



Shining Light on Washington Politics Since 1972

Presentation to:



Senate State Government, Tribal Relations & Elections Committee

Public Disclosure Commission

"The public's right to know of the financing of political campaigns and lobbying and the financial affairs of elected officials and candidates far outweighs any right that these matters remain secret and private."

RCW 42.17A.001



2018 Legislative Review

▶ **Brief review of ESHB 2938:**

- ▶ Streamlines the complaint process
 - ▶ Enhances opportunities for early, alternative complaint resolutions
 - ▶ Upon receiving a complaint, the PDC may:
 - ▶ Dismiss or otherwise resolve the complaint as appropriate after conducting a preliminary review;
 - ▶ Initiate an investigation to determine if a violation has occurred, conduct hearings,
 - ▶ Issue an appropriate order (adjudicative process); or
 - ▶ Refer the matter to the Attorney General



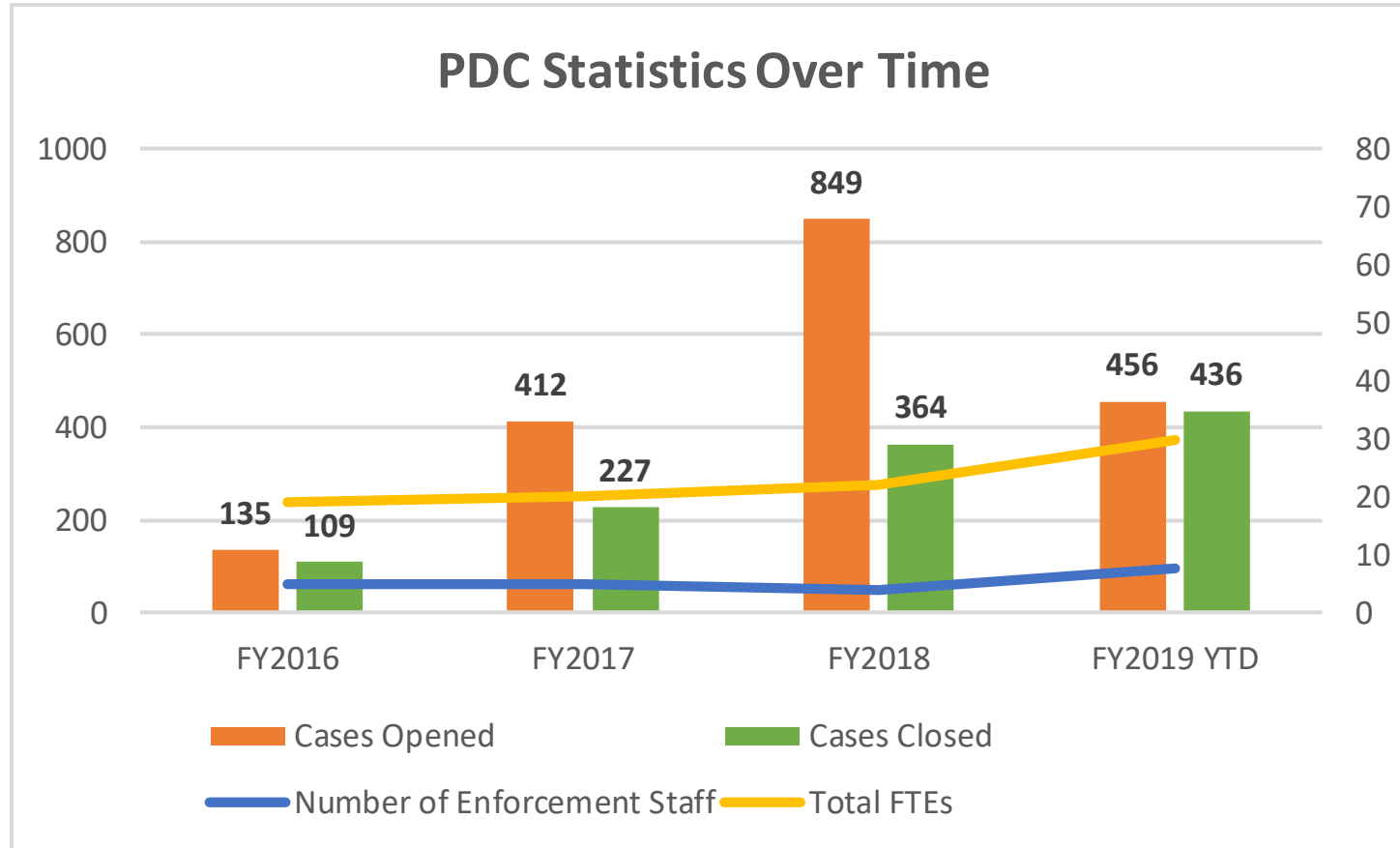
2018 Legislative Review (cont'd)

► **Brief review of ESHB 2938 (cont'd):**

- Includes a dissolution process to protect candidates and committees from lingering exposure to complaints when the candidate or committee has no outstanding issues at the PDC and has filed a final report
- Provides that the PDC has the initial jurisdictions over an alleged allegation
 - Holds the PDC accountable with a 90-day timetable for action
 - If the PDC fails to act, retains the Citizen Action "safety valve"
- Provides for the Public Disclosure Transparency Account



Case Closure Rates and FTEs



Each case may represent multiple allegations



Rulemaking

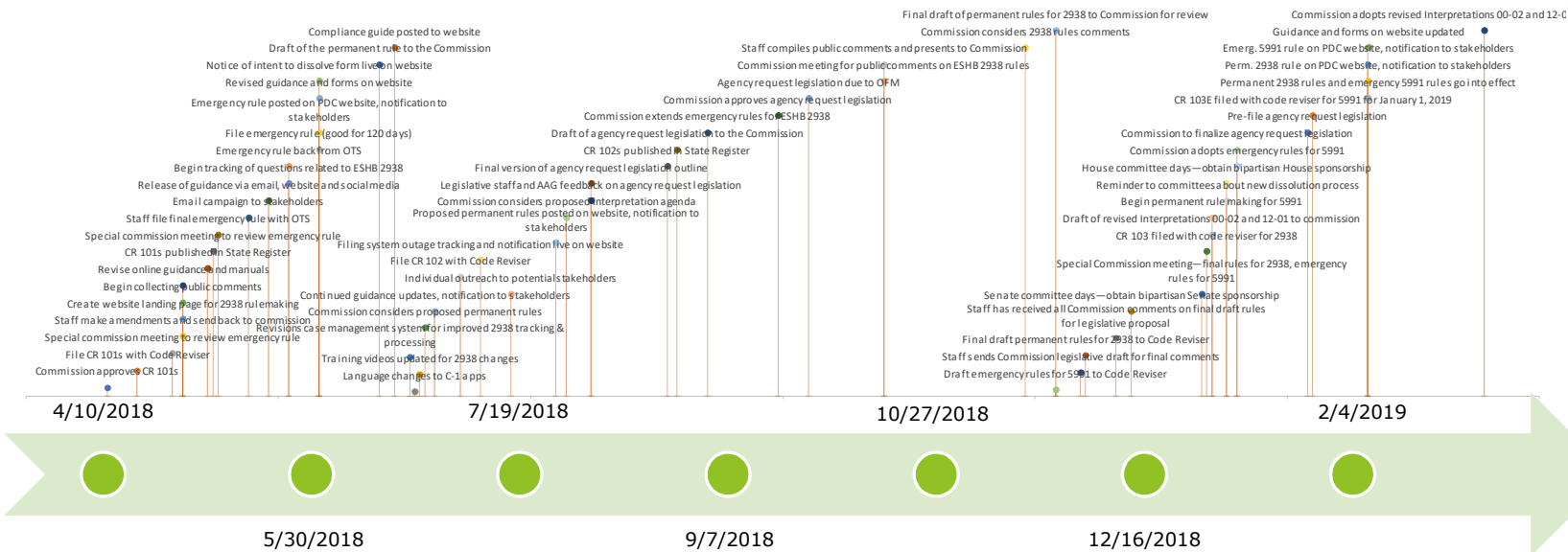
RCW 42.17A.110(1):

“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”



Rulemaking (cont'd)

Rulemaking Timeline



Rulemaking (cont'd)

- ▶ Public process:
 - ▶ Approximately 300 stakeholders notified
 - ▶ 9 stakeholders appeared in person or by telephone during the public comment period
 - ▶ 18 written comments received



Rulemaking (cont'd)

- ▶ A few highlights of the proposed new rules (Commissioners to review/adopt late-November):
 - ▶ Making rules more readable for filers and the public
 - ▶ Updating enforcement procedures to review and resolve complaints more efficiently and quickly
 - ▶ Keeping up with increased demands and reducing backlog
 - ▶ Updating requirements for commercial advertisers maintaining records selling political ads
 - ▶ Responding to emerging media markets and new technologies used in political advertising



Rulemaking (cont'd)

- ▶ ESHB 2938 permanent rules will take effect January 1
- ▶ Currently in the process of developing the rules around **SB 5991—the DISCLOSE Act**
 - ▶ Requiring nonprofits engaging in political activity to register as incidental committees disclose top contributors
 - ▶ Emergency rule will be in place by January 1 as required in the bill
 - ▶ Permanent rulemaking to follow



Legislation: Agency-request Bill

- ▶ ESHB 2938 was the product of a substantial bipartisan, collaborative effort
 - ▶ Some elements unresolved, unclear or vetoed by the Governor
 - ▶ Sponsors and other Legislators invited the PDC to address these in a “trailer bill” during the 2019 session
- ▶ Meeting with members from the Four Corners, key Committees, AG’s office, other stakeholders
 - ▶ Again seek a bipartisan, collaborative process



Agency-request Bill Overview

- ▶ **Refinement of enforcement procedures in ESHB 2938**
 - ▶ Bill clarifies the AGO authority to initiate enforcement action when the PDC has not acted within 90 days of receiving a complaint
 - ▶ AGO requested it have a 45-day period to sufficiently consider how to resolve a matter when the PDC has failed to act
 - ▶ makes recovery of legal costs and attorney's fees more efficient by removing state involvement (Transparency Fund)
 - ▶ Provides a specific process for agency's existing subpoena authority, including application to superior court before issuance where needed to protect privacy rights



Agency-request Bill Overview (cont'd)

► **Updating Personal Financial Affairs Disclosure (F-1) reporting**

- Changes to improve and clarify the financial affairs reporting process:
 - Clarifying when officials leaving office can file their final report
 - Protecting filers with safety concerns from disclosure of sensitive information
 - Streamlining and expediting the modification process by allowing exemptions to be approved for the duration of an official's term and be decided by a single Commissioner



Agency-request Bill Overview (cont'd)

- ▶ **Aligning political advertising expenditure reporting requirements**

- ▶ Governor's partial veto highlighted inadvertent errors in ESHB 2938
 - ▶ Left unclear the reporting requirements for certain political ad expenditures within 21 days of an election.
 - ▶ This bill aligns reporting requirements for ballot measure expenditures with the requirements for other political committees

- ▶ **Improving processes and clarifying guidance**

- ▶ Additional refinements to fine-tune statutory definitions, eliminate reference to obsolete practices, and clarify reporting requirement



Other Operational Improvements



Outage Alerts

Search



Oct 01, 2018 11:55am - Outage Alert: [C-1 candidate registration](#) undergoing maintenance



on Limits, Laws & Rules ...



Browse

Campaign Contributions, Lobbying Expenditures, Complaints ...

Washington State Public Disclosure Commission
Personal Financial Affairs Statement
Reporting Modification Application Questionnaire, Instructions And Certification
June 2015



Application Questionnaire Instructions

The purpose of the Public Disclosure Act in chapter RCW 42.17A includes at RCW 42.17A.001(3):

"That the people shall be assured that the private financial dealings of their public officials, and of candidates for those offices, present no conflict of interest between the public trust and private interest."

The form for providing disclosures of financial affairs is the F-1 Personal Financial Affairs Statement. The Act also provides for a process to seek a modification or suspension of reporting some information. RCW 42.17A.110(10) states in part:

"After hearing, by order approved and ratified by a majority of the membership of the commission, [the commission is empowered to] suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter..."

... Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section." (Emphasis added).

Possible qualifications for modifications or suspensions (referred to collectively as "modifications") are found at RCW 42.17A.110(10) and WAC 390-28-100. Copies of these provisions and reporting requirements are on the PDC's website at www.pdc.wa.gov under "Laws and Rules." The *Personal Financial Affairs Statement Instruction Manual* is also available on the website, under "Filer Resources – Manuals and Brochures." The Commission has also adopted Interpretations addressing modifications for certain professions and situations, and those are also available under "Laws and Rules" then "Interpretations." Modifications, if granted by the Commission, cover only one reporting period. Another application must be made in the following years if you still need a modification.

PDC staff has implemented this application procedure for filers requesting an F-1 Reporting Modification from the Commission. This is designed to provide more uniform information to the Commission from filers seeking a modification, and to enable a quicker response to possible questions about a request from the Commission at the hearing. Please fill out this Application Questionnaire prior to having a modification request taken to the full Commission for consideration. The blanks in this document will expand to accommodate your answers. It is suggested that you review this entire Application Questionnaire first, before filling out your answers.

F-1 Modifications

Previous Form



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✓ If you are requesting a modification, whether new or a renewal of an earlier request, please:

- (1) Complete or review your filed Personal Financial Affairs Statement (PDC Form F- 1) including Supplemental attachments (*except for the information for which you are seeking a modification – leave the relevant sections or lines blank on the F-1 form at this time*);
- (2) Answer all questions (# 1 – # 8) on this Application Questionnaire, unless otherwise directed below;
- (3) Confirm whether you authorize the PDC to use email may correspond with you about your request by email;
- (4) Sign the Certification if you do not intend to be present at the Commission hearing on your modification request, and
- (5) Return this Application Questionnaire to the PDC via e-mail, mail, fax or other delivery (and also send the original of the Certification to the PDC).

- Please note, however, that while this Application Questionnaire for filers seeking a modification can be returned to the PDC in several ways, **F-1 forms cannot be filed by fax or e-mail**. See filing instructions in the *Personal Financial Affairs Statement Instruction Manual*.

✓ Other items to consider:

- Filers for which a PDC Interpretation may apply. As noted, the Commission has adopted Interpretations for specific filers that are requesting modifications. Those filers include attorneys, automobile dealers, judges and judicial candidates, and spouses of elected and appointed officials, and also include candidates for public office. If you qualify as a filer under an Interpretation, please review the applicable Interpretation and provide the information pursuant to the Interpretation as part of your F-1 or F-1 Supplement forms. Copies of the Interpretations are available on the PDC website at www.pdc.wa.gov under "Laws & Rules" then "Interpretations."
- Competitive disadvantage. If you are claiming a competitive disadvantage (in disclosing information), you must describe in detail the competitive environment in which the entity operates and explain how disclosure would likely affect the competitive position of the entity.

✓ Please carefully review your F-1 and/or F-1 Supplement to ensure each form is fully completed. Here are some commonly overlooked areas:

- Do you make the buy and sell decisions with regard to the IRA's, stocks and other securities listed as retirement or income generating assets in Section 3c of your F-1? **If the answer is YES** (if you control the buy and sell decisions) you must identify the individual securities or mutual funds held.
- Did you disclose all of your retirement accounts (i.e. IRA, 401 k, deferred compensation, PERS 1, 2, 3 or TRS or LEOFF, etc.)?
- Did you complete all of the questions in Section 5 of the F-1?

Questions? If you have questions, you may contact PDC staff at (360) 753-1111; 1-877-601-2828 (toll-free in Washington State). The PDC Fax number is: (360) 753-1112. E-mail: pdc@pdc.wa.gov. The PDC address is on the last page of this form (Certification).



Application Questionnaire

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Background Information

Filer Name: _____

Filer Office Held or Sought: _____

Date of Request: _____

Period Covered by Request: _____

Questions

Please answer questions # 1 - # 8 below, unless:

- RESIDENTIAL ADDRESS. If you are seeking only nondisclosure of a residential address, answer # 1, # 4, # 6 and # 8.
- SPOUSAL SEPARATION. If you are seeking only nondisclosure of information related to your spouse based upon a recent or pending divorce or separation, or because it relates to a bona fide separate property agreement or other bona fide separate status, answer # 1, # 4, # 7 and # 8. A request for nondisclosure may be considered when such financial interest does not constitute a present or prospective source of income for you.



1. **EMAIL AUTHORIZATION.** Check the box below to give the PDC permission to provide future correspondence about your request – including hearing orders – to you by email.

☐ I authorize the PDC to provide future correspondence to me email rather than sending it through the U. S. mail.

Email address: _____

2. **MODIFICATION REQUEST SUMMARY.** Describe the general nature of the information you do not wish to disclose. (Examples: financial interests where reporting the name would likely adversely affect the competitive position of an entity, customer lists of a business entity or sources of compensation/income for the entity, confidential relationships, information subject to bona fide separate property agreements, personal residential address, other).



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3. **UNREASONABLE HARDSHIP.** Describe in detail the manifestly unreasonable hardship in disclosing the information. Please describe in detail the reasons why you believe disclosing the information would be a hardship. The reasons stated should address the issues such as those listed below. Please address those topics below that are relevant to your specific request. For example, if you are seeking nondisclosure related to an entity, for each entity, please:

- Provide the name and description of the entity, business, union, association, not-for-profit, charitable organization, or other entity for which you are seeking a modification request from reporting the entity's disclosable customers/sources of compensation/income.

- Describe the size of the entity such as annual sales, number of customers or accounts, the number of employees, and other pertinent information.

- Describe how many business customers or other sources paying the entity more than \$12,000 would be subject to disclosure.

- Describe if you have access to information about the entity's customer base or sources of compensation/income.

- Describe if you are involved with the day-to-day operations of the entity.

- Describe if any of the entity's customers or sources of compensation/income are already listed in other public sources or publications including advertisements, or public records.

- Describe if any of the entity's customers or sources of compensation/income are already listed on a website.

- If the entity has a website address, list it here:

- If the entity's customers or sources of compensation/income are described elsewhere on the Internet, describe why you are seeking a modification (nondisclosure) for those customers or sources of compensation/income:



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[Note: along with other information provided in the Application Questionnaire, Internet information regarding entities/sources of compensation/income may be reviewed by PDC staff and/or the Commission as part of the modification process.]

- Describe if the entity has the ability to sort its customer list or sources of compensation/income to identify those paying the entity more than \$12,000 during the reporting period.

- Describe if you disclosed all of the governmental customers or governmental sources of compensation/income that paid the entity more than \$12,000 in the reporting period.

- Indicate whether you have an ownership interest of 10% or more in the entity.

- Indicate whether your spouse's interest in an entity requires you to complete an F-1 Supplement for that entity.

- Describe other relevant information you believe the Commission should consider as to why it would be a manifestly unreasonable hardship if the information was required to be disclosed.



4. **NOT FRUSTRATE THE PURPOSES OF THE ACT.** Describe how allowing you to not disclose the information described in your modification request does not frustrate the purposes of the Public Disclosure Act.



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5. **DUTIES.** Describe your duties as an elected or appointed official. Please describe the jurisdiction or agency for which you hold public office, and the duties performed by you as a public official (examples: adopting rules or ordinances, hiring staff, approving contracts, setting policy, etc.). Please provide as much description as possible.



6. **CUSTOMERS OR SOURCES OF COMPENSATION/INCOME.** If you are seeking a modification related to a particular entity's reportable customers or sources of compensation/income for an entity, describe:

- In detail the position you hold in the entity (examples: owner, board member, officer, partner, etc.) and the duties performed by you for that entity, if any (examples: setting policy, hiring, approving contracts, approving budgets, etc.). Please provide as much description as possible.

- If you (or if you are seeking office, will you) make any decisions as a public official that may benefit the customers of the entity for which you are seeking a modification, or sources of compensation/income for the entity for which you are seeking a modification?



7. **RESIDENTIAL ADDRESS.** Are you requesting to be exempted from disclosing the address of your personal residence in the Real Estate Section of the F-1? In this situation, you or your spouse may be a law enforcement officer, prosecutor, judge, or other official, and the disclosure of the address of your primary residence on the F-1 form could cause you or your family harm, based upon tangible evidence or a specific threat. If so, please explain in detail the manifestly unreasonable hardship if disclosure were required, and why the purposes of the act would not be frustrated if disclosure of the address was not required. If nondisclosure is based upon an anti-harassment or similar court order, please state.



8. **SPOUSAL SEPARATION.** Are you requesting to be exempted from disclosing information related to your spouse based on a pending or recent divorce or separation,

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8. SPOUSAL
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or bona fide separate property agreement or other bona fide separate status? In this situation, the filer has little or no knowledge of spouse's or former spouse's income, assets, liabilities or relationship to outside entities for which reporting may be required. (For example, do you file separate income tax returns?) The filer does not have access to spouse's or former spouse's financial information. The financial interest of the spouse or former spouse does not constitute a present or prospective source of income for the filer. If this is your situation, please describe.



9. OTHER INFORMATION. Is there any other information you want the Commission to consider regarding your modification request? (If you are attaching any information or documents, please describe attachments.)



➤ IF YOU WILL NOT BE ATTENDING THE HEARING IN PERSON OR BY PHONE TO ATTEST THE ABOVE INFORMATION AND RESPOND TO COMMISSION QUESTIONS, YOU MUST ALSO COMPLETE AND SIGN THE ATTACHED CERTIFICATION PRIOR TO SUBMISSION.

Revised Form

(9/18)

Washington State Public Disclosure Commission

Personal Financial Affairs Statement
Reporting Modification Application and Certification

Application Instructions

Request for exemption from reporting Washington real estate pursuant to RCW 42.17A.120 and WAC 390-28-100

State law allows filers of the F-1 Personal Financial Affairs Statement to seek a suspension of reporting some information. RCW 42.17A.120 states in part:

The commission may suspend or modify any of the reporting requirements of this chapter if it finds that literal application of this chapter works a manifestly unreasonable hardship upon the filer. The commission may suspend or modify reporting requirements only after particular case and the suspension or modification receives approval from a majority of the chapter. The commission shall act to suspend or modify any reporting requirement if it determines that facts exist that are clear and convincing proof of such hardship. The commission shall determine whether the suspension or modification is held and the suspension or modification shall be based on the evidence presented by the filer. The commission shall determine whether the suspension or modification is warranted under the circumstances.

(a) Only if it determines that facts exist that are clear and convincing proof of such hardship.

(b) Only to the extent necessary to substantially relieve the hardship.

Modifications, if granted by the Commission, cover only one reporting period. Modifications must be made in the following years if you still need a modification:

- (1) Complete your Personal Financial Affairs Statement (PDC Form F-1) including all attachments except for the information for which you are seeking a modification (relevant sections or lines blank on the F-1 form).
- (2) Answer all applicable questions on this application. All applicants must complete q and #4.
- (3) Include an email address for the PDC to use for correspondence regarding your request and #4.
- (4) Sign the certification, and the signed certification (if waiving personal appearance at hearing) and your completed F-1 to the PDC.
- (5) Return this application, the signed certification (if waiving personal appearance at hearing) and your completed F-1 to the PDC.

Applications are due March 10th for annual filers, or prior to the two-week deadline for candidates and new appointees.

Questions? Contact PDC staff at (360) 753-1111; 1-877-601-2828 (toll-free in Washington) by e-mail at pdc@pdc.wa.gov.

(9/18)

Application Questionnaire

Applicant Information

Filer Name (as it appears on the F-1): _____

Office Held or Sought: _____

Period Covered by Request (calendar year or previous 12 months): _____

Filing Status (check one):

☐ An elected or state appointed official filing annual F-1

☐ Candidate filing F-1

☐ Newly appointed filing F-1

Is this a renewal of a previously granted request?

☐ Yes ☐ No

Instructions

Please answer each question below. You may attach court documents or other relevant information. Please note that this application and any documents submitted for consideration public documents subject to the Public Records Act RCW 42.56.

- EMAIL ADDRESS.** Pursuant to RCW 42.17A.055, email is the official means of communication for the PDC. Please supply an email address to use for correspondence about your request.

Email address: _____
- IDENTIFICATION OF REAL ESTATE.** Are you requesting to be exempted from disclosing Washington real estate on the F-1 or F-1 Supplement? Per WAC 390-28-090, the Commission may grant your modification request if it finds that identifying real estate on your F-1 Supplement would cause a manifestly unreasonable hardship and that granting the modification would not frustrate the purposes of the act. If the disclosure of real estate on the F-1 or F-1 Supplement could cause you or your family harm, based upon a specific threat, a no contact order or similar personal safety concern, explain the hardship in detail.
- NOT FRUSTRATE THE PURPOSES OF THE ACT.** Please describe the jurisdiction for which you hold or seek public office, and the duties performed by you as a public official (examples: adopting rules or ordinances, hiring staff, or contracts, setting policy, presiding over cases, etc.). Also explain why your real estate holdings present no actual or potential conflict of interest.
- CONFLICT RECUSAL.** If any matter coming before you at the public entity you serve involves a conflict of interest between your personal interests and your public duties, will you recuse yourself from that matter, regardless of whether you have disclosed that personal interest on an F-1 form?
☐ Yes ☐ No
If you answered no, please explain why not.
- OTHER INFORMATION.** Is there any other information you want the Commission to consider regarding your modification request? (If you are attaching any information or documents, please describe attachments.)

(9/18)

Hearing Process

Your request, including the F-1, F-1 Supplement, this Application Questionnaire and any other documents provided, will be presented at a public hearing.

You are not required to participate at the hearing. If you will not be attending the hearing in person or by telephone, you must complete and sign the attached certification prior to submission.

The Commission can grant your request in full, grant part of your request, deny your request, or ask for additional information to be heard at a future public hearing.

An order will be issued to you by e-mail with the Commission's decision.



Renewals

(9/18)

Washington State Public Disclosure Commission
 Personal Financial Affairs Statement
 Reporting Modification RENEWAL

Application Instructions

State law allows filers of the F-1 Personal Financial Affairs Statement to suspend or suspend of reporting some information. (RCW 42.17A.120).

Modifications cover only one reporting period. Another application must be filed if you still need a modification.

To request a renewal of a previously granted partial reporting modification:

- (1) Complete your Personal Financial Affairs Statement (PDC Form F-1) in full, including sections or lines blank on the F-1 form;
- (2) Review your previously granted modification;
- (3) Answer all applicable questions on this application. All applicants must complete questions #3 and #4;
- (4) Include an email address for the PDC to use for correspondence regarding this application, the signed certification (if waiving personal appearance) and your completed F-1 to the PDC.
- (5) Return this application, the signed certification (if waiving personal appearance) and your completed F-1 to the PDC.

Applications are due March 10th for annual filers, or prior to the two candidates and new appointees.

Your request, including the F-1, F-1 Supplement, this Application Questionnaire and previously granted modification application, will be presented at a public hearing.

You are not required to participate at the hearing. If you will not be attending the hearing, you must complete and sign the attached certification prior to submission.

The Commission can grant your request in full, grant part of your request, deny your request, or require additional information to be heard at a future public hearing.

An order will be issued to you by e-mail with the Commission's decision.

Questions? Contact PDC staff at (360) 753-1111; 1-877-601-2828 (toll-free in Washington) or by e-mail at pdc@pdc.wa.gov.

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(9/18)

Application Questionnaire

Applicant Information

Filer Name (as it appears on the F-1): _____

Office Held or Sought: _____

Period Covered by Request (calendar year or previous 12 months): _____

Please answer each question below. Please note that this application and any documents submitted for consideration are public documents subject to the Public Records Act RCW 42.56.

1. **EMAIL ADDRESS.** Pursuant to RCW 42.17A.055, email is the official means of communication for the PDC. Please supply an email address to use for correspondence with you about your request.
 Email address: _____
2. **CURRENT CUSTOMER (OR LAW FIRM CLIENT) LIST, IF APPLICABLE.** Are you requesting a renewal of a previously granted partial exemption from disclosing the business customers (or law firm clients) listed on the F-1 Supplement Part A? Per WAC 390-28-090, you may be required to provide a list of customers or law firm clients for each reporting period for which the modification is applicable.
 If applicable, are you providing a list of current customers (or law firm clients) as required pursuant to the partial modification you were granted for the previous reporting period?
☐ Yes ☐ No
3. **CONFLICT RECUSAL.** If any matter coming before you at the public entity you serve involves a conflict of interest between your personal interests and your public duties, will you recuse yourself from that matter, regardless of whether you have disclosed that personal interest on an F-1 form?
☐ Yes ☐ No If you answered no, please explain why not: _____
4. **I HAVE REVIEWED MY INITIAL REPORTING MODIFICATION AND ANY SUBSEQUENT RENEWAL REQUESTS AND CERTIFY THAT THERE ARE NO CHANGES TO THE FACTS RELATED TO MY REQUEST EXCEPT AS NOTED IN THIS APPLICATION.**

 (Applicant's signature)

2



Who Gave ?

Who Got ?

How Much ?

by Jolene Unsoeld





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QUESTIONS?