



PUBLIC DISCLOSURE COMMISSION

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Regular Session Freeze Starts on December 12, 2009

The Regular Session Freeze will begin at 12:01 a.m. on Saturday, December 12, 2009. Contributions to a person holding state elected office must be made on or before Friday, December 11, 2009¹ The freeze period runs through the day of the regular legislative session's final adjournment, and is in effect during any special session. RCW 42.17.710

The freeze period for a non-incumbent, newly elected state office holder begins at 12:01 the day s/he is sworn into office.

The Public Disclosure Commission has implemented RCW 42.17.710, and a Supreme Court decision interpreting the law, by adopting WAC 390-17-400, Time Limit to Solicit or Accept Contributions. A copy of the rule is enclosed.

Please be aware that, during a legislative freeze period, **a state elected official may NOT solicit or accept contributions that:**

- go to an incumbent state official or known candidate for state or local office (including one's own campaign for state or local office in 2009, 2010 or beyond);
- go to a public office fund;
- are used to pay a non-reimbursed public office related expense;
- are used to retire a campaign debt;
- go to a caucus political committee if the committee spends the contributions for the benefit of incumbent state officials or known candidates; or
- go to a bona fide political party or another political committee if the party or committee spends the contributions for the benefit of incumbent state officials or known candidates.

"Known candidates" means individuals who are, or who become, candidates for state or local office during a legislative freeze period.

Caucus political committees and other persons who are employed by or act on behalf of state officials are also prohibited from soliciting or accepting contributions for the above purposes during a freeze period.

¹ Mailed contributions must be postmarked on or before Friday, December 11, 2009. Contributions delivered by means other than mail must be delivered to the recipient no later than Friday, December 11. Pledges can be made up through December 11, 2009 but they cannot be redeemed during the session freeze period.

During a freeze period, if state elected officials -- or caucus committee staff or anyone else acting on behalf of state elected officials -- solicit or accept contributions for a political party, caucus political committee or PAC, those funds must be deposited into a separate account and spent in a manner that does not benefit incumbents or known candidates. See the enclosed rule for more details.

Other Key Features of the Rule

- A successful candidate for state office who does not already hold state elective office is not required to comply with the freeze period provision until sworn into office.
- A current state elected official who will leave office in January will cease to be subject to the session freeze prohibition when his or her term expires, unless he or she assumes another state elected office or otherwise falls under RCW 42.17.710.
- The freeze prohibition does not apply to a state elected official who is raising money for his or her own campaign for federal office pursuant to federal election law.
- A state elected official who is also a candidate for state or local office may use personal funds or surplus funds to contribute to his or her own campaign during a freeze period.
- A state elected official is permitted to transfer surplus campaign funds to his or her own Surplus Funds Account during a freeze period.
- A caucus political committee may accept contributions from members of that caucus who use personal funds or surplus campaign funds to make the contributions. Further, these contributions from members could be used for any purpose; they do not need to be deposited into the caucus committee's freeze account.

Please contact Lori Anderson at (360) 664-2737, toll free 1-877-601-2828, or e-mail at landerson@pdc.wa.gov with questions.

Session Freeze Rules

WAC 390-17-400 Time Limit to Solicit or Accept Contributions. The purpose of this rule is to clarify and implement RCW 42.17.710.

(1) "**Campaign debt**," as used in RCW 42.17.710 and this rule, means any debt incurred by a candidate seeking election to a non-federal public office, including campaigns for state, county, city, town, school district, special district or other state political subdivision elective office.

(2) "**Known candidates**" means individuals who are, or who become, candidates for state or local office during a legislative session freeze period.

(3) "**Legislative session freeze period**" means the period of time in RCW 42.17.710 within which contributions shall not be solicited or accepted by a state official or a person employed by or acting on behalf of a state official.

(a) The freeze period begins at 12:01 a.m. on the thirtieth day before the start of the regular legislative session and ends on the day of adjournment of the regular legislative session.

(b) If a special session is held immediately following the end of the regular legislative session, the freeze period ends on the day the special session adjourns.

(c) If a special session is held other than within 30 days before a regular legislative session, the freeze period begins at 12:01 a.m. on the first day of the special session and ends at 11:59 p.m. on the final day of the special session.

(4) A successful candidate for state office who does not already hold a state office is not required to comply with RCW 42.17.710 until sworn into office.

(5) A state official must comply with RCW 42.17.710 until he or she no longer holds state office.

(6) "**Person employed by or acting on behalf of a state official**" includes a caucus political committee or any political committee financed or controlled by a legislative caucus as a whole or by one or more officers of a caucus political committee.

(7) **State Officials May Do the Following.** During a legislative session freeze period, the activities in which state officials may engage include, but are not limited to:

(a) soliciting or accepting contributions to assist his or her own campaign for federal office;

(b) accepting gifts or other items permitted under chapter 42.52 RCW, so long as the gift or other item is not

- a contribution to an incumbent state official or known candidate,
- a contribution to a public office fund,
- used to pay a non-reimbursed public office related expense, or
- used to retire a campaign debt;

- (c) attending and speaking at a fund raising event held by or on behalf of a bona fide political party, so long as the contributions raised are not earmarked or otherwise designated for any incumbent state official or known candidate;
- (d) transferring their own personal funds, as defined in WAC 390-17-305, or their own surplus funds, as defined in RCW 42.17.020, to their own campaign account, so long as the funds are properly reported;
- (e) soliciting or accepting contributions on behalf of a nonprofit charity; or
- (f) soliciting or accepting contributions on behalf of any political committee, including a caucus political committee, a bona fide political party or a ballot measure committee, so long as the political committee does not spend the contributions for the benefit of incumbent state officials or known candidates.

(8) **State Officials May Not Do the Following.** During a legislative session freeze period, a state official, or a person employed by or acting on behalf of a state official, may not solicit or accept contributions that:

- (a) go to an incumbent state official or known candidate;
- (b) go to a public office fund;
- (c) are used to pay a non-reimbursed public office related expense;
- (d) are used to retire a campaign debt;
- (e) go to a caucus political committee if the committee spends the contributions for the benefit of incumbent state officials or known candidates; or
- (f) go to a bona fide political party or a political committee if the political party or committee spends the contributions for the benefit of incumbent state officials or known candidates.

(9) **Caucus Political Committees.** During a legislative session freeze period, a caucus political committee

- (a) may solicit or accept contributions from caucus members if the members make the contributions with their own personal funds, as defined in WAC 390-17-305, or with their own surplus funds, as defined in RCW 42.17.020;
- (b) may not solicit or accept contributions for any of the purposes specified in subsection (8) of this rule.

(10) **Persons Acting on Behalf of State Officials.** During a legislative session freeze period, a person employed by or acting on behalf of a state official may not solicit or accept contributions for any of the purposes specified in subsection (8) of this rule.

(11) **Bona Fide Political Parties.** During a legislative session freeze period, a bona fide political party may not solicit or accept contributions that are

- used for a public office fund,
- used for a state official's non-reimbursed public office related expenses,
- used for retiring a state official's campaign debt, or
- earmarked contributions to specific incumbent state officials or known candidates.

However, a bona fide political party may solicit or accept contributions for its own fund raising purposes.

(12) **Segregating Session Freeze Funds.** During a legislative session freeze period, if a state official, a caucus political committee, or another person employed by or acting on behalf of a state official solicits or accepts contributions to

- a caucus political committee,
- a bona fide political party, or
- any political committee that supports or opposes state or local office candidates,

the contributions are presumed to violate RCW 42.17.710, unless the contributions are

- deposited into a separate bank account and
- not spent for the benefit of incumbent state officials or known candidates.

However, nothing in this subsection authorizes a state official, a caucus political committee or any person employed by or acting on behalf of a state official to take any of the actions prohibited by subsections (8) or (9)(b) of this rule.

(13) **Session Freeze Solicitations.** If a person is solicited for a contribution during the legislative session freeze period

- by a state official, a caucus political committee, or another person employed by or acting on behalf of a state official, and
- the contribution is to a caucus political committee, a bona fide political party, or a political committee that supports or opposes candidates for state or local office, and
- the person makes a contribution during or after the freeze period in response to this solicitation,

the contribution is subject RCW 42.17.710 and subsection (12) of this rule.

(14) **Spending Contributions to Benefit Incumbents or Known Candidates.** For purposes of complying with subsections (7)(f), (8)(e) and (f), and (12) of this rule, contributions are considered spent for the benefit of incumbent state officials or known candidates if the contributions are used at any time for one or more of the following purposes.

- (a) Contributions to incumbent state officials or known candidates.
- (b) Independent expenditures supporting incumbent state officials or known candidates, or opposing their opponents, whether or not the opponents are themselves known candidates during a legislative session freeze period.
- (c) Payments to staff, consultants or advisors for performing activities that directly assists or promotes the election of incumbent state officials or known candidates.
- (d) Polls or surveys that relate to incumbent state officials, known candidates or their districts, or to general voter attitudes or preferences, unless
 - a poll or survey is produced, conducted, tabulated and analyzed according to the terms of a written confidentiality agreement and, if the agreement is breached, all reasonable steps are taken to enforce it, and
 - the results of a poll or survey are not provided by the spender, or with the spender's permission or prior knowledge, to incumbent state officials, known candidates or their agents.

However, candidate recruitment poll or survey results may be provided to an individual who later becomes a known candidate without the expenditure

being considered as benefiting a known candidate so long as the poll or survey does not constitute a contribution to the individual or does not otherwise support or promote his or her election to state or local office.

For purposes of this subsection, a "candidate recruitment poll or survey" is a poll or survey that is conducted for the sole purpose of recruiting candidates to run for public office and only determines

- the respondent's party preference,
 - the level of support the incumbent currently has and how strong that support is, but not why he or she has that support,
 - whether respondents recognize the names of individuals who may decide to seek that elective office,
 - whether respondents currently hold a favorable opinion about these individuals, their abilities or fitness for elective office, but not why such opinions are held,
 - whether respondents would likely vote for one or more of these individuals were they to seek office, but not why respondents would vote in the manner they indicated or whether they could be persuaded to change their vote, and
 - the validity of the poll or survey results.
- (e) Any other expenditure that directly benefits or promotes the election to state or local office of incumbent state officials or known candidates.