



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

December 7, 2015

Dan Miller
County of Marin Filing Officer
Registrar of Voters
P.O. Box E
San Rafael, CA 94913

Re: Your Request for Informal Assistance
Our File No. I-15-214

Dear Mr. Miller:

This letter responds to your request for advice regarding conflict of interest disclosure provisions of the Political Reform Act (the "Act").¹ Because you ask a procedural question, we are treating your request as one for informal assistance. Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

QUESTION

May the County of Marin share its certified e-file system with 11 cities within the County so that these other jurisdictions may use the system for their Section 87200 statement of economic interest filers?

CONCLUSION

The County of Marin may share its e-file system for statements of economic interests (hereafter SEI or Form 700) with 11 cities in the County so that these other cities may use the system for their Section 87200 SEI filers so long as each city clerk performs all the required duties of the filing official.

FACTS

Marin County uses an e-file system for its SEI filers. Many cities within the County, in addition to handling their city's filing officer duties, are also required to submit additional SEIs to the County because city officials serve on city/county Joint Powers Agencies (JPAs). The County would like allow 11 cities in to the County to use the County's system for the cities' 87200 SEI

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.

filers. You stated that sharing your system would greatly benefit both city and county filing officers and their 87200 filers.

If approved, you intend to designate the 11 city clerks as co-administrators of the system so that they could use the system as sole receivers of filed SEIs from their City filers. The city clerks will then forward all necessary documents to the the Commission as required. You ask whether the Act restricts or forbids the cities from using another agency's the Commission approved e-file system provided there is continued adherence to Section 87500.

ANALYSIS AND CONCLUSION

The Act's conflict-of-interest rules prohibit a public official from making, participating in making, or using his or her official position in any way to influence a governmental decision in which the official knows, or has reason to know, that he or she has a "financial interest." (Section 87100.) Accordingly, certain state and local public officials must file SEIs, on a periodic basis, disclosing those personal assets and interests that may be affected during the performance of their official duties. (Sections 87200 - 87350.) Public officials who are required to file statements of economic interests are either identified in Section 87200 as statutory filers² or designated in an agency's conflict-of-interest code (referred to as designated employees or code filers). (Sections 87300 and 87302.)

You ask whether the County and 11 cities in Marin may jointly use Marin County's e-file system (Netfile) for Section 87200 filers consistent with the provisions of the Act.

The Act has numerous requirements applicable to filing officials³ with respect to statements of economic interests. Section 87500(f) requires that persons holding the office of city manager or, if there is no city manager, the chief administrative officer, and candidates for and persons holding the office of city council member, city treasurer, city attorney, and mayor – file one original with the city clerk, who shall make and retain a copy and forward the original to the Commission, which shall be the filing officer. With respect to Section 87200 filers, the Commission is the filing officer and the city clerks are filing officials.

Regulation 18115(b) provides: "Agency officials who receive statements of economic interests and forward those statements, as required by Government Code Section 87500, to the filing officer shall:

"(1) Forward the statements to the filing officer no later than five days after the filing deadline or five days after receipt in the case of a statement filed late. The official shall indicate the date of the agency's receipt on the face of the

² At the local level, Section 87200 filers include "... members of planning commissions, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and to candidates for any of these offices at any election."

³ Section 82027 defines "filing officer" to mean the office or officer with whom any statement or report is required to be filed under this title. A "filing official" makes and retains a copy of a disclosure statement but does not retain the original statement. Originals are forwarded to the Commission, which acts as the filing officer.

statement and shall also make and retain a copy of each statement forwarded to the filing officer;

“(2) Supply the necessary forms and manuals prescribed by the Fair Political Practices Commission;

“(3) Notify the filing officer of the following events within ten days of their occurrence:

“(A) An election held in the jurisdiction, the names of the candidates, the persons elected, and the office to which each person was elected;

“(B) A vacancy in an office;

“(C) Any other event affecting filing obligations.

“(4) Notify the filing officer no later than February 1 of each year of the names and positions of every person whose statements must be forwarded to the filing officer;

“(5) Compile and maintain a current list of all statements forwarded to the filing officer.”

In addition, the Act permits filing officers and officials to use electronic filing systems. Section 87500.2(a) provides: “An agency may permit the electronic filing of a statement of economic interests required by Article 2 (commencing with Section 87200) or Article 3 (commencing with Section 87300), including amendments, in accordance with regulations adopted by the Commission.”

The Commission certifies an agency’s electronic filing program as provided in Section 87500.2(c)(1):

“An agency that intends to permit electronic filing of a statement of economic interests shall submit a proposal, which shall include a description of the electronic filing system that the agency proposes to use, to the Commission for approval and certification. An agency that submits a proposal shall include a fee of one thousand dollars (\$1,000) that is payable to the Commission for the costs of approving and certifying the proposal. . . .”

Regulation 18756 provides details of what is required for Commission certification of an agency’s electronic SEI filing system, including database design requirements, security features, and redaction requirements. An agency is required to update its electronic filing system annually to conform to the Commission-approved changes to the statement of economic interest Form 700. And an agency is required to request re-certification of its electronic filing system every five years or if a significant change of product or system architecture takes place.

You stated the Marin County Netfile system was approved by the Commission. Assuming the city filing officials in question continue to perform all the duties required of the filing officials under the Act, nothing prohibits city filing officials from using the County's Form 700 electronic filing system.⁴ For example, the city clerks must continue to issue the notices and statements they are currently required to issue under Regulation 18115(b). The city clerks must continue to provide the city filers confirmation that the filer's SEI or amended SEI was received as required by Section 87500.2(d)(2). And the city must post a website notification that includes a list of elected officers who file with the city clerk and states how copies of their statements of economic interests may be obtained. (Sections 87500.2(d)(4) and 87505.)

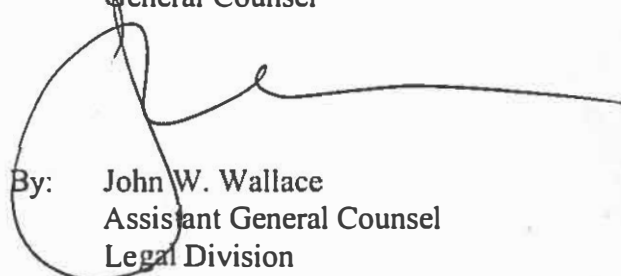
This advice applies only to Marin County and the 11 cities within Marin County that you are inquiring about. In addition, because the the Commission gives each agency whose electronic filing system it certifies a "SAN" electronic filing certification number, you will need to provide the Commission with a list of all the cities that are using Marin County's system, so that we are aware that they are sharing Marin County's SAN number.

Further, this advice assumes there are no supplemental schedules or other differences between the information requested by Marin County in connection with its Form 700 SEI filings and that requested by the 11 cities.⁵

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

Sincerely,

Hyla P. Wagner
General Counsel

By:  John W. Wallace
Assistant General Counsel
Legal Division

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⁴ If the County system is modified substantially or a new system is acquired, these would need to go through the Act's certification process. The County should also contact the Commission if a city "opts out" of using the Marin system. For example, if the city wants to purchase their own system for all of the city filers.

⁵ Some cities require supplemental information to be submitted on a schedule with the Form 700. This is one reason the Commission certifies each agency's Form 700 electronic filing system.