

84200

Offices of:
Milpitas Sanitary District

F P P O

JAN 31 9 17 AM '79

A-79-064



CITY OF MILPITAS, CALIFORNIA

455 E. CALAVERAS BOULEVARD — MILPITAS, CALIFORNIA 95035

Telephone: (408) 262-2310

January 29, 1979

FROM THE OFFICE OF: City Clerk

FILE REF:

Fair Political Practices Commission
Technical Assistance and Analysis Division
P. O. Box 807
Sacramento, Calif. 95804

Dear Sirs:

There is an apparent discrepancy between the filing schedules for local elections shown on page 6 of your 1979 Information Manual on Campaign Disclosure Provisions of the Political Reform Act and Paragraph C. Committees Supporting or Opposing the Qualification of Local Measures on page 7 of the manual.

The discrepancy has to do with the 1st pre-election statement. The schedule states 40 days before the election and Paragraph C. states 35 days after the deadline for filing petitions or the date of notification that the measure qualified or failed to qualify, whichever date is earlier. The two may or may not coincide. Which date prevails?

I assume that the filing schedule was drawn up in accordance with Government Code 84200 and that Elections Code Section 11552 is inoperative by the terms of Elections Code Section 11620.

Very truly yours,

W. E. Smith
W. E. Smith
City Clerk

enc.
cc: City Attorney

PS.: We anticipate that an initiative measure will be filed on February 13 to qualify for a June 5, 1979 election.

WES

*1-31-79
Responded by telephone.
No conflict with filing
dates. File 35 days
after (see 84200) and
possibly 40 days
before the
election
(84200)
Ginn S-K*

Law Review Commentaries

Political Reform Act: Greater access to initiative process. Roger Jon Diamond, Peter R. diDonato, Patrick J. Marley and Patricia V. Tubert. (1975) 7 Southwestern U.L.Rev. 453.

Proposition 9. Joanne Garvey and Vigo Nielsen, Jr. (1975) 50 S.Bar J. 254.

1. In general

Elec.C. §§ 11530 to 11570 will be superseded by §§ 84100 to 84305, of the Political Reform Act of 1974, but the remainder of the Waxman-Dymally Disclosure Act will continue to have certain efficacy even after the Initiative measure becomes operational. 58 Ops.Atty.Gen. 203, 3-17-75.

Patricia V. Tubert. (1975) 7 Southwestern U.L.Rev. 453.

Proposition 9. Joanne Garvey and Vigo Nielsen, Jr. (1975) 50 S.Bar J. 254.

§ 84101. Statement of organization; filing

Law Review Commentaries

Political Reform Act: Greater access to initiative process. Roger Jon Diamond, Peter R. diDonato, Patrick J. Marley and

§ 84102. Statement of organization; contents

The statement of organization required by Section 84101 shall include:

(a) The name, street address and telephone number, if any, of the committee;

(b) The name, street address and telephone number of each person, if any, with which the committee is affiliated or connected;

(c) The full name, street address and telephone number, if any, of the treasurer and other principal officers;

(d) The full name and office sought by * * * any candidate and the title and ballot number, if any, of * * * any measure, which the committee supports or opposes as its primary activity. A committee which does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether such candidates or measures have common characteristics such as a political party affiliation;

(e) A statement whether the committee is independent or controlled, and if it is controlled, the name of each candidate or committee by which it is controlled or with which it acts jointly;

(f) The disposition of surplus funds which will be made in the event of dissolution;

(g) Such other information as shall be required by the rules or regulations of the Commission consistent with the purposes and provisions of this chapter.

(Amended by Stats.1977, c. 1095, p. —, § 2.)

Exemption from reporting and disclosure requirements, see 2 Cal. Adm. Code 18429.

Law Review Commentaries

Political Reform Act: Greater access to initiative process. Roger Jon Diamond,

Peter R. diDonato, Patrick J. Marley and Patricia V. Tubert. (1975) 7 Southwestern U.L.Rev. 453.

§ 84103. Statement of organization; amendment

Law Review Commentaries

Political Reform Act: Greater access to initiative process. Roger Jon Diamond,

Peter R. diDonato, Patrick J. Marley and Patricia V. Tubert. (1975) 7 Southwestern U.L.Rev. 453.

ARTICLE 2. FILING OF CAMPAIGN STATEMENTS

84201. June or November elections in even-numbered years [New].

84214. Late contributions; reports [New].

84216. Contributions; loans received by a candidate or committee; reporting [New].

Law Review Commentaries

Expenditure limitations in campaigns for statewide office in California. (1975) 6 Pacific L.J. 631.

Proposition 9. Joanne Garvey and Vigo Nielsen, Jr. (1975) 50 S.Bar J. 254.

§ 84200. Candidates; committees; time

Each candidate and each committee supporting or opposing a candidate or candidates or supporting or opposing a ballot measure or ballot measures shall file campaign statements not later than 40 days prior to the election, not later than

Underline indicates changes or additions by amendment

12 days prior to the election, and not later than 65 days after the election. This section shall not apply to elections held on the first Tuesday after the first Monday in June or November in even-numbered years.

(Amended by Stats.1977, c. 1193, p. —, § 4.)

1977 Amendment. Inserted the provision including committees supporting or opposing ballot measures and added the second sentence.

Law Review Commentaries

Political Reform Act: Greater access to initiative process. Roger Jon Diamond, Peter R. diDonato, Patrick J. Marley and Patricia V. Tubert. (1975) 7 Southwestern U.L.Rev. 453.

1. In general

In suit brought by campaign committees and others to enjoin enforcement of certain provisions of the Waxman-Dymally Campaign Disclosure Act and the Political Reform Act of 1974, a balancing of the injury to plaintiffs' First Amendment rights (U.S.C.A.Const. Amend. 1) which would result from a denial of a preliminary injunction,

as against the injury to the people of California which would result from the granting of an injunction, disclosed the propriety of trial court's conclusion that the latter injury would be the greater and that, accordingly, a preliminary injunction should be denied. Socialist Workers 1974 California Campaign Committee v. Brown (1975) 125 Cal.Rptr. 915, 53 C.A.3d 879.

Assuming a women's club for a political party is a committee within the meaning of Political Reform Act of 1974, it must report costs of activities to support or oppose candidates or measures. 58 Ops.Atty.Gen. 546, 7-22-75.

A central committee must report expenditures for renting a portion of the women's club headquarters for political purposes. Id.

§ 84200.5 Renumbered § 84202 and amended by Stats.1977, c. 1193, p. —, § 6

§ 84201. June or November elections in even-numbered years

Each candidate and each committee supporting or opposing a candidate or candidates or supporting or opposing a ballot measure or ballot measures at an election held on the first Tuesday after the first Monday in June in even-numbered years shall file campaign statements not later than April 30, not later than 12 days prior to the election, and not later than July 31. The closing dates for such statements shall be April 23, 15 days prior to the election, and June 30, respectively.

Each candidate and each committee supporting or opposing a candidate or candidates or supporting or opposing a ballot measure or ballot measures at an election held on the first Tuesday after the first Monday in November in even-numbered years shall file campaign statements not later than September 30, not later than 12 days prior to the election, and not later than January 31. The closing dates for such statements shall be September 23, 15 days prior to the election, and December 31, respectively.

(Added by Stats.1977, c. 1193, p. —, § 5.)

Former § 84261 was renumbered § 84203 and amended by Stats.1977, c. 1193, p. —, § 7.

Derivation: Former § 84203, added by Initiative Measure approved by the electors June 4, 1974.

Law Review Commentaries

Political Reform Act: Greater access to initiative process. Roger Jon Diamond, Peter R. diDonato, Patrick J. Marley and Patricia V. Tubert. (1975) 7 Southwestern U.L.Rev. 453.

§ 84202. County central committee; candidates

Notwithstanding the provisions of Section * * * 84201, a candidate for county central committee shall file a campaign statement * * * not later than July 31 following the election and shall not be required to file any additional campaign statement, unless he has received contributions for that election in which case he shall observe the requirements of Section 84201. The closing date for such a statement shall be June 30.

This section is not applicable to a committee supporting or opposing one or more candidates for county central committee, and each such committee shall observe the requirements of Section * * * 84201.

(Formerly § 84200.5, added by Stats.1975, c. 915, p. 2021, § 3, eff. Sept. 20, 1975.

Amended by Stats.1976, c. 1106, p. —, § 6. Renumbered § 84202 and amended by Stats.1977, c. 1193, p. —, § 6.)

Former § 84202 was renumbered § 84204 and amended by Stats.1977, c. 1193, p. —, § 8.

1977 Amendment. Changed the date of filing from "within 65 days following the election" to "not later than July 31 follow-

ing the election"; substituted the citations in the first sentence of the first paragraph and the second paragraph "Section 84201" for "Section 84200"; and added the second sentence of the first paragraph.

Asterisks * * * indicate deletions by amendment

the Elections Code and any sum in excess of \$500 under the Government Code to candidates or committees. 56 Ops.Atty.Gen. 25, 1-16-73.

absence of definite time as to when a campaign begins with respect to campaign statements or statements of finances, contributions towards these campaigns must be reported without regard to the time of receipt of funds. Id. Campaign contributions and expenditures in municipal elections in excess of \$500 are not "municipal affairs" within the national provisions authorizing charities to make and enforce all laws respecting municipal affairs, and hence statutes for office in Long Beach municipal elections must file campaign statements required by Elections Code. 35 Ops.Atty.Gen. 294, 6-16-60.

Under provisions of Elections Code regarding filing of campaign statements, every candidate is under obligation to file a campaign statement whether he was elected at election or not. 32 Ops.Atty.Gen. 8, 8-25-58.

A candidate in a primary election must include in his campaign statement, receipts and expenditures made on his behalf by a campaign committee, as well as personal receipts and expenditures if he has knowledge of such a committee's financial transactions. 29 Ops.Atty.Gen. 197, 10-21-52.

Where a candidate at a primary election has knowledge of receipts and disbursements by his campaign committee he is required to include them in his campaign statement filed at a primary election. Id.

Presidential candidates

Under the § 11500 et seq., a presidential candidate who seeks electoral college

votes in the presidential election is required to report his receipts and expenditures. 56 Ops.Atty.Gen. 300, 7-3-73.

3. Committees

Under this section and § 11553, a committee supporting a candidate or measure is required to file a second campaign statement even though no additional contributions are received and no additional expenditures are made after the closing date for the first campaign statement. 58 Ops.Atty.Gen. 293, 3-17-75.

Under § 11500 et seq., committees which support a presidential candidate who seeks electoral college votes are required to report their receipts and expenditures. 56 Ops.Atty.Gen. 300, 7-3-73.

A political committee is required to report to secretary of state single contributions received in excess of \$500 from any one person or organization. 53 Ops.Atty.Gen. 169, 2-28-73.

Under § 11500 et seq., requiring filing of campaign statements of expenditures, a campaign committee is not required to file a campaign statement; only the treasurer of a campaign committee is required to file. 32 Ops.Atty.Gen. 88, 8-25-58.

4. Rules and regulations

There are no statutes expressly giving the secretary of state power to adopt or enact regulations interpreting the provisions of Gov.C. § 3750 et seq. (repealed) and § 11500 et seq. relating to disclosure of campaign financing information and in the absence of such statutory authority the secretary would have no power to enact or adopt such regulation. 56 Ops.Atty.Gen. 25, 1-16-73.

1551. Short-term campaign statements; times

Notwithstanding the provisions of Section 11550, when a special, general, or runoff election is held less than 60 days following the primary election, campaign statements shall be filed according to the following schedule by each person specified in Section 11550:

(a) A campaign statement, the closing date of which shall be the 10th day prior to the primary election, shall be filed no later than the 10th day prior to the primary election.

(b) A campaign statement, the closing date of which shall be the 31st day prior to the primary election, shall be filed no later than the 31st day prior to the primary election.

(c) A campaign statement, the closing date of which shall be the 10th day prior to the special, general, or runoff election, shall be filed by each candidate who has been nominated in the primary election and by each committee supporting or opposing any candidate no later than the 7th day prior to the special, general, or runoff election.

(d) A campaign statement, the closing date of which shall be the 31st day following the special, general, or runoff election, shall be filed no later than the 38th day following the special, general, or runoff election. Notwithstanding the above, if prior to the closing date all liabilities of the candidate or committee have been paid and no additional contributions are expected, the campaign statement may be filed at any time after the election with a closing date other than the 31st day following the election and not later than the 38th day following the election.

(Added by Stats.1973, c. 1186, p. 2478, § 2.)

Historical Note

Filing of campaign statement required to be filed on January 31, 1974 by this chapter by March 1, 1974, see Historical Note under § 11550.

Derivation: Former § 11563, enacted by Stats.1961, c. 23, p. 747, § 11563, amended by Stats.1961, c. 1732, p. 582, § 2.

Gov.C. former §§ 3750, 3751, added by Stats.1969, c. 1512, p. 3093, § 1.

Elect.1933, § 4532 (Stats.1933, c. 26, p. 191, amended by Stats.1955, c. 1619, p. 2955, § 7).

Stats.1913, c. 69, p. 1411, § 30; Stats.1917, c. 714, p. 1395, § 19; Stats.1929, c. 193, p. 188, § 1.

Stats.1896, c. 16, p. 13, § 3; Stats.1907, c. 359, p. 571, § 1; Stats.1913, c. 238, p. 396, § 1; Stats.1927, c. 703, p. 1214, § 1; Stats.1929, c. 192, p. 187, § 1.

Cross References

No fee for filing, see § 11583.5.

Law Review Commentaries

Campaign contributions and expenditures in California. (1953) 41 C.L.R. 309.

§ 11552. Campaign statements for proponents of measures; times

(a) Not later than 35 days after a measure has been qualified for the ballot, the proponent or proponents shall file a campaign statement, the closing date of which shall be the 28th day following the qualification of the measure.

(b) If any proposed measure does not qualify for the ballot, the proponent or proponents shall file a campaign statement within 35 days after the final deadline for circulating the petition, the closing date of which shall be the 28th day following the deadline.

(Added by Stats.1973, c. 1186, p. 2479, § 2.)

Article 9

EFFECTIVENESS

Sec.

- 11620. Chapter inoperative; exceptions.
- 11621. Special campaign statement due July 31, 1975; exceptions.
- 11622. Enforcement not precluded.
- 11623 to 11631. Repealed.

Article 9 was added by Stats.1975, c. 145, § 1, eff. June 28, 1975.

Operative effect of Article 9, see § 11620.

Law Review Commentaries

Political Reform Act: Greater access to initiative process. Roger Jon Diamond, and Patrick V. Tubert. (1975) 7 Southwestern U.L.Rev. 439.
 Peter R. diDonato. Patrick J. Marley

§ 11620. Chapter inoperative; exceptions

This chapter shall be inoperative and shall remain inoperative unless Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code is repealed, held invalid by a court of appeal, or otherwise made inoperative; provided that, this chapter shall be considered in full force and effect with respect to any activities covered by this chapter which occurred prior to January 7, 1975, and to campaign statements required to be filed by Section 11621.

(Added by Stats.1975, c. 145, § 1, eff. June 28, 1975.)

Historical Note

Section 3 of Stats.1975, c. 145, provided: "Nothing in this act shall be construed to reflect a legislative determination or judgment regarding the validity or invalidity of any provision contained in the Political Reform Act of 1974 (Title 9 commencing with sec. 81000), Gov.C.)"
 Former § 11620, enacted by Stats.1961, c. 23, p. 749, § 11620, derived from Elec. C.1939, § 4640, Stats.1939, c. 26, p. 196, amended by Stats.1955, c. 1640, p. 2956, § 11; Stats.1907, c. 350, p. 673, § 4; Stats.1893, c. 16, p. 16, § 6, relating to time for presentation of claims to committees, was repealed by Stats.1973, c. 1186, p. 2472, § 1 and Initiative Measure approved by electors June 4, 1974.

Library References

Statutes ☞259. C.J.S. Statutes §§ 402, 410.

§ 11621. Special campaign statement due July 31, 1975; exceptions

Every candidate and committee which received contributions or made expenditures prior to January 7, 1975, and since the closing

date of the previous campaign statement, and every elective officeholder shall file a campaign statement not later than July 31, 1975, completing the disclosure requirements under this chapter. The period covered by the campaign statement shall begin from the day after the closing date of the previous campaign statement, or January 1, 1974, if no previous campaign statement has been filed, and shall end on January 6, 1975. This section is not applicable to an elective officeholder whose salary is less than one hundred dollars (\$100) a month or to judges, unless such an elective officeholder or judge is a candidate or committee who received contributions or made expenditures during the specified period.

(Added by Stats.1975, c. 145, § 1, eff. June 28, 1975.)

Historical Note

Former § 11621, enacted by Stats.1961, c. 23, p. 749, § 11621, derived from Elec. C.1939, § 4641, added by Stats.1939, c. 26, p. 197, amended by Stats.1955, c. 1640, p. 2956, § 12; Stats.1907, c. 350, p. 673, § 4; Stats.1893, c. 16, p. 16, § 6, providing the time for payment of claims by candidates, was repealed by Stats.1973, c. 1186, p. 2472, § 1 and Initiative Measure approved by electors June 4, 1974.

Library References

Elections ☞317. C.J.S. Elections § 329, 356.

§ 11622. Enforcement not precluded

Nothing in Section 11620 shall prevent the filing of criminal actions and the enforcement of civil sanctions based on violations of this chapter.

(Added by Stats.1975, c. 145, § 1, eff. June 28, 1975.)

Historical Note

Former § 11622, enacted by Stats.1961, c. 23, p. 749, § 11622, derived from Elec. C.1939, § 4642, Stats.1939, c. 26, p. 197; Stats.1907, c. 350, p. 673, § 4; Stats.1893, c. 16, p. 16, § 6, providing the time for presentation of claims to candidates, repealed by Stats.1973, c. 1186, p. 2472, § 1 and Initiative Measure approved by electors June 4, 1974.

§§ 11623 to 11631. Repealed by Stats.1973, c. 1186, p. 2472, § 1; Initiative Measure approved June 4, 1974

Historical Note

The repealed sections, enacted by Stats. 1961, c. 23, p. 750, § 11623 to 11631, derived from Elec.C.1939, §§ 4643 to 4651, added by Stats.1939, c. 26, pp. 197, 198, §§ 13 to 15; Stats.1907, c. 350, p. 673, § 4, 5; Stats.1893, c. 16, pp. 16, 17, §§ 6 related to procedural requirements for presentation and payment of claims.