PRESIDENT
NAN ARON
CHAIR
KEN GROSSINGER

July 16, 2014

Commission Chair Jodi Remke and Commissioners
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814
Via Mail and Fax (916 322-6440)

RE: Agenda item 23 of July 17, 2014 Meeting – "SB 27 Regulations - Multipurpose Organization and Top Contributor Disclosure"

Commissioner Remke and Commissioners,

Alliance for Justice thanks the Commission for this opportunity to comment on the regulations to implement SB 27.

Alliance for Justice (AFJ) is a national association of over 100 organizations, representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society. AFJ is the leading expert on the legal framework for nonprofit advocacy efforts, providing definitive information, resources, and technical assistance that encourages organizations and their funding partners to fully exercise their right to be active participants in the democratic process. Since 2004, we have worked with over 1,800 small, medium and large nonprofit organizations in California, and have provided free technical assistance to more than 125 progressive nonprofit organizations on ballot measure activity in California since 2010.

Our hands-on work with nonprofits trying to comply with the state's campaign finance laws has taught us that well-intentioned rules to require increased transparency often result in new administrative burdens for nonprofits. These burdens have the potential to chill legitimate advocacy by nonprofits. A nonprofit may by financial necessity conclude that complying with increasingly complex regulations governing ballot measure advocacy is too expensive, and decide to sit out campaigns, to the detriment of statewide and local policies—and more importantly, to the detriment of individuals, families, and communities throughout the state. We, therefore, work to ensure that proposed policies do not unnecessarily impede legitimate and important participation in our democratic process.

AFJ appreciated that SB 27 sought to balance the desire for public knowledge of the true sources of money being spent to influence elections in California, with the recognition that multipurpose nonprofit organizations should be able to spend a reasonable amount of their existing funds without incurring complex filing and reporting obligations. We would like to thank the Commission for taking into account the unique situation of multipurpose nonprofit advocacy organizations as members of the regulated community, and for the changes it has already made to the proposed regulations since the June 17, 2014 Interested Persons Meeting.

AFJ encourages the Commission to address two still outstanding concerns that we and others raised at the June 17, 2014 Interested Persons Meeting.

1. In proposed §18422(e)(3), the time period for a contributing nonprofit organization to file a statement of organization and an initial campaign statement has been shortened from two days to 24 hours (or the next business day). AFJ was already concerned that two days was an unreasonably short period of time to gather the appropriate documents, understand the intricacies of the law, potentially identify and hire a lawyer to handle the filing, and file timely and correctly. We are even more concerned now that the proposed time period has been reduced to 24 hours. A more reasonable period of time would be five to ten business days, to allow nonprofits unfamiliar with the details and nuances of filing to better understand the relevant issues and requirements, and identify the appropriate donors.

   We appreciate that the window for expedited filing has been shortened from 90 days before an election to 16 days before an election. We also appreciate the preference for quick dissemination of information in the days leading up to the election. However, our experience working with nonprofits that lack expertise in these laws informs our concern that many of these nonprofits will not be able to comply with the short turn-around time required in the current regulations. In determining the reasonable period of time for multipurpose organizations to comply, the Commission should take into consideration that this time period for compliance only applies to organizations which have not solicited or otherwise received money earmarked for electoral activity. These organizations are less likely to be familiar with the reporting requirements of state law and will most likely need well more than 24 hours to determine whether they need to register and report.

2. In proposed §18422(e)(3), we would like to see more clarity on when and how an organization qualifies as a committee. The proposed language states that an organization knows or has reason to know about its qualification as a committee upon receiving either the "nonprofit filer" or major donor notices, or "being otherwise put on notice." The language in this last clause is unclear and potentially confusing. We would encourage the new regulations to provide clear examples of what constitutes notice of committee qualification, so nonprofits do not inadvertently miss complying with filing obligations because they were not aware they had such an obligation.

As the Commission moves forward with finalizing the implementing regulations, we encourage it to continue to keep in mind that for most multipurpose nonprofit organizations, compliance with the state's complex campaign finance laws is a new experience. We have seen again and again that even advocacy-oriented nonprofits that are familiar with the federal laws that govern their advocacy as tax-exempt organizations, struggle to understand California's complex laws regulating ballot measure advocacy. As such, we urge the Commission to balance the need for information on campaign spending with the reality of limited resources and expertise in the nonprofit sector.

Thank you again for offering this opportunity to address the Commission regarding its development of these regulations.

Sincerely,

Nayantara Mehta
Senior Counsel
Alliance for Justice West Coast Office