



State of Washington PUBLIC DISCLOSURE COMMISSION

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TO: Members, Public Disclosure Commission
FROM: Nancy Krier, General Counsel
DATE: October 20, 2011
SUBJECT: Contribution Limits and Redistricting – October 27, 2011 Meeting

Background

The State Redistricting Commission will submit a redistricting plan to the Legislature in January 2012. As occurred in the redistricting in 2002, this means there will be new (re-drawn) legislative district boundaries, resulting in potential new totals of registered voters in those districts. This also means those candidates will be seeking positions in districts with boundaries that differ from those currently in place. The number of registered voters will also change in counties and cities, although county and city geographical boundaries themselves will not change.

Certain contribution limits in RCW 42.17/42.17A are calculated based upon the number of registered voters in a candidate's jurisdiction in the last general election. In 2002 the Commission adopted PDC Interpretation 02-01 to address those legislative limits during the year following redistricting and until a general election is held under the new plan. Two rules impacting candidates were also discussed in 2002.

Agenda Item

The Commission is being asked to consider amending Interpretation 02-01 to address the 2012 redistricting, and to consider contribution limit changes in RCW 42.17 since 2002. The Commission is also being advised again of the two rules impacting candidates seeking office in a district with revised boundaries. You are being provided: (1) this background memo and the limits statutes, (2) the former Interim Executive Director's memo, and (3) proposed amendments to Interpretation 02-01.

Redistricting Overview

Every 10 years a national census is conducted. The data is supplied to states for many purposes including to enable states to determine if their legislative and congressional districts need to be adjusted, based on the new census figures. In Washington that task is conducted by a citizen commission. RCW 44.05. By January 1, the Redistricting Commission is to submit a redistricting plan to the Legislature. The Legislature has 30 days to act in any regular or special session, including to amend the plan. The final plan is effective until the next decennial census or until a modified plan takes effect. Therefore, after the 2010 census, the first election with the re-drawn boundaries is in 2012. All 49 state legislative districts are impacted,

presumably some more than others,¹ and a new 10th congressional district will also be created.² Other local redistricting efforts are also underway.³

Contribution Limits

Campaign contribution limits are provided in RCW 42.17.640/42.17A.405.⁴ See attached. Subsection (4) provides limits for bona fide political parties and caucus political committees in an amount “multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected” or multiplied by the number of “registered voters in the jurisdiction from which the candidate is elected...” Subsection (5) concerns their limits for recalls, also based on registered voters. Subsection (6) reads:

For purposes of determining contribution limits under subsections (4) and (5) of this section, **the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.** (Emphasis added).

Past Application of PDC Contribution Limits Statute in the Year after Redistricting - 2002

The Commission implements RCW 42.17/RCW 42.17A. RCW 42.17.640/42.17A.405 provides contribution limits. However, the statute does not direct or otherwise explain how the statute is to be implemented during redistricting years (until a general election under the new plan is held). In 2002, therefore, the Commission interpreted 42.17.640 for the purpose of analyzing contribution limits for legislative candidates subject to limit. In 2002, I advised that the Commission could read the “general election” language in .640 in two ways⁵:

- (1) one could attempt to read the statute to address only the registered voters in the *old* (former) “jurisdiction” or legislative district; or,
- (2) one could read the statute to say that during redistricting years, the way to interpret “jurisdiction” for the purposes of the election in the legislative district from which the candidate is to be elected” is the *new* jurisdiction.

Under option (2), I advised that the PDC could use the “number of eligible registered voters” in the *new* jurisdiction during the transition year because there is no “most recent general election” with the new legislative district’s voter numbers that is yet available. One year would have to pass before there is a “most recent general election” that utilized the new legislative district lines. At that time I advised that the

¹ For example, under four proposals unveiled by the Redistricting Commission in September, the 18th legislative district would lose Cowlitz County. “Redistricting Commission releases proposals to redraw the state’s political map,” *The Columbian*, Sept. 13, 2011.

² In 2012, a new congressional district is being created due to Washington’s population growth and the subsequent reapportionment of congressional seats, according to the Redistricting Commission’s website at <http://www.redistricting.wa.gov/>.

³ For example, the Pierce County Auditor’s website describes:

County Council, City Districts and School Director Districts are redrawn every ten years to ensure districts are equal in population to provide equal representation to all citizens. Washington State’s Legislative and Congressional district boundaries are redrawn every 10 years following the United States Census.

When the district boundaries are final, the County Auditor draws precinct lines and assigns voters to their new precinct. The new precincts are based upon the new districts and voter registration counts for each precinct. The precincts are created by combining census blocks which follow or align with the new district boundaries. The Auditor’s office has a very short timeframe, in the spring of 2012, to finalize the new precincts, notify voters and to prepare for candidate filing week in May 2012. Precinct boundaries must be final by April 30, 2012.

<http://www.co.pierce.wa.us/pc/abtus/ourorg/aud/elections/redistrictfags.htm>

⁴ RCW 42.17.640 is recodified at RCW 42.17A.405 effective January 1, 2012. See discussion in Statutory Changes section.

⁵ The “registered voters” and “general election” language was in RCW 42.17.640 as of 2002, and still remains, although the subsections containing the language were later renumbered and recodified.

better and more logical way *for the PDC's purposes* was to read the statute as in option (2) because it calculated limits for the district from which the legislative candidate was actually running. In my view, that interpretation implemented the statute to the extent possible in the transition year where new legislative district boundaries were going into effect and when .640 did not direct or explain what is to happen during that time.⁶

The Commission adopted the reading provided in option (2) and formalized it in Interpretation 02-01, setting a June 30 calculation date for the number of registered voters. The June 30 date was selected at that time because the Commission was informed that by June 2002, the county auditors would have data available on the number of registered voters in each of the new legislative districts.

Statutory Changes in RCW 42.17.640 Since 2002

Since 2002, RCW 42.17.640 has been amended as follows:

- 2005 → Dollar limits were amended.
- 2006 → Limits were added for county offices in a county that has over 200,000 registered voters, and for port districts with over 200,000 registered voters. (Also, RCW 42.17.645 was added to create contribution limits for judicial officers; however, those limits are “per person” and are not tied to a registered voter count.)
- 2010 → Dollar limits were amended again, all county office candidates were made subject to limits (not just those in counties with over 200,000 registered voters), candidates for city council offices and mayoral offices were made subject to limits, and RCW 42.17 was recodified to RCW 42.17A effective January 1, 2012.

New Issue in 2012 – Local Candidates

A new issue in 2012 is how to apply/calculate the limits for local candidates during this redistricting transition year. This was not an issue in 2002 because there were no such local limits enforced by the Commission. More specifically, the question presented is how to interpret the statute's reference to the “jurisdiction” for local elections (i.e. whether it means the geographic boundary of the entire city or county in which a local election is held, or whether it means the more narrow boundary of the precinct, ward or district within a city or county from which a particular local position is elected.)

As previously described, the “jurisdiction” in which **legislative candidates** run is the **legislative district**, for the purposes of applying contribution limits. To date, for purposes of implementing local limits, the PDC has viewed the “jurisdiction” in which a **local candidate** runs as the boundaries of the **political subdivision** (city, county). Therefore, a county council candidate is entitled to receive contributions from political parties and caucus committees based upon the number of registered voters in the entire county, not based upon his or her particular internal precinct or district. Assuming the Commission continues this approach, the “jurisdiction” will not change for those candidates even after state or local redistricting, regardless of whether the boundaries of a particular precinct, ward or district within a city or county may change. Under this approach, the number of registered voters from the last general election in the city or county would continue to be used to calculate contribution limits for all local elections within the city or county.

⁶ In 2002, I also referenced 2012 as the next redistricting year when a new plan would be submitted.

Recommendation for 2012

Staff recommends the Commission:

- Take the same approach (option (2)) for 2012 and amend the interpretation accordingly for legislative candidates during this transition year;
- Include a time period of May 14, 2012 to use to calculate the number of registered voters for legislative districts during this transition year (see memo of the former Interim Executive Director); and,
- Determine if it wants to use the numbers of registered voters as of the last general election for local candidates during this transition year and until the next general election.

Enclosures: RCW 42.17.640 and RCW 42.17A.405 (highlighted)
Proposed Amendments to Interpretation 02-01