

# SENATE BILL REPORT

## SB 5021

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As of February 9, 2011

**Title:** An act relating to enhancing election campaign disclosure requirements to promote greater transparency for the public.

**Brief Description:** Enhancing election campaign disclosure requirements to promote greater transparency for the public.

**Sponsors:** Senators Pridemore, Kline, Kohl-Welles, Keiser, Prentice, Tom, Chase, White, Nelson, Haugen and McAuliffe.

**Brief History:**

**Committee Activity:** Government Operations, Tribal Relations & Elections: 1/13/11.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

**Staff:** Sharon Swanson (786-7447)

**Background:** Initiative 276, passed by the voters in 1972, established disclosure of campaign finances, lobbyist activities, financial affairs of elective offices and candidates, and access to public records. It also created the Public Disclosure Commission (PDC), a five-member, bi-partisan citizen commission, to enforce the provisions of the campaign finance disclosure law.

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 received in excess of \$50.

Provisions for reporting political advertising and electioneering communications were enacted by the Legislature in 2005 and amended in 2010.

**Summary of Bill:** Reporting Requirements. The definition of "electioneering communication" is amended to reflect a lower reporting threshold of the fair market value of \$1,000.

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*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 threshold amount triggering mandatory electronic filing for candidates and political committees is lowered to \$5,000.

Political Committees. Naming Requirements.

- A political committee name must include the name of the person or entity that has created the committee.
- Candidate support political committees must include the candidate's name and party affiliation, the office sought and the election year.
- A political committee created in opposition to a candidate must include the name of the candidate, party affiliation, office sought and election year.
- No two political committees may have the same name.

*Contributions.* Political committees are prohibited from receiving contributions from other political committees with the exception of caucus political committees or bona fide political parties.

Rebuttable Presumption. A rebuttable presumption is established that a person or entity creating more than two political committees is doing so to conceal either the identity of the source of the contributions received by that person or political committee created by that person.

A person or entity seeking to create more than two political committees must provide information to the PDC sufficient to demonstrate that the creation of more than two political committees serves a lawful and valid purpose. Included in the information the PDC must consider is whether or not the political committees sought to be created have a clear and unique purpose easily distinguishable from one another, or are either duplicative or redundant as to one another on the same public policy issue or elected office.

Criminal and Civil Penalties.

- A person who knowingly violates a provision of RCW 42.17 is guilty of a misdemeanor.
- A person who, within a five-year period, knowingly violates three or more provisions of RCW 42.17 is guilty of a gross misdemeanor.
- A person who knowingly procures or offers any false or forged document to be filed, registered, or recorded with the PDC is guilty of a class C felony.

The PDC may assess a penalty for each violation in an amount not to exceed \$10,000.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: There is a compelling need for the public to know how money is being spent. The major political parties should play by the same rules as

everyone else; they should not be exempt under this bill. If the sole purpose behind a PAC is to support or oppose a candidate or issue then why shouldn't that PAC call themselves what they are? Citizens should not need training from Sherlock Holmes in order to discern who is funding the ads we all see during the election cycle. It should be transparent and easy to determine where the money is coming from. Recently, we have seen an explosion of money coming into our state to influence our elections. We often don't know and can't determine who is trying to influence our votes. Voters feel disenfranchised when they don't know who is supporting a candidate or an issue. There is no question that reform is needed. Timing needs to be improved. When an election is derailed because of funding questions or because a law has been broken, the conversation is no longer about the issues.

CON: If you are exempting your own parties, that shows that the proponents see the deficiencies and the onerous nature of the requirements this bill would create. If it's so good why would you exempt such a large part of political activity from it? Moxie Media is rightly being crucified for their behavior. This bill has a much larger impact on all of us, not just Moxie Media. This bill tells groups what they may or may not call themselves. This is a violation of the First Amendment. How can the government pass a law that can tell people what they can call themselves? Imagine having a PAC name that is 40 characters long. This bill gives prosecution power to bureaucrats at the PDC. The power to prosecute should stay with the attorney general. Lowering the dollar threshold for reporting requirements seems like over kill to us. Rarely does the Legislature pass a law that doesn't create more problems than it seeks to solve.

OTHER: The naming requirement is a problem. Several PACs have been around for years and are well known. The contributions between PACs can be addressed in a less onerous manner. The prohibition is perhaps broader than the problem you are intending to address. The rebuttable presumption created in the bill is also broader than the problem you are attempting to get at. A blanket prohibition is always a concern. Often transfers of funds are made and there is nothing sinister or questionable behind it. With different language we could be supportive.

**Persons Testifying:** PRO: Steve Breaux, Washington Public Interest Work Group; Craig Salins, Washington Public Campaigns; Kim Abel, League of Women Voters; Nick Harper, Senator 38th District; Doug Ellis, Public Disclosure Commission.

CON: Tim Eyman, Voters Want More Choices.

OTHER: Kris Tefft, Association of Washington Business.