



FAIR POLITICAL PRACTICES COMMISSION

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February 22, 2010

Mr. Tony Miller
Chief, Political Reform Division
California Secretary of State
1500 11th Street, Room 495
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-10-016

Dear Mr. Miller:

This letter responds to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").¹

QUESTION

Some state committees that have filed electronically/online with the Secretary of State pursuant to Section 84605 have subsequently become local committees, pursuant to Regulation 18247.5, and are filing as such. Does Section 84605(g) require such entities to continue to file electronically/online with the Secretary of State notwithstanding their change of status from state to local committees?

CONCLUSION

No, if a committee changes status from a state committee to a city or county committee under Section 82027.5 and Regulation 18247.5, because more than 50 percent of the committee's activity is at the city or county level, the committee is not required to continue filing online as a state committee with the Secretary of State.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS

Some state committees that have filed electronically/online with the Secretary of State pursuant to Government Code Section 84605 have subsequently become local committees, pursuant to Regulation 18247.5, and are filing as such. Does Section 84605(g) require such entities to continue to file electronically/online with the Secretary of State notwithstanding their change of status from state to local committees?

ANALYSIS

Section 82027.5 defines “general purpose committee” to include major donor and independent expenditure committees (under Section 82013(b) or (c)) and recipient committees (under Section 82013(a)) formed or existing to support or oppose more than one candidate or ballot measure. The statute next organizes general purpose committees into state, county, and city committees, as follows:

“(b) A ‘state general purpose committee’ is a political party committee, as defined in Section 85205, or a committee to support or oppose candidates or measures voted on in a state election, or in more than one county.

“(c) A ‘county general purpose committee’ is a committee to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county.

“(d) A ‘city general purpose committee’ is a committee to support or oppose candidates or measures voted on in only one city.” (Section 82027.5.)

Amplifying this statutory definition, Regulation 18247.5 provides that a committee’s jurisdiction is at the state, county, or city level, depending on where *the majority* of the committee’s political activity takes place:

- A committee is a *state general purpose committee*, if more than 50 percent of the contributions and expenditures made by the committee are on state candidates and measures or to other state general purpose committees.

- A committee is a *county general purpose committee* if more than 50 percent of the contributions and expenditures made by the committee are on candidates and measures in one county or to other general purpose committees in that county.

- A committee is a *city general purpose committee* if more than 50 percent of the contributions and expenditures made by the committee are on candidates and measures in one city or to other general purpose committees in that city.

The Act states where committees shall file campaign statements in Section 84215. Committees for statewide candidates and measures, and all state general purpose committees file the original and one copy of their campaign statement with the Secretary of State, with copies elsewhere. (Section 84215(a).) Committees for county candidates and measures, and county general purpose committees file the original and one copy of their campaign statement with the elections official of the county. (Section 84215(d).) Committees for city candidates and measures, and city general purpose committees file the original and one copy of their campaign statement with the clerk of the city. (Section 84215(e).)

In addition, the Act requires certain persons who file campaign reports with the Secretary of State to file these reports online or electronically once they surpass a threshold of \$50,000 in activity. The electronic filing provisions of Section 84605 provide as follows:

“Beginning on July 1, 2000, and for all applicable reporting periods thereafter, the following persons shall file online or electronically with the Secretary of State:

“(a) Any candidate, including appellate court and Supreme Court candidates and officeholders, committee, or other persons who are required pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a state elective office or state measure, provided that the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is fifty thousand dollars (\$50,000) or more. . . .

“(b) Any general purpose committees, as defined in Section 82027.5, including the general purpose committees of political parties, and small contributor committees, as defined in Section 85203, that cumulatively receive contributions or make expenditures totaling fifty thousand dollars (\$50,000) or more to support or oppose candidates for any elective state office or state measure. . . .

“(c) Any slate mailer organization with cumulative reportable payments received or made for the purposes of producing slate mailers of fifty thousand dollars (\$50,000) or more. . . .

“(d) Any lobbyist, lobbying firm, lobbyist employer or other persons required, pursuant to Chapter 6 (commencing with Section 86100), to file statements, reports, or other documents, provided that the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is five thousand dollars (\$5,000) or more in a calendar quarter.

“(e) The Secretary of State shall also disclose on the Internet any late contribution or late independent expenditure report, as defined by Sections 84203 and 84205, respectively, not covered by subdivision (a), (b), or (c).

“(f) Committees and other persons that are not required to file online or electronically by this section may do so voluntarily.

“(g) Once a person or entity is required to file online or electronically, subject to subdivision (a), (b), (c), (d), or (f), the person or entity shall be required to file all subsequent reports online or electronically. ...”
(Emphasis added.)

You note that some state committees that have filed electronically/online with the Secretary of State pursuant to Section 84605 have subsequently become local committees, pursuant to Regulation 18247.5, and are filing as such. You ask whether Section 84605(g) requires such entities to continue to file electronically/online with the Secretary of State even though they have changed status from state to local committees?

We interpret Section 84605(g) to apply to state candidates and committees that are required to file at the state level with the Secretary of State. If a former state general purpose committee's activity has switched to a city general purpose committee because more than 50 percent of its contributions and expenditures are now being made in one city, the committee shall amend its statement of organization and begin filing campaign statements in that city. In this situation, the committee has become a city general purpose committee and files with the city. Section 84605(g) does not require the city committee to also continue filing electronically/online with the Secretary of State. This interpretation is supported by the Act's division of "types of committees" in Section 82027.5 and "where to file" in Section 84215 into three levels -- state, county and city. The fact that the electronic/online filing provisions of Section 84605 apply to state candidates, committees, lobbyists, and others who are required to file their reports with the Secretary of State also supports this interpretation.

A related filing question has arisen about a general purpose committee whose status changes from local to state. Section 84215(g) provides:

“(g) If a committee is required to file campaign statements required by Section 84200 [semi-annual] or 84200.5 [pre-election] in places designated in subdivisions (d) and (e) [with a county or city], it shall continue to file these statements in those places, in addition to any other places required by this title, until the end of the calendar year.”

Thus, if a majority of a city general purpose committee's political activity shifts to the state level, and the committee becomes a state general purpose committee under Regulation 18427.5, the committee shall amend its statement of organization to be a state general purpose committee and it will start filing its campaign statements with the Secretary of State. Under Section 84215(g), however, if the committee was required to file a campaign statement with the city in a calendar year, in addition to filing with the Secretary of State, it shall also keep filing a copy of its campaign statement with the city until December 31 of that year.

Following the language of the statute, we interpret Section 84215(g) based on the date of a committee's filing with the county officer or city clerk, rather than the period covered by the report. For example, a city committee that changed to a state committee in June would be required to file its semi-annual statement due July 31 with the Secretary of State, and a copy of its statement with the city under Section 84215(g). This committee would not file its next semi-annual statement due January 31 (in the subsequent calendar year) with the city because it has changed to a state committee. Taking another example, a city committee that filed its year end-report due January 31 with the city, but later that year changed to a state general purpose committee must file its original statement and a copy with the Secretary of State, and must continue to file a copy with the city of any statement filed through December 31.

If a committee's jurisdiction changes, the statement of organization amendment filed by the committee serves to notify the filing officer of the change. A committee is always required to file an amendment to its statement of organization, Form 410, with the Secretary of State. (Section 84103.) The committee must also file a copy of its Form 410 amendment with the new jurisdiction where it will be required to file originals of its campaign reports. Although not required by the Act, a committee that changes jurisdictional status may wish to file a courtesy copy of its Form 410 amendment with the filing officer in its former jurisdiction to inform the filing officer of the change.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel



By: Hyla P. Wagner
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