

HOUSE BILL REPORT

ESHB 1379

As Amended by the Senate

Title: An act relating to disclosure of contributions from political committees to other political committees.

Brief Description: Concerning disclosure of contributions from political committees to other political committees.

Sponsors: House Committee on State Government & Tribal Relations (originally sponsored by Representatives Pellicciotti, Hudgins, Appleton, Gregerson, Pollet, Macri, Valdez, Kloba, Bergquist, Tarleton, Doglio, Frame, Goodman, Reeves and Fey).

Brief History:

Committee Activity:

State Government & Tribal Relations: 1/25/19, 2/1/19 [DPS].

Floor Activity:

Passed House: 3/8/19, 91-5.

Senate Amended.

Passed Senate: 4/15/19, 27-21.

Brief Summary of Engrossed Substitute Bill

- Raises the threshold for identifying and disclosing the top five contributors to a political advertisement sponsored by a political committee from \$700 to \$1000.
- Provides that when political advertisements must disclose the sponsor's top five contributors, if any of those five contributors are political committees, the sponsor must also disclose the top three donors to those contributors, alongside the statement "Top Three Donors to PAC Contributors."
- Adds specificity to certain display requirements for all required disclosures in political advertisements, including disclosure of the top five contributors.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Walsh,

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.

Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Appleton, Dolan, Hudgins, Mosbrucker and Smith.

Staff: Jason Zolle (786-7124).

Background:

The Fair Campaign Practices Act requires political advertisements to include certain disclosures. Advertisements are considered political if they are used for the purpose of appealing for votes, donations, or other support or opposition in an election campaign for a candidate or ballot proposition.

Political advertisements on the radio or television must include the sponsor's name, and written ads must include the sponsor's name and address. It is illegal for the sponsor to use an assumed name.

Additional disclosure requirements apply when the advertisement is an independent expenditure or an electioneering communication sponsored by a person or entity other than a political party. When applied to advertisements, an independent expenditure is, generally speaking, an advertisement supporting or opposing a candidate that is sponsored by a person who does not have the candidate's approval to make the advertisement and is worth at least \$500 or \$1000 (depending on the office). An electioneering communication is, generally speaking, an advertisement run within 60 days of an election that clearly identifies a candidate for office and is worth at least \$1000. These advertisements must include the statement "No candidate authorized this advertisement. It is paid for by [the sponsor's name and address]."

If the sponsor is a political committee—that is, a person or entity other than a candidate who receives contributions to spend money in support of, or in opposition to, any candidate or ballot proposition—the advertisement must include a statement disclosing the committee's top five contributors. The top five contributors are the five persons or entities that made the largest contributions to the committee totaling over \$700 during the 12 months before the date of the advertisement. In addition, a political committee that was established or controlled by an individual or entity must disclose the full name of that individual or entity in the advertisement.

Political advertising by a political committee that supports or opposes ballot measures must also include information about the top five contributors if the advertisement costs \$1000 or more.

In a written political advertisement, all required disclosures must:

- appear on the first page or fold;
- be in at least 10-point size type, or be at least 10 percent of the largest type used in the advertisement, whichever is larger;
- use continuous tone rather than half tone printing; and
- be set apart from any other printed matter.

In a television or other video advertisement, all required disclosures must:

- be clearly spoken; or
- appear in large print for at least four seconds in letters greater than 4 percent of the visual screen height, with a reasonable color contrast with the background.

Summary of Engrossed Substitute Bill:

Political committees that sponsor a political advertisement must identify and disclose the top five contributors that donate \$1000, rather than \$700, during the 12 months before the date that the advertisement is initially to be presented to the public.

If any of those five contributors is a political committee, the sponsor must also identify the top three contributors that gave more than \$1000 to any of those committees during the same period. The political advertisement must display the name of those top three contributors alongside the statement "Top Three Donors to PAC Contributors."

The Public Disclosure Commission (PDC) is authorized to adopt rules to prevent circumvention of the top five contributors and top three donors disclosure requirements and to effectuate their purposes. A sponsor is not liable for miscalculating the top three donors to political committee contributors because the persons or entities making the largest contributions failed to report their contributions to the PDC.

Certain visual display requirements for all necessary disclosures are also made more specific. In a written advertisement, no text may be before, after, or immediately adjacent to any required disclosures. In a television or other video advertisement, all required disclosures must appear on a solid black background that takes up the entire bottom one-third of the screen—or if listing the top five contributors is not required, the bottom one-fourth of the screen.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment makes the following changes:

- provides that certain political advertisements must list the names of the top five contributors that are persons, rather than persons or entities;
- requires a sponsor to list the top three non-political committee donors to political committee contributors, rather than the top three donors;
- requires a sponsor to report the top five contributors and top three donors that contribute in excess of the amount necessary to qualify as an independent expenditure, which is either \$500 or \$1000 depending on the office, rather than a \$1000 threshold for all offices;
- provides that contributions to a political committee that are earmarked, tracked, and used for purposes other than the advertisement in question are not counted when identifying the top donors to political committee contributors; and
- exempts a sponsor from liability for a violation of the disclosure requirements that occurs because a contribution to a political committee was not reported to the Public Disclosure Commission, no matter who failed to report it.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Last year the state worked to get "dark money" out of politics by requiring more disclosure of donors by political action committees (PACs). But most voters will not go to the Public Disclosure Commission's website to look at PAC disclosures—people look at the advertisements. When voters see an advertisement that says "Brought to you by [name] PAC," the top contributor to that PAC may be another PAC about which voters cannot find much information. Some PACs intentionally move money around to other PACs to conceal their donors. Friendly named PACs manipulate the system to hide who is behind the donation. The goal of this bill is to close a loophole and better identify who is contributing to an advertisement so voters can base their votes on who is contributing. The public has a right to know who is putting money into elections.

(Opposed) There are concerns with the mechanisms of how the top five calculation would work under this bill. There are unintended consequences to listing donors "downstream" of an advertisement. When a person gives to an entity, the donor's intent is to give to that entity only. When a donor gives money to PAC #1, and PAC #1 gives money to a candidate, it is inaccurate to say that the donor gave money to the candidate. A donor may end up being listed in an advertisement as a contributor to a candidate the donor actually opposes. This bill could potentially lead to more manipulation of the system.

Persons Testifying: (In support) Representative Pellicciotti, prime sponsor; Cindy Black, Fix Democracy First; Madeline Bishop, League of Women Voters; and Toni Stefnik.

(Opposed) Jan Himebaugh, Building Industry Association of Washington.

Persons Signed In To Testify But Not Testifying: None.