primary purpose test and is not a political committee. This is a similar approach to what other states and cities are trying. The bill brings bright-line clarity for these groups, but invites court scrutiny. Groups will still be able to spend right up to thresholds without triggering the reporting requirements.

Persons Testifying: PRO: Senator Billig, prime sponsor; Alice Woldt, Fix Democracy First!, Executive Director; Steve Zemke, King County Democrats; Rowland Thompson, Allied Daily Newspapers.

OTHER: Andrea Doyle, PDC.

House Amendment(s): The definition of incidental committee is modified. A 527 tax-exempt nonprofit organization that does not file disclosure reports with the FEC or public filings with the Internal Revenue Service at the same intervals as are required of incidental committees in the act is considered an incidental committee, rather than a political committee.

An incidental committee need only report expenditures in support of or opposition to an election campaign or to a political committee at the time it files its statement of organization. The incidental committee must disclose such expenditures at the time it files its statement of organization.

An incidental committee must file a monthly contribution and expenditure report if it has made more than \$200 of expenditures since its last report.