The People's Right to Know:

An Analysis of the Washington State Public Disclosure Law

By
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Institute of Governmental Research
University of Washington

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FOREWORD

Washington State's Public Disclosure Law stands as a landmark piece of legislation in efforts throughout the country to open up the process of government. The Institute of Governmental Research is pleased to publish the first major study of this law which was passed as a voter initiative in the fall of 1972. The study is particularly significant because it was prepared by two people eminently qualified to examine the law and its impact -- Professor Hugh A. Bone of the University of Washington Department of Political Science, and Cindy M. Fey, a former research analyst for the Public Disclosure Commission.

Great interest has been expressed in Washington's Public Disclosure Law both within the state and by other states which are considering legislative action in the area of open government and public disclosure.

Opinions and conclusions in this publication are those of the authors and do not necessarily reflect the views of the University or the Institute of Governmental Research.

Robert H. Pealy
Director
Institute of Governmental Research

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PREFACE

When the voters of Washington State enacted the Public Disclosure Law through the initiative process they demanded to know more about the functioning of government. Presumably that knowledge would lead to reforms and an increase in public confidence in government.

Predictions concerning the impact of the law ranged from those who believed passage would "clean-up" government to those who warned that the requirements were so burdensome that good people would be driven away from government service.

The statute, which has been in effect for over five years, has undergone many changes through legislative amendment and implementation by the Public Disclosure Commission. Critics and supporters alike are now reviewing the performance of the law and the functioning of the commission. Inquiries from public officials, political scientists, and interested citizens focus on the effectiveness of the law, the significance of disclosed data, and the composition of the administering agency. This monograph is the first effort to compile a comprehensive review of the history, constitutional challenges, provisions, enforcement and results of the law. Hugh A. Bone, professor of political science, University of Washington, was responsible for Chapters I and IV. Cindy M. Fey, former research analyst for the Public Disclosure Commission, prepared Chapters II and III dealing with administration and enforcement. The authors collaborated on the analysis of the law itself and Chapter V.

The section-by-section analysis of the act is placed in the Appendix for those who wish an in-depth explanation of the provisions of the law. The notes reference the main published reports and articles which have appeared through the completion date of January 1, 1978. The script avoids technical language and is intended to provide a general background of the law and to raise questions for further study.

We acknowldge a debt to the Public Disclosure Commission, some legislators and others in answering requests for information and, at times, opinions. Errors of fact, of course, are the responsibility of the authors.

Hugh A. Bone

Cindy M. Fey

CHAPTER I

THE PUBLIC DISCLOSURE ACT: HISTORY

Potentially one of the most sweeping reform measures in the nation was pproved by Washington State voters in November 1972. Initiative 276 placed imitations on campaign spending and required public reporting of the personal inancial affairs of candidates and office holders, campaign financing and obbying activities. It also mandated that all government agencies index their ecords and make them available for public review.

Before the adoption of this open government-public disclosure law the tate had operated under a weak law which required the disclosure of certain olitical expenses. This law (RCW 29.18.140), adopted in 1907, mandated candi-ates to file a statement within ten days after a primary election. The state-ent was to include monies and things of value "in any way affecting his nomina-ion to said office." There was no penalty clause and evasion was widespread. bsers frequently filed no statement and many winners ignored the requirement. eneral elections and ballot propositions were not included. By the early 1960s here was little attempt at enforcement. Students of campaign finance placed ashington near the bottom of the states in terms of adequate campaign disclosures. riticism forced a modest response from the Legislature which made violation a isdemeanor in 1965.

The 1965 law did little more than whet the appetite of those who wanted to educe the influence of big money in the political system. They stepped up their fforts, without success, to obtain legislative enactment of campaign finance and obbying laws. The protest movement was sweeping the nation at this time. Polls howed growing alienation and disaffection with legislatures and other political nstitutions. Ensuring more open government was seen as one way of reducing ynicism and contributing to the public interest and the public good. In the ate sixties and early seventies, Congress, the courts and the President took ctions which expanded the electorate to include 18 year olds, persons disenfran-hised by residence requirements, and racial minorities who had often felt dis-riminated against by registration laws.

In 1971 the Washington legislature passed the Open Public Meetings Act RCW 42.30). Spurred by the national climate, people interested in open govern-nt reform in Washington began to consider the initiative process as a tool to od the legislature to action or as a method of direct adoption by the voters. e initiative process has been widely used in Washington since 1914 to enact merous policies, including political reform, when the legislature has failed do so. Highly significant political changes have resulted, notably in the eas of civil service, the blanket primary, permanent registration and legisla-ve reapportionments. The 1972 open government-public disclosure law continued e historic process of change and reform by direct action of the voters.

The Initiative Drive

The legislature in the spring of 1971 again failed to pass legislation which would require disclosure of campaign contributions and expenses. Leaders of groups favoring such legislation began to discuss informally the content of an initiative to accomplish their goals. A coalition was formed in June of interested persons and groups directed toward preparing an initiative and laying out a campaign for the next general election in 1972. The group became known as the Coalition for Open Government (COG). It included representatives of the League of Women Voters of Washington, the American Association of University Women, the Young Lawyers Section of the Seattle-King County Bar Association, the Municipal League of Seattle-King County, the Seattle Press Club, the Washington Environmental Council, the Washington Council of Churches, CHECC (a Seattle group formed earlier to support candidates for municipal office) and Common Cause. Several officials of both political parties supported the coalition as did prominent media figures.

The Coalition for Open Government drafted a comprehensive bill which they mailed in outline form to 1300 individuals and organizations for evaluation. Although only a few dozen responded, COG adopted the bill and presented it to the legislature when it convened in January 1972.[1] COG leaders viewed this bill as the legislature's "last chance" to avoid submitting the question to the voters directly through the initiative process.

A number of younger legislators were enthusiastic about the reform bill. Although the leadership and persons of power were not, they recognized the bill as a threat which had to be met. Their response came in the form of two substitute bills -- one to regulate lobbyists and the other to regulate campaign finance. The legislature also attached referenda to the bills in order to eliminate the possibility of a veto. Governor Daniel J. Evans was viewed as at least partially favoring the COG bill. Further, if COG decided to file its initiative the legislature could fight it by offering alternatives in the two referenda. COG labeled these efforts as a "blatant attempt to avoid disclosure and deceive the voters." It responded by filing its initiative (276) on March 29, 1972.[2]

By the end of May, COG had only 30,000 of the estimated 125,000 signatures needed. An intensive campaign, especially in the last ten days before the filing date of July 7, resulted in a total of 162,000 signatures, easily qualifying it for the ballot. Additional endorsements were collected during the campaign including the Sierra Club and several community councils. The national head of Common Cause, John Gardner, appeared in the state and came out against Referenda 24 and 25. Proponents were divided between urging people to vote against Referenda 24 and 25 and arguing for a "yes" vote on all three, feeling that 24 and 25 were better than nothing. The former group feared this would result in a larger vote for the Referenda than for 276. A major lobbyist became the main opponent in public debates. Many legislators, while opposing 276, did not wish to condemn it publicly.

One aspect of the campaign merits special attention -- the media. The press, radio and television gave prominence to the initiative. They reported comments

by elected officials and noted incremental gains during the signature gathering process. Referenda 24 and 25 received little attention from the media encouraging the feeling that they would be defeated. This climate made candidates for the legislature reluctant to support the referenda over the initiative. A few candidates supporting the initiative voluntarily disclosed their campaign contributions and expenditures following a process similar to that outlined in the initiative. The press responded by giving a large play to these announcements. Some dozens of other candidates saw an opportunity to enhance their causes by calling press conferences or through press releases committing themselves to support of 276 and to financial disclosure.

The successful campaign was conducted for only $13,000 of which $7500 was used for gathering signatures. The American Association of University Women and Seattle-King County Bar Association each contributed $1000 and the Washington Labor Council and Public Utility Districts Association gave $500 each. Some 450 smaller contributions made up the balance.

Electoral Outcome

Proponents of 276 were concerned that their proposal would get lost on the longest ballot in state history. In addition to the national offices, eight statewide executive offices, and the legislative positions, 24 measures (including an equal rights amendment and initiatives on dog racing and liquor) appeared on the ballot. A poor turnout for 276 was feared because these other issues might siphon off voter energies and interests. The fears proved unjustified. In the final voting, 276 did appear third on the ballot behind dog racing and liquor with a falloff rate of 12.37 percent as compared to 6.45 percent on the dog racing measure and 6.92 percent on the liquor proposition.* At the same time well over 16 percent failed to cast a ballot on Referenda 24 and 25. In terms of turnout, 276 did substantially better than the combined vote for U.S. Representative, three statewide offices, all of the constitutional amendments and most of the other initiatives and referenda. There was a comparatively high level of interest in the open government-public disclosure measure.

Turnout for 276 not only exceeded expectations but the 72.01 percent margin of victory was also a surprise. The sex equality amendment carried by only 3369 votes or 50.13 percent. Voters approved Referenda 24 and 25 by identical percentages of 54.72. Section 50 of Initiative 276, however, repealed both referenda which meant that the more comprehensive and stringent 276 prevailed.

Initiative 276 carried every county. King County (Greater Seattle) helped to swell the percentage by giving a 77 percent "yes" vote. Thurston County, seat of the capitol, supported the measure by 72.5 percent, almost exactly the statewide percentage. Pierce County (Greater Tacoma) favored the measure by 70 percent. Overall there was somewhat less support east of the Cascade Range. Yakima voted 60 percent affirmative, Spokane 66 and Walla Walla 70 percent.

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*"Falloff" is the percent of voters who cast ballots but do not vote on a particular measure.

Constitutional Challenges

Supporters of 276 hailed the victory as a triumph for the people's right know and as a tool for reducing the effect of money on governmental processes. At the same time, statements from some lobbyists and officials immediately af the election indicated there would be serious challenges of 276. One of thes might come from the legislature itself. The legislature can modify an initia by a two-thirds vote in both houses and after two years repeal an initiative its entirety. The huge popular majority for 276, however, led opponents to r that few in the legislature would associate themselves with such a move. The immediately filed four challenge cases requesting declaratory judgments. Thi action was followed by extensive litigation involving hundreds of pages of br opinions, citations, findings of fact, assignment of error and so on.

All four cases were tried jointly in April 1973 in Judge Frank Baker's Thurston County Court.[3] In a May 31, 1973 decision, the court generally uphe the law. It rejected the argument that Initiative 276 was invalid because of defective ballot title which contained more than one subject.

During the court's deliberation, nearly 1000 elected officials of school fire protection, port and public utility districts said they would resign or seek reelection if the public disclosure provisions of the law went into effe Despite this evidence, Judge Baker upheld the personal financial disclosure p visions of the law. The Judge did find four sections unconstitutional, howe The first included limitations on campaign spending which had been set at te cents per registered voter; $5000; or the sum of the salary to be paid to the office holder during his term (for governor or lieutenant governor, twice tha The second provision required employers of lobbyists to file details of thei finances. The third section required reporting of "grass roots" lobbying ef aimed at influencing voters rather than legislators directly. Finally, the found invalid the so-called "bounty-hunter" provision which permitted a priva citizen to bring suit against a violator and, if successful, collect half the award.[5] Both sides immediately announced they would appeal to the state supre court.

The state supreme court rendered its decision on May 16, 1974. It uphe personal financial disclosure provisions as did the Baker decision and rever the trial court by upholding the lobbyists' employers' reporting provisions. "bounty-hunter" provision was also reinstated. The court overruled the lower court on the "grass roots" lobbying reporting section.[6] The reporting obliga of a grass roots lobbying campaign are similar, although more stringent, tha those of other campaigns.

In effect, the state supreme court upheld Initiative 276 except for lim tions on campaign spending. The U.S. Supreme Court later struck down limita on campaign spending in a federal law. The public disclosure and lobbying re ments of 276 were taken to the U.S. Supreme Court without success. The highe court refused to hear the cases presumably because no substantial federal que was involved.[7]

The Court's View

The extraordinarily lengthy state supreme court decisions covered the history, philosophy, practical aspects and uses of the initiative process as well as the whole concept of open government and the people's right to know. There were numerous dissenting opinions and extensive citations from the decisions of the U.S. Supreme Court and various state courts. It may be useful to note several aspects of the courts' views (in some cases citing the courts' own words)[8] in order to understand better their interpretation of the philosophy of the law and problems of enforcing and improving the law.

The plaintiffs charged that the law was unconstitutional because it contained more than one subject which is prohibited by the state constitution. The state supreme court also rejected this contention. It noted that in the decision of Senior Citizens League v. Department of Social Security[9] the state supreme court held that the prohibition did not extend to the initiative measures. Further, the "generic" subject of Initiative 276 "necessarily encompasses the public accountability of incumbents of public office and candidates seeking to guide or direct legislation. Hence, the rational unity or coalescence of the initiative's subtopics could be expressed as a general subject. . . ." The dissenting opinion rendered by Justices J. Hunter and J. Rosellini, however, found the whole act unconstitutional.

Respondents contended that Section 24 (public disclosure of personal finances) was unconstitutional because it infringed upon a fundamental right of privacy, upon the candidate's right to seek and hold office and upon the electorate's right to vote for a candidate of its choice.

In making its decision, the court began by recognizing that Initiative 276 was a "bold thrust" in mandating disclosure of financial affairs of elected officials and "appears to be unprecedented in either state or federal legislation." It agreed that the right of privacy of candidates should not be totally disregarded. The court acknowledged that in the abstract at least, there should be an optimum balance between the right of privacy and the people's right to know or "to be informed about those who govern in their behalf."

There are inherent limitations on privacy, however. A person entering the public arena as a candidate becomes a subject of public scrutiny. Information bearing on qualifications and fitness "is unquestionably in the public domain." Cases were cited in dissent which protested public disclosure regarding the conduct of public officials. The court noted that a campaign in itself does not necessarily disclose all the information bearing on fitness for office. Initiative 276, the court held, "seeks to enlarge the information base upon which the electorate makes its decision." The right of the electorate to know "is no less fundamental than the right to privacy." The U.S. Supreme Court, it was observed, has repeatedly asserted that the right to receive information is a fundamental tenet of the American political system. A candidate or officeholder, the Washington court said, "may not complain that his own privacy is paramount to the interests of the people."

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The court recognized that disclosure of information was a burden and that some information might not be directly related to the public office in questio However, it felt the legislature could not "tailor disclosures to each of lite ally a myriad of offices." It would also be unrealistic to require each perso to determine which items of his or her finances were relevant. The court conceded that the mechanics of this section might have negative as well as affirma tive effects and that some individuals might find reporting burdensome. It hoped the requirements would not lead to widespread resignations despite predictions that this might occur. The court went on to point out that both the initiative and legislative amendment process could be used to modify undesirab or unworkable provisions.

Appellants argued that the lobbying registration and reporting requiremen violated the First Amendment guaranteeing the right of petitioners. The court opinion recognized the historical right of petitioners and "the important and constructive functions of lobbyists." At the same time it observed that the U.S. Supreme Court had firmly established the power of government to require registration and reporting of lobbyists. The court decided that the provision in no way interfered with lobbying and that they did not prohibit appropriate communications from lobbyists. Moreover, the requirements extended only to tho who received compensation or expended funds for lobbying.

The trial court had struck down Section 18 which required the employers o lobbyists to report as well. In reversing its decision, the supreme court sai the initiative sought, appropriately, "to reveal the flow of expenditures incurred in efforts to guide and direct government. The removal of any one ele ment would conceivably leave a loophole area for exploitation by self-serving special interests." Reporting by employers of lobbyists would inhibit "the fl of secret money from an inappropriate special interest source to legislators. There is, therefore, a "rational nexus" between the interests of the electora and the requirements of Section 18. Unlike the lower body, the state supreme court did not find compliance impossible.

Plaintiffs, opposing citizen suits [40(4)], argued that candidates would be subject to potential frivolous, abusive and harassing suits. In setting as this contention, a majority of the state supreme court (5-3) said the section within the ancient common law of qui tam procedure or doctrine. This is an a brought by an informer or volunteer who speaks as much for the public as for self. If successful, he may recover costs, attorney fees and a share of the alty. Extensive citations were made to show this procedure has been widely u held. The court was of the opinion that high legal costs would act as a dete against frivolous suits.

The state supreme court rendered its opinion on Section 20 in the case o Young Americans for Freedom et al v. Gorton et al. The organization argued that it was unconstitutional to require reports from grass roots campa The respondents held the provision would require them to report not only cont butions but in addition their entire membership lists and the identities of t persons contributing to a specific campaign. YAF was not challenging the rep of direct lobbying activities but objected to making public "indirect lobbyin activities."

The court upheld the section but tried to allay some of the fears of the YAF. It specified how the provisions were to be applied. Disclosure of the

entire membership was not required nor was the reporting of every YAF expenditure. Reporting was required only when expenditures exceeded the minimum amount -- $500 within any three month period or $200 in the aggregate within any one month period. Reporting would not be required when the particular campaign did not have as its objective the support or rejection of specific legislation. An initiative campaign would be included under the reporting requirements, however, because it is a piece of specific legislation. Specificity then becomes the guideline. Names of persons making contributions to general funds need not be reported. Disclosure is required only if the funds are identified for a specific campaign.

The spending limitations (Section 14) which had been held invalid by the lower court, were not addressed by the supreme court in its decisions in the winter and spring of 1974. On September 12, 1974, Bare v. Gorton sought a declaratory judgment to clarify the section's meanings and problems. The case itself concerned the expenditure of money for a ballot proposition campaign -- more specifically a school levy. The court invalidated the entire section on the ground that it can operate to prohibit persons from exercising their rights under the First Amendment.[10] After the allowable limit of ten cents per voter had been reached, individuals wishing to express a viewpoint would be precluded from doing so. If the maximum allowable had been spent the parties would be "absolutely barred from any communication which involves an expenditure, even the constitution of personal services beyond the statutory minimum." Further, the section "is so restrictive that the plaintiff cannot even mail a letter with first class postage to each voter since the stamp alone exceeds the limitation."

In the court's judgment the extensive disclosure provision provided the electorate with ample information on the use of money. Clearly, the court said, the removal of restrictions on spending will not alleviate the impact of unequal campaign monies. With the knowledge of disparities, however, "the electorate may make appropriate compensation for the less monied candidate." By broadening the spectrum of political debate "the perceived problem of disparate campaign spending" might be alleviated. The court foresaw that remedial legislation might curb the infusion of huge sums of money into campaigns. This could be interpreted as a court invitation to consider public financing of campaigns which was first used in the 1976 presidential race.

The state supreme court recognized the interrelationship of personal finance disclosure by elected officials, the reporting of campaign contributions and lobbying activities in achieving open government and the existence of an informed active electorate. Initiative 276 was a valid approach to this objective. The court also recognized that there might be some invasion of the privacy of those seeking and holding elective public office. Indeed, the court saw that the impl mentation of the initiative might pose real problems. Recognizing that neither the electorate nor the legislature is infallible in proposing solutions, the court foresaw the possibility of needed amendments to the law and suggested the direction these might take. We will examine both administrative and legislativ efforts to soften hardships and bring about constructive changes in Initiative

Summary of the Law

Initiative 276 became the Washington State Open Government Act. It attempted reform in five areas: campaign spending limitation (later invalidated by the courts); campaign reporting (including employers of lobbyists); candidates' and public officials' personal financial reporting; and opening of government records. The law's intent was to bring about a significant change in the state's political life style by giving the public a continuous, updated picture of campaign finances and lobbying activities as well as access to public documents. Seekers and holders are required to reveal important basic aspects of their personal finances.

Providing a sharp break with pre-1973 statutes, the new law seeks to provide the public with information on some of the connections between public officials, private citizens and various interest groups. These kinds of changes triggered immediate protest -- some of which continues to the present -- that law violates privacy, is inconvenient (if not onorous), and at times harsh and unreasonable.

The law deals in large measure with the influence of money in politics. It was not designed as an ethics law. The legislature itself is addressing the question of ethics having made several additions to a code of ethics during the 1977 session. The emphasis in the open government act is upon disclosure and publicity rather than prohibition. The provisions contain little negative language. For example, direct contributions by corporations and labor unions are not forbidden as in the case of federal law. Except for reference to bribery and "unlawful retaliation" against legislators (Section 230), lobbyists are not given a lengthy list of things they may not do.

Through amendment and action of the Public Disclosure Commission, attempts have been made (and are likely to continue) to investigate undue hardship. During the first two years (1973-74) the legislature could only amend the initiative by a two-thirds majority. Since 1975 the legislature has been able to amend by a simple majority. A flurry of amendments has been introduced since 1975. Several were adopted including some to reduce hardship. Staunch supporters believe some of these, such as certain exemptions for financial officials, have weakened the act. Some legislators reply that the changes simply remove hardships on banker-insurance legislators. They note also that the act was made inclusive in 1976 through Referendum 36 which brought many appointed officials under its provisions.

The act placed a heavy burden on the Public Disclosure Commission. Responsibility was given as well to the attorney general, secretary of state and prosecuting attorneys for enforcement. At the outset the establishment of the act was aided by the general sympathy and support of the governor, attorney general and secretary of state. The vigilance of most of the groups in the original Coalition for Open Government, the media and several interested private citizens has helped keep amendments from seriously emasculating the law.

Chapter One has given a brief history of the initiative drive, the election outcome, court challenges and a summary description of the law. Chapter Two examines the Public Disclosure Commission, its composition and administrative responsibilities. The third chapter will look at the knotty question of enforcement of the law. Chapter Four will provide glimpses into what the disclosure law disclosed and the final chapter deals with the impact of the law and attitudes toward its enforcement.

Some readers may be interested in an analysis of the specific provisions of the law. We refer them to the section-by-section analysis of the law included in the appendix.

CHAPTER II

THE PUBLIC DISCLOSURE COMMISSION

Composition

The Open Government Act called for the establishment of a Public Disclosure Commission (PDC) to administer and enforce the provisions of the act. This board is composed of five citizens serving for five year terms. Appointed by the governor and confirmed by the senate, the commission members are prohibited from participating in campaigns or lobbying efforts. No more than three members may be of the same political party affiliation. Although the PDC's record appears relatively neutral and objective, there have been attempts by the legislature to restrict the field of appointees. During the 1977 legislative session, two bills were introduced which would have prohibited the appointment of former party chairpersons or state employees, and would require names of potential appointees to be submitted to the governor by the major political parties (SB 2167 and SB 2476). Neither measure passed.

An inherent danger exists in the process of selecting members of the commission because they are chosen by and serve at the pleasure of the very officials they must regulate. They must also rely on the cooperation of state and county officials who are subject to the provisions of the statute for the enforcement of the law. The possibility that decisions will be made in the interest of government officials rather than the public is compounded by the fact that monthly meetings of the commission are virtually unattended by citizens or the press.

Regular meetings to set policy, ratify hearing-examiner orders, and communicate with the staff and public are scheduled monthly in Olympia. Special meetings to hear exemption requests and determine violations are now usually handled by one commissioner or other individual designated as a hearing-examiner. However, during the first two years of its existence, the entire commission convened frequently in special meetings to establish policy.

Commissioners have also appeared for speaking engagements or related matters in their own communities. These obligations combined with a heavy reading load have created a hardship, especially for employed members of the commission. The part-time nature of the body has made it difficult for the PDC to deal with complaints of violation in an expeditious manner. Many legislators feel the commission should be reduced to three full-time members. There is growing support for this proposal among citizen groups which are concerned that the commissioners, because they are lacking in information and time, will

rubber stamp staff proposals designed to aid the staff rather than carry out the purposes of the law.

Although there would be some advantages to a full-time commission, the part-time citizen board appears more consistent with the history and objectives of public disclosure in this state. Since the legislation came directly from the people for the benefit of the public, it seems appropriate that policy concerning administration of the law be made by private citizens. Commissioners have brought issues from their own communities to the attention of the staff in Olympia and have conducted numerous educational forums to assist local candidates and committees with compliance. Where violations are suspected, people may feel more comfortable bringing the matter to the attention of a commissioner rather than making a formal complaint to the agency. The commissioners are often the first to receive complaints about programs or procedures of the agency that are not working properly. Because the commissioners are so active in their respective communities, the agency has in essence enjoyed the benefit of regional offices in these areas. Commissioners have also encouraged the press to carry campaign disclosure data in their election coverage.

After five years of operation, the commission has established its credibility and won general approval from the public and the press. There are indications that the commission is starting to move ahead in a more aggressive manner to demand compliance with the law and to ensure that the information on file is summarized and returned to the public in a fashion that contributes to an informed electorate. Supporters of the law are pleased to see the commission assuming a stronger role as advocates of open government.*

Staff

Administrative demands on the commissioners have decreased as staff has been added, but policy considerations have increased with the inclusion of new programs under the commission's purview. At the present time, the commission is served by twelve full-time staff members including administrative and clerical positions. Three positions are held by auditors and there is one research analyst. During peak work periods the PDC must rely on students and volunteers to assist in auditing reports and preparing election summaries for public release. An extensive data processing system helps to organize and review the voluminous reports filed with the agency. Because the agency was visualized as primarily an educational and informing instrument, the staff orientation is toward voluntary compliance through workshops, informative materials, desk audits and telephone assistance rather than toward investigations and prosecutions.

Legal counsel is provided by the office of the attorney general which bills the commission for the service. The relationship between the attorneys and the commission has been a strained one. The commissioners, as well as many legislators, have been fearful that the attorney general's office might ultimately direct the policy of the commission. The PDC was particularly vulnerable to this danger in its first two years when the small, inexperienced staff relied heavily

*A list of current and former commissioners is included in the Appendix.

on the attorneys for guidance. It has often been suggested that the commissi should hire its own lawyer but economic factors prohibit this. The group has been fortunate to have one lawyer serving on the board who has been able to m judgments on the legal interpretations of the attorney general's office and create better balance in the decision making. However, it is important to po out that the attorneys have been responsible for a good part of the commissio success.

Volunteers and citizen "watchdogs" have played a vital role in the work of the Public Disclosure Commission. A small core of Common Cause members ha performed numerous clerical tasks, undertaken extensive research and been ins mental in shaping the policy of the commission. Foremost is volunteer resea Jolene Unsoeld who has compiled data on campaign finances and lobbyist expend tures. Members of the press and students have also been responsible for crit analysis of information on file which they have prepared for public review. degree of volunteer involvement was particularly high during the first years staff and facilities were limited. Public involvement is now decreasing, and despite encouragement from the PDC, groups such as the American Association o University Women and the League of Women Voters have declined to undertake ca paign research efforts which they feel are now the responsibility of the age However, although the agency is becoming equipped to compile certain statisti data, critical analysis of that data will remain the challenge of students, media and private groups.

Budget

Bills proposed by the legislature are required to carry a fiscal note in dicating the cost of implementation. As an initiative measure, 276 carried such price tag and the supporters of the law underestimated the resources ne to create the agency. An excerpt from RCW 42.17.380 indicates the assumption considerable cooperation from the secretary of state, attorney general and co prosecutors:

> (1) The secretary of state, through his office, shall perform such ministerial functions as may be necessary to enable the commission to carry out its responsibilities under this chapter. The office of the secretary of state shall be designated as the place where the public may file papers or correspond with the commission and receive any form or instruction from the commission.
> (2) The attorney general, through his office, shall supply such assistance as the commission may require in order to carry out its responsibilities under this chapter.

For the first few months the commission operated through the secretary o state's office with personnel, space and some materials being supplied. In a tion to legal counsel, the attorney general's office was supplying assistance with correspondence and daily office operations. The attorneys had responsi bilities for other agencies as well and often found themselves giving hours e day of their own time to ensure the success of the new agency. Without a leg lative appropriation, the only revenue came from an emergency fund allocation of $30,420 provided by Governor Daniel Evans.

Legislative funding for the agency was tenuous in the beginning. The law-makers were antagonistic toward the initiative which required them to disclose their personal and campaign finances. Lobbyists were refusing to comply and court challenges were being launched. Legislators quickly found, however, that proper functioning of the agency worked to their advantage. Until adequate facilities and staff were provided, reports which were being stored in cardboard boxes could be lost and assistance in completing forms was not available. The key problem in adequate funding, however, was that the commission was without investigators and when legislators and others were accused of violation of the law, there was no one to determine the validity of the complaints. Cases dragged on and adverse publicity hurt public figures.

The 1973-75 biennial appropriation of $448,143 allowed the commission to fill critical staff positions and to establish office space of its own. A similar level of funding ($496,449) was appropriated for the 1975-77 biennium but a second emergency fund allotment of $137,531 from Governor Evans for legal services and the implementation of a data processing system boosted the budget to $633,980. The legislature appropriated $746,000 for the 1977-79 biennium which was approximately $100,000 less than the commission requested.

The figures indicate that the budget of the PDC has grown at a slow but steady rate. Responsibilities and staff workload have increased due to legislative amendment and the inclusion under the law of some appointed officials. While the level of staffing has remained fairly constant since 1974, salaries for top level positions and commissioners have increased significantly. There have been attempts, particularly by the senate, to cut budget requests, but response by citizen groups and the press have assured adequate funding at the level requested by the commission. The commissioners have all been fiscally conservative and vocal about the tax dollars expended.

Administrative Responsibilities

The members of the Coalition for Open Government recognized that the passage of Initiative 276 was only the first step toward ensuring open government in Washington State. The group feared the statute could suffer emasculation at the hands of the legislature and the commission. COG functioned as a protective parent to guard against damaging legislative amendments and budgetary cutbacks. Appointments to the commission, the formulation of policy and the administration of that policy were watched carefully by COG.

In its 1974 Report to the Governor the commission acknowledged the importance of proper administration:

> "...as with previous efforts to regulate individual and governmental conduct by legislation, it was found that statutes alone cannot do the job. The ultimate success of any law depends upon its administration and enforcement." [11]

The administrative framework for the commission was set forth in the legislation. In sections .360 and .370 the commission is charged with certain duties and given certain powers to accomplish its goals. The seven duties are discussed briefly below.

(1) Develop and provide forms. Seventeen various report forms are available from the PDC and are furnished upon request.* Forms for elected officials have been provided directly to governmental subdivisions in an effor to improve compliance by reminding officials of the yearly requirement to dis close their personal finances. Candidates are able to obtain the necessary campaign forms from the county auditor when they file for office. In an effo to avoid the possibility of candidates securing the wrong forms, the PDC has provided explicit instruction booklets, printed cross references on report forms and compiled folders containing all necessary materials to make candi dates aware of all the requirements. Despite efforts to keep report forms simple, some campaigns involve fundraising activities that are complex to report. In addition, the commission wanted to develop forms usable in all ca paigns. This meant that the forms often became lengthy and complex. There have been attempts to correct this problem by allowing appropriate attachment schedules to reduce the paper involved. Other simplified methods of reportin have also been developed.**

(2) Publish a bookkeeping manual for use by persons making reports. Th manual is still being developed. Currently included in it are separate detai reporting instructions for each report with examples of how transactions shou be recorded. Methods for maintaining bookkeeping ledgers have not been set forth. The questions most commonly asked by treasurers involve the reporting of specific fundraising events related to consumable or sale items and prizes. Undoubtedly a certain number of small contributions go unreported, especially where several persons in the campaign may be accepting contributions. Many treasurers tend to over-report, however, because they are unsure of the allow able bookkeeping methods for reducing the amount of contributions or eliminat double reporting.

(3) Maintain a current list of all reports on file. The need for compu terizing data was recognized early. The commission staff worked with the Dat Processing Service Center of the state to design a system which would indicat which reports were on file and where reports were missing. Further it would extract summary data and allow for files management. Implementation of the system was costly and time consuming but available data is considered a key factor in enforcement of the law. Most reports are now logged into a tele processing data base. Retrieval of data is possible in a number of ways such as by name, location, or office. The capacity to sort the information in thi manner can be a useful compliance tool in identifying delinquent individuals and revealing trends in the timing of reports or the types of office holders who may be presenting a compliance problem.***

According to commission publications the number of reports filed with th PDC averages around 44,000 per year. The increase was sharp until 1975 when the number reached approximately 48,000. From mid 1975 to 1976 there was a decrease to 40,000 primarily due to the exemption of certain elected officia and lobbyists, and to the elimination of reports when there was no financial

* Sample forms are included in the Appendix.
**Abbreviated and mini reporting is covered on page 18.
***Percentages of compliance by specific groups of office holders is shown in the discussion on enforcement. See page 23.

activity. From 1976 to 1977, which includes the major state election period, the figures rose to 46,000. The majority of reports is related to campaign finance and is received during the campaign period.[12]

For security reasons each report is microfilmed and noted in the data base before it is filed and available for public inspection. The public use of information is difficult to calculate because information may be disseminated in many ways. According to the 1975 annual report of the commission, requests for reports on file were estimated to be more than 7000. Information supplied by the staff indicates that in 1976 requests dropped to 4600.[13] In a major election year with state and legislative races one might have expected public interest to increase. The decrease may be a result of greater press coverage but many observers note that the public appears not as interested in obtaining information as it was initially.

(4) Investigate whether properly completed reports have been filed in a timely fashion. The agency's data processing system now can determine in most instances if necessary reports are on file. Volunteer assistance in this task was used originally. Completeness of reports is checked briefly during a desk audit and detailed audits are conducted on a random basis. The agency could never have enough resources to determine if all reports are properly completed. This would involve close examination of personal financial and real estate dealings, scrutiny of the activities of lobbyists and legislators, and policing of campaigns. The commission must assume that the information disclosed is valid unless it has reason to believe otherwise.

Citizens in a community who are in a position to know the personal financial or campaign dealings of a public official are the ones who ensure that full and honest disclosure is made. Since most individuals will not bother to examine reports in Olympia, the press has the responsibility of printing the substance of disclosure reports so that the public can know of the flow of money and can fulfill their role in enforcement. When citizens raise questions, it is the duty of the commission to investigate thoroughly their concerns and resolve the questions.

(5) Investigate and report violations to law enforcement authorities. This particular language was part of Initiative 276 and points up that the commission's only authority was to find apparent violations and refer them to county prosecutors or the attorney general. Through legislative amendment the commission was granted authority to assess civil penalties and it is now able to handle most violations internally. While investigators have been employed by the PDC in the past, the function is now primarily in the hands of the commission's administrators. When a violation is suspected, the staff checks files and makes inquiries which usually reflect that an inadvertant error has been made. If the error is corrected immediately there is generally no need for further action. Where more serious violations occur, a contested case hearing may be held by the commission.

(6) Publish an annual report. Detailed reports of the commission's activities were published in 1975 and 1976. Thereafter, to avoid repetition and reduce costs, the annual reports were shortened and published in a joint report of state agencies.

(7) Enforce the law through the powers given to it by statute. When the agency was established, the commissioners responded strongly to the 72 per cent

vote on Initiative 276 by declaring their intent to enforce the law vigorously. The first step was to identify those persons who had a responsibility to file. There were approximately 7000 elected officials and 1000 lobbyists and their employers who could be expected to file each year. Hundreds of political acti and campaign committees would file, though some for the election period only. Because the clientele was fluid and difficult to locate, the commissioners fe that a firm approach was necessary to get the message out that compliance was expected and stiff penalties would follow disregard for the law. The difficu of understanding the requirements was recognized, however. A public educatio campaign was undertaken with instructional materials and workshops. These efforts over time have resulted in a marked increase in the number of people in compliance. Yet in 1974 and 1975 approximately one third of the elected officials failed to file timely reports required each January. That number h not been reduced significantly through the use of the computer system.

Although the compliance rate and the quality of information disclosed have improved, there is concern about those individuals who have found ways to avoid reporting. Former chairman of the commission, Dr. Werner Quast, warned that honest people would willingly comply with the law while the dishonest would find technical ways to subvert it and become more secretive in their dealings. Critics of the PDC feel that the commission has not enforced the law stringently enough to discourage serious violations. In some cases, penalties are so minor that individuals are willing to risk violation.

The policy statement of the act states that the provisions of the law mu be liberally construed to ensure that the public interest will be fully protected. Unfortunately the public is not very visible. The commission and it staff deal with the individuals who must make the reports and are heavily influenced by their needs rather than those of the public. As a result, a good portion of the commission's resources are devoted to assisting reporting individuals while little attention is given to helping people utilize information on file. The commission's concern for the people who report is also demonstrated in the exemption process where critics feel they have been very lenie in granting reporting modifications which may frustrate the people's right to know.

To accomplish the duties listed above, the commission is empowered to act as an administrative, research and enforcement agency. The law specifies the following additional powers:

(1) Adopt administrative rules. Over 125 regulations fall into the following categories: policy and enforcement, administrative procedures, fo hardship exemption hearings, fair campaign practices, hearing procedures, pub lic records. Public notification must be given before the adoption of any r The rules are numbered in the Washington Administrative Code.

(2) Publish technical studies. These studies include statistics on cam paign financing, lobbyists, and enforcement of the law. This was a controversial subject between commissioners who were strongly in favor of research and analysis and those who felt that the commission's role was to act solely a depository for forms. Concern was also expressed about the validity of the information being filed in the period before adequate instructions ensured a certain degree of consistency in reporting. Citizen groups pressed for a greater emphasis on research and dissemination of information in a form that

would be meaningful to the public. Statistical data can now be produced in part by the data processing system which allows more time for the staff to evaluate trends and patterns of the influence of money in the political arena.

Many areas of potential study for the PDC are viewed as politically sensitive. College professors have expressed some hesitation about their students exploring certain subjects. One came under criticism from a legislator for a class project involving that person's disclosure reports. Although the academic community has long recognized the need for funding research projects, caution is understandably exercised by institutions which are dependent upon the legislature for their budgets. The major obstacle for students, however, is finding the time and money to travel to Olympia to examine reports. Some research may well be done by citizen groups, such as Common Cause.

(3) Make audits and field investigations. Limited staff precludes field investigations unless there is clear indication that a compliance problem exists.

(4) Make public the time, date and substance of compliance hearings. Public notice is given for both regular and special meetings.

(5) Require attendance and the production of evidence for investigation. The staff, with assistance of the attorney general's office, is usually able to meet with the parties in question and inspect pertinent records. In some case subpoena powers are necessary.

(6) Adopt a code of fair campaign practices. A voluntary eight point code was adopted which establishes guidelines for the conduct of a fair campaign. A separate voluntary code is available for use in statewide ballot-issue campaigns which calls for a limitation on expenditures of 15¢ for each person having voted in the last presidential election. Neither of the voluntary codes is enforceable by the commission. However, if a committee agrees to the provisions and signs the code and a complaint is filed against them for violation any time eight days before the election, the commission will act as an intermediary in securing an explanation from the committee accused of violation. The complaint and response may then be sent to the news media.

Many people assumed that the Public Disclosure Law carried guidelines for ethics in campaigning. The commission felt the need to take a position against unfair practices but they were not convinced they had the authority to enforce regulations pertaining to behavior in campaigns. The voluntary code was seen as a step in the right direction but without enforcement authority, the commission can be seen as a toothless tiger.

(7) Exempt from campaign reporting those campaigns not exceeding $1000. When the report forms were first being developed the commission chose to grant a complete exemption to all committees not anticipating contributions or expenditures in excess of $1000 or any single contribution of more than $100. In 1974, 582 committees claimed they would not exceed these amounts and were automatically exempted from filing campaign reports.[14] The staff reported that such a blanket exemption presented enforcement problems and also made it difficult to ascertain the total amount of money being spent to support or oppose an issue. Several independent committees working without knowledge of one another could organize across the state to campaign for a ballot issue. As long as each

committee stayed under the $1000 limitation the public would have no knowledge of the effort. In response, the commission modified the exemption provision by requiring registration and the disclosure of the total amount of money spent at the close of the campaign. This system is known as "abbreviated" reporting and is available to both candidate and ballot issue committees.

In 1977, a third system known as "mini" reporting was established for the many candidates from small communities who do not conduct a campaign. A registration statement is required and the candidate must indicate the amount of the filing fee and certify that no more than $200 will be spent on the campaign effort. When a candidate chooses the simplified reporting system, he or she agrees not to exceed the monetary limitations. If the amount is exceeded, the commission may release him or her, at request, from the agreement. At that time, full disclosure must be made for the entire campaign period. Personal funds used in the campaign are considered contributions.

(8) Enact regulations prescribing requirements for agencies to keep accounts of the costs involved in distributing legislative information. This requirement is aimed at determining the cost to government of preparing materials for lobbying purposes. The commission has not enacted regulations for this section.

(9) Suspend or modify reporting requirements to relieve unreasonable hardship. The commission's authority to exempt individuals from the filing requirements of the law is a rather unusual feature of open government legislation. It has been credited for the success of the Washington law by making it responsive to individual situations. Many of the elected officials who threatened resignation if the law passed found compromise possible through the exemption system. At the same time, it is feared by some that the commission may be creating a loophole in the law through its leniency in granting exemptions. An early Common Cause sampling of 221 exemption requests revealed that 94 percent the exemptions requested were granted.[15] In 1976 only two of the 135 requests were denied. Most exemptions go to elected officials for relief from the personal financial disclosure requirements.[16] The commission was unable to provide computations of the number of exemptions sought and granted, or the categories in which they fell, since 1975.

The commission attempts to reach a compromise with the reporting individual which will result in the maximum amount of disclosure. Its authority to allow exemption is limited to "the extent necessary to relieve the hardship." A further safeguard against misuse of power by the commission allow citizens to contest the propriety of any exemption order in Thurston County Superior Court. The order may be challenged any time within the year for which it is granted. No order has ever been challenged and little interest has been expressed concerning individual cases. The prime concern is in relation to the trends the commission sets with its actions.

When an application for exemption is received, a public hearing is conducted under the provisions of the Administrative Procedures Act before a hearings-examiner, or if the applicant prefers, the entire commission. The ruling of a hearings-examiner must be ratified by the entire commission. A negative recommendation may be appealed to the commission and new evidence presented at that time.

In order to grant the request, the commission must determine two issues: (a) that the reporting requirement poses an unreasonable burden on the individual and (b) that an exemption would not frustrate the purposes of the act. An unreasonable burden might exist due to the volume of information, confidentiality, or unavailability of data. Elected officials who are bankers, lawyers, or employees of corporations have had particular difficulty in disclosing business customers who must be reported on the personal financial affairs statement filed by candidates and public officials. Since the particular form covers the financial affairs of the official's spouse as well, numerous individuals have sought relief from reporting the spouse's affairs where they do not relate to the conduct of the official's public duties. To satisfy the commission's knowledge that an exemption will not frustrate the purposes of the act, it must be clear that the non-disclosed information does not present any conflict of interest between private financial and public affairs. Exemptions from reporting the names of business customers often call for disclosure only of those entities which do business with the governmental unit of which the person is an officer. Obviously it is difficult to be assured completely that a reporting modification meets the criteria set forth in the law. Sometimes it is necessary for the commission to call a private executive session with the applicant in order to probe deeply into personal financial matters to determine that a conflict does not exist. There is great responsibility on commission members to protect the public's right to know.

Through its administrative rules (WAC 390-28-100), the commission has outlined certain situations which may qualify for exemption:

a. reporting of a financial interest if the financial institution or other entity does not do business in Washington and is not regulated by the reporting person's office;

b. reporting that would violate a legally confidential relationship, provided that the business would not be subject to regulation by the person's office and no conflict of interest exists;

c. reporting for family members where there is a bona fide separate property agreement which does not represent a prospective source of income to the reporting individual;

d. any matter which poses an unreasonable burden.

Most exemption requests pertain to the reports of personal financial affairs, but the most significant case before the PDC related to campaign finance reporting. The Socialist Workers Washington State Campaign Committee applied for exemption in 1974 and 1976 from reporting the names of contributors and recipients of expenditures made by the committee. The committee claimed that disclosure of names and addresses of persons associated with the party would result in harassment by police agencies.

Despite extensive testimony by party members and police agencies that a burden did exist in the form of harassment, the commission denied the request because it felt such an exemption would frustrate the purposes of the act by withholding vital information concerning the party's source of financial support. The Socialist Workers proceeded with court action in Thurston County Superior Court. In June 1977, the court ruled that the PDC had not made a

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sufficient effort to find a reporting compromise which would relieve the burden without frustrating the purposes of the act.*

Consequently a reporting system was devised which assigned contributors a code which would be reported each time an individual made a contribution until an aggregate of $750 was reached. The $750 figure was arrived at in order to exempt all contributors in 1974 and 1976. In a similar exemption in 1977, the Seattle Socialist Workers Campaign was granted a reporting threshold of $500. Since the exemption was granted prior to the campaign, the commission was able to arrive at what they felt was a more reasonable figure. The Socialist Workers Party agreed that their contributors could function under the $500 limitation. Addresses of contributors were limited to city and state. The Socialist Workers Party was excluded from the reporting exemption as was any person who was publicly identified with the party or campaign. The same code system was used to report those entities to which the committee made expenditures. Governmental units and political committees were excluded from the exemption.

The court's ruling in the Socialist Workers case came as a surprise because it concluded that the commission has a responsibility, not simply the discretion to grant exemptions to the extent necessary to relieve an unreasonable burden. In 1976 the commission denied a similar request from a committee supporting a private enterprise liquor initiative. The committee complained of harassment by the Liquor Control Board and feared that people would be afraid to give contributions to the campaign. The 1977 ruling on the Socialist Workers Party may serve as an invitation for similar requests in the future.

*Thurston County Court cases number 52505 and 54772.

CHAPTER III

ENFORCEMENT

The major challenges facing the commission have arisen in the area of investigating complaints and enforcing the provisions of the Public Disclosure Law. Both budgetary and legal limitations have complicated the development of effective enforcement policies. In its sixth year of operation, the PDC is still working to find approaches which are fair but which, at the same time, have the teeth to accomplish the goals set forth in the policy section of the statute and to meet the expectations of the public in passing Initiative 276 with such an overwhelming vote.

Until 1976 the commission acted as an investigatory agency which could find only "apparent" violations of the statute and refer cases to county prosecutors or the state attorney general. Routine compliance matters were sent to county authorities while the more serious violations were handled by the attorney general's office. In most instances the assistant attorneys general assigned to the commission were able to negotiate settlements and alleviate the need for prosecution. The first major compliance action taken by the PDC involved a number of lobbyists who had failed to register. They agreed to individual settlements of around $100. Even now the commission itself has authority to impose only limited penalties. Severe violations continue to be referred to the office of the attorney general which has both authority and resources to vigorously pursue violators.

The language of the statute shows a clear expectation that a good portion of the enforcement actions will be handled by county prosecuting attorneys.[17] In 1974 the commission referred to the counties a number of cases involving elected officials who had failed to file the required personal financial affairs statements. The county authorities expressed reluctance to handle violations of the Public Disclosure Law and many cases went without action. Political considerations were certainly a factor, but the prosecutors generally cited budget or time limitations as the reason for not pursuing enforcement.[18] This attitude stunned the commission as they wondered how they could adequately ensure compliance without local cooperation:

> The law seems to envisage extensive legal support from county prosecutors....They are not overly eager to expand their work load by taking on all the cases which the PDC might wish to send them, unless the PDC sends monetary support for each case. As the PDC budget contains no such funds, a problem does exist. The budget does provide for legal assistance from the Office of the Attorney General, but again these funds were derived

with the concept in mind that many of the enforcement activities would be shared with local prosecutors.[19]

In 1976 the legislature responded to the commission's situation by amending the Disclosure Law to give the PDC authority to assess penalties up to $500.[20] The commission as a "quasi-judicial" body can now find actual violations of the statute by holding contested case hearings according to the provisions of the Administrative Procedures Act. Infractions which previously would have been dismissed due to the costs of investigation and prosecution can now be handled by the the commission itself. Serious violations are still referred to the attorney general for stiffer penalties.[21]

Another amendment which was designed to improve timely compliance has presented problems. A ten dollar penalty is now automatically imposed for any report which is filed late.[22] If the late filing was unavoidable, a waiver of the penalty may be requested from the commission. The automatic payment may in some instances discourage late reports, but its value in this regard does not appear to outweigh the administrative burdens imposed by the requirement.[23] The commission is primarily concerned with getting reports on file, rather than collecting penalties. If a person chooses not to pay the ten dollar penalty for a late report, the PDC has generally made no effort to collect the money. Awareness of this lack of enforcement quickly discourages compliance with the penalty section of the statute. Although the law does provide for court enforcement, the PDC believes that the collection of late filing penalties does not, warrant the cost of court enforcement. Even in cases where greater penalties have been imposed, there has been unwillingness to enforce. The PDC indicated that from July 1976 to September 1977, 308 compliance cases were investigated. Thirty-five of the complaints were initiated by the public. The disposition of the cases was:

Audits conducted but no further action taken	8
Closed by the administrator	42
No apparent violation, no further action	63
Apparent violation, no further action	45
Referred to the attorney general, city or county prosecuting authorities	5
PDC assessed penalties	140
Cases pending	5

The PDC assessed penalties of $4270 but as of October 1977 had received payments totaling only $1840. The automatic ten dollar penalties that were paid amounted to $5495.[24] The fact that only 50 per cent of the penalties were recovered brings into question the value of giving the commission authority to find violations without the budgetary power to enforce the findings.

Initiative 276 included additional civil remedies which would have allowed the courts to invalidate an election where non-disclosure might have affected the outcome; revoke a lobbyist's registration; impose penalties of ten dollars a day for each day a report is late; impose a penalty equal to the amount not reported; and impose penalties up to ten thousand dollars for a violation of the statute.[25] The severity of penalties suggests that the initiative drafters recognized the difficulty of securing compliance by large numbers of people and therefore expected a strict approach to enforcement. The enforcement policy of the commission has not been consistent with the tough approach advocated by the

drafters of the initiative. Some claim that as a result of its leniency the PDC has become a paper tiger. Others feel that the commission's concern for the people who must file reports has resulted in a high degree of voluntary compliance and of quality disclosure which sets the Washington commission far ahead of others in the nation. An examination of the history of enforcement supports arguments on both sides.

The Enforcement Record

In 1973, before an adequate budget provided staff or office space, the commissioners were already giving attention to major compliance issues. In addition to the non-registration of several lobbyists, it was learned that there was widespread non-compliance by political party organizations throughout the state. Attempts were made to secure compliance but there was resistance to the commission's efforts. The commission decided in October 1973 to avoid severe penalties for two reasons. First, the commission lacked sufficient funds to prosecute all the non-filers. The second and more important reason was that high penalties could financially cripple the party committees. Since the statute seeks to increase participation in government, high penalties could be counter-productive. The commission chose to refer the cases to the attorney general's office with direction that the penalties be restricted to ten dollars per day for each day late after October 16, 1973, rather than the original due date of March, 1973.

The fall elections of 1973 resulted in numerous complaints to the commission and emphasized the need for an investigator. The position was not filled until October so many of the complaints took several months to resolve. In most cases the parties involved appeared before the commission for questioning. Many people said they were unaware of their reporting obligations or did not understand what the law required them to disclose.

The same response came from over one third of the state's 7000 elected officials who were pursued for failure to file financial statements in January 1974. Congressional, state, judicial and county officials showed nearly 100 per cent timely compliance. City councilpersons, school board directors and officials of minor taxing districts averaged only about 60 per cent compliance and presented the greatest difficulty for the staff in securing the required reports.[26] However, by the end of 1974 only a handful of people had failed to respond positively to the commission's directive to file.

> The most encouraging fact is the degree of voluntary compliance with the provisions of the act....It seems to prove that it was mainly a lack of information as to the requirements of the act that caused the non-compliance in the earlier stages.[27]

The commission recognized that it had an important role in assisting people who genuinely wanted to comply. A gradual approach to enforcement was taken and regulations were adopted which diluted the language of the statute calling for "strict, vigorous, uniform and fair enforcement."[28] The commission stated its policy in WAC 390-04-050:

> This act shall be enforced and its penalties shall be invoked against all persons who knowingly violate its provisions. However, it shall not be the policy of the Commission to invoke the penalties provided therein for violations which may be committed by any person unknowingly and without actual fault.[29]

While pursuing voluntary compliance through education of the public, the commission was also taking steps to accommodate stricter enforcement. The budget was reallocated to allow the PDC to fulfill its enforcement duties and the legislature appropriated an additional $50,000 earmarked for investigative purposes. In early 1974 guidelines for investigative procedures were adopted and the staff began for the first time to examine the substance of reports to determine completeness.

In 1975 under the chairmanship of Kenneth Kennedy, a former elected official and lobbyist, the commission strengthened its position on voluntary compliance and concentrated on direct contact with reporting individuals to ensure proper disclosure and to reduce the number of complaints filed with the agency. Through the use of routine desk audits the staff contacted approximately 3500 people for additional information. In its Annual Report to the Governor, the commission stated:

> The Commission believes that success can be measured by the quality of data which is made available to voters rather than the number of investigations conducted or individuals referred for prosecution.[30]

However, the number of complaints in 1975 reached 107, thirty-nine more than the previous year. The personal financial affairs reports filed by elected officials and candidates received more staff attention than other reports, and yet the complaints in this area more than doubled.[31] In January 1975 the percentage of timely compliance by elected officials filing their annual financial statements remained unchanged from 1974 putting into question the contention that education was the essential key to compliance.[32]

Data processing was envisioned as the tool necessary to indicate where compliance problems existed by identifying those individuals who were delinquent with reports. The PDC felt, with this capability, it could effectively secure reports which was the first stage of enforcement. Using a computer system, correspondence could be sent earlier to non-filers to ensure more timely reports. Finally, the computer could free staff time which could then be devoted to examination of the substance of reports.

Enforcement Procedures

The PDC staff scrutinizes reports in three ways. The desk audit involves a cursory review to determine if the report is complete and the financial figures consistent. If the staff or another person feels that there may be a reporting problem, a field audit of the records of the reporting individual may be done to ensure that proper disclosure has been made. Staff limitations restrict this type of auditing. Where complaints are filed or the staff determines that there

is sufficient reason to believe the law has been violated, a thorough investigation involving an audit and questioning may be conducted by the staff.[33]

Initiative 276 contemplated considerable public involvement in the filing of complaints. In 1975, however, the legislature amended the "bounty-hunter" clause to eliminate the awarding of judgments to the complainant. Since then, regulations require that complaints be written and that sworn statements and the identity of the complainant be disclosed if the accused is a candidate or elected official. Despite possible chilling effects of these amendments, the PDC continues to receive many public complaints, generally from unsuccessful opponents.

Following a complaint, the accused (or respondent) is immediately notified. An initial check of the files is done to determine if the complaint has any substance. If there is no substance or if the respondent indicates an oversight and agrees to submit the necessary report or make corrections, the case may be dismissed by the administrator with the concurrence of the chairman. If there is reason to believe a substantive violation may have occurred, the staff may proceed with an investigation. During a prehearing conference with the respondent, the staff may arrive at a stipulated agreement where the respondent admits to the violation but contends there was no intent to conceal information.[34] The commission may then decide to find an actual violation and schedule a contested case hearing to determine what penalties if any should be imposed, or they may refer the matter back to the staff for further investigation and subsequent referral to the attorney general. The use of the stipulated agreement greatly expedites the investigation process.

Investigations may be conducted by the staff and summaries of evidence presented to the commission. In more serious cases where it is necessary to administer oaths and question witnesses, a commissioner may participate in an investigative hearing.[35] The hearings officer may reach a determination during the hearing or the case may go before the entire commission. Since the investigative hearings are held in private for the purposes of gathering evidence, only the written report becomes public record.

Investigation of the most significant case involving violations of the Public Disclosure Law was conducted by the attorney general's office rather than the PDC. In the State of Washington vs. Seattle First National Bank et al, the state charged the bank, Household Finance Corporation, and Senate Majority Leader August Mardesich with numerous violations of the statute.[36] The corporations were charged with violating the lobbyist provisions of the law and Senator Mardesich was accused of improperly reporting payments from the corporations on his personal financial statement.

A settlement of $165,000 was reached in June 1977, the largest amount ever recovered under any of the nation's disclosure laws. The PDC minutes of June 21, 1977, reported:

> Mr. Murphy said the settlement figure represented a recovery of about $81,000 in the state's costs plus a payment of about $84,000, a figure which is about $16,000 short of the maximum amount of $100,000 that the state had realistically expected to recover as a civil penalty had liability been established.[37]

It is generally felt that the case will have a tremendous positive impact on compliance with the lobbyist provisions of the law. Seattle First National Bank attorney proclaimed:

> I think that this lawsuit represented a notification by the attorney general that our lobbying disclosure law is going to be broadly interpreted.[38]

While the statute's definition of lobbying is broad, there are several exemptions from the registration and reporting requirements. However, if a report violation is incurred, the commission has generally taken a tough approach wi lobbyists and is unsympathetic to excuses of ignorance of the law.

While the commission's attempts to persuade individuals to comply voluntarily may have softened the impact of the tough disclosure requirements, it may be only through strict and costly enforcement actions such as the Seattle First National Bank case that the requirements of the statute will be taken seriously. The commission has made distinctions between violations on the ba of the position held and the type of information withheld. Lobbyists general receive stiffer penalties than minor elected officials or candidates. Becaus one of the purposes of the act is to increase political participation, report irregularities are more likely to be tolerated in the reports of grass roots political committees than they would be with committees of professional organ tions which are involved with politics on a regular basis and are therefore m familiar with their reporting obligations. However, the commission has been emphatic that each case is judged separately according to its own circumstanc

Complexities of Enforcement

Although the statute does not require that intent or actual fault be established before the commission can find a violation, this has always been a factor in their deliberations. After 1976 when the regulation explicitly dealing with intent was repealed,[39] there were still references to intent to violate the law and unavoidable violations in existing regulations.[40] Intent remains a factor in the assessment of penalties and critics feel that as a result, the commission has been much too lenient with violators and encourage ignorance of the law as an excuse.

In each compliance case the commission must determine the level of enfor ment action sufficient to deter future violations but not so oppressive that drives people from political activity. If the PDC is lenient with violators, is subject to criticism by those who expect consistently strict enforcement t ensure maximum compliance. If the commission takes an unfailingly firm appro and assesses substantial penalties for violations, it will come under the att of the people it regulates. The law may then be subjected to emasculating amendments by the legislature, and the commission may lose its authority to a any penalties at all. In an effort to dilute the commission's power, the bud may be cut and appointments to the commission may be persons who are opposed the concept of disclosure.

The commission is vulnerable to criticism no matter which way it moves. Generally, however, the public seems satisfied with the performance of the PDC. The primary reason for a disclosure law is to provide information for an informed electorate which can feel confident that their elected officials represent public rather than private interests. If disclosures are late or incomplete, or if the information is not readily available, public confidence in government cannot be restored. While the PDC's concern for the individuals who report is a necessary element in its task, it must demonstrate consistently a firm commitment to the provisions of the law. In order to implement the law successfully, the commission must also be provided with an adequate budget. Without sufficient commitment and resources, the commission will lose the confidence of the people and contribute toward greater public frustration and distrust of government.

CHAPTER IV

WHAT THE DISCLOSURE LAW DISCLOSED

Candidates, office holders, lobbyists, scholars and the public are interested in the massive amounts of data gathered in the offices of county auditors and the Public Disclosure Commission in Olympia. The press has used this information in features on local officials and campaigns. At the present time there is no single, comprehensive study of this data. A number of unpublished papers and two major analytical studies prepared by Jolene Unsoeld[41] on campaign financing of state legislative races, however, allow some important inferences and conclusions. Unsoeld, in her works, totals contributions to state legislative candidates and notes major sources. Data on sums spent for ballot propositions are included. Common Cause has also published some of its findings.[42]

The inadequacy of PDC funding did not permit it to analyze and publish extensive material in book or pamphlet form until 1977. At that time the commission published three highly useful reports.[43] In this chapter we present selected materials which illustrate the kinds of information now available, especially on campaign financing and lobbying. The impact of the law is considered in the next chapter.

Campaign Financing

About $8 million was spent on the 1976 campaign in this state in addition to the funds spent on the presidential race.* The heaviest outlay was for the state executive and judicial campaigns. Comparable data are unavailable for the 1972 statewide races since the law was not then in effect. There was a substantial jump in the cost of the state legislative campaign from $1,616,000 in 1974 to $2,067,000 in 1976. In these races the law did not result in funds drying up as had been predicted and candidates were able to obtain more money for the second election under the law than for the first. Any cut down on spending which proponents might have expected was not realized.

Federal Offices. Senator Henry M. Jackson raised $229,000 and spent $186,000 in 1976 in his successful try for reelection.** Republican and minor party opponents raised and spent $23,000 and $21,000 respectively. Senator

*See Table 1.
**Figures rounded.

TABLE 1

SUMMARY OF REPORTED EXPENSES BY CATEGORY 1976*

Office Category	Expenditures
Federal	$1,176,000
State Executive and Judicial	2,540,000
State Legislature	2,067,000
Ballot Propositions	1,156,000
County**	639,000
Superior Court***	343,000
	$7,921,000

*Adapted from Public Disclosure Commission Report to the Public, "Election Year 1976 Campaign Financing." Olympia, 1977.
**Estimate based on sampling.
***Estimate for contested positions plus filing fees. Some $8,459,000 were received in contributions which provided an excess of $528,000 over expenditures.

TABLE 2

TOTAL EXPENDITURES IN CONGRESSIONAL RACES, PRIMARY AND GENERAL ELECTION 1976

District	Incumbent	Incumbent's Expenditures	Total Expenditures
I	Joel Pritchard	$ 63,759	$ 78,351
II	Lloyd Meeds	129,206	237,242
III	Don Bonker	33,287	37,622
IV	Mike McCormack	88,683	234,187
V	Thomas Foley	33,831	38,607
VI	--	--	274,505
VII	Brock Adams	63,188	67,427
U.S.Senate	Henry M. Jackson	186,145	207,667

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Jackson was the expected winner from the start so that less was spent than in numerous previous races when the office was contested more seriously.

Financial data for the congressional races are shown in Table 2. All incumbents were reelected and, in every case except Mike McCormack, outspent their challengers. There were striking discrepancies in the district. Incumbent Lloyd Meeds received a serious challenge from John Garner in the second district which accounts for the large expenditure. Mike McCormack's seat in the fourth district was also vigorously contested, resulting in nearly as large expenditures. The Democratic incumbent in the sixth district did not seek reelection so that there were large expenditures in the Democratic primary which was won by Norm Dicks. He easily won over his Republican opponent in the general election. It is interesting to note that more money was spent in each of the three congressional districts than for the U.S. Senate seat.

By almost any standard the special election for the seventh district congressional seat in spring 1977 set a spending record. The final figure (including some debt) shows that the victor, State Senator John (Jack) Cunningham, spent $429,000.[44] More than $187,000 of this was expended in the last two weeks. His opponent, Marvin Durning, spent $172,000. The expenditures are all the more surprising because more persons voted in the primary than the general election and the campaign was marked by apparent apathy. The huge expenditures undoubtedly aroused enough voters late in the campaign that he converted himself from an underdog to a victor.

Cunningham had strong backing by national conservative groups. He received 16,000 individual contributions, 13,000 of which came from outside the state. To a considerable degree the election was a classic contest, with conservative and corporate money backing Cunningham and labor-union and traditional Democratic money supporting Durning. Races of this kind often attract money from ideologues outside the district and the state.

Statewide Offices. A summary of reported expenditures for the 1976 primary and general election for state executive and judicial offices is shown in Table 3. The victorious candidate for governor, Dixie Lee Ray, spent $326,000 while her Republican opponent, John Spellman, expended $564,100. The winning Republican candidate for insurance commissioner spent less than his opponent, incumbent Karl Herrmann. In all other executive races each incumbent spent more than his challenger and was reelected. The pattern of financing shows that with very few exceptions, incumbents are able to raise more money than their opponents for federal and statewide executive offices. The same is generally true for the state legislature as well.

As might be expected a great deal more is spent on contested primary and general election races. This was especially evident in the nonpartisan supreme court races. As noted in Table 3 the fourth position race resulted in a $162,000 expenditure and $55,000 for the first position. In both cases there was no incumbent and the stakes were high in these hotly contested races.

The State Legislature. In 1976 some $2,265,276 was contributed to state legislative candidates for the primary and general elections. Approximately $197,000 of this total remained after campaign expenses. The contribution rate was $1.43 per vote if one assumes that all of the 1,584,590 voters had cast a

TABLE 3

EXPENDITURES FOR PRIMARY AND GENERAL ELECTIONS 1976*
STATEWIDE OFFICES

Office	Winning Candidate	Winning Candidate's Expenditures	Total Expenditures All Candidates
Governor	Dixy Lee Ray (D)	$325,842	$1,840,009
Lieutenant Governor	John Cherberg (DI)	19,660	19,660
Secretary of State	Bruce Chapman (RI)	33,821	70,095
State Treasurer	Robert S. O'Brien (DI)	6,695	7,495
State Auditor	Robert V. Graham (DI)	11,305	16,681
Attorney General	Slade Gorton (RI)	70,375	90,526
Public Lands Commissioner	Bert Cole (DI)	7,901	7,901
Insurance Commissioner	Richard Marquardt (R)	33,188	215,265
Superintendent of Public Instruction	Frank Brouillet (NI)	46,440	50,926
Supreme Court Position I	Floyd Hicks (N)	25,068	30,105
Supreme Court Position II	Charles Stafford (NI)	766	766
Supreme Court Position III	Robert Brachtenbach (NI) (uncontested)	902	902
Supreme Court Position IV	James M. Dolliver (N)	91,521	162,357

*Adapted from Public Disclosure Commission report "Election Year 1976 Campaign Financing" (1977) I denotes incumbent, D = Democrat, R = Republican, N = Nonpartisan.

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vote for a state legislator. The actual per vote contribution is considerably higher than $1.43 because of the falloff rate in these races.

The 1976 campaign represented an increase in the spending and contribution level over 1974. In the latter year $1,746,154 was contributed and $1,615,630 expended for legislative candidates. Over a quarter of a million dollars was spent in 1976 and over a half million dollars more was raised.[45] The law does not appear to have dried up contributions for legislative races.

The source of contributions by general categories is shown in Table 4. Comparable breakdowns for 1974 have not been made but Unsoeld estimated that slightly less than 19 percent of the 1974 contributions came from those unidentifiable with a vested interest, in donations of under $50 and slightly more than 19 percent in donations of over $50. She estimated that identifiable business-related interests comprised about 44 percent of the total in 1974; labor interests donated about 18 percent. Thus well over 60 percent of the campaign monies came from these two sources. Including other identifiable interest groups, she estimates that in 1974 about 75 percent of the total sum came "from sources wanting some economic benefits from the legislature."[46]

TABLE 4*

1976 STATE LEGISLATIVE PRIMARY
AND GENERAL ELECTION CONTRIBUTIONS BY CATEGORY

Categories	Percent of Total
Small Individual Contributions of Less Than $50	16.7%
Individual Contributions of $50 or More	13.2%
Business Related Groups	32.9%
Labor Related Groups	8.2%
Party Related Organizations	11.5%
Other Interest Groups	3.0%
Surplus from Previous Campaigns	2.7%
Candidate's Own Funds and Loans	10.9%

*Adapted from Unsoeld 1976 report

The figures in Table 4 indicate that in 1976 a small proportion (16.7 percent) of contributions came from personal donations of less than $50 which were not specifically identifiable with a particular interest group. Only 13.2 percent of the total came from individuals contributing over $50. Of the 70 percent balance, about 56 percent came from nonpartisan political committees and 14 percent from the candidates themselves and surpluses from previous campaigns.

At one time the party organizations were heavy contributors. In recent years the parties nationwide have increasingly been replaced by financing from outside nonparty political committees. Washington appears as no exception to this trend. Only 11.5 percent of the financing of legislative candidates came from the Democratic and Republican party organizations per se. Table 5 shows the sources of major party contributions to state legislative candidates. Democratic legislative committees contributed substantially more money to more of their party's candidates than their Republican counterparts. This is explained in part by the larger number of Democratic incumbents. Republican challengers did reasonably well in terms of financing from their own party organizations outside the legislature. In the aggregate, the contribution level of each party's organization was approximately the same. The sizable Democratic legislative margins (senate 30-19, house 62-36) were not due to the different financial efforts of the two party organizations.

TABLE 5

POLITICAL PARTY CONTRIBUTIONS TO STATE LEGISLATIVE CANDIDATES, 1976

Organization	Number of Recipients	Total Contributions
House Democratic Caucus	93	$ 61,888
House Republican Caucus	53	22,845
Senate Democratic Campaign Committee	21	46,671
Senate Republican Campaign Committee	12	30,908
Democratic State Central Committee	47	10,750
Republican State Central Committee	10	9,799
All Other Democratic Party Sources	60	14,906
All Other Republican Party Sources	81	63,538
Total		$261,305

Source: Adapted from the reports of the Public Disclosure Commission

The county central committees raise and spend considerable amounts of money. In 1976 Republican county organizations spent $404,000 and the Democrats $164,000. Of this amount only about $75,000 was in the form of direct financial contributions to candidates.[47] Most of this goes for operational costs of the county headquarters, fund raising, and caucus and convention costs. These benefit the entire party and promote the general slate rather than individual candidates. The figures suggest the county committees are far from moribund. Total amounts for both state central committees were $226,000 compared to $568,000 for the counties.

Other findings showed that Republican contributors substantially outnumbered their Democratic counterparts both in numbers and amounts. The Democratic state central committee gave more money to candidates while the Republican committee provided services rather than campaign funds. Many business, labor and professional organizations give to both party organizations.

The anatomy of 1976 campaign contributions shows certain additional patterns. Many legislators assert that the "educational lobby" is one of the most powerful in Olympia. In terms of financing campaigns, however, its political action committees run substantially below that for business groups. Its main committee, PULSE (Political Unity of Leaders in State Education) which includes the Washington Education Association, contributed about $89,000 to 92 legislative candidates. In contrast the central business group, United for Washington, contributed $137,000 to 112 candidates. In addition three of the largest banks gave $86,000, about the same as PULSE. Facing the prospect of potential small-loan legislation due to come before the 1977 legislature, numerous other banks collectively contributed about $70,000. Additional figures were: Boeing, $14,000; Weyerhauser, $15,000; utilities, $7000; restaurants, $15,000; and oil interests, $35,000. These figures do not include contributions to gubernatorial, state executive and congressional races and ballot propositions on which large sums were also expended.

The Washington State Labor Council contributed $31,000 to 92 legislative contests, with the teamsters and transportation employees adding about $12,000 more. State employees including policemen and firefighters contributed another $32,000. Washington State medical political action committees put up $21,000 and their dental counterparts $32,000.

An analysis of individual contributions from those not immediately identifiable with a specific interest group has not been made. Such analysis is highly desirable to a full understanding of the breadth of citizen participation through campaign donations. A teacher has the choice of giving directly to a candidate deemed favorable to an educational interest or sending the contribution directly to an educational political action group. The latter then decides the recipients of the donations. The same is true for workers, business people, public employees, doctors, commercial fishermen, sportsmen and so on. What the small number (19 percent) in the under $50 category does tell us is that the great bulk of campaign contributions come in the form of comparatively large contributions and from identifiable interest groups.

The average expenditure for a senate candidate was $10,226, but five candidates spent more than $20,000; the top expenditure was about $33,000 ($29,000 in 1974).[48] In contrast one candidate for the house spent over $39,000 compared to the house average of $7490 per candidate. The Senate Majority Leader

Gordon Walgren spent $19,321 on his reelection. House Speaker John Bagnariol spent $14,000. Majority Floor Leader Dick King spent $7658 and the Minority Floor Leader Duane Berentson expended $13,571. Although these leaders tend to spend well above the average on campaigns, they are not the top spenders.[49] Such variables as the closeness of the race for reelection and access to contributions are important. Donors also recognize that their gifts are going to persons who may be of great influence during the session.

The figures in Table 6 confirm general political wisdom. More money is spent, on the average, to obtain a four year senate seat than a two year house seat. Winners spend more than losers, and incumbents spend substantially more than challengers. "Open seat" contests see more money expended than incumbency races. Money appears an important aspect of seeking legislative office. Not shown in the table is that unopposed incumbents in both houses averaged over $4500 on this campaign. Some had primary contests and all seem to believe they must go through the ritual of a general election campaign. Certain interest groups like to go on record as making contributions to a sure winner. Senate Democrats with opposition outspent Republicans with opposition by about $2000. In the house the reverse was true with Republicans slightly outspending Democrats.

TABLE 6

AVERAGE CAMPAIGN EXPENDITURES FOR LEGISLATURE SEATS 1976

Type of Candidate	Average Expenditure
SENATE	
All	$10,226
Incumbents with Opposition	13,625
Challengers to Incumbents	9,444
Winners in Contested Campaigns	13,252
Losers in Contested Campaigns	8,596
HOUSE	
All	7,490
Incumbents with Opposition	8,640
Challengers to Incumbents	5,690
Winners in Contested Elections	9,166
Losers in Contested Elections	6,437
Winners of "Open Seat" contests	11,750

Adapted from figures in Public Disclosure Commission's 1976 study.

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Local Offices. Throughout the nation less is known about financing campaigns in both sparsely settled and in populous local areas than in state and national contests. Few correlations have been made between the financing of different levels of public office. For example, do those seeking local office finance more of their campaign from their own pockets? Do more people proportionally contribute to a mayoralty campaign or to a county commissioner than to a governor or state senator? In Washington and many other states, municipal offices are nonpartisan while the party label is used for county positions. In what ways, if any, does this affect campaign contributions and who donates? These are but a few of many questions which may now be answered in whole or in part by the data gathered under Initiative 276.

In 1977 the Public Disclosure Commission made a modest, but important start, in gaining a perspective on local campaigns with its analysis of financing county elections.[50] Several problems confront a study of local races. Large numbers of incumbents are unopposed. Almost half of the persons filing for public office choose the reporting exemptions by which they agree to spend no more than $1000 on a campaign and accept no more than $100 from a single contributor. In its study the commission selected 28 positions in eight counties for analysis. These were contested and were instances where both general election candidates used full rather than abbreviated reporting. At least three positions were used in each county. The counties varied in size from Stevens with 17,600 population to Yakima with 145,200.

Data on source of funds is shown in Table 7. Although not comparable in terms of numbers of candidates, figures for challengers and incumbents in 1974 are included. Candidates rely more heavily on their own personal funds for campaign financing (about one-fourth) than is true of state races. Moreover, heavier reliance is placed on this source among challengers than among incumbents. Again this is evidence of the familiar pattern that incumbents have greater access to funds than their opposition. In 1974 the 14 incumbents outspent their opponents $44,000 to $28,000. Party organizations appear to contribute a somewhat larger proportion to county candidates' total funds than is the case with the state legislature. Republican party organizations contributed more than Democratic organizations. In 1976, 96 percent of the money for county campaigns originated within the county of the candidates. Individual contributors giving an average of $95 provided one-third of the money. Money seems to be of less influence in county election outcomes than at other levels of offices. Both in open and incumbency races, winners and losers were evenly divided.[51] But the candidate who had the greater number of contributions won more often than the candidate with the most money.

As noted earlier the law emphasizes that small contributions are to be encouraged. The democratic ethos holds that it is better to have a large number of small contributors than a small number of large contributors. A striking difference between counties is shown. In Chelan County one of every 39 voters contributed to a county race but the ratio in Whatcom County was 1 to 379 and 1 to 92 in Yakima. Party contributors also showed marked discrepancies. In Skagit County party organizations totalled 21.3 percent of the contributions; this dropped to 3.4 percent in Thurston County. In several counties the Democratic organizations gave no financial support.

The incumbency factor thus appears of greater importance than campaign finance. The commission's findings for 1976 are not necessarily at variance with

TABLE 7

SOURCES OF CONTRIBUTIONS IN PERCENT TO CONTESTED COUNTY OFFICES

Source	Percent of Total, 1976	Percent of Total Incumbents, 1974*	Percent of Total Challengers, 1974*
In-county individuals $50 or less	23.2	24.3	25.2
In-county individuals $50 or more	32.8	32.9	20.1
Candidates own funds	24.9	24.3	31.9
Party organizations	10.2	12.4	6.6
In-county groups	1.8	.4	2.6
Out-of-county groups	1.3	.7	4.9
Out-of-county individuals	2.5	.9	2.8
Miscellaneous	3.4	4.6	3.0

*Applies to candidates for 14 offices (28 candidates in all)
Source: Adapted from Financing County Elections Campaigns, op. cit.

the 1974 picture because of differences in the sample between the two years. In both instances the amount spent seems not to be a major variable.

No comparable studies have been made of races for municipal offices. Nor are there published analyses of candidate strategies in the allocation of spending. We observed, for example, that in the 1973 Seattle mayoralty race between incumbent Wes Uhlman and Lem Tuai, both candidates spent nearly similar sums (approximating $60,000) on advertising. But Tuai spent nearly twice as much on fundraising as Uhlman. The latter relied much more heavily on mailings outspending Tuai $17,172 to $1346 on stamps. This kind of data when analyzed will be useful both to campaign managers and to the interested public in providing a picture of the use of money in campaigns.

Ballot Propositions. Huge sums of money were expended in 1976 on Initiative 325 which would have placed certain conditions on the building of nuclear facilities. The fluoridation issue on the same ballot added emotional intensity to the campaign. An enormous outlay of funds was generated to defeat Initiative 325.

Opponents banded together under the label of Citizens Against the Ban on Nuclear Energy raising $965,973; some $17,000 more was contributed from other sources. Total reported expenditures to defeat the proposition were $969,334. Business-related sources contributed 83.7 percent of the total and labor-related groups four percent. Much of the money came from outside the state according to Jolene Unsoeld who published a special study on the source of the funds.[52] Only a small percent was raised from small unidentifiable contributors.

Proponents of Initiative 325 were no match for this figure. They raised $119,000 with close to one-fourth of this amount coming from 2316 contributors who gave under $50 each. The proposition lost by a two to one margin. It was estimated that each "no" vote cost $10.17.

In contrast, the fluoridation issue which is usually well financed when on the ballot throughout the country, saw total expenditures of about $70,000. (Those opposed to the ban on fluoridation slightly outspent proponents.) About 110,000 more people voted on the nuclear than on the anti-fluoridation proposition. The huge difference in expenditure for the two initiatives undoubtedly contributed to the larger turnout on the nuclear initiative. Radio and television stations were saturated with advertisements against the latter while fluoridation arguments relied largely on the printed media. Although, as noted, opponents of the nuclear initiative spent $10.17 for each vote they won, the pro-fluoridation groups spent only 41 cents per vote to defeat those who would ban fluoridation. Again in 1977 huge sums were spent on ballot propositions - about $727,000. At the beginning of the campaign public opinion polls showed that voters would approve a measure (Initiative 348) to roll back a variable gasoline tax passed by the legislature. Transportation and other interests went into action and spent $330,000 to defeat the initiative while supporters expended $36,000. The result was a victory for advocates of the increased gasoline tax which won by a narrow margin of votes. A legislative leader said that without the huge expenditure the gas tax would have been defeated.

In-kind and Candidate Contributions. In the past, even under weak laws, the public has been better informed on contributions from interest groups and affluent donors than it has about the amounts put up by candidates themselves and the monetary equivalent of various types of voluntary services. Under the disclosure law candidates are to report monies which come from their own pockets and estimates of in-kind contributions. Data now available present the opportunity to analyze the degree of importance of these two sources of campaign aid.

In-kind contributions are calculated into dollar terms. They include such items as plywood for signs, printing, food, liquor and secretarial services. The last mentioned is by far the single most important in-kind contribution. These and other volunteer services and contributions are of considerable value to some candidates even though in the aggregate they did not appear to contribute a large proportion of the total amount received by statewide candidates in 1976. The Disclosure Commission included in its study the total monetary summary of in-kind contributions for the statewide candidates. Very few of the candidates reported no contributions of this type but variations between candidates were striking. For example Dixy Lee Ray reported $45,000 in such services, almost twice as much as her opponent John Spellman. Secretary of State Bruce Chapman had a $3400 to $1800 lead over his opponent. Attorney General Slade Gorton

received $960 in-kind contributions to $78 for his opposition. Challenger Richard Marquardt reported nearly $3000 to Karl Herrmann's $700 in the contest for insurance commissioner. In a supreme court race one candidate had $8700 of in-kind contributions while his two opponents had only $900 combined.

Although one cannot estimate the degree of significance or importance of in-kind contributions it may be noted that in the partisan statewide races the winners had $49,000 in such contributions to $29,000 for the losers.

Rather similar variations occurred in reliance on personal funds. Neither Spellman nor Ray reported using any of his or her own money. The incumbent secretary of state, auditor, attorney general, school superintendent and lands commissioner also reported that they did not put up any of their own funds. But the remaining incumbents and nearly all of the challengers did. Of these, five challengers exceeded incumbents in personal financing while only one incumbent spent more of his own money. Philip Long who challenged Lieutenant Governor Cherberg financed 94 percent of his campaign out of his own pocket to Cherberg's 0.8 percent. If one leaves out the insurance commissioner race, challengers subsidized their own campaigns $8125 to only $420 for their opponents.

In the absence of examination of state legislative races, it is difficult to know if challengers rely more heavily on their own funds for running. This was clearly the case in statewide races in 1976. It seems obvious, therefore, that challengers who have been able to win the primary and contest in the general election are those who are willing to pay a portion of their campaign from their own financial resources. Conversely, persons who feel they cannot put up some of their own money must weigh heavily the decision to seek office. At the same time, three persons losing in the primary for insurance commissioner respectively financed 40, 50 and 60 percent from their own funds. Collectively, the three put up over $19,000 of their personal funds for their own campaigns. Richard Marquardt, on the other hand, won both the primary and general elections by using less than $1000 of his own money; this constituted only 3.6 percent of his total expenditures. Meanwhile, Karl Herrmann, his general election opponent, put up $13,000 of his own money or 9.6 percent of the total. It appears that, in general, public financing would be of considerable help to challengers -- especially those of modest means. One of the most serious problems facing a person seeking public office is raising funds for the primary. After winning a primary it is easier to obtain money from interest groups for the general election.

Lobbying Data

A massive amount of data is now available on the numbers of lobbyists and their expenditures as well as on campaign finance. The commission has not yet published a comprehensive study on lobbying. It has, however, produced a book containing biographical sketches of lobbyists and identification with their interests. From the PDC lobby registration list, the citizen may learn of the numbers of interests represented together with the number of persons registered to lobby for them. For example in mid 1976, 330 interest groups with 529 lobbyists were registered. Table 8 summarizes data taken from PDC records.

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TABLE 8

NUMBER OF LOBBYIST REGISTRATIONS
FIRST QUARTER 1973 - 1977

	1973	1974	1975	1976	1977
Lobbyists	*	573	650	470	565
Employers of Lobbyists	*	*	254	346	430

*Figures not available
Source: Public Disclosure Commission

The variety of interests registered and the numbers involved may surprise those who have come to associate lobbying largely with business, labor and education. Registered lobbyists for local government are numerous. In terms of numbers, one also sees many representing organizations concerned with civic betterment, environment, irrigation and reclamation, and medical services. While one aerospace group had six registered lobbyists, 13 energy groups had only four lobbyists associated with them, and four Indian tribes had one lobbyist among them.

Numbers of lobbyists are not necessarily in proportion to influence or effectiveness. The data gathered by the disclosure reports does not, of course, provide definitive information on these issues. There is no objective standard by which effectiveness can be measured or influence as such can be ascertained. One study approached this problem by asking legislators to name the "four most powerful interest groups in this state."[53] The 12 groups receiving the most mentions were, in order, the Washington Education Association, Washington State Labor Council, Washington Federation of State Employees, Association of Washington Business, other business groups, finance and business interests, United for Washington (a business group which raises funds for campaigns), Boeing, environmentalists, utilities, forest products, and highways. Lobbyist reports from these groups might be of special interest to the student of legislative strategies.

Newsmen, interested persons, and the PDC have at times prepared specific stories which indicate some of the lobbying activity configurations including spending. The legislature set an all-time record of 163 days in session in 1977. In the first 87 days (about half of the session) lobbyists and their employers, according to the commission, spent $1,228,756 to influence legislation.[54] The biggest single spender was the Washington State Labor Council whose eight lobbyists reported expenditures totaling $58,291. Total expenditures of all union representatives were $142,310 in contrast to total business spending of $565,478.[55] Other groups in the top 15 spenders were, in round numbers, the Washington Education Association, $39,700; State Medical Society, $34,000; Association of Washington Cities, $32,200; and the Boeing Company, $25,600.

During the 83 days lobbyists collectively spent about $2145 per day on food, refreshments, and entertainment. However this was only about 15 percent of the total expenditures. At the same time striking differences in tactics are shown by the records. One bank lobbyist in the first quarter of 1977 reported $1800 on entertainment and nothing on other activities. During the same period an oil lobbyist reported that $2500 of his total $15,000 went for entertainment. In general one may infer that the allocation of the lobbying dollar going for wining and dining is not as large as popularly believed.

An examination of the pattern of expenditures other than entertainment and refreshments would also undoubtedly show wide variations. One prominent labor lobbyist for the first six months of 1976 filed expense accounts noting that about $20,000 went for salary (presumably he spent full time on lobbying), about $1900 for living expenses, $630 for travel, $318 for office space, and $210 for phone.

Another fruitful area for study concerns amounts and methods of payment of hired lobbyists. One person received a combined salary of about $41,000 in 1976 from oil and natural gas, and motor coach firms. Another lobbyist was compensated at a rate of $50 per hour, another at $60 per hour. Some operated on clauses linking compensation to length of session. This would suggest that the lobbyist performed only during the session. As a general rule lobbying is a year round job with some of the most important effort expended between sessions. An in-depth analysis would show the extent to which certain organizations rely upon permanent employees for between-session lobbying and augment their efforts with hired lobbyists during the legislative session.

Records of the last six months during election years show sizable campaign contributions. Obviously many lobbyists also make campaign donations. An interesting sequential study could be made of lobbyist-legislator relationships over a 12 to 24 month period. This would involve examination of a lobbyist's campaign contribution to a specific legislator, contacts and entertainment during the ensuing session, the legislator's voting record on measures of special concern to the lobbyist and post-session contacts. An amendment, passed by the legislature in 1977, now requires lobbyists to report all campaign contributions to all political candidates, political committees and to ballot propositions. Prior to this time, lobbyists were required to report only money given to legislative contacts. The web of relationships between lobbyists and specific legislators has always been of interest to students of politics. The disclosure law affords the opportunity to follow the thread over a period of time.

Records alone, however, are unlikely to provide a full perspective on all the subtleties involved in the complex picture of legislative impact and influence. Another area of interest is the identification of legislators targeted by lobbyists for contact and entertainment. Obviously this varies with the lobbyist's goals and the legislator's interests and positions held in the legislature. Because lobbyists must now report names of legislators entertained, records are available for research into this matter.

Records of eight lobbyists for business and professional groups selected at random were reviewed. They showed that, during one quarter of the legislative session there was slightly greater wining and dining of senators than of representatives. Some lobbyists appeared to concentrate more on one house than

on the other. Twenty-four of the 49 senators were not entertained even once. The senate majority leader was by far the most frequently entertained senator. One of the eight lobbyists, however, reported nine contacts with a committee chairman and seven with Senator Walgren. In terms of the eight lobbyists, a contrast was shown in the house where only 30 of the 99 failed to be entertained at all. As for frequency of contact, the speaker was much less favored than the senate majority leader and the house minority leader was entertained a great deal more times than the majority floor leader of the house.

Great care must be taken in drawing conclusions from a sample. To illustrate, a review by the PDC of expenditure allocations of the nine lobbyists spending the most on entertainment during the first quarter of 1977 found the legislator most entertained by these nine was the chairman of the Senate Ways and Means Committee.[56] This second group of lobbyists also differed from the first group of eight lobbyists from business and professional groups in that they entertained the speaker and the house majority leader more frequently than the senate floor leader.

Many legislators whose names did not appear on the entertainment records do not accept invitations for diverse reasons. It is possible that others had few opportunities because they were not persons of perceived influence or were committed, making contact of little importance. Only through interviews and in depth studies will it be possible to determine the reasons and strategies for social contact.

In this chapter we noted what some of the data collected by the disclosure act show. In regard to campaign financing, the information now available will be helpful in determining the pattern of financing campaigns and the implications of the pattern. The information should be of importance to potential candidates as they appraise the costs and prospects of success in seeking public office. Party managers searching for attractive candidates who might unseat opponents might also use the data to help identify the financial problems involved. There is need for much more research especially in the area of state legislative races. In the appendix we have set forth some questions and suggestions for further study in the field. The next and concluding chapter will focus on the question of the law's impact and public attitudes toward it.

CHAPTER V

THE IMPACTS OF THE PUBLIC DISCLOSURE LAW

Americans are pragmatic. They want to know how well their laws are working. The most difficult problem facing students and observers of any state's political life centers on the impact of a law as well as its real and alleged effects. Experts are busy resorting to systems, cost-benefit, and other types of analysis of laws and programs in order to determine their impact and efficiency.

It is virtually impossible to judge the impact of Initiative 276 on the political life of Washington State. Editorials, political columns, speeches by candidates, officeholders and interested citizens provide evidence that the full range of consequences, favorable and unfavorable, have been charged to the law. Defeated candidates, incumbents, and lobbyists all evaluate its impact quite differently. A strong subjective overtone characterizes many viewpoints. Expectations differ and disappointments are easy to find since not everyone is in agreement about the major purposes of the law.

Seattle Times reporters in 1976 queried numerous public officials and professors of government about the results of the disclosure law. Their findings suggested that if the public disclosure law were graded for effectiveness it would "probably rate a C plus or B minus."[57] The problem here is that "efffectiveness," was not well defined in the question. Some disgruntled critics blame the provisions of the law itself; others are critical of the administration and enforcement by the commission. Early in the law's history, some labor leaders charged that the Public Disclosure Commission was favorable to business candidates. This allegation has not been made publicly in recent years.

Provision of Information

There appears to be substantial agreement that the Public Disclosure Law has provided the public with more information than it has ever had before concerning the conduct of government. One party official feels the data have been especially valuable to both candidates and officeholders in providing information about campaigning and knowledge of resources. He sees the record-keeping features (which have been only minimal before) as aiding in planning, pacing and budgeting campaigns. "Disclosure," he said, "has given legislators more of a chance to be independent because details of their financial support are in the open."[58] Lobbyists as well as officeholders are heavy users of the reports and many have admitted their value.

The Public Disclosure Commission records are an important source of political intelligence. Reporters make extensive use of the materials for local interest features. Data on ballot propositions have been highly relevant for developing adversary strategies. The law has helped meet an important requisite for effective political participation -- a significant increase in the public's level of information.

Campaign Contributions and Expenditures

The Public Disclosure Law has not dried up campaign money as many critics prognosticated. Although comparisons cannot be made between contributions before the law and those made since 1973, the large amounts given to campaigns since the law went into effect would suggest that donations of this magnitude are readily available. Members of the legislature were asked how the law affected their ability to raise election funds. Eight percent said it was "easier," 23 percent reported it was "less easy" and 70 percent said they were "not affected."[59]

The reporting process seems to present a greater stumbling block than finding contributions. Although individuals seeking high public office are willing to cope with the inconveniences of filing reports, minor candidates and small political action committees complain of difficulty in finding treasurers. Despite abbreviated reporting systems and simplified instructions, many people are overwhelmed by the law and fear prosecution. One of the first compliance projects undertaken by the PDC was an effort to ensure that all Democratic and Republican party organizations were registered. Even though registration was not complicated, some chose to dissolve the committees or to curtail any money-raising activities because they feared they might make an error and subject the small community groups to civil penalties. These fears discourage grass roots participation and favor larger committees which have the resources to hire experienced people to handle reporting.

There have been no studies to indicate whether disclosed information is a factor in the choices of voters, but candidates are sensitive in this area. Individuals who have collected a great number of small contributions have made the source and amount of funds an issue in their campaigns, particularly where the opponent has received large contributions from interest groups. Some candidates voluntarily limit the amount of money they will accept from a single contributor. In reaction to public attitudes, the methods of giving may be less direct in an effort to disguise the source of contributions. A contribution often travels through two or three parties before reaching the candidate. The statute allows the transfer of funds in this manner even though it can result in the "washing" of funds.

Those who hoped that the law might reduce campaign expenditures find the results disappointing. The courts declared that the original limitations on spending were invalid, cutting out of the law attempts to reduce expenditures. Further, as noted earlier, Unsoeld found that contributions under $50 averaged less than 17 percent of the average legislator's campaign chest. Proponents envisioned the law encouraging a larger number of small contributions. This has not been a result. Reporting features alone are unlikely to increase the

number of small contributions. Existing provisions of the Public Disclosure Law will not bring about equality of access to financial resources in campaigns, reduce total expenditures or broaden the financial base of campaigns with a larger percentage raised by small contributions. Much of the information disclosed indicates that large amounts of special interest money, some from outside the state, play a major role in deciding state ballot issues, solidifying the positions of incumbents and influencing decisions made by the state legislature. This information is now being used to justify tougher ethics laws and requests for public financing of campaigns. The law has taken an important first step in restoring confidence, but additional legislation will probably be necessary to correct the exposed problems it has identified.

Many questions exist which should be addressed after disclosure laws are placed on the statute books. Can disclosure laws really have an important impact on reforming the role money plays in politics and electoral outcomes? Can those who are underfinanced afford to campaign on disclosures of the opposition? Will the news media use disclosures which may embarrass their editorially preferred candidates? Can citizens digest the mass of information which emerges from reporting? If they do, should this weight the ballot they cast? These are a few of the questions researchers should address.

Lobbying Effects

At the time of adoption, some lobbyists saw the law as having "a chilling effect" on lobbying. A number joined in challenging the law in the courts on the grounds that it violated the right of petition and freedom of speech. Few, if any, of the dire consequences predicted by opponents have materialized and there is little evidence of a "chilling effect." We cannot know whether more is spent to influence legislation than before 1973, but as observed in the preceding chapter, very sizable amounts of money continue to be spent by lobbyists. Open government laws as such do not forbid the spending of money for lobbying, except for bribery, and anti-bribery laws have long been on the statute books. The disclosure law simply provides information on who is spending what and identifies the legislator recipients.

Parenthetically, disclosure laws permit comparison of differences in the lobbying patterns between states. In a study of lobbying in 1975-76, the staff of the California Fair Political Practices Commission found that lobbyists reported a $40.1 million aggregate expenditure.[60] On the surface this would seem proportionally much larger than Washington especially since there are fewer members in the California legislature than in the Evergreen State. When one realizes the California legislature is in session much longer, and has a larger budget affecting a much larger population, the differences in expenditures between the two states are less pronounced. Even so lobbying is obviously a substantially greater financial venture in California than in Washington. The two largest spenders were the California Medical Association and the Pacific Telephone and Telegraph Company. Their counterparts in Washington were far from being the biggest spenders but were in the top 15 in expenditures. Much of the public is unaware of the expensive lobbying efforts of lobbyists for counties, cities, schools and special taxing districts. Record-keeping shows the extensive effort of these agencies. In California three quarters of a million dollars was

spent by those agencies in 1975-76. In this state, the cities, counties and other local taxing districts were listed as the third largest spending group at the 1977 session.

Only one study embracing a majority of the Washington State legislators is available to shed some light on their perceptions of the impact of the law on lobbying.[61] The study was inconclusive. In answer to the question "has the law changed the manner in which interest groups approach legislators concerning legislation?", 54 percent responded that it had made no change, but 46 percent checked that it did. The fact that over half saw no difference may be discouraging to those who hoped the law would bring about changed lobbyist-legislator relationships.

On the other hand, nearly half did see some change. Some said there was "less wining and dining" and two said "the trip to Hawaii" had disappeared and the big givers were less free with contributions. Several other comments suggested lobbyists were "more timid," that some legislators themselves steered away from being entertained and that there was some shift from social entertaining to more informational and office calls. A few felt incumbents were helped because lobbyists (and others) were less likely to finance opponents since incumbents are far more likely to win. Six legislators believed that people who are exempt from registration, such as their constituents, were more reluctant to talk to their representatives even though such conversation is appropriate under law. To the extent this latter point is true, the law is dysfunctional.

It bears repeating that the law has given legitimacy to the "third house." Legislators, lobbyists, and the public now have records of certain types of contacts and are more conscious of them. All should be better informed about lobbying activities than ever before. But a great deal more study and analysis of the significance of the data is necessary before one can hope to assay the impact of the lobbying provisions of 276.

Grass Roots Lobbying

The section on lobbying produced enormous amounts of information. Section 20, however, which deals with expenditures to influence legislation indirectly by first influencing public opinion, has yielded little. In a report by the commission in August 1977, it was noted that in the first four and a half years only 28 sponsors of such campaigns had registered, and only one in 1977. The latter was the Washington State Medical Association which reported $189,356 for grass roots lobbying.[62] One might conclude either that the law has discouraged such activity or it has had little impact, affecting only a few organizations.

No one has claimed that the law put grass roots campaigning out of business. The Public Disclosure Commission speculates that one reason for the comparatively few reports was the state supreme court's decision that a sponsor must report only specific legislation. Spending money urging people to write legislators against a tax increase, for example, would not come under the law because it was directed toward a general principle rather than a specific bill. Further, the commission believes some organizations are unaware of the section and that

the small number may be due to the fact that spending groups make reports under the several other disclosure provisions. Where this is done it need not be repeated under section 20.

Sums reported for grass roots lobbying are small in comparison with general lobbying. Only about $670,000 over a four and one half year period were recorded. Of this amount $406,000 was spent by the Washington State Medical Association which concentrated on medical malpractice and insurance problems.

But section 20 has resulted in reporting some activities not obtainable under other provisions. Among the 28 reports, eight came from medical societies, a few from education groups concerned with funding and faculty salaries, and from such diverse groups as Common Cause, the Washington State Ad Hoc Committee for the Arts, and the Coalition Against Oil Pollution. The Young Americans for Freedom, which brought the case against the section, did not find it necessary to register although its activities have continued. The Public Disclosure Commission recognizes that some problem areas still exist in administering this part of the law.

Effects of Personal Finance Disclosure

While the law has resulted in a huge reservoir of information, it did not cause an obvious diminution of campaign funds or lobbying efforts. When one goes beyond these three generalizations about the impact of the law there is considerably more controversy and disagreement. Some incumbents, potential officeholders, and lobbyists declare the law violated the right to privacy. As noted, this issue was settled by the courts and the interested parties have learned to live with the diverse personal and other disclosure requirements. These earlier criticisms have been muted considerably by the granting of exemptions, amendments to the law, and the support given by the media and interest groups.

For example, lawyers first protested that, in addition to considerable other information, they must report any clients whose payments to the firm totalled $500. It was claimed that if a lawyer-legislator complied with the law he or she would violate the canon of legal ethics. The senior assistant attorney general assigned to the commission interpreted the reporting requirements as in no way violating ethics and said that information about "private" clients need not be reported. In 1974 in an article clarifying the provisions as applied to lawyers and other officeholders, he wrote that open government "does not create the insurmountable problems they anticipated" and that most "appear willing to comply with the law, once they understand its requirements."[63] He called upon attorneys to provide a better understanding of the purposes and workings of the law and asserted that confidence in government needed to be restored. To realize this would require "a candid compliance with the law as written."

As mentioned in an earlier chapter when the law first went into effect, there were widespread allegations that hundreds of elected officials would resign rather than disclose their personal finances. (One magazine reported a poll of school board members showing 56 percent would resign rather than comply.)

As illustrative of the dialogue, one veteran state senator called the whole law "stupid" and said, "It almost seems as if there were a calculated plot to make it impossible for good men to serve in public office." A school board member said that the law would not safeguard the public interest because it would drive from elective office a "substantial proportion of well qualified, otherwise interested citizens." But defenders of the law quickly cited instances of "good" incumbents who successfully sought reelection to school boards and other positions. A city councilman said that, on the contrary, the law "would be a boon to people in local government because it would show the people that they are honest officials."

It is not easy to judge the quantitative and qualitative effects of the law on those seeking and holding public office. No comprehensive figures are available on the numbers of alleged or actual resignations -- or failures of newcomers to seek office -- because of 276.

Local press accounts cited several instances where small town mayors and city council members, and various commissioners did resign rather than file disclosure reports.[64] One state legislator and one judge gave the law as the reason for resignation. In some cases 276 was given as simply one of many reasons for failure to seek reelection.

One small scale study conducted by University of Washington students in 1976 consisted of interviews with 37 school board members in the greater Seattle area and found only one to whom the disclosure seemed of any importance in contemplated or actual resignation. None of the 37 knew of any board member who resigned because of the law. A canvass by the League of Women Voters reported no mass resignations because of disclosure requirements. The organization found very few who attributed their leaving office to the law.

Inability to comply with this provision can be attributed either to the hardship of obtaining the information or to a personal objection to disclosure. The commission has gone to great lengths to grant reporting modifications that eliminate reporting hardships and allow the public official to stay in office. Objections to the invasion of privacy are somewhat mitigated by the fact that the statements are on file only in Olympia. Campaign reports, on the other hand, must also be available at the office of the county auditor to facilitate local review. To further protect privacy there are reporting thresholds on bank accounts and debts, and all amounts are reported by codes. While the financial affairs reports have not received the public attention of campaign reports, the public reaffirmed their support of this requirement by extending it to top state appointed officials in 1976. Once more the requirements were generally well accepted and resulted in few, if any, resignations.

Despite the absence of objective evidence, there are public persons who still assert that the law hampers recruitment of "good" public servants. Some purport to know of instances where a person wished to run for public office but refrained from doing so because his or her spouse would have to make disclosures which would be embarrassing to the spouse's employer. Others feel that the more successful persons are unwilling to disclose their assets and therefore are reluctant to seek public office. These rumors are difficult to prove but they persist.

Legislative Attitudes

State legislators are in one of the best positions to judge the results of the law. Save for the Peterson study dealing with attitudes toward lobbyists, no comprehensive analysis of the lawmakers' attitudes and views has been made. One unpublished survey by University of Washington students early in 1976 (three years after the law became effective) shed some light on legislative attitudes. Some 37 Puget Sound state legislators were randomly selected for in-depth interviews concerning their view of Initiative 276. It is significant to note that eleven refused to be interviewed on the subject. The remainder were quite representative of the legislature with respect to party membership. However, the sample was deficient in size (26 out of 146 legislators) and in terms of geographic distribution.

Despite these inadequacies, a summary of some of the findings is of interest if not significant. Not surprisingly virtually all decried the "excessive paper work" (a common complaint of lobbyists as well). Responses to many of the questions were fairly evenly divided, showing ambivalence, frequent vagueness, and often admittedly impressionistic judgments. Responses were almost evenly divided on whether the public's perceptions and opinions of officeholders had changed as a result of the law and whether it benefitted incumbents. A comparable division occurred over whether the Public Disclosure Commission should be full-time or remain part-time, and over the new provisions (adopted in 1976) to exempt banker-officeholders from full disclosure. Partisan divisions were not substantial except that a larger percentage of Democrats favored a more aggressive Public Disclosure Commission.

On the positive side there was a high level of agreement (over 85 percent) that (1) the commission had administered the law in a nonpartisan manner, (2) the public records section of the law posed no problem, and (3) the Public Disclosure Commission had been adequately funded. Supporters outside the legislature sharply disagree with the last mentioned. Most of the lawmakers found the lobbyist regulations useful and realistic. A sizable majority believed the penalties adequate.

The results of the University of Washington study must be viewed with some caution due to its small sample. It is at variance with the Peterson study (conducted a year later) in maintaining that a small majority felt the law discouraged campaign contributions across party lines and that contributions had dried up or been reduced for both incumbents and challengers because donors do not want their names disclosed. (The Peterson study revealed that only 23 percent found campaign fund raising more difficult.) At the same time and with some contradiction, 17 of the 26 legislators felt disclosure of contributions had been of positive help in their campaigns; only two scored it as damaging.

Only two of the 26 legislators favored outright repeal of the law but several wanted further exemptions for lawyers. Several of the sample told interviewers that they were moderate to staunch supporters of the law at least in principle. A few felt the provisions should be even more strict and others recommended public financing of campaigns. Succinctly, there is little approaching

unanimity of legislative perceptions about the impact of the law. The public records and lobbyist provisions appear essentially without criticism but there is abundant criticism of the campaign financing and personal financial disclosure requirements.

Demographic Changes

There remains the question of what impact, if any, certain features of the law have had on the number and kinds of people seeking public office. When the law was adopted it was easy to find public officials who predicted the financial disclosure requirements especially would decrease the availability of candidates and bring about a decline in the quality of legislators, council persons, school board members, local government executives and so on.[65] It was argued on the one hand that experienced officials would not seek reelection, and on the other that "good" newcomers would be discouraged in seeking public office.

In terms of the numbers seeking state and federal public offices hard data are available to resolve the issue. One can compare the number of filings for legislative positions in the midterm elections of 1970 (before the law) and 1974. The difference was of little significance. The secretary of state reported the combined number of congressional and state legislative candidates was 433 in 1970 and dropped to 412 in 1974. Most of the decline was among Republicans seeking office. Republican legislators friendly to the law attributed most of the fall to Watergate and not to 276. In 1976 some 45 persons sought the major party nominations for the nine statewide offices, the same number as in 1972.

Minor party adherents protested that campaign donation information would affect their opportunities to obtain funds. As noted earlier the Socialist Worker Party won a court case which permitted broad exemptions from disclosing the sources of contributions or the recipients of expenditures. The law did not diminish the number of minor party candidates filing for president and the statewide offices. The filings mushroomed from ten in 1972 to 29 in 1976. While we cannot know whether the law seriously reduced the total contributions given to minor party candidates in 1976 compared to 1972, it is clear that the law has not diminished the number filing for statewide offices.

A number of persons speculated that rather dramatic demographic changes would take place as a result of the law. It was believed that, because of confidentiality problems associated with the financial disclosure requirements, there would be a decline in attorneys and business people, particularly bankers. At the outset a review of occupations over the last generation shows rather marked occupational changes. There was a heavy preponderance of lawyers and farmers in the Washington and other legislatures in the 1940s. Since that time a great decline has taken place in the number of legislators from agricultural occupations. This continued decline remained in the house in the two elections since the operation of the new law, but farmers increased in the senate. Education had few or no representatives in the 1940s and 1950s; then many educators were elected in the 1960s and early 1970s. Their number was reduced in both houses in 1977 but it would be hard to prove this was the direct result of Initiative 276.

Business and legal representation in the Washington legislature has fluctuated considerably since 1940. Before 1973 both groups had shown a decline, and this continued in 1974, the first election under the new law. But in the house both groups showed a greater decline between the last two elections, 1970 and 1972, before the law than in the 1974 election. There was a sizable drop in lawyers in the senate in 1974, but their number decreased by only two in the house. The same number was elected in 1976. The Insurance Information Institute's occupational survey of state legislators in 1977 found a continued drop in lawyers-legislators throughout the nation.[66] Some 1599 state legislators were lawyers, a drop to 21 percent from 26 percent in 1967. In the 13 western states lawyers constituted only 13 percent of the total compared to 31 percent in the South, 18 percent in the Northeast, and 17 percent in the Northwest. Washington's 14 percent, therefore, compares favorably with 13 percent attorney composition in the West in general. In the 1976 senate races more business men were elected than in 1972.[67] For business as a group there has not been a significant drop in representation since the law went into effect. The banker representation--always small--remained unchanged. Amendments to this law, as seen earlier, have eased reporting requirements for officials in financial institutions.

Recent demographic changes may be due to two other developments. First, legislative sessions are undergoing substantial lengthening and, under a continuing concept, there are more committee meetings during the year. Until 1977 salaries remained low so that legislators were having to give more time without significant salary increases. The pay increases in 1977 and scheduled further raises will tend to make less serious whatever financial sacrifices some legislators felt they had to make. But long sessions may well affect the number of teachers, business persons and attorneys who feel they cannot take so many months each year from their occupations. The point here is that the disclosure law is but one recent variable which might tend to discourage certain persons from seeking or trying to retain a legislative position. A careful study of demographic changes, say between 1969 and 1981, will provide a better perspective on the effects of various factors: salary increases, longer sessions, and disclosure influences on demographic changes in the legislature.

It might also be of interest to study the relationship, if any, of the disclosure law to changes in age and turnover. Two elections are insufficient to reveal any pattern. In the senate there were no very significant changes in the two elections since the law went into effect. A smaller number of those age 20-29 have been elected to the house since 1973 but there was a corresponding increase of those 30-39 years of age. There was a high turnover both before and after enactment of the law. Newcomers numbered 32 in the 1972 election, 20 in the 1974 election, and 29 in the 1976 election. Very little change took place in the senate. Since the great majority of incumbents is reelected, turnover is obviously related to the number who decide not to seek reelection. At this time it is difficult to find any significant correlation between the law and the age and turnover of legislators.

Only a major study of the hundreds of city, county and local district offices will yield an answer to the question of decreases in the numbers of individuals in different demographic groups seeking such positions. It is possible that such an analysis would show that the disclosure law has had more effect at the local than at other levels of office. The effect of 276 on local government is a much needed study.

Public Records

The requirement for local and state agencies to publish a manual of their procedures and documents and to make these materials available for public inspection is slow in being implemented. Because there is no reporting obligation, as in other sections of the act, and because the PDC plays a passive role in enforcement of the provisions, agencies are generally not very aware of the provisions of the law unless they receive a request for information.

The PDC found a wide range of efforts to index records in a survey of state agencies. Requests for information must be specific, so in the absence of manuals, people can be handicapped by not knowing what is available to them. There are many ways in which agencies can be discouraging by claiming, for example, that such information does not exist, is not in written form, or is not available. When a person is requesting a specific document that can be identified, the agency must follow very precise procedures in releasing or retaining the information. The statute states that all information relating to the conduct of government is public record unless specifically exempt. If any information is withheld the reasons must be fully explained. If the person requesting the information is not satisfied, the court may be asked to determine whether the information should be made public. For example, in a very important decision in 1978 the state supreme court ruled that the King County assessor must provide certain tax assessing information to the Seattle Post-Intelligencer.

Several interesting cases have resulted in court review. In Bly v. Washington State Patrol and Federated Publication v. City of Lacey, information was withheld to protect the personal privacy of government employees. The question of personal privacy versus the public's right to know is one that is constantly weighed. At the federal level the Freedom of Information Act often seems in conflict with the Right to Privacy Act.

In general, the provision of open government records is bringing about an attitude of cooperation and openness on the part of the custodians of materials. Often an agency will indicate hestitation in releasing information because it has never been done before. When the requirements of the law are explained, usually no basis can be found for withholding the information. The curiosity, fear and distrust of the unknown is dispelled by granting public access to information compiled by and relating to government. While this may create some burden on government, the basis of public disclosure is to protect the public's right to know.

A Closing Note

In 1978 the Public Disclosure Commission came under its sharpest criticism from friends of the law who charged it with laxness in administering the law.[68] They felt the commission allowed too tardy compliance and too much accommodation

to non-filers. Some felt penalties were too light and that the commission had a poor record of levying and collecting fines.

New requirements brought an additional group of municipal officials under the reporting provisions in 1978 and some of them are complaining. Many unpaid and part-time officials also feel that, in general, the law should give them total or partial exemption.

All of these criticisms are to be expected in the adoption of a new reality of reporting under the law. Reporting is onerous, and legislators historically have been reluctant to adopt campaign, lobbying, and personal disclosure requirements. With the adoption nationally of the concept of "open" government, however, it seems doubtful that the public would tolerate a return to the days of very limited reporting in these areas. The problem becomes one of refining the law and improving its administration.

The authors believe that the time approaches for a comprehensive review of every facet and impact of the law. We have suggested throughout our account questions and areas for study and appraisal. The study would best be conducted by sources outside the government and with adequate funding. Obviously public officials should be interviewed on many aspects of the law's operation. To date no state has authorized such a study. As Washington was among the first to adopt sweeping public disclosures, so it might be the first to conduct such a study.

Appendix 1

LEGISLATIVE ANALYSIS

In this appendix we will summarize in non-technical language the provisions of the Public Disclosure Law (Chapter 42.17 RCW). The summary uses the section numbers of the act so that the reader may refer directly to the law for additional information.* In some cases portions of the law are directly cited. The following resume includes all amendments and represents the status of the law as of January, 1978.

Intent

Section 010. Declaration of Policy.

The stated policy of the law is to provide full disclosure of campaign and lobbying contributions and expenditures to assure the people that there is no conflict between the public trust and private interest on the part of elected representatives. The "public's right to know of the financing of political campaigns and candidates far outweighs any right that these matters remain secret and private." However, small campaign contributions are encouraged and therefore need not be reported in detail.

Access to information concerning the conduct of government is a fundamental and necessary precondition to governance of a free society. The disclosure concepts, established by the Federal Election Campaign Act of 1971 "shall be liberally construed" to promote complete disclosure and "full access to public records so as to assure continuing public confidence of fairness of elections and governmental processes. . ."

Section 020. Definitions.

This section defines terms used throughout the law. It also sets the stage for those persons who may be subject to or required to report under Ch. 42.17 RCW. Since the definitions used do not in all cases follow common usage of terms it is important to refer to the definitions when reading a particular section.

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*The last three digits are used, for example, the first section of RCW 42.17.010 becomes 010.

lobbyist or sponsor of a grass roots lobbying campaign, impose a fine not exceeding $10,000 for each violation, and fine a person $10 per day for delinquency in filing a completed report. Anyone failing to report a contribution or expenditure may be subject to a penalty equivalent to the amount he failed to report.

Section 392. Penalties for Late Reports.

Reports filed late are to be accompanied by a $10 late penalty. The commission may waive the penalty if it finds that failure to file in a timely manner was unavoidable. (Not included in 276.)

Section 395. Penalties Assessed by the Commission.

The commission may determine if a violation has occurred and, after hearings, assess penalties up to $500 for multiple violations. The commission's orders are subject to judicial review and the court may be petitioned for enforcement. (Not included in 276.)

Section 397. Procedures upon Petition for Enforcement of Orders of Commission.

Designates procedures where the commission has petitioned a superior court for enforcement. Court notes where commission's order is unsatisfied and decides whether order is to be amended, suspended or postponed. Court is to render a written decision. (Not a part of Initiative 276.)

Section 400. Enforcement.

The attorney general, local prosecuting attorneys, and private citizens may bring suit to enforce the law. Extensive provisions are included for times and manner of bringing suit. Of special interest are the provisions governing citizen suits. Citizen action may be brought only if the prosecuting authorities have failed to commence an action within 45 days after the citizen has notified the attorney general and the action will be taken within 10 days after the authorities have failed to do so. If the citizen action prevails, the award goes to the state but the citizen is reimbursed for expenses incurred. If the citizen's action is dismissed and the court finds it was brought "without reasonable cause" the court may order the person to pay all costs of the trial incurred by the person commencing the action.

When violations are found to be intentional the judgment may be trebled as punitive damages.

Sections 410, 420, 430, 440, 445. Statute of Limitation, Rules for Filing Reports, Preservation by Agency.

Actions must be brought within six years after violation. Reports must be certified and the agency is to preserve and make them available to the public.

Sections 900, 910, 911, 912, 920, 930, 940, 945. Severability, Rules of Construction and Repealer.

Appendix 2

FURTHER RESEARCH QUESTIONS

1. What is the correlation, if any, between expenditures for winners and losers in (a) the primaries and (b) the general elections?

2. What groups give largely to (a) Democrats and (b) to Republicans? Which groups "cover their bets" by giving to both candidates? Are equal amounts given? Stated differently, what are the strategies of donations by particular groups?

3. What correlations exist, if any, between source of contributions and votes cast in the legislature?

4. What are the sources and amounts of in-kind contributions of incumbents and nonincumbents in (a) the primaries and (b) the general elections? Are there any correlations or patterns of amounts received and winning or losing?

5. What does the data show about the importance of a candidate's personal funds in winning or losing (a) primaries and (b) general elections? This is especially important for the state legislative and municipal positions. (The disclosure commission has already separated out and published data of this type for statewide and for some contested county races.)

6. How many lobbyists of what particular interests contribute funds to campaigns? Are the amounts large or small?

7. Given the data in number 6 is there any evidence of a correlation between funds received and votes on bills of interest to the contributors?

8. Are potential or probable leaders such as presiding officers, floor leaders, whips and committee chairmen likely to be recipients of larger campaign contributions than the average for the respective house?

9. Exploration of the many ways that particular entities contribute to candidates. Examples include giving funds directly, through associations, through lobbyists, and to the parties and caucuses.

10. Examination of the proliferation of the "political action committees" and their effects on the roles of the political parties.

11. What is the extent of contributions from outside the candidate's district or state? For statewide ballot propositions, how much support is received from out-of-state? Is there any justification for limiting these contributions?

12. How is the campaign dollar spent? Do strategies differ between the parties and between incumbents and challengers? The PDC made a start in examining disbursements by 43 senatorial candidates in 1973.* It found 26 percent allocated for printing with 19 percent each for newspapers and postage, 8 percent radio and television, 7 percent for public relations consulting, 5 percent for supplies, 2 percent for office rental and 13 percent for other items. Nonincumbents spent more for radio and TV and Republicans expended twice as much for public relations consulting.

*PDC Research Memo April 8, 1977.

Appendix 3

CURRENT AND FORMER COMMISSIONERS

Commissioners serving as of July 1978 are as follows:

Jean Davis, Chairwoman* 1973	Former member of the Coalition for Open Government
Virginia Gregson, Secretary 1973	Past state president of the American Association of University Women
Fred Ross 1977 (Appointed by Governor Ray)	Retired journalist
Malachy Scanlan 1977 (Appointed by Governor Ray)	Retired executive of the Burlington Northern Railroad Company
Milford F. Vanik 1978 (Appointed by Governor Ray)	Retired engineer, former mayor of Bellevue

Commissioners formerly serving are listed below:

Fred Haley	Tacoma businessman
Alfred Harsch	Professor of law
Francis Holman	State senator and superior court judge
Kenneth Kennedy	College administrator
Stuart Oles	Attorney
Werner Quast	Political science professor

*The only one of the original commissioners appointed by Governor Evans remaining on the commission.

NOTES

CHAPTER I

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1. The Seattle Times, December 5, 1971, carries an account of this bill and its drafters. Because of the number, the names are not recorded here. 2

2. The legislature's lobbying measure became Referendum 24 and campaign finance was submitted as Referendum 25. All three measures together with arguments for and against appear in the Washington State Voters Pamphlet, 1972. 2

3. Simmons et al v. Gorton et al, challenged Section 24 dealing with financial affairs disclosures by candidates. In Fritz et al v. Gorton et al, a lobbyist and his employer challenged the registration of lobbyists (Section 15), reporting by lobbyists (Section 17) and reporting by lobbyists' employers (Section 18), (83 Wn 2d, 275, 517 P2d 911 (1974)). In Young Americans for Freedom Inc. v. Gorton et al, Section 20 requiring reporting by grass roots lobbyists was challenged. Campaign financing provisions (Chapter 1) were tested by Bare v. Gorton. Other citations are Young Americans for Freedom Inc. v. Gorton et al, 82 Wn 2d 728, 522 P2d 189 (1974) and Bare v. Gorton, 84 Wn 2d 380, 526 P2d 379 (1974). See also Seattle Times, January 4, 1974. 4

4. For names and details see Seattle Post-Intelligencer, May 14, 1973 and Seattle Times, May 20, 1973. 4

5. See Seattle Post-Intelligencer, June 1, 1973. 4

6. The court combined rulings on personal disclosure and lobbyists and their employers in a single decision on January 4, 1974 in Fritz v. Gorton, 83 Wn 2d 275, 311, 517 P2d 911 (1974). 4

7. See Seattle Times, May 28, 1974. 4

8. Except where otherwise noted, quotations are from Fritz v. Gorton. 5

9. 38 Wn 2d 142, 228 P2d 476 (1951). 5

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10. For an analysis of the Bare discussion along with extensive citations and speculations on potential valid limitations on spending, see Parry Grover, "Election Law -- Initiative 276 -- the Constitutionality and Feasibility of Political Campaign Expenditure Limitations in Washington -- Bare v. Gorton, 84 Wn 2d 380, 526 P2d 379 (1974)," Washington Law Review, 50, pp. 794-833 (1974). 7

CHAPTER II

11. 1974 Annual Report to the Governor, PDC, Dr. Werner Quast, Chairman, p. 1. 13

12. 1975 Annual Report to the Governor, PDC, p. 16. The report illustrates that in 1975 there were approximately 24,000 campaign, 14,000 lobbyist, and 10,000 financial affairs reports filed. 15

13. PDC draft of the 1977 Annual Report, p. 5. 15

14. 1975 Annual Report to the Governor, PDC, p. 13. 17

15. Ibid., p. 8. 18

16. The number of requests for exemption were: campaign reporting (1); lobbyists (1); lobbyist employers (51); personal financial statements for elected officials (181) for a total of 234. 18

CHAPTER III

17. RCW 42.17.400(1) Enforcement. The attorney general and the prosecuting authorities of political subdivisions of this state may bring civil actions in the name of the state for any appropriate civil remedies provided in RCW 42.17.390. 21

18. Memorandum on Enforcement Policies, Graham Johnson to the PDC, March 7, 1975. 21

19. 1975 Annual Report to the Governor, PDC, introduction by Chairman Kenneth Kennedy. 22

20. RCW 42.17.395. Ch. 112, Sec. 12. Laws of 1975, 2d Ex. Sess. 22

21. Examples of this are found in the October 18, 1977 minutes of the commission. Lobbyist John Sullivan was found in violation for failure to register and report properly. Norwood Cunningham, candidate for state senator, was found in violation for failure to report campaign expenditures until after the election. Both violations were referred to the attorney general's office. 22

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22. RCW 42.17.392. 22

23. A considerable amount of staff and commissioners' time is devoted to collection of penalties, record keeping, and waiver requests. WAC 390-37-305 provides for staff review of all late filings to determine if the timing or substance indicate any apparent attempt to conceal information. If the staff finds such intent the case is handled as a compliance matter. 22

24. PDC Memorandum on Compliance, October 19, 1977. 22

25. RCW 42.17.390. 22

26. 1974 Annual Report to the Governor, PDC, p. 14. 23

27. Ibid., p. 26. 23

28. Ibid. 23

29. Repealed in 1976. 24

30. 1975 Annual Report to the Governor, PDC, p. 20. 24

31. Ibid. 24

32. Ibid., p. 5. 24

33. Auditing Policies and Procedures Memorandum from Graham Johnson to the PDC, May 10, 1977. 25

34. WAC 390-37-080. 25

35. WACs 390-37-200 through 230. 25

36. King County Case No. 804180. 25

37. PDC Minutes, June 21, 1977, p. 4. 25

38. "Lobbying Reports," June 13, 1977, p. 5. Quote is by Payton Smith, attorney for the firm representing Seattle First National Bank. 26

39. WAC 390-04-050. See p. 24. 26

40. WACs 390-37-080, 390-37-305, and 390-37-310. 26

CHAPTER IV

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41. See Who Gave? Who Got? How Much: Campaign Financing of the 44th Washington State Legislature, Olympia, Washington, 1975, and under the same table for the 45th Legislature published in 1977. These were published by the author and are obtainable from her at 6110 Buckthorn N. W., Olympia, WA. 98502. 28

42. Most notably "Common Cause Finance Monitoring Report," 1975, Seattle. 28

43. Public Disclosure Commission, Report to the Public: Election Year 1976 Campaign Financing, 54 pages, and Financing County Election Campaigns, 19 pages and Financial Participation of the Political Party Organizations in the 1976 Election, 23 pages. The Commission was helped by volunteers. Data in this chapter comes from these sources and in a few instances from our own studies and analysis. 28

44. Seattle Post-Intelligencer and Seattle Times, June 17, 1977. Cunningham spent more than $10 for each vote he received. 30

45. The larger figure in 1976 is accounted for in part, if not entirely, by the fact that reporting was more complete than in 1974. Certain instructions and forms were lacking in the earlier year. 32

46. See Unsoeld's Foreword in the 1974 report. 32

47. An elaborate account is found in the PDC's report of December, 1977, Financial Participation of Political Party Organizations in the 1976 Elections, pp. 8-12. 34

48. A PDC Research memo of April 8, 1977, placed average senate cash only expenditures as $9,169 rather than $10,226. The latter figure included transfers and in-kind contributions. The discrepancy is cited as an example of the problem on items to be included in aggregate expenditures. 34

49. The record of 1974 donations showed that the senate majority leader received more contributions than any other senator and the house speaker's donations were exceeded by only four others. However, when one looks at the lesser offices such as whips and caucus leaders there is little evidence that they benefited by above-average contributions. Other aspects of 1974 legislative finances are covered by Hugh A. Bone, "Washington's Open Government: A Look at Initiative 276." National Civic Review, Vol. 65, October 1976, pp. 437-445. 35

50. Financing County Election Campaigns, op. cit. 36

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51. Author Bone reviewed the records of expenditures for county offices in 1976 and found some difference in this pattern. In open races for county offices those spending the most won 56 percent of the time. Even so it is of some significance that 44 percent of the winners spent less. Where incumbents substantially outspent their rivals they won 83 percent of the races and won 78 percent of the time even when outspent by challengers. 36

52. Unsoeld, Jolene, "Initiative 325," December 10, 1976. Available through the author, see note 41. 38

53. Peterson, Walfred H., "Washington State Legislators and Interest Groups: The Interest Group Questionnaire," Division of Governmental Studies and Services, Washington State University, Pullman, Washington, 1977. This study is cited as an example of work which, as supplement to the PDC data, helps provide a picture of the state's politics. The work also contains some legislative attitudes toward the work of the PDC. The job of monitoring the PDC lobbying reports is so formidable that much effort will be required before a reasonably comprehensive picture is available. For example, there were 14,000 lobbyist reports in 1975. 40

54. See Seattle Times, June 20, 1977. For additional data see updated report by the PDC, June, 1977. 40

55. The figure of $142,310 for labor lobby expenditures indicates a fairly consistent pattern from year to year. The Washington State Labor Council reported $170,400 lobbying expenditure for the calendar year of 1976. In addition it contributed about $67,000 in campaign funds for a total legislative impact of around $237,000. Labor spending is also decentralized, so that if sums expended for lobbying and campaigns from other unions were included, the sums would far exceed a quarter of a million dollars. 40

56. This and other data are found in an undated release by the PDC in the summer of 1977. 42

CHAPTER V

57. See Seattle Times, August 11, 1976. 43

58. Ibid. The study by Peterson concluded that "legislators learned enough about the campaign finance practices of their collegues from data accumulated by the Public Disclosure Commission to alter their ideas on the subject," p. 17. 43

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59. Peterson, op. cit., p. 12. The sample included more than half of the legislature. 44

60. See New York Times, August 22, 1977. In Washington, according to the PDC, $2,242,921 was spent on lobbying in 1975 and $2,385,159 in 1976. There was a dramatic rise in spending in 1977, to more than $4.1 million. An extensive article on 1977 spending is found in the Seattle Post-Intelligencer, July 23, 1978. 45

61. Peterson, op. cit., pp. 12-14. 46

62. See Seattle Post-Intelligencer, July 23, 1978. 46

63. See Robert F. Hauth, "Initiative 276 and the Legal Profession," Washington State Bar News, October 1974, p. 26. 47

64. Press accounts noted that some of the male officeholders who resigned were successful in having their wives appointed to fill out their terms. 48

65. As illustrative of this view the Seattle Times quoted an unnamed veteran campaigner as saying "It's more difficult now to recruit people to run for the legislature. I can't give you numbers of people who have said no, they can't run, but it is a factor. Mostly the problem is the business or law partners of a candidate. The candidate doesn't mind disclosing his interests, but his partners do mind when their names have to be recorded." August 8, 1976. 50

66. Results summarized in U. S. News and World Report, January 9, 1978, p. 64. 51

67. "Business" as used here is broadly conceived to include proprietors, bankers, and publishers but not farm owners. Fewer business people were elected to the house in 1970 than in 1972, but more than in 1978. Business representation has tended to fluctuate in recent years. 51

68. Illustrative is a summary article in the Daily Olympian, March 22, 1978. On the other hand the Seattle Times, May 8, 1978, editorially took to task what it called a "cynical evasion of the public disclosure law." It blamed a substantial number of public officials for their "cavalier attitude" and failure to file on time which cost the taxpayers thousands of dollars in extra office work. 52

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