



State of Washington PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdpc.wa.gov

To: Members, Washington State Public Disclosure Commission
From: Nancy Krier, General Counsel
Date: May 14, 2013
Re: Public Hearing – Amendments to WAC 390-17-100 to Permit Employee Electronic Signatures and Electronic Authorizations on Payroll Deduction Forms for Political Contributions – May 22, 2013 Commission Meeting

Agenda

On May 22, 2013, the Commission is scheduled to hold a public hearing on proposed amendments to WAC 390-17-100 *Contribution Withholding Authorizations*. The amendments would allow an employee's electronic authorization to qualify as a "written request" directing payroll deductions for political contributions. The amendments provide other updates to the rule to improve readability.

Background

The Commission has been reviewing WAC 390-17-100 this year, at the request of a stakeholder, to determine if the rule should be updated to accommodate electronic payroll deductions for political contributions. The Commission approved proposed amendments to update the rule at its March 28 meeting, directing staff to file the proposals with the Code Reviser and to schedule a public hearing.

Proposed Amendments - WAC 390-17-100

Enclosed are the proposed amendments. If adopted, they would make the following changes to the rule:

- *Subsection (1)*: Improves readability.
- *Subsection (2)*: Describes that payroll deductions can be in an electronic format, and provides an alternative to the "signature" verification by the individual so long as it is reliable and secure. Adds a reference to "candidate" to improve readability and be more consistent with subsection (1)(b) and RCW 42.17A.495(3).¹
- *Subsection (3)*: Describes that forms that satisfy subsection (2) constitute the written authorization by the individual.
- *Subsection (4)*: Confirms the statutory requirement for retention and inspection of the forms.

¹ RCW 42.17A.495(3) provides in pertinent part that "No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees *or for use as political contributions* except upon the written request of the employee." (Emphasis added).

The rulemaking discussion has recognized that an electronic format for such payroll deductions is optional (a permitted alternative). Payroll/wage deduction systems may vary among employers and entities, and some may not accommodate an electronic process.

Next Step

Once adopted, the amendments become effective 31 days after filing with the Code Reviser.

Enclosure: Proposed Amendments to WAC 390-17-100

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-100 Contribution withholding authorizations. (1) Each employer or other person who withholds or otherwise diverts a portion of wages or salary of a Washington resident or a nonresident whose primary place of work is in the state of Washington ~~((~~or~~))~~ shall have on file the individual's written authorization before withholding or diverting the individual's wages or salary for:

(a) ~~((For))~~ The purpose of making one or more contributions to any political committee required to report pursuant to RCW 42.17A.205, 42.17A.215, 42.17A.225, 42.17A.235 or 42.17A.240; or

(b) ~~((For))~~ Use, specifically designated by the contributing employee, for political contributions to candidates for state or local office ~~((is required for (a) and (b) of this subsection to have on file the written authorization of the individual subject to the payroll withholding or diversion of wages))~~.

(2) Forms used for payroll deduction may either conform to the suggested format below or be in a different format including an electronic format if it provides the following information:

(a) The name of the individual authorizing the withholding or diversion;

(b) The name of the individual's employer;

(c) The name of each political committee or candidate for which contributions are to be withheld;

(d) If more than one political committee or candidate is specified, the total dollar amount per pay period (or per week, month or year) to be withheld for each committee or candidate;

(e) A statement specifying that the authorization may be revoked at any time and such revocation shall be in writing;

(f) A statement that reads: "No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee"; or a statement that informs the employee of the prohibition against employer and labor organization discrimination described in RCW 42.17A.495;

(g) The individual's signature or other reliable and secure verification that the individual is authorizing the withholding or diversion; and

(h) The date on which the form was completed.

(3) Forms used for payroll deduction may have information in addition to that listed ~~((above))~~ in subsection (2) of this section. A form that satisfies subsection (2) of this section constitutes the written authorization of the individual authorizing the withholding or diversion.

(4) Employers and other persons who withhold or divert wages or salaries must:

(a) Maintain the completed forms, with the individual's signature or verification, for as long as the withholding or diversion continues;

(b) Keep the forms and other documents described in RCW 42.17A.495(4) open for public inspection for three years after the last disbursement of wages or salaries; and

(c) Provide the forms and other documents described in RCW 42.17A.495(4) to the commission upon request.

Political Contribution Withholding Authorization

No employer or other person may withhold a portion of a Washington State resident's earnings (or that of a nonresident whose primary place of work is in Washington) in order to make contributions to a political committee that must report to the Public Disclosure Commission or to a candidate for state or local office without written permission from that individual. Completion of this form entitles the entity specified to make such a withholding. This authorization form remains in effect until revoked in writing by the employee.

I, _____, authorize _____
First Name Middle Initial Last Name Name of Employer or Other Person
_____ to withhold \$ _____ per/pay period/week/month/year/
Amount Circle One
from my earnings in order to make political contributions to _____
Name of

_____ political committee(s) and/or candidate(s) to receive deductions

If more than one recipient is indicated, each is to receive the following portion of the deduction made: _____.

Signature: _____ **Date:** _____

According to state law, no employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.