



Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

Licensing & Administrative Law Division


5th Floor Highways Licenses Building • PO Box 40110 • Olympia WA 98504-0110

Phone: (360) 753-2702

MEMORANDUM

February 14, 2002

TO: Vicki Rippie
Executive Director
Public Disclosure Commission

FROM: Nancy Krier
Assistant Attorney General 
Ph: 586-2780; nancyk1@atg.wa.gov

SUBJECT: **RCW 42.17.640(5) CONTRIBUTION LIMITS AND NEW LEGISLATIVE DISTRICTS**

You asked me to review RCW 42.17.640(5) prior to the February 2002 Public Disclosure Commission meeting with respect to its application in light of the recent redistricting plan submitted to the Legislature by the State Redistricting Commission. Here is my analysis.

Background on Redistricting

Every 10 years, a national census is conducted. The data is provided to states for many purposes, including to enable the states to examine their legislative and congressional districts to determine if they need to be adjusted, based upon the new census figures. In Washington, after 1983, that task is conducted by a citizen commission appointed by legislative leadership. RCW 44.05.030. The commission looks at districts to draw lines so that "districts shall have a population as nearly as equal as practicable," taking various factors into account. RCW 44.05.090. Following the 2000 national census, per chapter 44.05 RCW and the State Constitution, the Redistricting Commission submitted a redistricting plan by January 1 to the Legislature to adjust state legislative and congressional boundaries to reflect changes in the state's population. RCW 44.05.100 (recently amended).¹ The Legislature has 30 days to act. RCW 44.05.120(5). Once the plan is final, "This plan shall be in force until the effective date of the plan based upon the next succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6)." Therefore, the first elections in which the new voting boundaries will be used will be for fall 2002 elections.

PDC Contribution Limits Statute

One of the PDC's campaign contribution limits statutes, which was a result of Initiative 134 (approved November 1992), is codified at RCW 42.17.640. See attachment. Subsection (3) of that law sets a campaign contribution limit by political parties or caucus political committees

¹ Chapter 4, 2002 Laws (amending RCW 44.05.100).



ATTORNEY GENERAL OF WASHINGTON

February 14, 2002

Page 2

to candidates at an amount to be "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 (4) addresses similar contribution limits for recall campaigns (which I will not discuss in more detail in this memo, since you are looking to 2002 elections). Subsection (5) of this same law reads as follows:

For purposes of determining contribution limits under subsections (3) and (4) 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.**

RCW 42.17.640(5) (emphasis added).

Application of PDC Statute to Redistricting

The Commission has the authority to implement those subsections of RCW 42.17 that it enforces. RCW 42.17.360(7). The Commission therefore implements RCW 42.17.640. Subsection (5) of that statute does not direct or otherwise explain how the statute is to be implemented during redistricting years. The Commission may therefore interpret this statute in order to apply it during the 2002 elections.

In order to implement this statute for the fall 2002 election campaigns, one could attempt to read the statute to address only the number of registered voters in the old (former) "jurisdiction" or district. This would have the illogical result, however, of attempting to use old and no longer viable district lines for new district elections.

A better and more logical way to read the statute is as follows. During redistricting years (where new plans are submitted --- 2002, 2012, etc.), the way to interpret the "jurisdiction" for the purposes of the election in the district "from which the candidate [is to be] elected" is the *new* jurisdiction. That new jurisdiction is the new district drawn pursuant to RCW 44.05. In other words, to calculate contribution limits for the 2002 elections under RCW 42.17.640(5), the PDC could take the "number of eligible registered voters" in the *new* jurisdiction (from which the candidate is to be elected), because there is no "most recent general election" with the new district numbers that is available. One year will have to pass before there is a "most recent general election" that utilized the new district lines.

In my opinion, *for the PDC's purposes*, the latter is the reasonable, although admittedly a bit awkward, interpretation of RCW 42.17.640(5). In my opinion, RCW 42.17.640 is generally forward-looking as because it sets limits for campaigns in elections yet to be held (see. e.g., RCW 42.17.640(1), which addresses ballots and write-in candidates). This interpretation is logical, and also gives effect to the redistricting plan for the PDC's purposes. This is because in my view this interpretation implements the plan so it can be utilized for calculating contribution limits in the legislative district "from which the candidate *is to be* elected" for each district where a legislator is running a campaign in 2002. In sum, this interpretation applies the statute to the extent possible, in this transition year where new districts are going into effect and where the statute failed to otherwise direct or explain what is to happen during redistricting years.

It is my understanding that sometime in about June of this year, county auditors will have data available on what is the number of registered voters in each of the new districts. The Commission may use those numbers to calculate the contribution limits of RCW 42.17.640 for the 2002 elections.

ATTORNEY GENERAL OF WASHINGTON

February 14, 2002

Page 3

If you have any questions, please do not hesitate to contact me.

NJK:jb

Attachment

RCW 42.17.640

Limits specified -- Exemptions.

(1) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office that in the aggregate exceed *five hundred dollars or to a candidate for a state office other than a state legislative office that in the aggregate exceed *one thousand dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, during a recall campaign that in the aggregate exceed *five hundred dollars if for a state legislative office or *one thousand dollars if for a state office other than a state legislative office.

(3)(a) Notwithstanding subsection (1) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) ***fifty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected** if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ***twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected** if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ***twenty-five cents times the number of registered voters in the jurisdiction from which the candidate is elected**.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, during a recall campaign that in the aggregate exceed (i) ***fifty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official** if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ***twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected** if the contributor is a county central committee or a legislative district committee.

(b) No state official against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making

expenditures in support of the recall of a state official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed *twenty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(5) For purposes of determining contribution limits under subsections (3) and (4) 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.

(6) Notwithstanding subsections (1) through (4) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed *five hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed *two thousand five hundred dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(7) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate, or of a state official against whom recall charges have been filed, is considered to be a contribution to the candidate or state official.

(8) A contribution received within the twelve-month period after a recall election concerning a state office is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(9) The contributions allowed by subsection (2) of this section are in addition to those allowed by subsection (1) of this section, and the contributions allowed by subsection (4) of this section are in addition to those allowed by subsection (3) of this section.

(10) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in a state office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(11) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(12) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate, state official against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of a state official if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the state official.

(13) No person may accept contributions that exceed the contribution limitations provided in this section.

(14) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates.

[2001 c 208 § 1; 1995 c 397 § 20; 1993 c 2 § 4 (Initiative Measure No. 134, approved November 3, 1992).]

NOTES:

*Reviser's note: The monetary amounts in this section have been adjusted for inflation by rule of the commission adopted under the authority of RCW 42.17.690. For current dollar amounts, see chapter 390-05 of the Washington Administration Code (WAC).

(Emphasis added).