



Washington State Public Disclosure Commission
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To: Commissioners, Washington State Public Disclosure Commission
From: Evelyn Fielding Lopez, Executive Director
Date: April 24, 2017
Re: Petition for Rulemaking

Petition for Rulemaking

On April 19, 2017, Conner Edwards filed a petition for rulemaking. See copy attached. The petition suggests creating proposed WAC 390-12-060 (within the agency's administrative procedure rules) as follows:

WAC 390-12-060

Personal financial affairs statement reminders

(1) Intent. It has been the longstanding policy of the Public Disclosure Commission to send notices out to candidates and elected/appointed officials, reminding them of their obligation to submit a statement of financial affairs.

These reminders are sent as a courtesy. Not receiving a reminder in no way lessens the obligation for elected and appointed officials to timely file an accurate statement of financial affairs with the Commission.

Due to the limited resources of the agency and the difficulty of maintaining an up-to-date database of the mailing addresses of thousands of elected and appointed officials, the Public Disclosure Commission has developed an alternative means to provide courtesy reminders.

(2) Process. If resources allow, courtesy reminders of financial affairs statement obligations will be sent using the following methods.

a) For Candidates.

At the time of filing for the ballot, the Office of the Secretary of State, and the respective county election authorities make available to the public a list of the names, addresses, and e-mail addresses of all candidates for public office. If resources allow, PDC staff will use this list to send courtesy notices to all candidates of their obligation to file their financial

affairs statement with two weeks of becoming a candidate.

If the candidate lists an e-mail address at the time of filing, the courtesy reminder will be sent electronically. If no e-mail address is available for the candidate, the reminder will be sent via US Mail.

b) For Elected/Appointed Officials.

If resources allow, the PDC staff shall send courtesy reminders for elected/appointed officials to the administrative staff of the agencies they serve on. The administrative staff of that agency will have the duty to forward the courtesy reminders to the elected/appointed officials they serve.

The contact/ mailing lists for these state/local agencies are available via the Secretary of State's office, the Department of Commerce's office, and many other state agencies. These notices to agencies should be sent electronically if an e-mail address is known by staff, or sent via US Mail if it is not.

If resources allow, the PDC staff may create an e-form on the PDC website that allows individuals who want electronic courtesy reminders to sign up for them using an e-mail address of their choosing.

(3) Construction. Nothing in this section shall be construed in any way to lessen or remove the obligation of candidates and elected/appointed officials to timely file an accurate statement of financial affairs, as required by RCW 42.17A.700.

Statutory Authority: RCW 42.17A.110, RCW 42.17A.700.

PDC Rule on Petitions for Rulemaking

The PDC rule on petitions for rulemaking at WAC 390-12-255 provides: Any person may submit a petition requesting the adoption, amendment or repeal of any rule by the commission, pursuant to RCW 34.05.330 [Administrative Procedure Act] and the uniform rules adopted by the office of financial management that are set forth in chapter 82-05 WAC.

Administrative Procedure Act

The Administrative Procedure Act (APA) at RCW 34.05.330(1) provides in pertinent part that: Within sixty days after submission of a petition, the agency shall either (a) deny the petition in writing, stating (i) its reasons for the denial, specifically addressing the concerns raised by the petitioner, and, where appropriate, (ii) the alternative means by which it will address the

concerns raised by the petitioner, or (b) initiate rule-making proceedings in accordance with RCW 34.05.320.

Recommendation

The Commission has 60 days to determine how to proceed with the petition, by denying it or initiating formal rulemaking. The petition will be added to the Commission's April 27, 2017 meeting for initial discussion.

Enclosures

Administrative Procedures Act (RCW 34.05.330)

Petition to Create Rule WAC 390-12-060

“Personal Financial Affairs Statement Reminders”

Introduction

To Whom It May Concern –

I am writing to request that the Public Disclosure Commission adopt a new rule, WAC 390-12-060 “Personal Financial Affairs Statement Reminders”.

This formal request is being made pursuant to the Administrative Procedures Act, specifically, RCW 34.05.330.

Proposed Rule

WAC 390-12-060

Personal financial affairs statement reminders

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These reminders are sent as a courtesy. Not receiving a reminder in no way lessens the obligation for elected and appointed officials to timely file an accurate statement of financial affairs with the Commission.

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Statutory Authority: RCW 42.17A.110, RCW 42.17A.700.

Explanation

This petition outlines the methods that the PDC can use to notify F1 filers of their legal obligations while at the same time curtailing the amount of staff resources that are spent to achieve this goal.

As mentioned in the previous PDC meeting with Mr. Swant (Walla Walla Port Commissioner), it is completely impossible for PDC staff to maintain an accurate database of the ever-changing names and addresses of all elected/appointed officials in Washington State.

In addition to standardizing the processes by which candidates are reminded of their obligation, this petition puts the burden (of reminding elected/appointed officials of their obligation) on the administrative staff for the agency the official serves on.

Instead of having PDC staff constantly update the names and mailing addresses for the thousands of elected officials in the state, the jurisdictions themselves would receive a F1 reminder, and they would have to communicate that message to all F1 filers within their own organization.

This is the appropriate place for the responsibility to lay, especially in light of the PDC's limited resources and broad mission. The ability and responsibility of accurately tracking the mailing addresses of elected/appointed officials falls most logically onto the administrative staff of that agency who work directly with the officials in question.

This rule also clarifies that elected officials are responsible for submitting their own F1s, regardless of whether or not they have received any reminder.

Agency savings will be reflected in decreases to both hard costs and staff time. The amount of money spent on postage will drop dramatically, as the number of items mailed goes down. Additionally, the number of employee time dedicated to F1 related matters will also drop, freeing them up to help in other areas, such as enforcement and tech development.

I also believe that this proposal will ensure more elected/appointed officials & candidates actually receive their reminders, reducing the number of staff-generated complaints and adjudicative proceedings.

Conclusion

This proposal will greatly save limited agency resources, allowing them to be put to better use furthering the mission of the PDC.

I urge the Commission to adopt my proposal at the next Commission meeting.

Please don't hesitate to contact me if you have any questions.

Best,

Conner Edwards
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