

SENATE BILL REPORT

SHB 2772

As Reported by Senate Committee On:
State Government, Tribal Relations & Elections, February 28, 2020

Title: An act relating to the administration of election campaign activities and reporting statements of financial affairs.

Brief Description: Concerning the administration of election campaign activities and reporting statements of financial affairs.

Sponsors: House Committee on State Government & Tribal Relations (originally sponsored by Representatives Walsh, Hudgins and Pollet; by request of Public Disclosure Commission).

Brief History: Passed House: 2/18/20, 97-1.

Committee Activity: State Government, Tribal Relations & Elections: 2/26/20, 2/28/20 [DPA, w/oRec].

Brief Summary of Amended Bill

- Allows the PDC to modify codes used to report asset and debt values on the F-1 statement by rule.
- Prohibits the PDC from publishing F-1 statements of legislative staff online.
- Requires disclaimers on advertising citing endorsements for different races other than the one to which the advertising pertains.
- Grants the Attorney General concurrent original jurisdiction over certain subsequent violations of campaign finance and lobbying statutes.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Zeiger, Ranking Member; Hasegawa, Hawkins and Takko.

Minority Report: That it be referred without recommendation.

Signed by Senator Muzzall, Assistant Ranking Member.

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.

Staff: Samuel Brown (786-7470)

Background: The Public Disclosure Commission. The PDC was created by the passage of Initiative 276 in 1972. The PDC is empowered to provide timely public access to information about the financing of state and local 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.

The PDC is composed of five commissioners, appointed for single five-year terms by the Governor and subject to Senate confirmation. No more than three commissioners may be members of the same political party. During their terms, commissioners are prohibited from:

- holding or campaigning for office;
- serving as political party or committee officers;
- soliciting or making campaign contributions;
- participating in election campaigns; or
- lobbying, except on matters directly related to campaign finance law.

Personal Financial Affairs Reporting. Every elected official and executive state officer must file a statement of financial affairs, also known as an F-1 statement, for the preceding calendar year with the PDC. The F-1 statement requires disclosure of financial and personal information relating to the filer and the filer's immediate family. Required items for disclosure include the following:

- the filer and filer's immediate family members' occupation, name of employer, and business address;
- compensation for preparing, promoting, or opposing legislation or agency rules, rates, or standards;
- real property holdings;
- bank accounts, insurance policies, stocks, mutual funds, and other intangible personal property holdings;
- any ownership interests of 10 percent or greater in private entities, and, if applicable, compensation;
- any gifts of food or beverage in excess of \$50; and
- any other information deemed necessary by the PDC.

The PDC may grant a reporting modification and waive completion of any part of the F-1 reporting requirement where the requirement imposes extreme hardship on the filer and the modification would not frustrate the PDC's purposes of increased disclosure and access for up to three years, or up to an elected official's term of office.

Ballot Propositions. Persons or committees supporting or opposing ballot propositions must report information on contributions and expenditures above certain amounts to the PDC. In *State v. Evergreen Freedom Foundation*, 192 Wn. 2d 782 (2019), the state Supreme Court held that local ballot measures are considered "propositions," subjecting supporters and opponents to disclosure requirements, prior to signature gathering, if the measure's language and signatures needed to submit the measure to the local governing body are subsequently filed with an elections official.

Enforcement. The PDC has original jurisdiction over claims of an alleged violation of campaign finance law, whether initiated by the agency or by citizen complaint. The Attorney General has jurisdiction over claims referred by the PDC or where the PDC fails to act within 90 days of receiving a citizen complaint. The PDC may refer claims to the Attorney General where additional authority is needed to ensure full legal compliance, an apparent violation warrants a penalty greater than the \$10,000 per violation maximum the PDC may impose, or the maximum penalty does not address the severity of the violation.

Summary of Amended Bill: Personal Financial Affairs Reporting. The dollar code ranges used to identify monetary amounts reported on the F-1 statement are removed. The PDC may, by rule, adopt value codes for reporting monetary amounts within certain ranges. The threshold values triggering the requirement to disclose on the F-1 bank accounts, investment assets, compensation, real property, and real property held by and government contracts to a filer's business are raised.

F-1 statements of legislative staff are subject to disclosure upon request, but may not be posted by the PDC on any website.

Political Advertising. Any political advertising that includes an endorsement must include a disclaimer if the endorsement was made in support of the candidate for a different office or a different election than the subject of the advertising. Political advertising encouraging votes for a person who has not filed a declaration of candidacy or write-in candidacy after the candidate filing period must include a disclaimer that the person is not a candidate for office as of the date the advertisement is first presented.

Endorsement disclaimers must appear adjacent to the endorsement and in at least the largest type used. For televised advertisements or advertisements with visual images, the disclaimer must either be clearly spoken or appear in print and be visible for at least four seconds in letters greater than four percent of the visual screen height in a reasonable color contrast with the background. For advertisements with no visual image, the disclaimer must be clearly spoken.

Ballot Propositions. A ballot measure is considered a proposition at the time it is initially filed with an elections official or circulated for signatures, whichever occurs first.

Enforcement. The Attorney General has concurrent original jurisdiction over claims of a subsequent violation of campaign finance or lobbying statutes by a person who previously paid a penalty or judgment of at least \$100,000 for a violation of campaign finance or lobbying statutes.

Other Provisions. The PDC must conduct a statistically sufficient number of audits and field investigations as staff capacity permits. The PDC may provide recommended uniform methods of recordkeeping and reporting for people required to file campaign finance reports, without having to publish a manual. The PDC may not create an electronic archive of political advertising without explicit legislative authorization.

EFFECT OF STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS COMMITTEE AMENDMENT(S): Personal Financial Affairs Reporting. The prohibition

on the PDC posting F-1 statements of legislative staff on any website is moved within RCW. Changes to F-1 provisions are given an emergency clause.

Enforcement. The Attorney General has concurrent original jurisdiction over claims of a subsequent violation of campaign finance or lobbying statutes by a person who previously paid a penalty or judgment of at least \$100,000 for a violation of campaign finance or lobbying statutes.

Other Provisions. The PDC may not create an electronic archive of political advertising without explicit legislative authorization.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This updates a few technical matters. It allows the financial disclosure limits to be adjusted by the PDC on an ongoing basis. It does clarify that while legislative staff have to file F-1s, that information will not be available online, but will be available upon request. It clarifies that endorsements have to be current and relevant to the race at hand. There were mailers that used real endorsements from past election cycles in a way that may have deceived some voters.

Persons Testifying: PRO: Representative Jim Walsh, Prime Sponsor.

Persons Signed In To Testify But Not Testifying: No one.