

Enforcement of RCW 42.17A & PDC's Proposal to Eliminate CANs

Since the adoption of I-276, the Citizen Action provision has provided an important outlet for individuals to take meaningful action to enforce our state's campaign finance laws.

Unfortunately, the emergency rules to implement ESHB 2938 as drafted would remove this important check and balance on the campaign finance system. A check and balance that is overwhelmingly supported by members of the public and the media. This is accomplished by providing for pro forma "initial hearings" within 90 days of receipt of a complaint. These hearings – as currently defined -- **do not require adjudication or even any meaningful action taken by the PDC to resolve the violation.** Under the new proposed rules, the PDC will be able to block Citizen Actions by merely claiming to have taken action.

When someone files a material complaint alleging violation of RCW 42.17A or WAC 390, the PDC takes months or more usually years to resolve it. There is no communication with complainants or the public. Increasingly, PDC staff are generating "warning letters" against candidates and committees who have committed material violations, ignoring both the penalty schedule prescribed by the Commission in WAC 390-37-143 and their responsibility to ensure compliance with RCW 42.17A. *(See attached e-mail thread).*

Compliance with RCW 42.17A and WAC 390 requires a significant amount of time, energy, and -- for some -- money for a professional treasurer. When there is no timely, meaningful enforcement action taken against those who violate the law, there is simply no incentive to comply with the law and file timely, accurate reports with the PDC.

The citizen action provision (poised to be eliminated by the Commission) allows members of the public to take serious and timely action in superior court to stop the violation and fine the violators. Removing the Citizen Action provision significantly weakens voter approved campaign finance laws by allowing complaints to drag on for years without any resolution.

Many other states with strong campaign finance laws have similar provisions allowing ex. rel or equivalent actions. The Attorney General's Office has written persuasively to preserve this important facet of our campaign finance law. *(See attached letter from the Attorney General's office.)*

These emergency rules have been drafted without any meaningful public input or solicitations from the stakeholder community. Specifically, the rules on initial hearings and general enforcement are being rushed through on the assumption that RCW 42.17A.110(1) prevents them from being adopted at a later date. If the PDC's legal counsel really believes this to be the case, they should explain why at an open forum.

Until they have been thoroughly vetted by the public and the stakeholder community, the proposed emergency rules to implement ESHB 2938 should be tabled, preserving the voter approved citizen action provision.

Best,

Conner Edwards