



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Remke, Commissioners Audero, Casher, Wasserman, and Wynne

From: Hyla P. Wagner, General Counsel
Matthew F. Christy, Commission Counsel

Subject: Regulation 18940 – Guide to the Gift Regulations
Form 807 – Nonprofit Travel Payments

Date: October 10, 2016

I. Summary

In 2015, Senate Bill 21 (Stats. 2015, ch. 757) amended the Political Reform Act¹ to:

- Require filers of statements of economic interests (Form 700) to disclose the travel destination in the case of a reportable gift that is a “travel payment, advance, or reimbursement,” and,
- Require 501(c)(3) and 501(c)(4) nonprofit organizations that make certain types of payments, advances, or reimbursements for travel by an elected state officer or local elected officeholder to disclose the names of specified donors to the organization.

The proposed amendments to Regulation 18940, the guide to the gift regulations, would provide notice of SB 21’s new disclosure requirements and further direction on how a qualifying nonprofit organization should disclose specified donors.

II. Background

A. SB 21’s Amendments to Section 87207, subdivision (a)(4).

The Act requires specified state and local officials, employees, candidates, and consultants designated in a conflict of interest code to file statements of economic interest (SEIs) to inform the public of economic interests, including certain gifts, that may potentially influence the filer in the making of governmental decisions. (Sections 87200 et. seq.)

Prior to the enactment of SB 21, Section 87207, subdivision (a)(4), required filers to disclose on their SEIs the amount of the gift and the date on which it was received. SB 21 amended this provision to additionally require the SEI filer to disclose the travel destination on his or her SEI in the case of a gift that is a travel payment, advance, or reimbursement.

¹ The Political Reform Act (Act) is set forth in Government Code Sections 81000 through 91014, and all further statutory references are to this code. The Commission’s regulations are contained in Division 6, Title 2 of the California Code of Regulations, and all regulatory references are to this source.

B. SB 21's Amendments to Section 89506.

Section 89503 prohibits certain public officials from accepting gifts from any single source worth more than the annual gift limit, and the annual gift limit is currently set at \$460 for the period of January 1, 2015 to December 31, 2016, as provided for in Regulation 18940.2.

Section 89506, subdivision (a), provides an exemption from the annual gift limit for travel payments, advances, or reimbursements, including actual transportation and related lodging and subsistence, that are reasonably related to a legislative or governmental purpose or to an issue of state, national, or international public policy. Specifically, these payments, advances, or reimbursements are not subject to the annual gift limit if either of the following applies:

- The travel is in connection with a speech given by certain public officials or designated employees and the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.
- The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, a 501(c)(3) nonprofit organization, or by a person domiciled outside the United States who substantially satisfies the requirements for tax-exempt status under Internal Revenue Code Section 501(c)(3).

SB 21 amended Section 89506 by adding subdivision (f), requiring a 501(c)(3) or 501(c)(4) nonprofit organization to disclose the names of specified donors if the nonprofit: (1) "regularly organizes and hosts travel for elected officials," and (2) makes travel payments, advances, or reimbursements that total more than \$10,000 in a calendar year, or more than \$5,000 for a single person in a calendar year, for travel by an elected state officer or local elected officeholder. These nonprofit organizations must disclose all donors who: (1) donated \$1,000 or more to the organization, and (2) accompanied an elected state officer or a local elected officeholder, either personally or through an agent, employee, or representative, for any portion of travel covered by an exemption from the annual gift limit.

III. Purpose of Regulatory Changes

A. Greater notice of requirement to disclose travel destination.

The proposed amendments to Regulation 18940 provide additional notice of the new disclosure requirement in Section 87207, subdivision (a)(4), requiring an SEI filer to disclose the travel destination in the case of a gift of travel. The FPPC has already amended the SEIs (Form 700) and its instructions to reflect this change.

B. Greater notice of new disclosure requirement for nonprofits.

The proposed amendments also provide additional notice of the new disclosure requirement in Section 89506, subdivision (f), requiring 501(c)(3) and 501(c)(4) nonprofit organizations that make specified types of travel payments, advances, or reimbursements for travel by an elected state officer or local elected officeholder to disclose the names of certain donors to the organization.

C. Direction on how a nonprofit organization subject to Section 89506, subdivision (f) should disclose covered donors.

The proposed amendments also direct a nonprofit organization on how to report the names of donors to the Commission. In particular, proposed Regulation 18940(d)(2) requires such an organization to disclose the names of donors that meet the criteria set forth in Section 89506, subdivision (f)(1)(A) and (B), by April 30th of the following year on a form provided by the Commission (proposed Form 807).

D. Requisite Maintenance of Regulation 18940.

Finally, the proposed amendments update Regulation 18940 by correcting statutory and regulatory cross references within that have become outdated due to other amendments of the Act and its underlying regulations since Regulation 18940 was last amended.

E. Form for nonprofit organizations to disclose covered donors.

Staff designed and drafted Form 807 for nonprofit organizations subject to Section 89506, subdivision (f), to report covered donors to the Commission consistent with the proposed amendments to Regulation 18940. (See Regulation 18940(d)(2).)

IV. Recommendation

Staff recommends that the Commission adopt the proposed amendments to Regulation 18940 to provide additional notice of SB 21's new disclosure requirements and to provide direction to a nonprofit organization on how to disclose covered donors. Staff also recommends that the Commission approve Form 807.

Attachments:

Proposed Amendments to Regulation 18940
Form 807 – Nonprofit Travel Payments