



State of Washington PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

TO: Members, Public Disclosure Commission
FROM: Nancy Krier, General Counsel
DATE: May 16, 2013
SUBJECT: Public Hearing on Proposed Rules Re Campaign Activities on the Internet
- Title 390 WAC – May 22, 2013 Meeting

Agenda Item

On May 22, the Commission is scheduled to hold a public hearing on proposed rule language in Title 390 WAC to address Internet campaigning. Those rules are: WAC 390-05-290, WAC 390-05-520, WAC 390-18-015, WAC 390-18-030 and WAC 390-17-405. This memo provides background, a summary of the proposed rule language, recent information from stakeholders, a staff suggestion for an editing change to one proposal, and a description of next steps.

Background

2007. In 2007, the Commission adopted Interpretation 07-04 (*Campaign Activities on the Internet*) to provide guidance on online campaign activities. At that time, the Commission noted it may update the guidance in the future, and/or amend its rules if needed to address developments in the law or in technology use by campaigns.

2012. Since May 2012, the Commission has reviewed background materials and possible updates to Interpretation 07-04 to reflect current use of technology in state campaigns, notifying the public of these activities. See enclosed chart. The discussion continued in June, August, September and December. The June discussion included a PowerPoint presentation giving examples of online ads. A copy is included again with this memo, with additional slides showing a Washington State campaign's Google ads.

2013. In January 2013, the Commission noted that several rules referenced in the interpretation could benefit from being updated. In February, the Commission agreed to consider updating several of its rules and described its approach in that rulemaking. In March, the Commission gathered more information and reviewed draft possible amended rules and a draft possible new rule in Title 390 WAC, providing feedback to staff on the drafts. The Commission described its goal to update the rules by June 30 to address Internet campaign activity, since such activity is ongoing and increasing.¹ In April, the Commission approved proposed rule language to be filed with the Code Reviser and it directed staff to schedule a hearing on the proposals in May.

¹ RCW 42.17A.110(1) provides that "Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year..."

Title 390 WAC – Summary of Proposed Amendments and Proposed New Rule

POLITICAL ADVERTISING

WAC 390-05-290 Definition - Political advertising. Currently, this rule explains what is not political advertising. *Proposed amendments* →

- Explain what is political advertising under RCW 42.17A.005(36).
- Define the statutory phrase “mass communication” and describe other terms.
- Define “online.”
- Update exclusions from what is political advertising (letters to the editor, other examples where payment is not normally required).

PERIODICAL

WAC 390-05-520 Periodical. Currently, this rule defines periodical. *Proposed amendments* →

- Define “periodical” to include online publications, except for electioneering communications.
- Clarify that a periodical is issued at least once every three months.

ONLINE POLITICAL ADVERTISING

New Rule – WAC 390-18-015 Online political advertising. This proposed new rule would provide more information about disclaimers and other disclosure requirements in RCW 42.17A.320, as applied to online political advertising. *The proposed new rule would* →

- Explain that the disclaimer and other disclosure requirements apply to online ads, unless exempted by statute or rule.
- Explain that a candidate’s party preference must be included in online ads.
- Explain the requirements for ads that originally run in one format (paper, radio, TV) but are also distributed online, or distributed only online.
- Explain that the sponsor’s name and address must be included on political committee websites, and other websites sponsored for the purpose of appealing, directly or indirectly, for votes or for financial or other support in an election campaign.
- Explain that small online ads can use automatic displays described in WAC 390-18-030 when ad size limits make full compliance with the required disclosures in RCW 42.17A.320 impractical.

EXEMPTIONS FROM SPONSOR IDENTIFICATION

WAC 390-18-030 Advertising — Exemptions from identification. Currently, this rule provides a list of ads where sponsor ID is not required because it is impractical (skywriting, potholders, small newspaper ads, many others). *Proposed amendments* →

- Add a reference to small online newspaper ads and other small online ads.
- Describe the criteria for alternative disclosures in online ads, where including all the information required by RCW 42.17A.320 in the ad is impractical due to the online provider's space or character limits.
- Provide examples of alternative disclosures in online ads.
- Describe the criteria that must be satisfied before sponsor ID is not required for individuals using their own modest resources to produce and distribute political advertising.
- Add a reference to internal political communications.

VOLUNTEER SERVICES

WAC 390-17-405 Volunteer services. Currently, this rule explains more details regarding volunteer services to a campaign. *Proposed amendments* →

- Add website and online activities to the list of common campaign activities by volunteers, so long as the individual does not ordinarily charge a fee for the service.

Stakeholders

As summarized in the attached chart, notice of this activity has been provided to the public and stakeholders. Stakeholder input received to date has been reviewed by the Commission as this topic has progressed.

In addition, two stakeholders contacted staff after the Commission approved proposed language in April. They may also attend the May 22 public hearing and provide comment. They include:

- **Jay Arnold, Technology Director at FUSE.** He asked a question concerning proposed amendments to WAC 390-18-030(3). He explained that FUSE has been following this issue the past year and is generally supportive. His current question concerns the proposed alternative disclosure mechanisms permissible for small online ads that have character or space limits (proposed WAC 390-18-030(3)(b)). For example, he describes this is relevant to online search ads. See enclosure. The proposed amendment reads (yellow highlighting added):

(3) Online political advertising must provide the same disclosures that apply to non-online advertising to the extent practical. As an alternative, small online advertising with character or size limits imposed by the provider in a manner that makes full compliance with RCW 42.17A.320 impractical may provide the required disclosures by using an automatic display with the advertising that takes the reader directly to the required disclosures.

(a) These automatic displays must be clear and conspicuous, unavoidable, immediately visible, remain visible for at least four seconds, and display a color contrast as to be legible.

Online advertising that includes only audio must include the disclosures in a manner that is clearly spoken.

(b) Examples include nonblockable pop-ups, roll-overs, a separate text box or link that automatically appear with or in the advertising, or other similar mechanisms that disclose the information required in RCW 42.17A.320.

Mr. Arnold explained that a “link” to the disclosures works a bit differently than an automatic “pop-up” or “roll-over” because the reader must click on the link to get to another site (sometimes called a “landing page.”) He inquired if that process would be acceptable under the rule, even though the proposed language does not specifically describe that the link must be to a “landing page” or other website.

Staff explained that the intent was to provide for a link to a landing page or other website location where the disclosures required by RCW 42.17A.320 are directly available (that is, without having to navigate through a website or be directed to yet another website.). Staff also explained that they intended to prepare updated brochures and other materials for campaigns and the public to describe the new rules if adopted, and could provide some examples in those materials.

- **Dimitri Iglitzin, Attorney.** Mr. Iglitzin represents labor organizations. He had spoken with Mr. Arnold on the same subject described above. He has also sent an email, with suggested changes to clarify the proposed amendments WAC 390-18-015 and WAC 390-18-030. See enclosure. Staff has discussed these suggestions with Mr. Iglitzin, and will provide more information at the hearing.

Mr. Iglitzin has also indicated he will have other comments at the hearing with respect to character/space limits “imposed by the provider” as that phrase is used in the proposed amendments to WAC 390-18-030. For example, he inquired about a campaign choosing to provide some of its ads on a platform that has certain character/space limits, even though other platforms of the provider may have fewer character/space limits but at a higher cost. He inquired whether that platform choice constituted character/space limits imposed by the provider, or constitutes an option selected by the campaign.

Note: The Administrative Procedure Act requires that an agency may not adopt a rule that is “substantially different” from the proposed rule filed with the Code Reviser unless it either: (1) files a supplemental notice and re-opens the rulemaking proceedings, or takes other steps to begin the rulemaking anew; or, (2) explains the changes (other than editing changes) in a brief description filed with the order of adoption and the reasons for the changes, so long as the subject of the rulemaking remains the same. See RCW 34.05.430, enclosed, for more details.

One Possible Clarification – Staff Suggestion

After filing the proposals, staff also noted one possible editing change to WAC 390-18-030 that will improve the rule and incorporate the intended effect. Section (4) of that rule concerns online political advertising by individuals using their own modest resources. The proposal currently reads:

(4) Political advertising created and distributed by an individual using his or her own modest resources is not required to provide the disclosures in RCW 42.17A.320, when all of the following criteria are satisfied:

(a) The individual spends less than one hundred dollars in the aggregate to produce and distribute the advertising or less than fifty dollars to produce and distribute online political advertising;

...

The highlighted phrase, “in the aggregate” was intended to modify both the \$100 and \$50 amounts, not just the \$100 amount. Therefore, staff suggests the phrase be moved to the grammatically correct location in the proposal, so the rule would read:

(4) Political advertising created and distributed by an individual using his or her own modest resources is not required to provide the disclosures in RCW 42.17A.320, when all of the following criteria are satisfied:

(a) The individual spends in the aggregate less than one hundred dollars to produce and distribute the advertising or less than fifty dollars to produce and distribute online political advertising;

Staff believes this editing change accurately reflects the intent of the rule, is grammatically more correct, and is not a substantial change.

Next Steps

As previously noted, if the rule language is adopted, it will be effective by June 30. If the rule language is adopted, prior to June 30, staff will prepare additional notices to the public and stakeholders to describe the rules. Staff will also be preparing updates to agency materials such as manuals, brochures, as well as draft updates to Interpretation 07-04 for Commission review.

At the Commission’s June 27 meeting, staff will plan to review more information with the Commission about these outreach efforts and review proposed updates to Interpretation 07-04.

Enclosures: Chart Summarizing Public Notices 2012-2013
Proposed Amendments and Proposed New Rule
Recent Stakeholder Comments
PowerPoint
APA - RCW 34.05.430

**Summary of Public Notices
2012-2013**

PDC Internet Political Advertising Rulemaking - Summary of Public Notices 2012-2013

Year/ Month	<i>Topics, Notices, Meetings</i>
2012	
May	<ul style="list-style-type: none"> • <i>Evolving technology & campaigns; Interpretation 07-04 (& Internet contributions).</i> May 24 agenda & materials posted on website. • Agenda sent in advance of meeting to stakeholders via email. • May 24 Commission public meeting held. Streamed on Internet. • Minutes posted on website after Commission meeting.
June	<ul style="list-style-type: none"> • <i>Online political advertising (& Internet/text message contributions)</i> – email sent to stakeholders, inviting comments. • <i>Evolving technology & campaigns; Interpretation 07-04.</i> June 28 agenda & materials posted on website. • Agenda sent in advance of meeting to stakeholders via email. • June 28 Commission public meeting held. Streamed on Internet. • Minutes posted on website after Commission meeting.
August	<ul style="list-style-type: none"> • <i>Evolving technology & campaigns; Interpretation 07-04.</i> August 23 agenda & materials posted on website. • Agenda sent in advance of meeting to stakeholders via email. • August 28 Commission public meeting held. Streamed on Internet. • Minutes posted on website after Commission meeting.
September	<ul style="list-style-type: none"> • <i>Evolving technology & campaigns; Interpretation 07-04.</i> September 27 agenda & materials posted on website. Materials included staff inquiry on whether Commission wanted to initiate rulemaking. • Agenda sent to stakeholders in advance of meetings via email. • September 27 Commission public meeting held. Streamed on Internet. • Minutes posted on website after Commission meeting. • <i>Sponsor identification requirements for political advertising campaign activities on the Internet</i> - Preliminary notice (Preproposal Statement of Inquiry) filed September 18 with Code Reviser and published in <i>Washington State Register</i> (available on Code Reviser's website). WSR 12-19-074. Notice described that the Commission may consider rules to strengthen sponsor identification requirements for political advertising and is reviewing its interpretive statement concerning campaign activities on the Internet. Public comments invited.
October	<ul style="list-style-type: none"> • <i>Campaign activities on Internet (& text message contributions)</i> - via email, staff requested additional stakeholder input and provided notice of November 14 stakeholder meeting.
November	<ul style="list-style-type: none"> • <i>Campaign activities on Internet (& text message contributions).</i> November 14 stakeholder meeting rescheduled to December 4.
December	<ul style="list-style-type: none"> • <i>Campaign activities on Internet (& text message contributions).</i> Stakeholder meeting held December 4. • <i>Evolving technology & campaigns; Interpretation 07-04 (& text message contributions).</i> December 6 agenda & materials posted on website. Materials included staff inquiry on whether Commission wanted to initiate rulemaking. • Agenda sent to stakeholders in advance of meeting via email. • Additional notice of December 6 meeting sent via email to stakeholders that participated in December 4 stakeholder meeting. • December 6 Commission public meeting held. Streamed on Internet.

	<ul style="list-style-type: none"> • Minutes posted on website after Commission meeting.
2013	
January	<ul style="list-style-type: none"> • <i>Evolving technology & campaigns; Interpretation 07-04.</i> January 24 agenda & materials posted on website. • Agenda sent to stakeholders in advance of meeting via email. • Additional notice of January 24 meeting sent via email to stakeholders that participated in December 4 stakeholder meeting. • January 24 Commission public meeting held. Streamed on Internet. • Minutes posted on website after Commission meeting. Minutes reflected that discussion noted several of the rules referenced in Interpretation 07-04 could benefit from being updated.
February	<ul style="list-style-type: none"> • <i>Rulemaking – Internet campaign activities – possible rulemaking in Title 390 WAC.</i> February 28 agenda & materials posted on website. Materials included possible approach in rulemaking. • Agenda sent to stakeholders in advance of meeting via email. • Additional notice of February 28 meeting sent via email to stakeholders that participated in December 4 stakeholder meeting. • Additional anticipated rulemaking notice posted on website under “Rulemaking Activity 2013.” • February 28 Commission public meeting held. Streamed on Internet. • Minutes posted on website after Commission meeting.
March	<ul style="list-style-type: none"> • <i>Rulemaking – Draft possible amendments to Title 390 WAC regarding Internet campaign activity (amended rules and possible new rule).</i> March 28 agenda & materials posted on website. • Agenda sent to stakeholders in advance of meeting via email. • Additional notice of March 28 meeting sent via email to stakeholders that participated in December 4 stakeholder meeting • Additional anticipated rulemaking notice posted on website under “Rulemaking Activity 2013.” • March 28 Commission public meeting held. Streamed on Internet • Minutes posted on website after Commission meeting.
April	<ul style="list-style-type: none"> • <i>Rulemaking – Draft proposed amendments to Title 390 WAC and possible new rule regarding Internet campaign activity).</i> April 11 agenda & materials posted on website. • Agenda sent to stakeholders in advance of meeting via email. • Additional notice of April 11 meeting sent via email to stakeholders that participated in December 4 stakeholder meeting • Additional anticipated rulemaking notice posted on website under “Rulemaking Activity 2013.” • April 11 Commission public meeting held. Streamed on Internet. Proposed rules approved for filing and for scheduling of adoption at public hearing May 22. • Minutes posted on website after Commission meeting. • Proposed rules (Proposed Rulemaking Notice) filed with Code Reviser on April 15 and published in <i>Washington State Register</i> (available on Code Reviser's website). WSR 13-09-049. Public hearing and date of intended adoption scheduled for May 22. Public comments invited.
May– Anticipated Activities	<ul style="list-style-type: none"> • <i>Rulemaking – Public hearing - Proposed amendments to Title 390 WAC and possible new rule regarding Internet campaign activity.</i> May 22 agenda & materials will be posted on website. • Additional rulemaking notice posted on website under “2013 Rulemaking Docket – Public Disclosure Commission” (notice updated May 2) • Agenda will be sent stakeholders in advance of meeting via email. • Additional notice of May 22 meeting will be sent via email to stakeholders that participated in December 4 stakeholder meeting • May 22 meeting and public hearing will be streamed on Internet. • Minutes will be posted on website after Commission meeting. • If adopted, rules filed with Code Reviser after May 22 meeting, for publication in <i>Washington State Register</i> and for an effective date by June 30.

Proposed Rules

(Amendments & New Rule)

- **Political Advertising (WAC 390-05-290)**
- **Periodical (WAC 390-05-520)**
- **Online Political Advertising (New Rule – WAC 390-18-015)**
- **Exemptions from Sponsor Identification (WAC 390-18-030)**
- **Volunteer Services (WAC 390-17-405)**

AMENDATORY SECTION (Amending Order 85-03, filed 7/9/85)

WAC 390-05-290 (~~(Definition--)~~) **Political advertising definitions.** (1) "Mass communication" means a communication intended to reach a large audience through any of the following methods:

(a) Advertising displays, newspaper advertising, billboards, signs;

(b) Brochures, articles, tabloids, fliers, periodicals;

(c) Radio or television presentations;

(d) Sample ballots (see WAC 390-17-030);

(e) Online or other electronic transmission methods;

(f) One hundred or more letters, e-mails, text messages or similar communications that are identical or substantially similar in nature, directed to specific recipients, and sent within a thirty-day period; and

(g) Other mass means of disseminating political advertising, unless excluded by chapter 42.17A RCW or commission rule.

(2) "Online" means disseminating through a network of interconnected computers or devices, such as the internet or similar systems enabling electronic dissemination or exchange of communications. Examples include, but are not limited to, internet web sites, web-based social media (such as Facebook, Twitter, and other electronic publishing platforms), e-mails, and text messages.

(3) "Political advertising" is defined under RCW 42.17A.005 to include a mass communication used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

(4) Political advertising does not include letters to the editor, news or feature articles, editorial comment or replies thereto in a regularly published newspaper, periodical, or on a radio or television broadcast where payment for the ((printed)) space or ((broadcast)) time is not normally required.

AMENDATORY SECTION (Amending WSR 06-11-132, filed 5/23/06, effective 6/23/06)

WAC 390-05-520 **Periodical.** For electioneering communications, "periodical" means a publication on paper that is serial in nature and appears or is intended to appear indefinitely ((at regular)), issued regularly or at stated intervals at least once every three months. For all other political advertising, "periodical" means a publication that is serial in nature and

appears or is intended to appear indefinitely, issued regularly or at stated intervals at least once every three months.

NEW SECTION

WAC 390-18-015 Online political advertising. (1) For the purposes of RCW 42.17A.320, the procedures in this rule apply to online political advertising unless otherwise exempted by chapter 42.17A RCW or commission rule.

(2) All online advertising must include a candidate's party preference as described in RCW 42.17A.320(1).

(3) Advertising disseminated in a paper publication and reproduced in an identical manner in the online edition (such as an online edition of a newspaper), or disseminated only in an online edition of the publication must include the disclosures required in WAC 390-18-010(4).

(4) Independent expenditure advertising prepared for radio, telephone and television that is reproduced in an identical manner online or prepared only for online dissemination must provide the disclosures required in WAC 390-18-010 (6)(a).

(5) Political committee web sites and other online forums created by a political committee must include the sponsor's name and address. Political committees sponsoring online independent expenditures advertising must provide the disclosures required in WAC 390-18-010 (6)(c).

(6) Other online political advertising sponsored for the purpose of appealing, directly or indirectly, for votes or for financial or other support in an election campaign must include the sponsor's name and address.

(7) Small online advertising may provide required disclosures by using an automatic display described in WAC 390-18-030 when advertising character or size limits imposed by the online provider make full compliance with RCW 42.17A.320 impractical.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-18-030 Advertising--Exemptions from identification and alternatives for online advertising. ~~((Pursuant to))~~ ((1) RCW 42.17A.320((6)7)) requires that political advertising must identify certain information. The commission is authorized to exempt advertising where the sponsor identification disclosures required by RCW 42.17A.320 (1) and (2) are impractical. In addition, other political advertising is exempt from providing certain disclosures.

(2) The following forms of advertising need not include the

sponsor's name and address, the "no candidate authorized this ad" sponsor identification, the "top five contributors," or the identification of the individual, corporation, union, association, or other entity that established, maintains, or controls the sponsoring political committee as otherwise required by RCW 42.17A.320 (1) and (2) because such identification is impractical: Ashtrays, badges and badge holders, balloons, bingo chips, brushes, bumper stickers ((--))_size 4" x 15" or smaller, buttons, cigarette lighters, clothes pins, clothing, coasters, combs, cups, earrings, emery boards, envelopes, erasers, frisbees, glasses, golf balls, golf tees, hand-held signs, hats, horns, ice scrapers, inscriptions, key rings, knives, labels, letter openers, magnifying glasses, matchbooks, nail clippers, nail files, newspaper ads of one column inch or less (excluding online ads), noisemakers, paper and plastic cups, paper and plastic plates, paper weights, pencils, pendants, pennants, pens, pinwheels, plastic tableware, pocket protectors, pot holders, reader boards where message is affixed in moveable letters, ribbons, 12-inch or shorter rulers, shoe horns, skywriting, staple removers, stickers ((--))_size 2-3/4" x 1" or smaller, sunglasses, sun visors, swizzle sticks, state or local voters pamphlets published pursuant to law, tickets to fund-raisers, water towers, whistles, yard signs ((--))_size 4' x 8' or smaller, yo-yos, and all other similar items.

(3) Online political advertising must provide the same disclosures that apply to non-online advertising to the extent practical. As an alternative, small online advertising with character or size limits imposed by the provider in a manner that makes full compliance with RCW 42.17A.320 impractical may provide the required disclosures by using an automatic display with the advertising that takes the reader directly to the required disclosures.

(a) These automatic displays must be clear and conspicuous, unavoidable, immediately visible, remain visible for at least four seconds, and display a color contrast as to be legible. Online advertising that includes only audio must include the disclosures in a manner that is clearly spoken.

(b) Examples include nonblockable pop-ups, roll-overs, a separate text box or link that automatically appear with or in the advertising, or other similar mechanisms that disclose the information required in RCW 42.17A.320.

(4) Political advertising created and distributed by an individual using his or her own modest resources is not required to provide the disclosures in RCW 42.17A.320, when all of the following criteria are satisfied:

(a) The individual spends less than one hundred dollars in the aggregate to produce and distribute the advertising or less than fifty dollars to produce and distribute online political advertising;

(b) The individual acts independently and not as an agent of a candidate, authorized committee, political committee, corporation, union, business association, or other organization or entity;

(c) The advertising is not a contribution under RCW 42.17A.005

(13)(a)(ii) or (iii) or WAC 390-05-210;

(d) The individual does not receive donations, contributions, or payments from others for the advertising, and is not compensated for producing or distributing the advertising; and

(e) The advertising is either:

• A letter, flier, handbill, text or e-mail from the individual that does not appear in a newspaper or other similar mass publication (except for letters to the editor and similar communications addressed in WAC 390-05-490(4)); or

• Disseminated on the individual's social media site, personal web site, or an individual's similar online forum where information is produced and disseminated only by the individual.

(5) Political advertising that is internal political communications to members is not required to separately include the disclosures in RCW 42.17A.320 where the sponsor's name is otherwise apparent on the face of the communication.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-17-405 Volunteer services. (1) In accordance with RCW 42.17A.005 (13)(b)(vi), an individual may perform services or labor for a candidate or political committee without incurring a contribution, so long as the individual is not compensated by any person for the services or labor rendered and the services are of the kind commonly performed by volunteer campaign workers. These commonly performed services include:

- (a) Office staffing;
- (b) Doorbelling or leaflet drops;
- (c) Mail handling (folding, stuffing, sorting and postal preparation, processing e-mails to and from the campaign);
- (d) Political or fund-raising event staffing;
- (e) Telephone bank activity (conducting voter identification, surveys or polling, and get-out-the-vote campaigns);
- (f) Construction and placement of yard signs, hand-held signs or in-door signs;
- (g) Acting as a driver for candidate or candidate or committee staff;
- (h) Scheduling of campaign appointments and events;
- (i) Transporting voters to polling places on election day;
- (j) Except as provided in subsection (2) of this section, preparing campaign disclosure reports required by chapter 42.17A RCW and otherwise helping to ensure compliance with state election or public disclosure laws;
- (k) Campaign consulting and management services, polling and survey design, public relations and advertising (including online advertising), or fund-raising performed by any individual, so long as the individual does not ordinarily charge a fee or receive compensation for providing the service; (~~and~~)

(l) Creating, designing, posting to and maintaining a candidate or political committee's official campaign web site or online forum, so long as the individual does not ordinarily charge a fee or receive compensation for providing the service; and

(m) All similar activities as determined by the commission.

(2) An attorney or accountant may donate his or her professional services to a candidate, a candidate's authorized committee, a political party or a caucus political committee, without making a contribution in accordance with RCW 42.17A.005 (13)(b)(viii), if the attorney or accountant is:

- (a) Employed and his or her employer is paying for the services rendered;
- (b) Self-employed; or
- (c) Performing services for which no compensation is paid by any person. However, neither RCW 42.17A.005 (13)(b)(viii) nor this section authorizes the services of an attorney or an accountant to

be provided to a political committee without a contribution ensuing, unless the political committee is a candidate's authorized committee, political party or caucus political committee and the conditions of RCW 42.17A.005 (13)(b)(viii) and (a), (b) or (c) of this subsection are satisfied, or unless the political committee pays the fair market value of the services rendered.

Stakeholder Comments

As the Public Disclosure Commission is discussing new rules for online advertising, Fuse provides the following background for your consideration.

Search Advertising Overview

One easy, popular, cost accessible method for targeted online advertising is through search ads. An advertiser can target their advertisement based on what their audience is looking for and also by location. Search ads are paid for based on their performance and an advertiser can tightly control their budget on a daily basis. This makes them appealing for small budget advertisers.

People searching for targeted topics may see ads displayed in addition to the search engine's "organic" results—results that the search engine has identified for its listings regardless of advertising.

Search ads have a specific format and restrictions. Details below are based on Google search ads; Google search has over 66% market share¹ and Bing and Yahoo! provide similar capabilities and limitations in their ads.

Fuse has run online ad campaigns using search ads for multiple campaigns and over several election cycles. Below examples are from a campaign that Fuse was involved in during the 2012 general election, which linked to *TheSheaReport.com*.

The Facts on Matt Shea
 Read About Shea's Disturbing Record
 of Domestic Violence and Abuse
 TheSheaReport.com

The format and content and determined by the Google platform and have limits both on the number of characters and their content.



Depending on targeting and competing ads, the same text content may be shown in slightly different layouts.²

¹ <http://searchenginewatch.com/article/2244472/Google-Once-Again-Claims-67-Search-Market-Share>

² Google provides a service for web sites to include Google advertisements on their site. Some varied formats for display of search are shown at <http://support.google.com/adsense/bin/answer.py?hl=en&answer=185665>

Ads are usually purchased via bids measured on a per-click basis, with competing advertisers receiving ad space based on their bid and their ad's performance. Google measures clicks as an indicator of interest from the user in the ad and will favor ads with high click-through performance and disable ads that do not have good click-through rates.

Google will also screen content in the ads to make sure that is relevant and consistent between the keywords chosen, ad content, and landing page content.³

Limits on Disclosures in Search Advertising

In addition to the character limitations in the advertising medium being problematic for any required disclosure, advertisers purchasing search ads are incentivized to produce ads that have strong click-through performance. This means that a successful ad has users that click on the ad and have an opportunity to see any required disclosures in the destination web site.

In above example, *TheSheaReport.com* site had the following disclosure in the footer of the site.

Not authorized by any candidate. Paid for by Inland NW Leadership PAC, PO Box 832, Spokane, WA 99201. Top 5 contributors: Truman Fund, Roosevelt Fund, WA State Democrats, WFSE Council 28, Justice for All

Other Capabilities in the Advertising Platform

While some web site banner ads may have an ability to control the experience with a rollover or other interactive experience, the search ad experience is limited by what the provider allows. Generally, the design philosophy for a search engine emphasizes an efficient and positive search experience (finding and clicking what you are looking for), making limited other information available.

There are no abilities for a pop-up or roll-over as part of the Google platform. In addition, their content screen prevents including any additional links in the ad content itself other than the destination of the ad.

Google does have several options for ad enhancements that allow for additional information below the advertisement. One capability is called "sitelinks" which allows you to provide different links destinations your site. However, the advertiser does not have control on whether sitelinks are displayed or not. Google may or may not show the additional links based on the ads performance, placement on the page, and competing ads.⁴

³ Some of Google's editorial policies are listed at <https://support.google.com/adwordspolicy/answer/1316548?rd=1#>

⁴ Google explains on their support page a variety of reasons why sitelinks will not show:
<http://support.google.com/adwords/answer/2375416?hl=en>

Nancy Krier

From: Dmitri Iglitzin [iglitzin@workerlaw.com]
Sent: Wednesday, May 15, 2013 3:15 PM
To: Nancy Krier
Cc: Lori Anderson
Subject: (Revised) Proposed modifications to proposed new PDC rule on on-line advertising,

Based on our discussion, below are my revised proposed modifications to the proposed new PDC rule on on-line advertising:

We propose, first, that new Section WAC 390-18-015(7) should be changed from what the PDC is currently proposing to read:

(7) Small online advertising, defined as online advertising with content, character or size limits imposed by the provider that make full compliance with RCW 42.17A.320 impractical, may provide required disclosures by using an automatic display described in WAC 390-18-030 ~~when advertising character or size limits imposed by the online provider makes full compliance with RCW 41.17A.320 impractical.~~

Second, we propose that Amended Section WAC 390-18-030(3) should be changed from what the PDC is currently proposing to read:

(3) Online political advertising must provide the same disclosures that apply to non-online advertising to the extent practical. As an alternative, small online advertising ~~with character or size limits imposed by the provider in a manner that makes full compliance with RCW 42.17A.320 impractical~~ may provide the required disclosures by using an automatic display with the advertising that takes the reader directly to the required disclosures.

(a) These automatic displays must be clear and conspicuous, unavoidable, immediately visible, remain visible for at least four seconds, and display a color contrast as to be legible. Online advertising that includes only audio must include the disclosures in a manner that is clearly spoken.

(b) Examples include nonblockable pop-ups, roll-overs, a separate text box, or a link that automatically appears with or in the advertising that takes the reader directly to the required disclosures upon being clicked once, or other similar mechanisms that disclose the information required in RCW 42.17A.320.

Thank you for your continuing attention to this matter.

DI

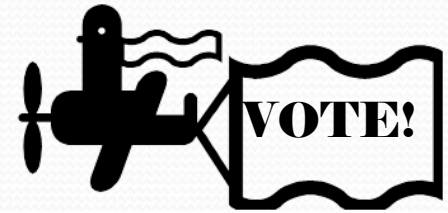
Dmitri Iglitzin | Schwerin Campbell Barnard Iglitzin & Lavitt, LLP | 206.257-6003 | www.workerlaw.com

Union Representation - Strategic Organizing - Campaign Finance

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PowerPoint

Advertising Online



- Search
 - Yahoo!
 - Google
- Social Media
 - Facebook
 - Twitter
- Video-Sharing
 - YouTube
- Revenue Models
 - Pay-Per-Click (cost-per-click)
 - advertisers pay each time a user clicks on their listing and is redirected to their website
 - Cost Per View/Impression
 - advertisers pay for each unique user view of an advertisement

Google Search



- AdWords
 - **Character Limit: 25-title 70-body**
 - An ad is displayed on search-results pages for search words and terms selected by the advertiser
 - Advertiser targets its ad
 - Location (zip code)
 - Time of day
 - User's demographic information
 - Advertiser sets budget and bid price
 - Pay-per-click
- Display Ads
 - Ads placed on “partner pages” within Google's Display Network
 - Cost-per-impression (approx. \$5 per 1000)



Romney 2012 ← search terms



Sign in

Search About 132,000,000 results (0.35 seconds)

- Web
- Images
- Maps
- Videos
- News
- Shopping
- More

Ads related to **Romney 2012** Why these ads?

[Mitt Romney Official Site | Victory.MittRomney.com](#)
www.victory.mittromney.com/
Romney Wants Less Federal Spending and Regulation. Donate \$5 Now!

[Elect Mitt Romney | ElectMitt2012.org](#)
www.electmitt2012.org/
Help Mitt Win The **2012** Election And Defeat President Obama!
↳ Mitt on the Issues - Donate Today

[Mitt Romney](#)
www.mittromney.com/
Mitt **Romney** for President ... Carousel: **2012** Tumbler ... During President **Romney's** first 100 days, he will move to repeal Obamacare and bring certainty to our ...
↳ Contact Us - Issues - Bio - Shop
1,513 people +1'd this

News for **Romney 2012**

 [The Romney campaign, on message](#)
[Politico \(blog\)](#) - by Alexander Burns - 2 hours ago
The **Romney** campaign has had an impressively consistent strategy throughout **2012** for dealing with attacks from opponents: call the charges ...
Moneycontr...

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Select Amount

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 \$1000
 \$2500
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Personal Information

go to RFP's general account. The next \$15,000 will go to the RNC. The remaining amount will be split evenly among the federal accounts of the Republican Parties of Idaho, Massachusetts, Oklahoma, and Vermont, up to a maximum of \$5,000 per committee.

Notwithstanding this allocation formula, a contributor may designate a contribution for a specific participant or participants. In addition, the allocation formula may change if any contribution would exceed applicable contribution limits. Contributions from corporations, labor unions, federal contractors, and foreign nationals are prohibited. Federal law requires us to collect and report the name, mailing address, occupation, and name of employer of each contributor whose contributions aggregate in excess of \$200 in a calendar year (RNC and state parties) or election cycle (RFP).

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A candidate support project funded by CAPE PAC

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Mitt Romney is focused on implementing a set of conservative principles to reinforce the America we once knew.

THE FREE MARKET
VS
BIG GOVERNMENT
BUREAUCRACY

#VoteRomney

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- News
- Shopping
- More

Ad related to **Obama 2012** Why this ad?

[Official Obama Website - Join the fight | barackobama.com](#)
www.barackobama.com/
Help Barack create an economy that's built to last!

Get Involved Volunteer for Obama 2012
Have Dinner with Barack? Donate Now
Get Your Official T-Shirt

[Barack Obama](#)
www.barackobama.com/
Photo from the field—June 25th, 2012. Women for **Obama** volunteers gave a warm welcome to actress Angela Bassett at an "Our Voice" event in Fayetteville, ...

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Runway to Win - ...

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America 2012 campaign in ...

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Yahoo Search



- Cox Digital Solutions is exclusive national seller of political, issue, and advocacy advertising across Yahoo! properties for 2012



obama 2012 ← search terms

Search

368,000,000 results

WEB IMAGES VIDEO NEWS SHOPPING BLOGS MORE

TRENDING SEARCHES

romney vs obama 2012

FILTER BY TIME

- Anytime
- Past day
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- Past month

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 You should be with us in 2012. Join Barack Obama's campaign today.
www.BarackObama.com
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Barackobama.com 2012
 BarackObama.com is the official re-election campaign website of President Barack Obama. Visit the site for the latest updates from the Obama campaign ...
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[Issues](#) [Store](#)
[Volunteer](#) [Contact Us](#)
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Obama 2012 - News Results

-  **Obama** prepping thousands of lawyers for election
Associated Press via Yahoo! News - 1 minute ago
- Obama** campaigning on Romney's home turf Associated... - Jun 25 09:55am
- Obama** calls Florida governor about storm damage
Reuters via Yahoo! News - 5 hours ago

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www.zazzle.com

Obama 2012 Stickers
 Stickers, Bumper Stickers Barack Obama President 2012
www.StickerShope.com

Political Animals
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romney 2012

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- obama vs romney 2012

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Mitt Romney 2012 Stickers
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Mitt Romney - Latest News

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Mitt Romney's immigration problem

- Washington Post - 52 minutes ago
Mitt Romney has had a lot to say about immigration the past few days, but what he has said adds up to a giant question mark. Rarely has a candidate had as many... [full story](#)



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Shirt.Pronto.com

Political Animals
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 - Same format and **character limits** as AdWords ads
 - Display in the lower portion of the streaming video
 - User may remove them after they appear
- Video ads
 - Play before the video the viewer has selected to watch
 - Viewer has the option to skip the ad
 - Advertiser is only charged if the viewer watches the ad for 30 seconds or longer

The OMG Cat
Davincipop + Subscribe 2 videos

Clicking this button removes the ad



Like Share 17,261,267

Uploaded by Davincipop on Mar 22, 2010
The OMG Cat or the WTF cat - funny gobsmacked cat.
72,618 likes, 1,051 dislikes

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The Economist

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The dream that failed

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by KepaUzSirds
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cats



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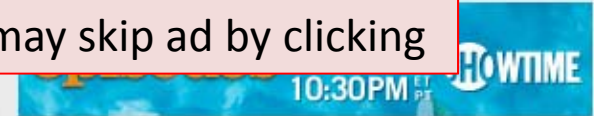
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SchneiderYuri **Subscribe**

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 **Funny animals, EPIC CUTE**
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 **Animals epic wins and fails**
by SchneiderYuri
386,306 views

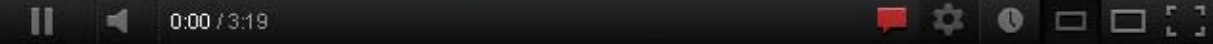
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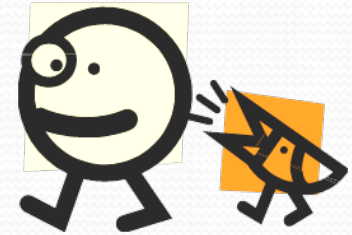
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Twitter



- All ‘tweets’ are limited to **140 characters**
- Twitter offers promoted products allowing users to pay to increase their visibility to other users
 - Promoted Tweets (120 character limit applies)
 - Promoted Accounts
 - Promoted Trends
- Revenue Model
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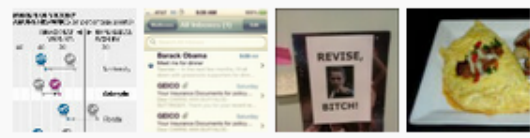
Donald J. Trump @realDonaldTrump 50m
Is another @BarackObama credit downgrade coming?'Political and Fiscal' concerns give our S&P rating a negative outlook

Tweets

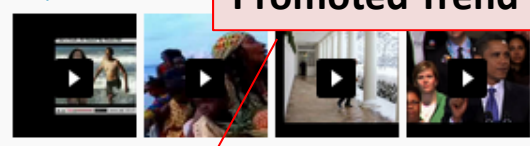
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8 Jun

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What did Barack Obama say to Michelle when he proposed? "I don't wanna be obama self."

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30m

Okay, al-Shabaab, we admit this is funny. RT @Anand_Gopal_: Somali militants offer ten camels for information on Obama bit.ly/KUV9ey

Expand



Donald J. Trump @realDonaldTrump

51m

Is another @BarackObama credit downgrade coming?'Political and Fiscal' concerns give our S&P rating a negative outlook

Tweets

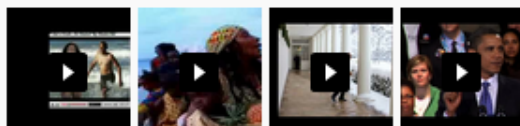
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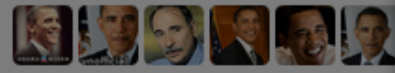
England



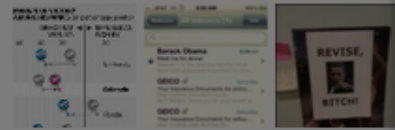
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Results for barack obama

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[@BarackObama](#) is out of touch with the struggling middle class, claiming that the private sector is doing fine mi.tt/Mkoqxf
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Mitt Romney @MittRomney 10 Jun

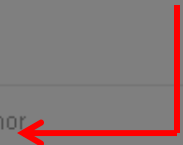
[@BarackObama](#) says the private sector is doing fine. Mr. President, we are not "doing fine." VIDEO: mi.tt/MtPqLF
[Details](#)



Mitt Romney @MittRomney 9 Jun

Thanks [@RobPortman](#) for the help in OH today. HQ now open & volunteers knocked on doors in all 88 counties pic.twitter.com/DSr4kqAq
[Details](#)

clicking the text following the FEC icon displays a lightbox with additional 'tweets' and links to campaign website



Facebook



- **25 title characters; 90 body characters; 50kb image**
- Advertisers may advertise their own FB page or an outside website
- Targeting
 - location, language, education, work, age, gender, birthday, relationship status, likes, interests, friends, social connections
- Revenue Model
 - Cost-per-click
 - Cost-per-impression



Washington State Public Disclosure Commission

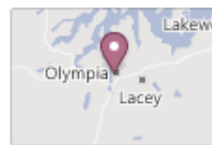
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Community & Government
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181



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Washington State Public Disclosure Commission shared a link.
June 5

The Public Disclosure Commission seeks stakeholder input on two subjects:

- 1. campaign activities on the Internet and
- 2. campaign fund raising through text messages.

Click the link below to read background information and specific questions. Responses need to be submitted no later than June 13,

Recommendations See All

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Mary Jane Aurdal-Olson
This is a great way to stay updated.
about 7 months ago

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Crystal Mt Summer Party



Summer Kick Off Party
Sat June 23rd 11 -4 Live Music 5k run/walk Scavenger Hunt Disc Golf

Michael Rowley likes Crystal Mountain Washington.

Now

May

2012

Joined Facebook

Chat (8)



Update Status Add Photo / Video Ask Question

What's on your mind?

SORT



Steven D

Junior likes Domino's Pizza.

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Domino's Pizza posted an offer.

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50% off any pizza at menu price when you order online at Dominos.com.

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Glen Y

Another classic, "Married by America",

<http://t.co/qHDpUuXf>



Tony Ross Married By America

youtube.com/watch?v=cU9W3N...

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near puking.

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Beef and Beer on June 16

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Alumni: Save On Insurance

Get A Free Insurance



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user's friends who have "liked" the ad are featured





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- Videos
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[www.robmckenna.org/](#)

Help Elect **Washington** State's Next **Governor**. Donate to Rob McKenna.

[Washington gubernatorial election, 2012 - Wikipedia, the free ...](#)
[en.wikipedia.org/wiki/Washington_gubernatorial_election_2012](#)
 On March 20, 2012, Jay Inslee left Congress to focus on his campaign for **Governor** of **Washington**. His absence will cause a special **election** to fill his vacant ...
 ↳ [Democratic Candidates](#) - [Republican Candidates](#) - [Other Candidates](#)

[Politico: WA Governor's Race Third Most Competitive in Nation ...](#)
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 Politico: **WA Governor's Race** Third Most Competitive in Nation · 2012 Election April 30, 2012 at 2:31 pm Erica C. Barnett ...

[No traction for union fight in WA governor race | State Elections - The ...](#)
[www.thenewstribune.com/2012/.../no-traction-for-election-union.ht...](#)
 1 day ago – Pumped by Wisconsin **Gov**. Scott Walker's recall victory last week, conservatives nationally are pushing to curb the power of public employee ...

[RealClearPolitics - Election 2012 - Washington Governor - McKenna ...](#)
[www.realclearpolitics.com/.../governor/wa/washington_governor_mc...](#)
 Poll, Date, Sample, McKenna (R), Inslee (D), Spread. RCP Average, 2/7 - 5/9, --, 42.3, 38.7, McKenna +3.6. SurveyUSA, 5/8 - 5/9, 557 RV, 40, 38, McKenna +2 ...

[KING 5 Poll: Washington governor's race a toss-up | KING5.com](#)

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wa governor race

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[No traction for union fight in WA governor race | State ...](#)

No traction for union fight in **WA governor race** . Pumped by Wisconsin **Gov.** Scott Walker's recall victory last week, conservatives nationally are pushing ...
[www.thenewstribune.com/2012/06/10/2175432/no-traction...](#) - [Cached](#)

[washington governor's race | OregonLive.com](#)

Rep. Jay Inslee makes it official: he says he will formally kick off his campaign for

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for GOVERNOR

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Contribution Amount

\$ 3,200 \$ 1,600 \$ 1,000 \$ 500 \$ 250 \$ 100 \$ 50 \$ 25 Other \$

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I want to contribute this amount **every** month(s) **for** installments

APA

RCW 34.05.340

Variance between proposed and final rule.

(1) Unless it complies with subsection (3) of this section, an agency may not adopt a rule that is substantially different from the rule proposed in the published notice of proposed rule adoption or a supplemental notice in the proceeding. If an agency contemplates making a substantial variance from a proposed rule described in a published notice, it may file a supplemental notice with the code reviser meeting the requirements of RCW 34.05.320 and reopen the proceedings for public comment on the proposed variance, or the agency may withdraw the proposed rule and commence a new rule-making proceeding to adopt a substantially different rule. If a new rule-making proceeding is commenced, relevant public comment received regarding the initial proposed rule shall be considered in the new proceeding.

(2) The following factors shall be considered in determining whether an adopted rule is substantially different from the proposed rule on which it is based:

(a) The extent to which a reasonable person affected by the adopted rule would have understood that the published proposed rule would affect his or her interests;

(b) The extent to which the subject of the adopted rule or the issues determined in it are substantially different from the subject or issues involved in the published proposed rule; and

(c) The extent to which the effects of the adopted rule differ from the effects of the published proposed rule.

(3) If the agency, without filing a supplemental notice under subsection (1) of this section, adopts a rule that varies in content from the proposed rule, the general subject matter of the adopted rule must remain the same as the proposed rule. The agency shall briefly describe any changes, other than editing changes, and the principal reasons for adopting the changes. The brief description shall be filed with the code reviser together with the order of adoption for publication in the state register. Within sixty days of publication of the adopted rule in the state register, any interested person may petition the agency to amend any portion of the adopted rule that is substantially different from the proposed rule. The petition shall briefly demonstrate how the adopted rule is substantially different from the proposed rule and shall contain the text of the petitioner's proposed amendment. For purposes of the petition, an adopted rule is substantially different if the issues determined in the adopted rule differ from the issues determined in the proposed rule or the anticipated effects of the adopted rule differ from those of the proposed rule. If the petition meets the requirements of this subsection and RCW 34.05.330, the agency shall initiate rule-making proceedings upon the proposed amendments within the time provided in RCW 34.05.330.

[1989 c 175 § 9; 1988 c 288 § 307.]

Notes:

Effective date -- 1989 c 175: See note following RCW 34.05.010.