



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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LEEANN PELHAM
EXECUTIVE DIRECTOR

Date: October 15, 2018
To: Members of the Ethics Commission
From: Pat Ford, Senior Policy Analyst
Re: **AGENDA ITEM 6 – Policy Report**

Summary: This memorandum provides updates on ongoing policy projects, pending local legislation, and other operational projects involving the Policy Division to assist the Commission, the public, and Staff in engaging with the Commission’s policy work. This memo includes the California Legislation Tracker as Attachment 1, updated for the month of October.

Action Requested: No action required—informational purposes only.

This memo provides an operational update on the Commission’s policy projects. Section I provides status reports about ongoing policy projects that the Commission identified as policy priorities as part of its quarterly Policy Prioritization Plan. Section II provides information about ongoing operations and projects that, while not a part of the Commission’s Policy Prioritization Plan, regularly require the attention of the Policy Division.

I. Policy Prioritization Plan – Status of Ongoing Initiatives

A. Review of the City’s Public Financing System

At its June 2018 meeting, the Commission identified a review of the City’s public financing program as its first policy priority. Since June, the Policy Division has been engaged in substantively reviewing the program. Policy conducted extensive outreach efforts to better understand how candidates, treasurers, and members of the public viewed the program’s effectiveness and to solicit input as to what changes might be made to further strengthen the program.

A report presenting Policy’s findings and recommendations following this review is set forth as Agenda Item 4.

B. Review of Campaign Finance Reform Ordinance Regulations

The Commission has identified a review of the supporting regulations for the Campaign Finance Reform Ordinance (“CFRO”) as its second policy priority. This project seeks to update and improve existing regulations and develop new regulations to carry out the new requirements created by the Anti-Corruption and Accountability Ordinance. Policy has solicited Staff feedback about the existing regulations and is in the process of aggregating those

comments into a set of recommendations. As further explained in the Policy Prioritization Plan memorandum contained in Agenda Item 7, Policy recommends that the Commission maintain this project as an active policy priority to allow Staff more time to complete the project.

C. Online Paid Political Communications

The Commission identified research and a possible legislative proposal regarding paid online political communications as its third policy priority. As reported at the Commission's last meeting, Staff have been tracking the development of this nationwide issue over several months, engaging with subject matter experts and reviewing the developing field of literature on this topic. Staff have also contacted other jurisdictions to seek their input and experiences with this issue. Staff continues to monitor jurisdictions such as Washington state and Seattle, which has recently sought to enforce a requirement that certain online platforms archive and make available a record of the paid political ads that they display. This effort could shed light on how successful a similar effort in San Francisco might be.

II. Miscellaneous Policy Administrative Projects

A. Advice Regulations

At the September meeting, Staff presented the Commission with a proposed set of regulations concerning the Commission's opinion and advice procedures. The Commission continued the item until the October meeting so that certain questions and concerns about the draft could be answered. Staff made minor changes to the proposed draft, and an amended version of the regulations is set forth in Agenda Item 5.

B. Local Regulation of County Central Committee (CCC) Candidate Committees

In response to a research request from the Commission, Policy undertook to provide the Commission with legal analysis regarding whether the Commission was precluded by California law from regulating the conduct of candidate committees controlled by candidates for local County Central Committee (CCC) seats. Finding that California law was not clear on this issue, Staff requested formal written advice from the FPPC on March 22nd. On September 5th, Staff requested a formal opinion from the FPPC. On October 3rd, Staff was notified that a new attorney at the FPPC had taken over the opinion request. The attorney requested that the opinion request be narrowed and that some of the questions be answered subsequently via informal advice, following the reasoning of the FPPC in issuing the opinion. Staff agreed to new language for the advice request.

C. Pending San Francisco Legislation

1. File No. 180317 (Reforms to Whistleblower Protection Ordinance – Cohen)

File No. 180317 would amend the Code to provide additional retaliation protections for whistleblowers, establish retaliation protections for City contractors, increase the remedies available for whistleblowers who have suffered retaliation, and establish greater confidentiality protections for whistleblowers' identities. This ordinance, based on Commission recommendations, was re-introduced by then-Board President Breed on April 3, 2018 and referred to the Rules Committee for consideration.

Supervisor Cohen assumed sponsorship of File No. 180317, and her Staff has been in contact with Supervisor Safai, the chair of the Rules Committee, to set a hearing date for the file at Rules.

2. File No. 170738 (Disclosures in Trustee Elections – Cohen)

File No. 170738 will require disclosure of candidate and third-party spending in Retirement Board, Health Service Board, and Retiree Health Care Trust Fund Board elections. The Board approved the file on the first reading on July 31st and finally approved it on September 4th. The Mayor approved the file on September 14th. This legislation does not require review or approval by the Ethics Commission because its provisions are contained within the S.F. Administrative Code.

The provisions of the ordinance become effective on October 14th. Engagement and Compliance specialists are preparing to assist candidates in trustee elections to comply with the new rules.

3. File No. 170868 (Miscellaneous Ethics Reforms – Kim)

At its regular meeting on May 7, 2018, the Commission approved File No. 170868, which would institute various reforms to the Campaign and Governmental Conduct Code (the “Code”). On June 13th, the Rules Committee continued the file to the call of the chair. The ordinance is now awaiting a future hearing, which has not yet been scheduled.

Summary of Bills Watched (California State Legislation)

From California Fair Political Practice Commission

Available at <http://www.fppc.ca.gov/transparency/Legislation.html>

[AB 664](#) (Steinorth R) Political Reform Act of 1974: campaign fund expenditures.

Current Text: Vetoed: 8/27/2018 [html](#) [pdf](#)

Last Amended: 6/12/2018

Location: 8/27/2018-A. VETOED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would prohibit a parent, grandparent, sibling, child, or grandchild of an elected officer or a candidate for elective office from receiving, in exchange for furnished or promised goods, services, facilities, or anything of value, compensation from campaign funds held by a controlled committee of that officer or candidate which exceeds the fair market value of that item. The bill would also prohibit the payment of financial or material compensation beyond fair market value from campaign funds held by a controlled committee of an elected officer or candidate for elective office, in exchange for services rendered, to a vendor if a parent, grandparent, sibling, child, or grandchild of that officer or candidate has an interest in, or is employed by, the vendor.

Laws:

An act to amend Section 84307.5 of the Government Code, relating to the Political Reform Act of 1974.

[AB 2188](#) (Mullin D) Political Reform Act of 1974: campaign disclosures: advertisements.

Current Text: Chaptered: 9/26/2018 [html](#) [pdf](#)

Last Amended: 8/17/2018

Location: 9/26/2018-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

The Political Reform Act of 1974, requires specified disclosures in advertisements regarding the source of the advertisement. The act defines "advertisement" for this purpose as a general or public communication that is authorized

and paid for by a committee for the purpose of supporting or opposing a candidate or candidates for elective office or a ballot measure or ballot measures. This bill would modify the disclosures required for electronic media advertisements.

Laws:

An act to amend Sections 84504.3, 84504.4, and 84510 of, and to add Sections 84503.5 and 84504.6 to, the Government Code, relating to the Political Reform Act of 1974.

Support

[AB 2155](#) (Mullin D) Political Reform Act of 1974: campaign disclosures.

Current Text: Chaptered: 9/26/2018 [html](#) [pdf](#)

Last Amended: 8/15/2018

Location: 9/26/2018-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

Summary:

The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing and activities. Current law under the act requires advertisements to include prescribed disclosure statements, and defines an advertisement for these purposes. Current law excludes a number of communications from the definition of advertisement, including electronic media communications for which the inclusion of specified disclosures regarding the funding of the communication is impractical or incompatible with the technology used. This bill would exclude additional types of communications from the definition of advertisement, including certain electronic media communications requested by the recipient, communications solicited by the recipient, or communications for which inclusion of disclosures would be impracticable or severely interfere with the committee's ability to convey the intended message, as determined by regulations of the Fair Political Practices Commission.

Laws:

An act to amend Sections 84501, 84502, 84504.1, 84504.2, 84504.5, and 84504.3 of, and to add Section 84501.1 to, the Government Code, relating to the Political Reform Act of 1974.

Position: Support

[AB 2689](#) (Gray D) Contribution and gift ban: Senate or Assembly confirmation.

Current Text: Vetoed: 10/1/2018 [html](#) [pdf](#)

Last Amended: 4/17/2018

Location: 9/30/2018-A. VETOED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor		Enrolled	Vetoed	Chaptered
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1st House	2nd House	Conf. Conc.			
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Summary:

Would prohibit a person appointed by the Governor to an office subject to Senate or Assembly confirmation from making to a Senator or Assembly Member or a controlled committee of the Senator or Assembly Member a gift or contribution during the period between the appointment by the Governor and confirmation by that house. The bill would also apply this prohibition to certain candidates for the Senate or Assembly, as specified.

Laws:

An act to add Section 85705 to the Government Code, relating to the Political Reform Act of 1974.

Position: Support

AB 2880 (Harper R) Political Reform Act of 1974: local enforcement.

Current Text: Chaptered: 9/15/2018 [html](#) [pdf](#)

Last Amended: 6/12/2018

Location: 9/14/2018-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Current law authorizes the Fair Political Practices Commission, upon mutual agreement between the Commission and the Board of Supervisors of the County of San Bernardino, to have primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance reform ordinance of the County of San Bernardino, as specified. Current law also authorizes the Fair Political Practices Commission to enter into such agreements with the City Council of the City of Stockton and the City Council of the City of Sacramento, respectively. This bill would repeal the provisions governing agreements with the Cities of Stockton and Sacramento and would generally authorize the governing body of a local government agency to contract with the Commission for the administration, implementation, and enforcement of a local campaign finance or government ethics law.

Laws:

An act to repeal Section 83123.7 of, and to repeal and add Section 83123.6 of, the Government Code, relating to the Political Reform Act of 1974.

Position: Support

SB 1239 (Hertzberg D) Political Reform Act of 1974: campaign disclosures.

Current Text: Chaptered: 9/21/2018 [html](#) [pdf](#)

Last Amended: 8/13/2018

Location: 9/21/2018-S. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would generally recast certain provisions governing the processing of campaign reports and statements to provide for the filing, verification, delivery, amendment, retention, and inspection of those documents online or electronically, as prescribed. The bill would repeal the specified monetary thresholds, thereby making the online and electronic filing requirements applicable to all specified filers. The bill would also repeal various obsolete or extraneous provisions of the Political Reform Act of 1974, and would make conforming and other technical, nonsubstantive changes.

Laws:

An act to amend Sections 81004, 81007, 81007.5, 81008, 81009, 81010, 82006, 84101, 84101.5, 84102, 84103, 84108, 84200.8, 84203, 84204, 84204.5, 84211, 84213, 84215, 84219, 84223, 84504.2, 84602, 84605, 84606, 84612, 84615, 85200, 86100, 86103, 86104, 86105, 86107, 86108, 86109.5, 86114, 86116, and 86118 of, and to repeal Sections 84217 and 86109 of, the Government Code, relating to the Political Reform Act of 1974.

Position: Support

Total Measures: 6

Total Tracking Forms: 6