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FAIR POLITICAL PRACTICES COMMISSION  
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**To:** Law and Policy Committee

**From:** Dave Bainbridge, General Counsel  
L. Karen Harrison, Senior Commission Counsel

**Subject:** Behested Payment Reporting – Electronic filing

**Date:** September 25, 2020

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Staff has identified improvements that could be made to the behested payment reporting process, particularly with regard to electronic filing. Below is a summary to facilitate discussion regarding these topics.

#### When and Where to file

Government Code 84224 requires elected officials to file behested payment reports with their agency within 30 days of the behest. For state elected officials, the agency must then forward a copy of report to the FPPC within 30 days. At the local level, the official files with the agency and the agency must forward to the local filing official (e.g. city clerk, county elections official, local ethics commission)

#### E-filing vs Hard Copy

The FPPC developed an electronic filing system that allows state officials to file behested payment reports electronically directly with the FPPC on our website. It's similar to the Form 700 electronic filing system.

In addition to electronic filing, we also accept the reports on the forms themselves, either in pdf format by email, or on paper (collectively referred to as a “hard copy”).

As part of the electronic filing system, the FPPC website has a page where members of the public can search for behested payments by official and obtain data about all behested payments reported by state officials. The database is populated automatically when a report is filed electronically on our system. However, when reports are filed as hard copies, that data is inputted in the system by staff in the Education Group. While this helps to ensure the data on the website is comprehensive, it presents a couple significant problems: (1) It takes up significant staff time and is performed by Political Reform Consultants (PRCs) in the Legal Division's Education and Email Advice Section, which is not an efficient use of their time given their pay scale and expertise; <sup>1</sup> (2) Inherent in data entry is the possibility of data entry errors, duplicative reporting, etc.

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<sup>1</sup> Education has been tracking the behested payment report (Form 803) hours, and for the past several months two staff members spend a combined total average of 13.5 hours per week related to inputting data from hard copy Form 803s, with their supervisor spending an average 2 hours per week.

The Legal Division recommends eliminating the process of inputting hard copies onto the electronic filing system. The preferred way to do this would be a legislative change requiring state officials to file behested payment reports with the FPPC using the electronic system. This would also eliminate the two filing deadlines (30 days for the official to file and 30 days for the agency to forward a copy).

#### User Authentication

Currently, the electronic filing system allows anyone to file a report. We recommend adding an authentication process where each filer has a unique I.D./login (similar to the Form 700 system). IT has indicated such a change to the system is possible. This would solve a couple problems. (1) It would provide greater authentication of the record and (2) it would make filing and tracking amended reports simpler.

#### E-filing as Original

Both Oakland Ethics and SF Ethics have requested authority through a regulation to treat an electronic filing as an original. Both local ethics agencies have electronic filing systems but have required officials to file a paper copy as well. Historically, the FPPC has favored “wet signatures” on reports and statements. However, this requirement is not explicitly stated and the increased acceptability of electronic signatures, both from a legal and practical standpoint, would seem to justify rethinking this prior policy. The behested payment report statute doesn’t mention electronic filing.