



PUBLIC DISCLOSURE COMMISSION

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To: Members, Washington State Public Disclosure Commission
From: Lori Anderson, Communications & Training Officer
Date: May 15, 2014
Re: Rule Making – May 22, 2014 Public Hearing – Mini Campaign Reporting

A public hearing is scheduled for the Commission's May 22, 2014 meeting, during which the following proposed rule amendments will be presented for public comment, consideration and possible adoption by the Commission:

WAC 390-16-105 Mini campaign reporting - Eligibility. The proposed amendment clarifies that a candidate or political committee who selects the mini reporting option when registering must comply with all provisions of RCW 42.17A, including disclosing contributions and expenditures as well as applicable contribution limits, upon failing to comply with the mini reporting thresholds.

WAC 390-16-125 Mini campaign reporting – Exceeding limitations. The amendment proposes the following substantive changes:

- The deadline for applying to change from mini reporting to full reporting will be changed from *30 business days before an election* to
 - *30 business days before an election other than the general election* and
 - *August 31* for the general election;
- The deadline for providing mini filers notice of the deadline to change reporting options will change from *forty business days before the election* to *two weeks before the application deadline*;
- The executive director will be given the discretion to approve an application to change reporting options received by the deadline but submitted after the applicant has exceeded the contribution or expenditure threshold, provided the applicant acknowledges a violation(s) of RCW 42.17A or WAC 390-17 and has demonstrated compliance with WAC 390-16-105(4), which would include amending the registration and filing accurate contribution and expenditure reports to disclose all transactions from the beginning of the campaign to the date of the application. The proposal includes a clause that the applicant would not be absolved from liability for any violation(s); and
- The various deadlines for submitting applications and materials to the Commission will be changed so that they are calculated based on the date they are *received* by the Commission rather than the day they are posted or delivered.

The draft language for the proposed rule amendments was considered and approved by the Commission at its February 27, 2014 meeting. The approved language was filed with the Code Reviser on March 21, 2014 along with notice of this hearing. The hearing date was also noted on the agency's rule making docket, which is linked on the agency website and Facebook page. No

comments have been received to date, beyond those submitted by Jim Lazar, which the Commission received and considered in February.

Action by the Commission. Staff requests the Commission adopt the proposed amendments to WACs 390-16-105 and 390-16-125. Once adopted, the rules are effective 31 days after filing with the Code Reviser. If the Commission adopts the proposals during the scheduled hearing, staff intends to file final order no later than Friday, May 23 so that the amendments take effect prior to the Commission's July 1 election-related rules moratorium.

Enclosures: Proposed Amendments to WACs 390-16-105, and 390-16-125

WAC 390-16-105 Mini campaign reporting-Eligibility. (1) A candidate or candidate's authorized committee, as those terms are defined in RCW 42.17A.005, (~~shall not be~~) is not required to comply with the provisions of RCW 42.17A.225 through 42.17A.240 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when both of the following conditions are present:

(a) Neither aggregate contributions nor aggregate expenditures exceed the amount of the candidate's filing fee provided by law plus a sum not to exceed five thousand dollars; and

(b) No contribution or contributions from any person other than the candidate (~~within such aggregate~~) exceed five hundred dollars in the aggregate. However, a bona fide political party may pay the candidate's filing fee provided by law without that payment disqualifying that candidate from eligibility under this section.

(2) A political committee, as that term is defined in RCW 42.17A.005, (~~shall not be~~) is not required to comply with the provisions of RCW 42.17A.225 through 42.17A.240 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when both of the following conditions are present:

(a) Neither aggregate contributions nor aggregate expenditures exceed five thousand dollars; and

(b) No contribution or contributions from any person exceed five hundred dollars in the aggregate.

(3) A continuing political committee, as that term is defined in RCW 42.17A.005, (~~shall not be~~) is not required to comply with the provisions of RCW 42.17A.225 through 42.17A.240 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when both of the following conditions are present:

(a) Neither aggregate contributions nor aggregate expenditures during a calendar year exceed five thousand dollars; and

(b) No contribution or contributions from any person exceed five hundred dollars in the aggregate.

(4) A candidate or political committee that exceeds one or both of the thresholds set out in this section after registering as a mini reporting campaign shall comply with the provisions of chapter 42.17A RCW, including, but not limited to, disclosure of contributions and expenditures, disclosure of last minute contributions, applicable contribution limits, false political advertising, sponsor identification and public inspection of campaign books of account.

(5) Candidates and political committees eligible for mini campaign reporting are required to comply with all applicable provisions of chapter 42.17A RCW including, but not limited to, false political advertising, sponsor identification and public inspection of campaign books of account unless specifically exempted under subsections (1) through (3) of this section.

WAC 390-16-125 Mini campaign reporting—Exceeding limitations.

(1) A candidate or political committee (~~shall~~) wishing to change from mini to full reporting must apply in writing to the commission for authorization to change reporting options before the limitations specified in WAC 390-16-105 are exceeded. A complete application shall include all of the following documents:

(a) An amended registration statement (Form C-1 for candidates, Form C-1pc for political committees) selecting the full reporting option as provided in RCW 42.17A.225 through 42.17A.240;

(b) PDC forms C-3 and C-4 with relevant schedules and attachments disclosing all contributions and expenditures to date reportable under RCW 42.17A.240 for the election campaign, or in the case of continuing political committees, for the calendar year; and

(c)(i) If the applicant is a candidate, a statement affirming that all candidates registered with the commission for the office being sought have been notified personally in writing of the application, and the manner and date of such notification;

(ii) If the applicant is the treasurer of a political committee supporting or opposing a ballot proposition, a statement affirming that all treasurers of all political committees registered with the commission as supporting or opposing the proposition have been notified personally in writing of the application, and the manner and date of such notification; or

(iii) If the applicant is the treasurer of a county or legislative district party committee, a statement affirming that the treasurer of that party committee's counterpart in any other major political party has been notified personally in writing of the application, and the manner and date of such notification.

(2) An application that is submitted without the required documents described in subsection (1) of this section is incomplete and will not be processed or approved. If the applicant provides the missing documents, the application will be determined to be complete on the date the documents are (~~postmarked or delivered to~~) received by the commission.

(3) If a complete application is (~~postmarked or delivered to~~) received by the commission on or before thirty business days prior to the date of (~~the~~) an election other than the general election, the executive director will approve the application (~~shall be approved by the executive director~~). An application to change reporting options before the general election must be received by the commission on or before August 31.

(4) If a complete application is (~~postmarked or delivered to~~) received by the commission on or after (~~twenty nine business days prior to the election~~) the deadlines set out in subsection (3) of this section, the executive director will approve the application (~~shall be approved by the executive director~~) only if one or more of the following factors are present:

(a) The applicant's campaign had its respective C-1 or C-1pc on file with the commission (~~forty one or more days before the election~~) when notice of the upcoming application deadline to change reporting options was sent and the commission staff did not send to the applicant's campaign in a timely and proper manner, either electronically or by other mail delivery service, a notice that the (~~thirtieth~~

~~business day~~) deadline for unrestricted changes in reporting options is approaching. To be timely and proper, this notice must be sent at least ~~((forty business days))~~ two weeks before the ~~((election))~~ application deadline to the campaign's electronic mail address or postal service mailing address specified on the registration statement;

(b) The applicant is a candidate and, ~~((within thirty business days of the election))~~ after the application deadline, a write-in opponent has filed for office in accordance with chapter 29A.24 RCW;

(c) ~~((Within thirty business days of the election))~~ After the application deadline, an independent expenditure as defined in RCW 42.17A.005 is made in support of the applicant's opponent or in opposition to the applicant; or

(d) When a candidate or political committee on one side of an election campaign or proposition has been approved to change reporting options under this section, each opponent of that candidate or political committee is approved to change options as of the date that ~~((opponent postmarks or delivers a))~~ opponent's complete application ~~((to))~~ is received by the commission.

(5) Exceeding the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 without complying with the provisions of this section ~~((shall))~~ constitutes one or more violations of chapter 42.17A RCW or 390-17 WAC.

(6) The executive director may approve an application to change reporting options after the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 have been exceeded only if the applicant (a) meets the deadlines provided in subsection (3) of this section; and (b) acknowledges the violation and demonstrates compliance with WAC 390-16-105(4). Approval of an application under this subsection does not absolve a candidate or political committee from liability for any violation or violations of subsection (5) of this section.