



FAIR POLITICAL PRACTICES COMMISSION

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September 14, 2001

Ginny Vida, Executive Director
San Francisco Ethics Commission
30 Van Ness Ave., Ste. 3900
San Francisco, CA 94102-6027

**Re: Your Request for Advice
Our File No. A-01-137**

Dear Ms. Vida:

This is in response to your request for advice concerning the campaign disclosure provisions of the Political Reform Act (the "Act").¹

QUESTIONS

1. May candidates and committees required under the Act to file campaign statements with the San Francisco Ethics Commission ("Ethics Commission") use forms generated by the Ethics Commission's electronic filing program that do not include recent Proposition 34-related changes enacted by the Fair Political Practices Commission ("FPPC")?

2. If the answer to question 1 is no, may the Ethics Commission continue to accept the current version of the disclosure forms until the Ethics Commission may feasibly update the electronic filing system given its current budgetary and technological constraints?

CONCLUSIONS

1. The FPPC has no jurisdiction over the Ethics Commission's electronic campaign disclosure filing system and does not regulate how candidates and committees electronically disclose financial information to the Ethics Commission. However, paper

¹ Government Code sections 81000-91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations.

copies of campaign reports filed under the Act must be submitted on the forms prescribed by the FPPC. These forms embody the current disclosure requirements under the Act.

2. The approved Form 460 embodies the information required to comply with the current campaign disclosure requirements under the Act. The FPPC cannot waive those requirements. Therefore, to the extent you would seek a waiver of those requirements, the answer is no.

FACTS

The San Francisco Ethics Commission is the filing officer for campaign disclosure statements filed by San Francisco City and County candidates and committees. By ordinance, the Ethics Commission established an electronic campaign filing program for city and county committees that meet certain financial thresholds. The program also allows filers to print and file paper copies of campaign statements that comply with the campaign disclosure requirements of the Act.

On January 1, 2001, the Act's campaign provisions were amended by legislation (Chapter 130, Stats. 2000 (AB 974) and Chapter 853, Stats. 2000 (SB 2076)) and by Proposition 34, which was passed by the voters in the November 2000 general election. In December 2000, draft campaign forms reflecting the changes enacted in AB 974 and SB 2076 were circulated for public comment and placed on the agenda for the FPPC's January meeting. Some of the revised forms were approved at that meeting; however, approval of the revised Form 460 (Recipient Committee Campaign Statement) was postponed so that the FPPC could consider whether additional changes related to Proposition 34 should be made. The Form 460, revised to include disclosure of information related to Proposition 34, was approved on June 8, 2001. The changes enacted in AB 974 and SB 2076 affect state and local candidates and committees. The Proposition 34 form changes affect only candidates for elective state office and committees that make contributions to state candidates.

ANALYSIS

Under the Act, candidates and committees must file periodic campaign statements disclosing contributions received and expenditures made in connection with state and local elections. (Section 84100, *et seq.*) A "campaign statement" is defined in section 82006 as "an itemized report which is prepared on a form prescribed by the [Fair Political Practices] Commission...."

Candidates for local offices and committees that support or oppose only local candidates and ballot measures file campaign statements with the designated filing officer for the jurisdiction holding the election. (Sections 82009.5 and 84215.) As the filing officer for the City and County of San Francisco, the Ethics Commission is required to "supply the necessary forms and manuals prescribed by the [Fair Political Practices]

Commission" to candidates and committees that file reports and statements with the agency. (Section 81010(a).)

The Form 460 approved by the FPPC on June 8, 2001, is the prescribed form for filing campaign statements required under the Act by all state and local candidates and committees. The FPPC is not authorized to waive or consent to waiver of a statute. (*Caminetti v. State Mut. Life Ins. Co.* (1942) 52 Cal.App.2d 321, 325. Therefore, candidates and committees filing with the Ethics Commission must use that form to comply with the Act's campaign disclosure requirements.

As noted in the Commission's *Wood* Opinion, FPPC Ops. O-99-315, we are mindful that achieving maximum compliance with online filing requirements presents significant challenges. Therefore, we are more than willing to discuss with you other options that would permit compliance with the Political Reform Act while minimizing disruption to your local electronic filing scheme. Enclosed is a copy of a letter sent this week to the state electronic filing vendors that may be of assistance to you.

If you have questions concerning this letter, please do not hesitate to contact me.

Sincerely,

Luisa Menchaca
General Counsel



By: Carla Wardlow
Division Chief
Technical Assistance Division

Enclosure