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Sent: Thursday, June 26, 2014 6:21 PM
To: Zackery Morazzini; Hyla Wagner
Cc: Erin Peth; Jason Kaune (JKaune@nmgovlaw.com)
Subject: SB 27 Regulations - Comments

Zack and Hyla:

On behalf of the California Political Attorneys Association's Regulatory Committee, we are providing you with the following comments regarding FPPC staff's proposed regulatory changes in response to the passage of SB 27.

As a general note, our Committee agrees with the comments set forth in Lance Olson's comment letter, dated June 17, 2014.

We would like to particularly highlight some of the key comments in the Olson letter and provide further comments and suggestions.

- (1) Regulation 18422(b)(1) – Requiring nonprofit type or federal/out-of-state identification numbers to be included in committee names is confusing to the public and not required by the statute. Instead, we suggest that this information should only be required to be included on the Form 410, as is contemplated in the statute.
- (2) Regulation 18422(d)(2) – We suggest striking “that is itself a multipurpose organization and may qualify as a committee under Section 84222(c)” from the regulation. The burden of having to determine if the donor qualifies as a committee under Section 84222(c) should not fall on the recipient; rather, the donors themselves are in the best position to determine their own status under the law. Additionally, the words “and shall obtain confirmation that the contributing organization received the notice” should be stricken from the regulation. The act of sending the required notice to a donor should be sufficient to satisfy a recipient's responsibilities. It would be unduly burdensome to require that the sender of a notice confirm receipt of such notice, particularly in the hectic time leading up to an election. In addition, this donor notification provision should be consistent with other regulations which do not require confirmation that the notice has been received, but rather documentation that the notice has been sent. (See current Regulation 18427.1.)
- (3) Regulation 18422(d)(3) – We suggest that the second to the last sentence in this subsection be rewritten as follows to ensure certainty regarding when a multipurpose organization qualifies as a committee: “The multipurpose organization qualifies as a committee on the date it knows ~~or has reason to know~~ that it met the qualification thresholds of Section 84222(c) (e.g., by receiving the “nonprofit filer” notice referred to in paragraph (2) above, or receiving a major donor notice pursuant to Section 84105 and Regulation 18427.1), ~~having its funds reported on the first recipient organization's campaign statements, or being otherwise put on notice.~~” This language will prevent multipurpose organizations from being held to a standard whereby they must monitor campaign statement filings by other multipurpose organizations. Also, we would like to restate the importance of Mr. Olson's suggestion that the expedited filing deadlines be extended to 10 business days during the 90-day period before an election, and 30 days for all

other times. The current proposed deadlines would be next to impossible for multipurpose organizations to comply with, particularly if they then must seek counsel to comply with their new reporting obligations.

- (4) Regulation 18422.5(a)(2) – We suggest striking the last sentence for two reasons: (1) the burden to determine the current status of a donor (i.e., recipient committee versus major donor) should not be on a recipient, and (2) the date of contributions is already contained in other disclosure filings and would be duplicative.
- (5) Regulation 18422.5(a)(3) – We suggest striking the last clause from this subsection: “and when a committee changes its name to add or delete a ballot measure or candidate.” A recipient should be able to base its information regarding a committee’s name on the Secretary of State’s CAL-ACCESS website at the time that the recipient files its list. Recipients should not be required to amend an old list for changes in contributor names after a list has been filed. This too would place an undue burden on committees generating these lists to constantly be checking for donor committee name changes.
- (6) Regulation 18422.5(a)(5) – We suggest that a new (a)(5) be inserted and the current (a)(5) be renumbered to (a)(6). The new (a)(5) should allow filers to submit the required information in any format that current technology permits. For instance, filers should be permitted to submit a spreadsheet or other electronic file with the required data without having to reduce their data to a PDF form. This will reduce compliance costs and allow filers to extract the required data directly out of the current reporting software.
- (7) Regulation 18422.5(a)(6) – As mentioned in the paragraph above, we suggest that (a)(5) be renumbered to (a)(6). Additionally, this subsection should explicitly state that lists that would have been due prior to September 5, 2014, are not required to be filed.

We appreciate the opportunity to comment on these regulations and we are available to answer any questions that you may have.

Thank you.

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