State of Washington
PUBLIC DISCLOSURE COMMISSION
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Memo

To: PDC Commissioners
From: Sean Flynn, General Counsel
Date: October 21, 2022
Re: Update on Rulemaking – Inflationary Adjustments

The law requires the Commission to consider making inflationary adjustments to the monetary values set forth in the Fair Campaign Practices Act, Chapter 42.17A RCW, at least every five years. *See* RCW 42.17A.125. Inflationary adjustments are permitted only for the purpose of recognizing economic changes as reflected in the inflationary index recommended by the Office of Financial Management, and any adjustments must equally affect all thresholds within each general reporting category (campaign, lobby, and financial affairs).

The Commission initiated rulemaking earlier this year to consider making inflationary adjustments effective in 2023. The next step in the rulemaking process is for the Commission to submit a proposed rule change for public comment and to hold a public hearing on the proposal.

In anticipation of drafting the proposal, staff has prepared a chart that sets out the inflationary adjustments for all the monetary values in the FCPA. The chart is provided to assist the Commission in deciding which values may warrant adjusting in the proposed draft rules.

The chart is broken down by each general area of law and includes the values set in statute, the year in which the value was established (or last revised), and the adjusted value calculated by the latest inflationary rate. Some statutory values have been adjusted previously by rule, which is also reflected in the chart. Regardless of any prior adjustments in rule, however, the inflationary rate is measured from the previous December before the last revision in *statute*. Additionally, the inflationary period is measured through the last December preceding the adoption of the revision. Therefore, the adjustments in this chart will be updated once the December 2022 index is available. The current values are sufficient for purposes for choosing which, if any, changes should be made, but the adoption of any rule should wait until the December index is applied.

The Commission is not required to make any adjustments, although contribution limits deserve particular attention. While recent amendments to the law removed a provision that required biennial inflationary adjustments for contribution limits, the last time the limits were revised was in 2016, and courts will look for certain "danger signs" in reviewing the constitutionality of contribution restrictions, including whether the limits are indexed for inflation. *See for example Thompson v. Hebdon*, 7 F.4d 811 at 818 (2021).