

PDC Proposed Legislation 2020

I. Clarifying definition of ballot proposition

**RCW Caption:** *Definitions*

**Sec. 1.** RCW 42.17A.005 and 2018 c 304 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

. . . . .

(5) "Ballot proposition" means any "measure" as defined by RCW 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency ~~((from and after))~~. For purposes of this chapter, a proposition is considered proposed at the time when the proposition ~~((has been))~~ is initially filed with the appropriate election officer ~~((of that constituency))~~, or is initially ~~((before its circulation))~~ circulated for signatures, whichever occurs first.

. . . . .

II. Commissioner Political Activities and Advocacy

**RCW Caption:** *Public disclosure commission—Established—Membership—Prohibited activities—Compensation, travel expenses.*

**Sec. 2.** RCW 42.17A.100 and 2010 c 204 s 301 are each amended to read as follows:

(1) The public disclosure commission is established. The commission shall be composed of five commissioners appointed by the governor, with the consent of the senate. The commission shall have the authority and duties as set forth in this

**Commented [SF1]:** Comment from AL: RCW 29A.04.091 says: "Measure' includes any proposition or question submitted to the voters", so what is the value add of: "or any initiative, recall, or referendum proposition proposed to be submitted to the voters"?

**Commented [SF2R1]:** One difference is that the election law definition includes questions that are submitted to voters, where as our law includes measures "proposed" to be submitted. The distinction is that our law includes activities prior to the submission of a question to the voters.

**Commented [SF3]:** Comment from AL: "voting constituency" is not defined and may add confusion to what triggers an obligation to report.

**Commented [SF4R3]:** This term is meant to be a catch-all to cover any jurisdiction not included in the immediately preceding list. The term modifies initiative, recall, or referendum, which are defined terms, so I think that should provide the clarity needed, while also serving the intent to include any kind of initiative, recall, or referendum not technically submitted to the state, municipality, or subdivision.

chapter. All appointees shall be persons of the highest integrity and qualifications. No more than three commissioners shall have an identification with the same political party.

(2) The term of each commissioner shall be five years, which may continue until a successor is appointed, but may not exceed an additional twelve months. No commissioner is eligible for appointment to more than one full term. Any commissioner may be removed by the governor, but only upon grounds of neglect of duty or misconduct in office.

(3) (a) During a commissioner's tenure, the commissioner is prohibited from engaging in any of the following activities, ~~either within or outside the state of Washington:~~

- (i) Holding or campaigning for public elective office;
- (ii) Serving as an officer of any political party or political committee;
- (iii) ~~Permitting the commissioner's name to be used in support of or in opposition to a candidate or proposition~~ Participating in any way in any election campaign over which the commission has jurisdiction;
- (iv) ~~Soliciting or making contributions to a candidate, or in support of or in opposition to any candidate, or proposition.~~ For campaigns not within the jurisdiction of the commission that involve a candidate who is otherwise subject to the commission's jurisdiction, making contributions to or soliciting contributions for that candidate or permitting the commissioner's name to be used in support of that candidate; or
- ~~(v) Participating in any way in any election campaign~~ Permitting the commissioner's name to be used in support of or in opposition to a candidate or proposition; or

~~(vi)~~ (v) Lobbying the state legislature or any state agency as defined in RCW 42.17A.005, or employing~~r~~ or assisting a lobbyist for such activity, except that a commissioner or the staff of the commission may lobby to the limited extent permitted by RCW 42.17A.635 on matters directly affecting this chapter.

(b) This subsection is not intended to prohibit a commissioner from participating in or supporting nonprofit or other organizations, in the commissioner's private capacity, to the extent such participation is not prohibited under (a) of this subsection.

(c) The provisions of this subsection do not relieve a commissioner of any applicable disqualification and recusal requirements.

### III. Making the Transparency Account Non-Appropriated

**RCW Caption:** *Public disclosure transparency account.*

3. RCW 42.17A.785 and 2018 c 304 s 18 are each amended to read as follows:

(1) The public disclosure transparency account is created in the state treasury to ensure the commission may access an independent resource to effectively meet emerging needs to maintain and update the systems that are necessary to provide the public and regulated persons with access to the information disclosed under this chapter.

All receipts from penalties collected pursuant to enforcement actions or settlements under this chapter, including any fees or costs, must be deposited into the account. (~~Moneys~~

**Commented [SF5]:** Comment from AL: There should be language included that highlights what the Commission's been saying the last couple of years since we first proposed and secured the fund, about the value to the public and filers of the agency being able to utilize funds as they become available to more quickly get projects on-line and delivered.

**Commented [SF6R5]:** Proposed language added.

~~in the account may be spent only after appropriation. Moneys in the account may be used only for the implementation of chapter 304, Laws of 2018 and duties under this chapter, and may not be used to supplant general fund appropriations to the commission.)~~

~~(2) Only the commission or the executive director may authorize expenditures from the account. The account is not subject to appropriation.~~

~~(3) Moneys in the account may be used only for the development and implementation of projects designated by the commission for the purpose of improving the usability, transparency, and accessibility of systems and information regarding campaign financing, lobbying activities, and the financial affairs of public officials and candidates, consistent with the purposes of this chapter. The commission shall approve and annually update the list of designated projects and include a description, the purpose, and projected cost of each project as part of the commission's annual budget review. -make available a list of the designated projects intended to be funded through this account, as updated by the commission from time to time, including an approximate cost estimate of such projects, as available.~~

~~(43) Moneys in the account may not be used for ongoing operating or enforcement expenses and are not intended to be and shall not be used to supplant general fund appropriations to the commission. The commission shall ensure that each project includes definable measurable outcomes that incorporates reliable methods for tracking and analyzing data of the project.~~

**Commented [SF7]:** Comment from AL: the Commission's obligations should be much more defined, concrete, and hold the agency to a higher level of accountability.

**Commented [SF8R7]:** Proposed changes made.

**Commented [SF9]:** Comment from AL: We need stronger commitment to deliverables (e.g., reporting tools, data searchability, real-time modernization to ensure all I.T. utilizes best practices/current technologies - cite to the goals & project categories that will be listed in the portfolio.

**Commented [SF10R9]:** Proposed changes made.

(4) Only the commission (~~for the executive director~~) may authorize expenditures from the account. The account is not subject to appropriation.

IV. Removal of outdated procedures (restoring changes that were cancelled through the partial veto of SHB 1195 (2018))

**RCW Caption:** *Commission - Duties.*

4. RCW 42.17A.785 and 2018 c 304 s 18 are each amended to read as follows:

The commission shall:

- (1) Develop and provide forms for the reports and statements required to be made under this chapter;
- (2) ~~Prepare and publish a manual setting forth~~ Provide recommended uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter;
- (3) Compile and maintain a current list of all filed reports and statements;
- (4) Investigate whether properly completed statements and reports have been filed within the times required by this chapter;
- (5) Upon complaint or upon its own motion, investigate and report apparent violations of this chapter to the appropriate law enforcement authorities;
- (6) Conduct a sufficient number of audits and field investigations, as staff capacity permits without impacting the timeliness of addressing alleged violations, to provide a statistically valid finding regarding the degree of compliance

**Commented [SF11]:** Comment from AL: We are asking the Leg to delegate their authority to the Commission; we shouldn't ask them to further delegate to staff.

**Commented [SF12R11]:** Eliminating ED would mean that the Commission would have to expressly authorize any expenditure used in this account. Presumably the commission could delegate authority to the ED, if it wanted.

**Commented [SF13R11]:** Proposed change made.

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with the provisions of this chapter by all required filers. Any documents, records, reports, computer files, papers, or materials provided to the commission for use in conducting audits and investigations must be returned to the candidate, campaign, or political committee from which they were received within one week of the commission's completion of an audit or field investigation;

(7) Prepare and publish an annual report to the governor as to the effectiveness of this chapter and ~~its enforcement by appropriate law enforcement authorities~~ the work of the commission;

(8) Enforce this chapter according to the powers granted it by law;

(9) ~~Adopt rules governing the arrangement, handling, indexing, and disclosing of those reports required by this chapter to be filed with a county auditor or county elections official. The rules shall:~~

~~(a) Ensure ease of access by the public to the reports; and~~

~~(b) Include, but not be limited to, requirements for indexing the reports by the names of candidates or political committees and by the ballot proposition for or against which a political committee is receiving contributions or making expenditures;~~

~~(10)~~ Adopt rules to carry out the policies of chapter 348, Laws of 2006. The adoption of these rules is not subject to the time restrictions of RCW 42.17A.110(1);

~~(10)~~ Adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports; and

~~(112) Maintain and make available to the public and political committees of this state a toll-free telephone number.~~

(12) Provide online access to the public for the information in reports filed with the commission that are required to be available for public use or inspection, with any exception for personal privacy, safety, or other concerns as determined by the commission.

**Commented [SF14]:** Removal of this language was not part of the changes proposed in SHB 1195, though it falls within the same intent of removing requirements that are unnecessary for statutory authority.

**Commented [SF15]:** This section was not included in the recommended changes, and is not necessary for the authority to provide filing reports online. However, the change is offered for the commissioners' consideration of establishing a statutory basis for the policy of providing online access to filed reports.

DRAFT