

Notice
Fair Political Practices Commission
Interested Persons Meeting
Proposal to Amend Regulation 18616
December 3, 2015, 10 a.m.
428 J Street, 8th Floor Hearing Room
Sacramento, CA 95814

The Fair Political Practices Commission staff will hold an Interested Persons meeting on December 3, 2015 at 10 a.m. to solicit public input regarding the regulatory proposal listed below. The proposal will be considered for adoption at the January 21, 2016 Commission meeting.

Amend Regulation 18616. Reports by Lobbyist Employers and Persons Spending \$5,000 or More to Influence Legislative or Administrative Action.

Government Code Section 86116 requires any lobbyist employer or person spending \$5,000 or more to influence legislative or administrative action to file periodic reports disclosing payments in the following categories: (1) Payments to lobbying firms, (2) Payments to lobbyists, (3) Activity expenses, and (4) Other payments to influence legislative or administrative action. Section 86110 requires the filers to keep detailed accounts, records, bills and receipts in these categories as required by regulations adopted by the Commission.

Regulations 18615 and 18616 provide the accounting and reporting requirements for each reporting category under Section 86116. This proposal deals with reporting requirements for the “other payments to influence legislative or administrative action” category as specified in Regulation 18616.

Regulation 18616(a)(4) requires all lobbyist employers and \$5,000 filers to report “other payments to influence legislative or administrative action,” which includes payments for or in connection with:

“(A) Support or assistance of lobbyists;

(B) Direct communication with a legislative, agency, or elective state official for the primary purpose of influencing legislative or administrative action; and

(C) Soliciting or urging persons other than the filer or the filer's employees to enter into direct communication with a legislative, agency, or elective state official for the primary purpose of influencing legislative or administrative action.”

Currently, even though filers are required to maintain detailed records of all payments to influence, they disclose “other payments to influence” as a lump sum with no detail. These payments can cover a range of expenditures, including advertising campaigns,

grass-roots advocacy, contracts with “consultants” not registered as lobbyists, and other activities designed to “influence” directly or indirectly.

Various published reports detail the growing amount of payments classified under “other payments to influence.” Lump sum reporting of this catchall category does not provide the public the ability to know how and where that money is spent. Commission staff is therefore recommending regulatory changes to require itemization of specified payments to help provide more transparency and information to the public consistent with the purposes of the statutory provision.

I. Information and Threshold for Itemization:

Commission staff is recommending that lobbyist employers and \$5,000 filers that file periodic reports under Section 86116 itemize on a separate form provided by the Commission (current Form 640) “other payments to influence” totaling \$2,500 or more to a payee. Form 640 would be submitted with the report required under Section 86116. The filer would be required to disclose:

- (A) The name and business address of the payee;
- (B) The total payments made during the reporting period;
- (C) The cumulative amount paid during the calendar year; and
- (D) A payment code to describe the primary purpose of the payment.

II. Payment Codes:

The amendments to Regulation 18616 also would require the filer to use a specified payment code to identify the primary purpose of the itemized payment of \$2,500 or more listed on Form 640. The proposed codes are based on the type of payments for which the filers are currently required to maintain detailed records. The payment codes are categorized as follows:

- Compensation – compensation of employees other than lobbyists as defined under Regulation 18616 (f)(1);
- Expenses – includes expenses incurred by a lobbyist and paid directly by the filer, or expenses incurred by the filer for goods or services used by a lobbyist or used to support or assist a lobbyist in connection with his or her activities as a lobbyist;
- Legislative related-services – including legislative-related services performed by a lobbying firm in the absence of express or implied authorization to engage in direct communication related to researching, monitoring, analyzing or drafting statutes, or recommending strategy, providing advice, or similar services concerning pending or proposed legislative or administrative action under Regulation 18614(b)(2);
- Advertising – including billboards, print, radio, television, text, email and other electronic advertising;

- Public Affairs – including public relations, political consulting, grassroots campaigns, coalition building, publications and media relations; and
- Other – for all other payments.

III. Overhead Expenses and Other Lump Sum Payments:

Certain payments are considered regular, ongoing business expenses that would continue to be incurred in substantially similar amounts regardless of the filer’s activities to influence legislative or administrative action. These payments may continue to be reported as lump sum totals under “overhead expenses” on the Form 640, and all other payments under \$2,500 will be reported as a lump sum. They include:

- Rent;
- Electricity;
- Internet/Phone bills;
- Office supplies;
- Subscriptions to legislative tracking services;
- Compensation for office support staff in a solely secretarial, clerical, or manual role or are limited solely to the compilation of data and statistics; and
- All other payments of less than \$2,500 will continue to be reported as a lump sum.

ADDITIONAL INFORMATION

- Proposed language for Regulation 18616 is attached for review, and can also be found at <http://www.fppc.ca.gov/index.php?id=450>.
- You may participate in this interested persons meeting in person (at the Commission’s offices).
- You may also listen to and participate in this interested persons meeting by teleconference by calling; (877) 411-9748 access code 723284.
- Finally, Commission staff invites written comments addressing these topics. Address comments regarding Regulation 18616 to Senior Commission Counsel Emelyn Rodriguez at (916) 322-5660.

For questions about this meeting, you may contact Cesar Cuevas at (916) 322-5660.