



## PUBLIC DISCLOSURE COMMISSION

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To: Members, Washington State Public Disclosure Commission  
From: Lori Anderson, Communications & Training Officer  
Date: February 21, 2013  
Re: Discussion and Possible Approval of Draft Language to Amend WACs 390-12-170, 390-19-030, and 390-24-160 – February 28, 2013 Commission Meeting

Presented for your consideration during the February 28, 2013 meeting is draft language for proposals to amend the following three rules:

- 1. WAC 390-12-170 Public Disclosure Commission – Organization and structure – Officers – Terms.** The proposed change will delete “secretary” from the Commission’s prescribed offices in keeping with the current practice of electing only a chair and vice-chair.
- 2. WAC 390-19-030 Electronic Filing – Reporting Threshold.** Beginning in 2002, candidates were required to electronically file contribution and expenditure reports upon spending or expecting to spend \$25,000.<sup>1</sup> The spending threshold has been lowered over the years and is currently \$5,000. The Commission was aware that candidates had concerns about mandatory E-filing, so when “expects to spend” was defined in 2001, a returning candidate who had run for the same office before and spent \$25,000 was allowed to wait to begin E-filing until the election year or until \$25,000 was spent on the current campaign, whichever happened first. The concerns about E-filing have since subsided, and most returning candidates E-file from the start of the campaign, even when the election is two or four years away. When that doesn’t happen and a state office candidate manually files reports, they are data entered by PDC staff. Requiring a returning candidate who reached the spending threshold in the last campaign to E-file from the start of the campaign will make the data accessible to the public more quickly and will conserve staff resources.
- 3. WAC 390-24-160 Definition – Professional staff member.** The PDC staff annually requests a list of professional staff members from the governor, senate, and house of representatives, so that the Commission can properly and fairly enforce the personal financial affairs disclosure requirement (F-1 report). By rule, the lists are supposed to be received in time for the Commission to approve them during the December meeting. As you witnessed this year, it’s not always possible to get the lists in time for the December meeting because the governor and legislature are often still hiring staff for the upcoming legislative session. Staff is consequently asking that the deadline be changed to January. Staff also requests that you consider removing the Commission’s “approval” from the process. Staff suggests a revised process that calls for the lists to be presented to the Commission when received in

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<sup>1</sup> Ch. 237, Laws of 2000.

January and posted on the PDC's website to aid both the public and the affected professional staff in knowing who has an F-1 filing requirement. In addition to asking for the lists each December, under the suggested revision, the governor, senate, and house would be expected to provide updated lists to the PDC when necessary throughout the year to reflect changes in professional staff.

### **Action by the Commission**

Staff is requesting the Commission approve the draft language for the proposed amendments. If the draft language is approved, the proposed amendments will be filed with the Code Reviser's Office and a public hearing will be scheduled at a future meeting.

Attachments: Draft amendment to WAC 390-12-170  
Draft amendment to WAC 390-19-030  
Draft amendment to WAC 390-24-160

**WAC 390-12-170 Public disclosure commission--Organization and structure--Officers--Terms.** The officers of the public disclosure commission for administrative purposes shall be chair((~~7~~)) and vice-chair(~~(--and secretary)~~). Their terms shall be one year or until a successor is elected.

[Statutory Authority: RCW 42.17.370. 93-19-034, § 390-12-170, filed 9/7/93, effective 10/8/93. Statutory Authority: RCW 42.17.370(1). 85-15-020 (Order 85-03), § 390-12-170, filed 7/9/85; Order 62, § 390-12-170, filed 8/26/75; Order 14, § 390-12-170, filed 7/31/73.]

**WAC 390-19-030 Electronic filing--Reporting threshold. (1)**

The "electronic reporting threshold" that requires electronic filing of all contribution and expenditure reports is met when a candidate or political committee has expended \$5,000 or more in the preceding calendar year or expects to expend \$5,000 or more in the current calendar year.

(2) It is presumed that a filer "expects to expend" \$5,000 or more when any one of the following first occurs:

(a) A filer spends at least \$5,000;

(b) A filer is a candidate for the same office last sought(~~(the filer's election is in the current calendar year,~~) and his or her campaign expenditures in the previous election for the same office were \$5,000 or more;

(c) A filer's expenditures meet or exceed \$1,250 on or before March 31 of the current calendar year;

(d) A filer's expenditures meet or exceed \$2,500 on or before June 30 of the current calendar year;

(e) A filer's expenditures meet or exceed \$3,750 on or before September 30 of the current calendar year; or

(f) A filer otherwise projects that \$5,000 or more will be spent during the current calendar year.

(3) The following expenditures or transactions are excluded from the electronic reporting threshold calculation:

(a) Expenditures made to pay outstanding debts carried forward from a previous election;

(b) Surplus funds disposed of in accordance with RCW 42.17A.430;  
and

(c) The value of in-kind contributions pledged or received  
within eight days of a special or general election.

(4) Candidate committees or political committees supporting or  
opposing ballot propositions that meet, exceed or expect to meet or  
exceed the electronic reporting threshold shall report  
electronically for the duration of the campaign.

[Statutory Authority: RCW 42.17.130 and 42.17.093. 12-01-047, §  
390-19-030, filed 12/14/11, effective 1/14/12. Statutory  
Authority: RCW 42.17.370(1). 10-20-011, § 390-19-030, filed  
9/24/10, effective 10/25/10. Statutory Authority: RCW 42.17.370.  
05-11-001, § 390-19-030, filed 5/4/05, effective 6/4/05. Statutory  
Authority: RCW 42.17.370(1). 04-01-130, § 390-19-030, filed  
12/18/03, effective 1/18/04. Statutory Authority: RCW 42.17.370.  
01-22-052, § 390-19-030, filed 10/31/01, effective 1/1/02.]

**WAC 390-24-160 Definition--Professional staff member.** (1) A professional staff member of the office of the governor and of the legislature includes all individuals retained on a full or part-time basis whose primary responsibilities require the exercise of judgment and discretion in policy related matters, including, but not limited to, such individuals who are involved in the development of legislation. A professional staff member does not include individuals retained primarily for clerical, ministerial, or internal accounting and bookkeeping purposes.

~~(2) ((To insure that the provisions of Referendum 36 and this rule are properly and fairly administered and to provide guidance to affected individuals, the commission, through its chair and executive director, shall confer annually in December with the governor, the secretary of the senate and the clerk of the house regarding the specific professional staff members believed to fall within the criteria set forth in subsection (1) of this section. The executive director shall submit a report of those conferences to the commission at its December meeting for approval, disapproval or modification, or other determination. Each determination shall be based on an annual review of the positions and personnel to be retained by the affected governmental bodies during the ensuing year and shall constitute the commission's administrative interpretation of the term "professional staff member" in RCW 42.17A.705 (2) and (3) and its application to such positions and personnel.))~~ The

Commission needs a complete and accurate list of professional staff  
WAC (2/20/13 10:22 AM) [ 1 ]

members of the governor, the senate, and the house of representatives, in order to properly and fairly administer the personal financial affairs disclosure requirements applicable to executive state officers as defined in RCW 42.17A.705. Each December, the Executive Director shall ask the governor, the secretary of the senate, and the clerk of the house to provide the Commission by January 15, the names and positions of the professional staff members meeting the criteria set forth in subsection (1) of this section who are expected to be retained during the ensuing year, and to provide periodic updates throughout the year as necessary to reflect changes in professional staff. The Executive Director will present to the Commission the lists of professional staff members received from the governor, senate, and house of representatives and post the lists on the Commission's website.

[Statutory Authority: RCW 42.17A.110. 12-03-002, § 390-24-160, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.390. 94-05-010, § 390-24-160, filed 2/3/94, effective 3/6/94. Statutory Authority: RCW 42.17.370(1). 86-08-030 (Order 86-02), § 390-24-160, filed 3/26/86; Order 88, § 390-24-160, filed 12/29/76.]