



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

DAINA CHIU
CHAIR

QUENTIN L. KOPP
VICE-CHAIR

PAUL A. RENNE
COMMISSIONER

YVONNE LEE
COMMISSIONER

NOREEN AMBROSE
COMMISSIONER

LEEANN PELHAM
EXECUTIVE DIRECTOR

Date: November 9, 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 November.

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. At the October 2018 meeting, Policy presented a report offering Staff’s findings and recommendations following a comprehensive review of the program. Under Agenda Item 5, Staff are presenting draft regulations and a draft ordinance to implement these recommendations.

B. Review of Campaign Finance Reform Ordinance Regulations

The Commission 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 regulations to carry out the new requirements created by the Anti-Corruption and Accountability Ordinance.

Staff anticipates presenting the full list of regulations at either the regularly scheduled December or January meeting. The following list details some of the more important changes that Staff plans to recommend:

ACAO Implementation

- Disclosure of Behested Payments to Political Committees (Section 1.114.5(b))
 - Clarify that the disclosure to the Commission must be made using a new form
 - Explain the set of committees that are subject to the disclosure requirement
 - Define *campaign statement* as the Form 460
 - Clarify that all contributions above the \$5,000 cumulative total must be disclosed
- Business Entity Disclosures (Section 1.124)
 - Define *election cycle*
- Bundling Disclosures (Section 1.125)
 - Clarify that all contributions above the \$5,000 cumulative total must be disclosed
- Contractor Contribution Prohibition (Section 1.126)
 - Change dollar threshold and time period to match ACAO
 - Clarify processes for required notices and disclosures
- Conflict of Interest (Section 3.207(a))
 - Clarify what conduct by officials constitutes *use of office*
 - Clarify the types of relationships that make an official *associated* with an organization
- Staff will continue to identify additional regulation amendments as the ACAO implementation process continues during the next two months.

General Updates and Clarifications

- Corporate Contribution Ban (Section 1.114(b))
 - Clarify which types of business entities are subject to the ban
- Independent Expenditure Ceilings (Various Regulations)
 - Correct all instances in which the supervisorial candidate IEC is not stated as \$250,000
- Disclosure Form Titles and Numbers (Various Regulations)
 - Update all regulations that use old form titles or numbers
- Delete Regulation regarding Limits on Contributions to Committees (Regulation 1.114-2)
 - The Code section underlying this regulation was deleted in 2015
- Staff will continue to identify additional regulation amendments.

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.

II. **Miscellaneous Policy Administrative Projects**

A. 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. On September 5th, Staff requested a formal opinion from the FPPC. FPPC staff have indicated that the Commission will likely hear the opinion request at its January 17, 2019 meeting. Staff plan to meet with the FPPC's general counsel and the attorney handling the opinion request prior to the FPPC's January 17th meeting to discuss the purpose of local regulation of CCC candidate committees.

B. 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. 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. The Rules Committee meeting for November 7th was cancelled. The next meeting's agenda has not been released.

2. File No. 180934 (Biennial Update to Lists of Form 700 Filers)

State law requires that local jurisdictions update, at least every two years, the list of officials and employees who must file the Statement of Economic Interests or Form 700. The main purpose of this periodic update is to bring the list of officials and employees up to date by adding positions that have been added, removing those that have been eliminated, and adjusting disclosure levels to reflect job duties. File No. 180934, which is currently pending at the Board of Supervisors, would amend the lists of employees at various City departments who must file the Form 700 and what level of disclosure they must follow.

Policy participated in the statutorily required meet-and-confer session for employee bargaining units held at the Department of Human Resources on November 7th. Presently, those discussions are still ongoing between bargaining units and DHR.

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. On September 14th, the President of the Board transferred the ordinance to the Government Audit and Oversight Committee. The ordinance is now awaiting a future hearing, which has not yet been scheduled.

C. ACAO Implementation

Policy is collaborating with all other divisions to implement the provisions of the Anti-Corruption and Accountability Ordinance (ACAO) that will become operative on January 1, 2019. This process will include new disclosure forms, updates to the Commission’s website and candidate guides, and development of regulations to provide more clarity about the new law.

D. Universal Electronic Filing of the Statement of Economic Interests (Form 700)

Policy is collaborating with other divisions to plan for the implementation of universal electronic filing by all individuals who are required to file the Form 700, Statement of Economic Interests. State law requires elected and appointed officials, as well as certain designated City employees, to publicly disclose certain personal economic interests. This process helps to identify and prevent conflicts of interest in City government. Presently, elected officials, board and commission members, and department heads file the Form 700 with the Ethics Commission in electronic format using the NetFile online filing system. City employees, on the other hand, file the Form 700 in paper form with their respective departments. The outcome of the universal electronic filing project will be that all Form 700 filers will file in the same manner: electronic filing with the Ethics Commission. This shift will bring greater convenience for filers, improve transparency for the public by making all Form 700s available online, and enable Staff to work more directly with filers to assist them and to ensure compliance. At this stage, Policy is helping to identify project requirements and establish timelines. Policy anticipates that an amendment to existing regulations will be required in order to institute universal electronic filing of the Form 700 and will likely present such regulations to the Commission in the near future.

ATTACHMENT 1

Summary of Bills Watched

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	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

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 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

11/8/2018 3:39:27 PM