

To: Olin Woods, Chair, and Members of the
Yolo County Local Agency Formation Commission

From: Elisa Carvalho, Assistant Executive Officer

Date: January 25, 2009

Subject: Financial Disclosure Policy

Recommended Action

Amend Chapter VIII of the Yolo LAFCO policy to require political expenditures related to LAFCO proceedings be disclosed and reported pursuant to the Political Reform Act of 1974. The proposed amendments are shown in the attached policy. Additions are underlined; deletions are crossed out.

Reason for Recommended Action

Effective January 1, 2009, Assembly Bill 528 amended the Cortese-Knox-Hertzber (CKH) Act to identify the Political Reform Act (PRA) as governing LAFCO financial disclosure requirements and provides correct cross references to the PRA. Previously, LAFCO law required reporting of contributions and expenditures for political purposes related to LAFCO proposals be filed with the LAFCO Executive Officer. The Bill also creates a new definition of a "LAFCO Proposal" within the PRA. The amendment to the Yolo LAFCO policy makes it consistent with state law.

Background

Assembly Bills 745 and 1998 were approved in 2007 and 2008 respectively and both address political contributions and expenditures made in connection with LAFCO proposals. AB 745 requires contributions and expenditures made for political purposes related to a

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LAFCO proposal or proceeding to be disclosed and reported to the same extent and subject to the same requirements of the Political Reform Act of 1974 as provided for local initiatives. AB 1998 requires a committee formed to support or oppose a proposal to file campaign statements, required of other committees formed to support or oppose ballot measures, under the Political Reform Act of 1974.

AB 528 integrates and coordinates language between the Political Reform Act and the Cortese-Knox-Hertzbert Act. The CKH Act contains language regarding financial disclosure requirements for LAFCO proposals; however, it did not cross reference the new requirements in the PRA. The CKH Act required that disclosures be filed with the LAFCO Executive Officer, rather than according to the PRA Act. The law was confusing and may have resulted in an applicant filing multiple disclosure forms. AB 528 identifies the Political Reform Act as governing LAFCO financial disclosure requirements and provides correct cross references. The proposed amendment will insure local policy is consistent with state law.

Attachment:

Chapter VIII, Disclosure of Political Expenditures Regarding LAFCO Proceedings

Chapter VIII

Disclosure of Political Expenditures Regarding LAFCO Proceedings

Pursuant to Government Code Sections 56700.1 and 57009, effective January 1, 2008, and amendment of 56100.1, effective January 1, 2009, expenditures for political purposes related to a proposal for a change of organization or reorganization and contributions in support of or in opposition to any proposal at the conducting authority stage of the LAFCO process are subject to the reporting and disclosure to the same extent as required for local initiative measures under the Political Reform Act, Government Code Section 81000 et seq., and the regulations of the Fair Political Practices Commission implementing that law.

The Yolo LAFCO adopts the following reporting and disclosure requirements to implement Government Code Sections 56100.1, 56700.1 and 57009.

1. Definitions

- a. "Contribution" as used herein shall have the same definition as provided in Government Code Section 82015, as amended.
- b. "Expenditure" as used herein shall have the same definition as provided in Government Code Section 82025, as amended.
- c. "Independent expenditure" as used herein shall have the same definition as provided in Government Code Section 82031, as amended, except that the term "measure" as used in Section 82031 shall be replaced with the term "proposal for organization or reorganization."
- d. "Political Purposes" as used herein shall mean for the purpose(s) of:
(i) influencing public opinion; (ii) lobbying public officials; and/or,
(iii) influencing legislative or administrative action as defined in Government Code § 82032. It shall not include for the purpose(s) of complying with legal requirements and LAFCO rules for the processing of a proposal, including, but not limited to and by way of example only, preparation of a comprehensive fiscal analysis for an incorporation (Government Code Section 56800) or documents necessary to comply with the California Environmental Quality Act, Public Resources Code Section 21000 et seq., such as a mitigated negative declaration or environmental impact report.

2. Disclosure Requirements for Proposals for Organization or Reorganization

- a. Any person or combination of persons who directly or indirectly makes an expenditure or independent expenditure for political purposes of \$1,000 or more in support of, or in opposition to, a change of organization or reorganization submitted to the commission to which Government Code

Section 56700.1 applies, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §§ 81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.

- b. ~~Disclosures~~ Contributions and expenditures made pursuant to this Section shall be ~~filed with the commission's executive officer~~ disclosed and reported pursuant to the Political Reform Act of 1974 as designated in Section 5 below.
 - c. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term "election" as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled commission hearing on a proposal for organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the executive officer establish a date to serve as the "election" date for this purpose. The executive officer shall establish a date, such as, but not limited to, the date which is 6 months after the first filing with the commission regarding the proposal, and inform the requestor of that date in writing.
 - d. In the event the originally scheduled hearing date for the proposal for organization or reorganization is rescheduled or continued to a later date, the obligation to file continues. Reports shall be filed on or before the 10th day of each month following the original hearing date with respect to contributions and expenditures received in the previous calendar month up to and including the third calendar month following final action by the commission on the proposal.
3. Disclosure Requirements for Conducting Authority Proceedings
- a. Any person or combination of persons who directly or indirectly makes an expenditure for political purposes of \$1,000 or more related to conducting authority proceedings for a change of organization or reorganization to which Government Code Section 57009 applies, or in support of or in opposition to those conducting authority proceedings, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §§ 81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.

- b. Disclosures Contributions and expenditures made pursuant to this Section shall be filed ~~with the commission's executive officer~~ disclosed and reported pursuant to the Political Reform Act of 1974 as designated in Section 5 below.
- c. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term "election" as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled conducting authority hearing on the proposal for organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the executive officer establish a date to serve as the "election" date for this purpose. The executive officer shall establish a date, such as, but not limited to, the date which is 6 months after the first filing with the commission regarding the proposal, and inform the requestor of that date in writing.
- d. In the event the originally scheduled conducting authority hearing date for a proposal for organization or reorganization is rescheduled or continued to a later date, the obligation to file continues and reports shall be filed on or before the 10th day of each month following the original hearing date with respect to contributions and expenditures received in the previous calendar month up to and including the third calendar month following final action by the commission on the proposal.

4. Certain Reports and Disclosures Excluded

This policy requires that the persons subject to it disclose ~~via reports to the commission's executive officer~~ contributions, expenditures, and independent expenditures with respect to expenditures for political purposes related to a proposal for an organization or reorganization subject to the Political Reform Act requirements.

This policy also requires that the persons subject to it comply with the regulations regarding the names of campaign committees, disclosures of the sources of mass mailings, and disclosures of the source of automated telephone calls under Government Code Sections 84501 et seq. and the regulations of the Fair Political Practices Commission implementing those sections.

5. ~~Where to File~~ 5. Reporting Requirements

~~All reports and disclosures required hereunder shall be filed with the commission's executive officer.~~

Contributions and expenditures for political purposes related to a proposal or proceeding shall be disclosed and reported pursuant to Article 2.5 (commencing with Section 84250) of Chapter 4 of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

6. Reporting requirements are non-exclusive

The disclosure and reporting requirements herein are in addition to any other requirements that may be otherwise applicable under provisions of the Political Reform Act or by local ordinance.

7. Sunset provision

This policy is intended to implement Government Code Sections 56700.1, ~~and 57009,~~ and 56100.1 and shall be of no further force and effect upon the effective date of legislation repealing or amending those sections to transfer responsibility for enforcing disclosure of expenditures for political purposes affecting commission proceedings to the Fair Political Practices Commission or otherwise terminates the responsibility of this commission to adopt and implement this policy.