

Kfritts

reported via email, 13 days ago (Tue, 24 Sep 2019 at 9:47 AM)

to:

"PDC Support" <pdcc@pdcc.wa.gov>

PDC rule-making team:

I was just made aware this morning about the request for written comments by COB today for the proposed rules for implementation of ESHB 1379.

I have concerns about the obligations of committees to seek and determine a relevant and timely list of secondary contributors (meaning contributors to the major donors to said PAC) for purposes of calculating the Top 3 if that information isn't publicly available via the PDC Web site. This will have particular pertinence to out-of-state committees that do not file contribution information with the PDC and thus report information to different entities under an entirely different set of guidelines on an entirely different timeline, or are under no obligation to publicly report to other entities at all.

It has been suggested that it would be incumbent on a committee that is doing activity to contact all of its PAC donors prior to communication in order to acquire a list of their Top 3 donors, and then contact all of the major PAC donors to those entities, and so on, in advance of each communication, in order to properly calculate and disclose the Top 5/Top 3 information. However, this is unworkable for a number of reasons, including the fact that it assumes an immediate and accurate response provided by all contributors. Furthermore, it will be impossible for other outside observers to hold the PAC accountable for proper disclosure; those entities would be unlikely to have access to the same information from the different PACs when seeking to determine whether the information was accurately disclosed. If left undefined and not tied directly to information that is publicly available at the time when the communication is being published, then the system put in place will lead both to numerous false complaints or (more likely) no way for the general public or for third parties to hold PACs accountable for the contributor information that is being disclosed.

I believe that the state Legislature considered this when drafting/passing ESHB 1379, and thus inserted language in Section 2(4) that provides a strong suggestion that the sponsor should be able to rely upon information reported to the PDC:

1. (4) The sponsor shall not be liable for a violation of this
2. 9 section that occurs because a contribution to any political committee
3. 10 identified under subsection (1) of this section has not been reported
4. 11 to the commission.

I do not believe that the specificity of the way in which sponsors obtain information about the contributions made to PAC donors is addressed in the proposed rules, but it would be important for the WAC to state specifically that sponsors of communication are under obligation to determine additional layers of donations only insofar as those entities have filed that information with the PDC or another public agency.

Since I am unable to appear at the ESHB 1379 rule-making hearing on September 26, I wanted to submit these comments in writing. However, I am available to discuss further if so desired. Thank you for your consideration.

Sincerely,

Kurt Fritts

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