

Memorandum

To : DAVID PITMAN

Date: May 25, 1977

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A-77-346

From : Secretary of State - RICK MANESS

Subject: Assessment of Late Filing Fees when Lobbyist Filing Deadline Falls on a Holiday. (Gillies letter)

When the last day for filing any instrument or other document with a state agency falls upon a Saturday or holiday, such act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed.

Government Code §6707

If the last day for the performance of any act provided or required by law to be performed within a specified period of time shall be a holiday, then such period is hereby extended to and including the next day which is not a holiday. The term "holiday" as used herein shall mean all day on Saturdays, all holidays specified in Section 6700 and 6701 of the Government Code and, to the extent provided in Section 12b of this code, all days which by terms of said Section 12b are required to be considered as holidays....

Code of Civil Procedure §12a

Reports required by Sections 86107 and 86109 shall be filed during the month following each month during any part of which the Legislature was in session and during the month following each calendar quarter.

Government Code §86110

If any person files an original statement or report, after any deadline imposed by this act he shall, in addition to any other penalties or remedies established by this act, be liable in the amount of ten dollars (\$10) per day after the deadline until the statement or report is filed, to the officer with whom the statement or report is required to be filed.

Government Code §91013(a)

Interim advice - filing date moves to next business day. Subsequently we adopted regulation 13116

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39 Ops. A.G. 78(1962) points out that CCP§12a, and Government Code §6707 are not to be applied literally; rather, the application depends on the wording of the specific statute applying to the particular document in question. California's case law appears to hold that the deadline for filing a document would be extended if a document was required to be filed "on" a certain day or "within" a specified time and the day fell on a holiday, but that the deadline could not be extended if the statute required the document to be filed "not later than" a specified number of days "before" a specified time, since to extend the deadline would nullify the filing statute.

Lobbyist reports are required to be filed "during the month..." This designation appears to resemble a requirement that it be done within a specified time, rather than "not later than" a specified number of days before a designated date. Therefore, the deadline for filing lobbyist reports that falls on a Saturday or holiday would be extended to the next working day.

CCP§12a states that such a deadline is extended to the next day which is not a holiday, and Government Code §6707 states that the filing may occur upon the next business day "with the same effect as if it had been performed upon the day appointed." These sections suggest that late filing fees should be calculated from the extended filing deadline, rather than the deadline stated in the Political Reform Act.

RBM:sk

cc: Tony Miller

Note to CR Meeting Participants:

See 84200 et seq in light of the above memo

Rick