



PUBLIC DISCLOSURE COMMISSION

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To: Members, Washington State Public Disclosure Commission
From: Lori Anderson, Communications & Training Officer
Date: September 18, 2014
Re: September 2014 Commission Meeting – Continued Discussion Regarding Disclosing Lobbying Expenditures Pertaining to Receptions and Possible Approval of Draft Language for Proposed New WAC 390-20-020A and Proposed Amendments to WACs 390-20-020 and 390-24-010

At its September 25 meeting, the Commission will resume discussing possible alternatives for disclosing lobbying expenditures made in connection with legislative receptions. Included in this memo are staff's recommendations for the Commission's consideration. Draft language for potential rule making is also included for consideration and possible approval.

BACKGROUND

PDC Interpretation 96-03 and the current lobbyist reporting instructions call for receptions to be disclosed as a type of entertainment. RCW 42.17A.615 provides that an entertainment expenditure of more than \$25 must be itemized by date, place, amount, and the names of all persons taking part in the entertainment, along with the dollar amount attributable to each person. RCW 42.17A.615(2)(a).

In December 2013, the Commission, at the request of stakeholders, began work to develop an alternative method for reporting receptions.

Progress

Staff's work to date has included:

- Facilitating a November 2013 stakeholder meeting;
- Discussions with Legislative Ethics Board staff;
- Researching other states' practices;
- Monitoring the Legislative Ethics Board rule making related to the Ethics Act's "infrequent meals" allowance; and
- Periodic progress reports to the Commission.

The Commission recently described its view that a reception is *an opportunity for legislators to meet with constituents, an obligation or customary duty of holding office* rather than entertainment. Furthermore, the Commission expressed its view that the role of a single

legislator at a reception is minor considering the scale of the event and the number of participants.

During the May and July 2014 meetings, the Commission began to define the criteria for a reception that may qualify for alternative disclosure requirements. The criteria set so far are:

- The sponsor/host is not a lobbyist, but may be a lobbyist employer,
- Individuals other than legislators, lobbyists, and lobbyist employers attend,
- The event is social in nature, and
- Food and beverage may be served, but not a sit-down meal.

Additional criteria identified by the Commission as necessary, but not yet determined are:

- The minimum number of legislators that must attend the reception; and
- An identifiable group or body must be invited.

The Commission has also determined that once the criteria are finalized, lobbyists will be required to disclose the following information for qualifying receptions: total cost, date held, sponsor's name, and attendees' names. No per-person attribution will be required.

COMMISSION ACTION

◆ **The Commission must finalize its definition of “reception” for disclosure purposes.**

◆ **Staff Recommendations.**

In addition to the criteria already selected by the Commission, staff recommends the Commission add the following two requirements:

- **Twenty (20) legislators or their representatives must attend the event.** Staff believes 20 is a fitting number, considering the Commission's previous comments about the size and scale of a reception in contrast to other types of food and beverage events. Twenty is a relatively high bar, though, so staff recommends counting legislators *or* their representatives, since it is customary for a legislator to ask staff or a family member to stand in for him or her when scheduling conflicts prevent the legislator from personally attending.
- **Invitations must be extended to the entire legislature, all members of a chamber, or any of the two largest caucuses recognized in each chamber.** Public comments have included examples of events staged for legislative committees, particular committee members, and other legislative bodies. Staff believes, however, that limiting subsets to a chamber or any of the two largest caucuses recognized in each chamber is in keeping with the Commission's opinion that a reception is a social event and not intended to be an opportunity for in-depth discussion between a lobbyist and legislator about a particular issue.

These recommendations are based on the Commission's discussion and comments received. The Commission may wish to make revisions, such as identifying other groups or identifiable bodies. The Commission may also wish to make revisions to allow executive branch receptions to be disclosed in the same manner as legislative receptions.

◆ **Rule Making.**

In order to implement the Commission's chosen alternative disclosure method for disclosing expenditures for receptions, the Commission will need to amend both its forms and its rules.

◇ **Staff Recommendations.**

Form Changes:

- Amend WAC 390-20-020 Forms for lobbyist report of expenditures (L-2 form), to include instructions for disclosing receptions.
- Amend WAC 390-24-010 Forms for statement of financial affairs (F-1 form) to instruct filers to exclude qualifying receptions from the "Food, Travel, Seminars" section of the F-1 Supplement. Currently, the F-1 form requires filers to disclose each occasion when food and beverage exceeding \$50 was received from a source other than their own agency. Both the Ethics Act and RCW 42.17A require state officers and state employees to disclose "gifts in the form of food and beverage that exceed \$50 on a single occasion" as allowed by the Ethics Act. This requirement is intended to capture infrequent meals, not food and beverage served at a reception.¹ Furthermore, the Commission has heard a significant amount of public comment regarding food and beverage offered at a reception compared to what is actually consumed. Those comments support the recommended form revision. Finally, staff believes relieving qualifying reception attendees of this disclosure requirement will not deprive the public of any significant data.

¹ The Ethics Act provides:

(2) [T]he following items are presumed not to influence under [RCW 42.52.140](#) and may be accepted without regard to the [\$50 per calendar year] limit established by subsection (1) of this section: . . .

(f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties; . . .

(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in chapter RCW 42.17A RCW.

[RCW 42.52.150](#).

The Public Disclosure law provides:

(1) The statement of financial affairs required by RCW 42.17A.700 shall disclose the following information for the reporting individual and each member of his or her immediate family:

(l) A list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of fifty dollars was accepted under RCW 42.52.150(5).

[RCW 42.17A.710](#).

NOTE: In June, the Commission approved draft language to adjust for inflation the dollar codes used to disclose monetary values on the F-1 report. The public hearing to consider those proposed amendments was planned for the September meeting, but has been postponed so that the Commission may consider these additional changes.

Additional Rule Making.

- Convert PDC Interpretation 96-03 to rule. The L-2 form has such limited room that adding instructions and describing the reception criteria would be difficult. Staff suggests that the Commission adopt a companion rule, WAC 390-20-020A, in which the reception criteria would be described. Staff also recommends that the Commission revise the guidance offered in PDC Interpretation 96-03, *L-2 Reporting Guide for Entertainment, Travel and Educational Expenses*. The interpretation has served as useful guidance for many years. In light of the Commission's decision to exclude certain receptions from the type of "entertainment" for which the law requires per person attribution of costs, Interpretation 96-03 will need to be amended. Staff believes it would be appropriate to adopt the revised interpretation as a rule given the long-standing nature of the guidance and the extensive stakeholder involvement that has gone into the development of the new approach to receptions. Alternatively, the Commission could simply amend Interpretation 96-03 and adopt a stand-alone definition of "receptions" for the purpose of excluding them from the per-person attribution reporting requirements for "entertainment" under RCW 42.17A.615(2).

◆ **Draft rule language.**

Draft language for proposed new WAC 390-20-020A and proposed amendments to WACs 390-20-020 and 390-24-010 is attached for the Commission's consideration. The staff requests that the Commission approve the draft language for the proposed rules.

Rule Making Timeline.

In order for any form revisions to be in place by February 2015 (when reports of January 2015 lobbying expenditures are due) and holding to the Commission's regular meeting schedule, the hearing to consider possible adoption should be held December 4. This would require adhering to the following timeline:

September 25, 2014	Commission approves draft language for rules.
October 21, 2014	State Register deadline for filing hearing notice.
December 4, 2014	Public hearing to consider possible adoption.
December 31, 2014	State Register deadline for filing adopted rules.
February 1, 2015	Proposed rules take effect.

Attachments: Draft language for proposed amendments to WACs 390-20-020 and 390-24-010 and proposed new WAC 390-20-020A

L2
2/15

Lobbyist Monthly Expense Report

(as required by Chapter 397, 1995 Session Laws)

1. Lobbyist Name		Mailing Address		City State Zip + 4		New Address? <input type="checkbox"/> Yes <input type="checkbox"/> No	
2. This report is for the period _____ (Month) _____ (Year)		This report corrects or amends the report for _____ (Month) _____ (Year)		Business Telephone () -			

ALL COMPLETE THIS PART			COMPLETE IF YOU HAVE MORE THAN ONE EMPLOYER		
Include all reportable expenditures by lobbyist and lobbyist's employer for or on behalf of the lobbyist incurred during the reporting period			Amount attributed to each employer		
Expense Category	TOTAL AMOUNT THIS MONTH All employers plus own expense (Columns a + b + c + d and attached pages)	Amounts paid from lobbyist's own funds, not reimbursed or attributed to an employer. Column A	Employer No. ____ Column B	Employer No. ____ Column C	Employer No. ____ Column D
3. COMPENSATION earned from employer for lobbying this period (salary, wages, retainer)	\$		\$	\$	\$
4. PERSONAL EXPENSES for travel, food and refreshments		\$			
5. ENTERTAINMENT, GRATUITIES, TRAVEL, SEMINARS for state officials, employees, their families (See #15)					
6. CONTRIBUTIONS to elected officials, candidates and political committees (See #16)					
7. ADVERTISING, PRINTING, INFORMATIONAL LITERATURE					
8. POLITICAL ADS, PUBLIC RELATIONS, POLLING, TELEMARKETING, ETC. (See #17)					
9. OTHER EXPENSES AND SERVICES (See #18)					
10. TOTAL COMPENSATION AND EXPENSES INCURRED THIS MONTH	\$	\$	\$	\$	\$

(Attach additional page(s) if you lobby for more than three employers.)

11. EMPLOYERS' NAMES
- No. ____ (B)
- No. ____ (C)
- No. ____ (D)

12. Subject matter of proposed legislation or other legislative activity or rulemaking the lobbyist was supporting or opposing.

Subject Matter, Issue or Bill No.
Legislative Committee or State Agency Considering Matter
Employer Represented

Continued on attached pages

13. Of the time spent lobbying, what percentage was devoted to lobbying: the Legislature _____% State Agencies _____%.

14. TERMINATION: (COMPLETE THIS ITEM ONLY IF YOU WISH TO TERMINATE YOUR REGISTRATION)

Date registration ends: _____ Employer's name: _____

I understand that an L-2 report is required for any month or portion thereof in which I am a registered lobbyist. I also understand that once I have terminated my registration, I must file a new registration prior to lobbying for that employer in the future. All registrations terminate automatically on the second Monday in January of each odd numbered year.

CERTIFICATION

I certify that this report is true and complete to the best of my knowledge.	<table style="width: 100%; border: none;"> <tr> <td style="border: none; width: 80%;">LOBBYIST SIGNATURE</td> <td style="border: none; width: 20%;">DATE</td> </tr> </table>	LOBBYIST SIGNATURE	DATE
LOBBYIST SIGNATURE	DATE		

CONTINUE ON REVERSE

Lobbyist Name _____

Reporting Period _____ (Month) _____ (Year)

15. Itemize all of the following expenditures that were incurred by lobbyist or lobbyist employer(s) for legislators, state officials, state employees and members of their immediate families. **In the total amount column, show the total amount spent for each occasion including any staging costs, tax, and gratuity. Also show the actual amount spent entertaining each individual, as shown in the example. ((When reporting a reception or similar event, show the amount fairly attributed to each individual.))**

- Entertainment expenditures exceeding \$50 per occasion (including lobbyist's expense) for meals, beverages, tickets, passes, or for other forms of entertainment.
- Receptions. See WAC 390-20-020A to determine if per person cost is required.
- Travel, lodging and subsistence expenses in connection with a speech, presentation, appearance, trade mission, seminar or educational program.
- Enrollment and course fees in connection with a seminar or educational program.

Lobbyists must provide an elected official with a copy of the L-2 or Memo Report if the lobbyist reports: 1) spending on one occasion over \$50 for food or beverages for the official and/or his or her family member(s); or 2) providing travel, lodging, subsistence expenses or enrollment or course fees for the official and, if permitted, the official's family.

Date mm/dd/year	Names of all Persons Entertained or Provided Travel, etc. Include actual amounts spent for entertainment <i>Example: Sen Bow (\$32), Rep Arrow (\$28), and J. D. Lobbyist (\$36) tax & gratuity (\$25.41)</i>	Description, Place, etc.	Sponsoring Employer	Total Amount \$
		<i>Dinner at Anthony's, Olympia</i>	<i>XYZ Corporation</i>	<i>\$121.41</i>
N/A	Total expenses itemized on attached Memo Reports →			

Continued on attached pages.

16. If a monetary or in-kind contribution exceeding \$25 was given or transmitted by the lobbyist to any of the following, itemize the contribution below or on a Memo Report: local and state candidates or elected officials; local and state officers or employees; political committees supporting or opposing any candidate, elected official, officer or employee or any local or state ballot proposition. If a contribution exceeding \$25 was given to the following, itemize the contribution below: a caucus political committee; a political party; or a grass roots lobbying campaign.

Date	Name of Individual or Committee Receiving Contribution	Source of Contribution	Amount \$
N/A	Total contributions itemized on attached Memo Reports →		

If contributions were made directly by a political action committee associated, affiliated or sponsored by your employer, show name of the PAC below. (Information reported by PAC on C-4 report need not be again included in this L-2 report.)

Continued on attached pages. PAC Name: _____

17. Expenditures for: a) political advertising supporting or opposing a state or local candidate or ballot measure; or b) public relations, telemarketing, polling or similar activities that directly or indirectly are lobbying-related must be itemized by amount, vendor or person receiving payment, and a brief description of the activity. Itemize each expenditure on an attached page that also shows lobbyist name and report date. Put the aggregate total of these expenditures on line 8.

18. Payments by the lobbyist for other lobbying expenses and services, including payments to subcontract lobbyists, expert witnesses and others retained to provide lobbying services or assistance in lobbying and payments for grass roots lobbying campaigns (except advertising/printing costs listed in Item 7).

Date	Recipient's Name and Address	Employer for Whom Expense was Incurred	Amount \$

Continued on attached page.

PROVIDE INFORMATION FOR YOURSELF, SPOUSE, REGISTERED DOMESTIC PARTNER, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD

Last Name	First	Middle Initial	DATE
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A OFFICE HELD, BUSINESS INTERESTS: Provide the following information if, during the reporting period, you, your spouse, registered domestic partner or dependents

- (1) were an officer, director, general partner, trustee, or 10 percent or more owner of a corporation, non-profit organization, union, partnership, joint venture or other entity; and/or
- (2) were a partner or member of a limited partnership, limited liability partnership, limited liability company or similar entity, including but not limited to a professional limited liability company.

- Legal Name: Report name used on legal documents establishing the entity.
- Trade or Operating Name: Report name used for business purposes if different from the legal name.
- Position or Percent of Ownership: The office, title and/or percent of ownership held.
- Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered.
- Payments from Governmental Unit: If the governmental unit in which you hold or seek office made payments to the business entity concerning which you're reporting, show the purpose of each payment and the actual amount received.
- Payments from Business Customers and Other Government Agencies: List each corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity and each government agency (other than the one you seek/hold office) which paid compensation of \$12,000 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation.
- Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met.

ENTITY NO. 1 Reporting For: Self Spouse

Registered Domestic Partner Dependent

LEGAL NAME: POSITION OR PERCENT OF OWNERSHIP

TRADE OR OPERATING NAME:

ADDRESS:

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:
 Purpose of payments Amount (actual dollars)
 \$

PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$12,000 OR MORE:
 Agency name: Purpose of payment (amount not required)

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$12,000 OR MORE
 Customer name: Purpose of payment (amount not required)

WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$24,000. List street address, assessor parcel number, or legal description and county for each parcel):

Check here if continued on attached sheet

CONTINUE PARTS B AND C ON NEXT PAGE

Name

ENTITY NO. 2

Reporting For: Self Spouse

Registered Domestic Partner Dependent

LEGAL NAME:

POSITION OR PERCENT OF OWNERSHIP

TRADE OR OPERATING NAME:

ADDRESS:

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:

Purpose of payments

Amount (actual dollars)

\$

PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$12,000 OR MORE:

Agency name:

Purpose of payment (amount not required)

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$12,000 OR MORE

Customer name:

Purpose of payment (amount not required)

WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$24,000. List street address, assessor parcel number, or legal description and county for each parcel):

Check here if continued on attached sheet

B LOBBYING: List persons for whom you, or any immediate family member, including registered domestic partner, lobbied or prepared state legislation or state rules, rates, or standards for compensation or deferred compensation. Do not list pay from government body in which you are an elected official or professional staff member.

Person to Whom Services Rendered	Description of Legislation, Rules, Etc.	Compensation (Use Code)
Check here <input type="checkbox"/> if continued on attached sheet		

C FOOD TRAVEL SEMINARS Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse, registered domestic partner or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion, excluding certain receptions as defined in WAC 390-20-020A; 2) Travel occasions; or 3) Seminars, educational programs or other training.

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	
Check here <input type="checkbox"/> if continued on attached sheet				

NEW

WAC 390-20-020A

L-2 Reporting Guide

For Entertainment, Receptions, Travel and Educational Expenditures

Typical Expenditures* (Only permitted if receipt could not reasonably be expected to influence the performance of the officer's or employee's official duties.)	Expense Included on Line 5	Expense Included on Line 15	Give Copy of L-2 or Memo Report to Elected Official
Entertaining State Officials, Employees or Their Families:			
<input type="checkbox"/> Any type of entertainment occasion costing \$50 or less	Yes	No	No
<input type="checkbox"/> Breakfast, lunch or dinner for legislator or other state official or employee [singly, or in conjunction with family member(s)] and total cost for occasion is: <ul style="list-style-type: none"> o \$50 or less o More than \$50, and amount attributable to legislator/family is more than \$50 	Yes Yes	No Yes	No Yes
<input type="checkbox"/> Tickets to theater, sporting events, etc. costing \$50 or less	Yes	Yes	No
<input type="checkbox"/> Golf outing at which no more than \$50 was spent on each official, including any member(s) of the official's family	Yes	Yes	No
Receptions:			
<input type="checkbox"/> Reception to which the entire legislature, all members of a chamber, or any of the two largest caucuses recognized in each chamber are invited and is: <ul style="list-style-type: none"> o Sponsored by a person other than a lobbyist; o Attended by individuals other than legislators, lobbyists, and lobbyist employers; o A social event; o Does not include a sit-down meal; and o Attended by at least 20 legislators or their representatives. 	Yes	Yes, except that a per-person cost is not required	No
<input type="checkbox"/> All other receptions	Yes	Yes	Yes, if the food and beverage cost for the legislator and family members exceeds \$50
Travel-Related Expenditures for Officials, Employees:			
<input type="checkbox"/> Travel, lodging, meals for office-related appearance or speech at lobbyist employer's annual conference	Yes	Yes	Yes
<input type="checkbox"/> Travel, lodging, meals for office-related tour of lobbyist employer's manufacturing plant or other facility	Yes	Yes	Yes

Educational Expenditures for Officials, Employees:			
<input type="checkbox"/> Travel, lodging, meals, tuition to attend seminar sponsored by non-profit organization	Yes	Yes	Yes
Other Lobbying-Related Items:			
<input type="checkbox"/> Flowers costing any amount to officials, staff and/or family	Yes	No	No
<input type="checkbox"/> Candy costing \$50 or less per official or employee	Yes	No	No
<input type="checkbox"/> Golf balls, coffee cups or other promotional Items	Yes	No	No
<input type="checkbox"/> Fruit baskets costing \$50 or less per official or employee	Yes	No	No
Note: References to employees or staff do not constitute authority to provide impermissible items to regulatory, contracting or purchasing employees.			