

## Conservation Districts Reporting of Lobbying Activity

When Conservation District employees or supervisors meet with legislators or legislative staff to influence the passage or defeat of legislation, this constitutes lobbying under the Public Disclosure Law, RCW 42.17A. This law requires that such activity be reported, if it is in an amount over particular thresholds.

### General Principles:

This summary sets out some of the general principles that govern lobbying and reporting of lobbying activities that is required for public agencies. This summary is general in nature, and not intended to cover every fact specific circumstance. If a District conducts a significant amount of lobbying, employs a professional lobbyist, or has specific questions, seeking advice of counsel is recommended.

### Reporting:

There is no penalty for over-reporting, but there are penalties that may be assessed if a District under-reports. **When in doubt – report it.**

You will see in the summary that elected supervisors are treated differently by the law (as “elected officials”) than appointed supervisors are. It may be simpler for you to treat all supervisors as if they are appointed, and report all their activity as such.

The reporting forms appear intimidating at first, but are not all that difficult to navigate. They come with step-by-step instructions in the packet from the Public Disclosure Commission (PDC). The PDC staff is also available to assist you. The PDC’s website is: [www.pdc.wa.gov](http://www.pdc.wa.gov).

### Funding Source:

As reiterated below: Money is complicated. While Conservation District’s may expend public funds (generally in the form of employee time and costs of travel) for specific lobbying as set out in statute, public funds may never be spent on gifts or contributions.

If any employee or supervisor contributes private funds to a particular legislator, even if no in-person meetings are currently involved, or if lobbying activities conducted on the District’s behalf include expenditures of private funds, care must be taken to properly report. This overview does not discuss all the issues related to spending non-public funds on gifts, contributions (to individual or a campaign), or expenses of legislators or legislative and agency staff.

### General Information:

This is general information designed as an overview of what reporting may be required if a Conservation District engages in meetings with legislators, legislative staff, or agency staff. This overview does not constitute legal advice, and does not substitute for specific analysis of the facts and circumstances of individual Conservation District activities. Please seek advice of counsel for case-specific questions.

### Questions:

#### Does the Public Disclosure Law (RCW 42.17A) apply to Conservation Districts?

Yes – CD’s are generally considered to be municipal corporations, and as such are included in the definition of public agencies subject to the requirements to disclose lobbying if required to by the Public Disclosure Law.

References: RCW 41.17A.005(2) & RCW 42.17A.635(6) \*Note – A CD is not a subagency, and does not fall under provisions of WAC 290.20.052(3)

## What is Lobbying?

Lobbying is attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate or other legislative enactment of any state agency under the state Administrative Procedure Act.

Lobbying is an in-person meeting with a legislator, legislative staff, or an agency's staff for the above purposes. Even a hallway meeting, if for the above purpose. Even a short meeting, if for the above purpose. Lobbying includes testifying at a legislative committee hearing.

Lobbying does not include signing into a hearing where you are not speaking, even if you sign in "For" or "Against." But if, in combination with your attendance, you later speak to a legislator for the purpose of influencing passage or defeat, that meeting is lobbying.

Lobbying includes lobbying to a state agency or to the Governor. Lobbying includes in-person contact with legislative staff, not just the elected legislator.

References: RCW 42.17A.005(30) & WAC 390-20.052(1) & WAC 390-20.052(1)

## Are CDs allowed to lobby?

Yes – a CD as a public agency may expend public funds (basically in the form of staff salaries) for lobbying, but any agency's lobbying is limited to:

- 1) Providing information and communicating on matters that are official agency business, and
- 2) Advocating the official position or official interests of the agency

References: RCW 42.17A.635(3) (**read carefully to understand the limits of allowable lobbying for a public agency**)

## Is there anything a CD cannot lobby about?

Yes.

\*CD's are limited to lobbying as described above, only on matters that are official agency business.

\*Lobbying is not permitted to influence a legislator or staffer either for or against a citizen's initiative before that initiative is actually before the Legislature as a bill.

Reference: RCW 42.17A.635(3)

## In-person lobbying is required to be reported.

Not required to be reported:

\*A phone conversation or written correspondence on pending legislation

\*Responding to a legislator's request for a study, recommendation or report

\*Providing official reports as required by law

Reference: RCW 42.17A.635(5)(d)

## When does a CD have to report?

1) If the total number of days in a 3-month quarter when lobbying was conducted by CD employees on paid work time and/or appointed supervisors is more than 4 days, then the CD must report lobbying that quarter, OR

2) if the total amount of non-public money spent on a legislator or legislative staff is greater than \$15.

Reference: 42.17A.635(5)(d)(v)(B)

## How do I count the days to get to "more than 4"?

Counting is based on each person and each day, but a day can contain multiple meetings:

1 person + 1 meeting on one day = 1 day for purposes of counting, whether the meeting lasts 10 minutes or 8 hours

1 person + 1 meeting that goes over two days = 2 days

1 person + 3 meetings on one day = 1 day

3 people + 1 meeting = 3 days

Reference: 42.17A.635(5)(d)(v)(B)

## Who counts toward a CD's total for purposes of lobbying?

1) Employees lobbying on work time.

2) Board members who are in appointed positions

When in doubt – report it!

Reference: WAC 390-20-052(6)

### Who does not count toward lobbying?

Elected Board members – unless they spend more than \$15 of non-public money while lobbying (for example, taking a legislative staffer to lunch)

Board members who are appointed to fill an elected's vacancy do not count toward lobbying while completing the term of the vacancy.

When in doubt – report it!

Reference: WAC 390-20-052(6)

### What does a CD have to keep track of?

\*Amount of time employees spend lobbying (which, when multiplied by that employee's salary, becomes the amount of reportable public funds spent on lobbying)

\*What issues were lobbied

\*What lobbying expenses were incurred

When in doubt – report it!

Reference: Public Agency Lobbying – 2013 PDC Form L-5 Disclosure Instructions

### How does a CD report?

Public Disclosure Commission (PDC) form L-5

Reference: Public Agency Lobbying – 2013 PDC Form L-5 Disclosure Instructions

### What are the deadlines for reporting?

PDC L-5 must be submitted for every quarter that lobbying takes place.

1st Quarter – due April 30

2nd Quarter – due July 31

3rd Quarter – due October 31

4th Quarter – due January 31

### What about WACD legislative days, or other similar “legislative” events?

If CD staff attend on paid work time – that likely counts toward the individual CD's lobbying and needs to be reported by the CD if the CD overall for the quarter meets the 4-day or \$15 threshold.

If CD staff or Board members all attend on their own time, and no one expends more than \$15 of non-public funds, then all reporting should be done by the sponsoring association through their registered lobbyist.

\*\*Important: a public agency (a CD itself) is prohibited from sponsoring a “grass roots” lobbying campaign or sponsoring “call your legislator” campaigns

References: WAC 390-20-145 & Public Agency Lobbying – 2013 PDC Form L-5 Disclosure Instructions

### Can an employee or Board member mix lobbying on behalf of the agency with lobbying on unrelated issue of personal interest?

May require registering as a lobbyist – see requirements of RCW 42.17A.

References: RCW 42.17A.635(7)

### What's this about \$15 of non-public money?

First – no public money may be spent on gifts, travel contributions, or entertainment of legislators or legislative staff.

If employees or Board members choose to spend non-public money in any of the above ways, and that amount exceeds \$15 (in the aggregate), then lobbying and those funds will likely need to be reported.

\*\*Important: Money is complicated. All the possible implications of gifts, contributions, travel expenses and other payments benefiting legislators or staff are NOT covered by this summary. If a CD employee or Board member spends non-public money in any way involving a legislator or staff, please seek professional advice on your fact specific circumstance.

### Does travel to and from meetings count toward the \$15?

Normally, in the context of one-on-one meeting reported by the CD on the PDC L-5, probably not. This may change, however, in the context of a “legislative day” sponsored by an association, which may be required to report such travel expenses as part of their reporting of lobbying events.

### Questions:

Contact your WSCC Regional Manager