



STATE OF CALIFORNIA  
**FAIR POLITICAL PRACTICES COMMISSION**  
1102 Q Street • Suite 3000 • Sacramento, CA 95811  
(916) 322-5660 • Fax (916) 322-0886

**To:** Chair Remke, Commissioners Audero, Cardenas, Hatch, and Hayward

**From:** Erin V. Peth, Executive Director

**Subject:** Executive Director's Communications to the Commission

**Date:** March 12, 2018

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The current Statement of Governance Principles (unanimously adopted by the Commission in January 2001), states that one of the Executive Director's responsibilities is to report "regularly to the Chairman and Commission on the status of FPPC finances, administrative actions, goals and achievements." At the February 2018 Commission meeting, Commissioner Audero requested a review of how that reporting currently occurs to determine whether the current practices should be modified. To assist the Commission in that discussion, below are the various ways in which I communicate to the Commission regarding the agency's finances, administrative actions, goals and achievements.

### **1. FPPC's Annual Report**

When I became Executive Director in the Summer of 2013, there was no agency-wide annual report (although the agency had compiled such reports from time to time over the years). At that time, the Enforcement Division was compiling its own report, as it had for the past several years. In my view, it was extremely important to have a comprehensive report of all the agency's activities. So I have worked with staff to produce an annual report for 2014, 2015, 2016 and 2017. Those reports are a comprehensive summary of the agency's goals, administrative actions and achievements for each year. They are provided to the Commission and posted to the website. (<http://www.fppc.ca.gov/media/fppc-annual-report.html>.) I am pleased to share the 2017 Annual Report, which was recently completed and posted to the website. (Exhibit A.)

### **2. Executive Staff Reports**

Each Commission meeting agenda package includes Executive Staff Reports from the Enforcement Division, the Legal Division, the External Affairs and Education Division and a Legislative Update. Those updates list various accomplishments and detail various statistics, including the number of enforcement cases pending and completed, advice letters issued, phone calls and emails handled, conflict of interest codes approved and probable cause conferences completed. (See Agenda Item 23 on this month's agenda). As the Executive Director of the agency, the executive staff members report to me and I review these reports prior to them being added to the agenda materials.

### **3. Status of FPPC Finances**

I also update the Commission on the agency's finances and budget. This last occurred in August 2017, after the 2017-18 Fiscal Year began on July 1, 2017. (Exhibit B – Memo to Commission on August 17, 2017, and Memo to Commission on January 11, 2016.) The FPPC's budget is determined by the Governor and the Legislature. Over 88% of the budget covers the required salaries, wages and benefits for the agency's personnel and 11.5% is allocated to operating expenses and equipment.

### **4. Updates on Special Projects**

As special projects have occurred, the Chair, myself or staff members often update the Commission on the status of the projects during the Commission meetings. This sometimes happens verbally at a Commission meeting or through a formal memo to the Commission. By example, I provided information about the following special projects to the Commission through formal memos:

- The Form 700 Electronic Filing System and Implementation of Assembly Bill 409,
- The Political Reform Act Revision Project in both February 2016 and January 2017, and
- The Implementation of AB 249 (The Disclose Act) in November 2017. (Exhibit C.)

### **5. Frequent Communications with Commissioners**

Additionally, I am in very frequent contact with the Commissioners to answer any specific questions they may have about the functioning of the agency, questions of law or concerns about our operations. I am very responsive to those inquires and make every effort to respond timely and fully. These communications happen most frequently via email, but have also occurred through telephone conferences or in-person meetings.

The communications to the Commission listed above have served to report “regularly to the Chairman and Commission on the status of FPPC finances, administrative actions, goals and achievements.” If the Commission would like to modify these current practices, I welcome additional direction on this topic.

# Exhibit A



# 2017 Annual Report

Fair Political Practices Commission



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## Chair's Message and Priorities for 2018

2017 was a year of transition for the agency: appointment of three new Commissioners, retirement of several longtime employees, and relocation of our office.

The office move was a significant undertaking. But ultimately, not only did we sort out and reorganize 32 years of clutter, we created a more productive work environment that fosters better communication and collaboration within the agency.

And while the move took more time and effort than any of us anticipated, we also achieved many other impressive goals in 2017. As highlighted in this report, these accomplishments include:

- Increasing transparency through technology by deploying Form 700 e-filing for the 2017 filing season; developing new online disclosure for requested payments; creating a new Conflict of Interest Codes Internal database; and posting new "shorts" on our website dedicated to specific Form 700 schedules to improve user experience.
- Streamlining and simplifying regulations and procedures to increase efficiency and improve accountability by updating the protocol for 1050 advice to provide the most useful and

timely assistance; and implementing legislation that overhauled advertisement disclosure requirements (AB 249, DISCLOSE Act), including creating multiple user-friendly factsheets, updating manuals, and drafting regulations for consistency and clarification.

- Focusing on strict enforcement of serious violations resulting in a record year of enforcement, including 340 cases with proven violations approved by the Commission totaling over \$1.1 million in fines.

In 2018, our focus will be on assisting candidates, committees and filing officers during the election, while proactively enforcing the Political Reform Act. In addition to these core functions, we will continue to improve transparency in governmental ethics by launching the enforcement database public portal, adding more data visualizations on our website, using smart forms to gather valuable data, and creating additional internal databases for efficiency and accountability.

I want to thank the dedicated staff at the FPFC for such a productive and successful year.

Jodi Renske



The FPPC moved to a new location in downtown Sacramento in the summer of 2017. The FPPC's new offices are at 1102 J Street, Sacramento, CA 95811.



The Commission provided advice to over **17,000** inquiries submitted via phone and e-mail, and presented **35** workshops throughout the state. The Commission also produced **15** live and recorded webinars addressing the Form 700, Filing Officer Responsibilities and Candidate/Treasurer basics.



The Commission successfully resolved **1,477** cases, which included **340** settlements approved by the Commission totaling over **\$1.1 million** in fines. This was a record-setting number of settlements approved by the Commission.

## 2017 Year in Review



The Commission approved **133** state agency and multi-county agency conflict of interest codes.



The Commission implemented the **10** bills signed by the Governor that changed the Political Reform Act, including extensive changes to advertising disclaimer requirements for all committees so that voters can make more informed voting decisions by seeing the interests who are supporting or opposing specific candidates and ballot measures.

# Significant Developments

## Continued Strict Enforcement of Serious Violations

**Huntley Hotel; Richardson Patel and Pure Pilates (aggregate penalty \$320,000) August 2017**

The Huntley Hotel is a luxury hotel located in Santa Monica that opposed the expansion and development of the neighboring Fairmont Miramar Hotel. The hotel's assistant general manager, attorneys, and a local political consultant executed a campaign laundering scheme that involved 62 contributions totaling \$97,350 to support various "slow growth" candidates and general purpose committees over two election cycles. The scheme involved convincing other businesses to make campaign contributions with the understanding that The Huntley would reimburse the businesses through payments for services never rendered. The scheme also involved The Huntley's employees and friends making contributions to candidates with the promise of being reimbursed. The hotel violated California prohibition against making contributions in the name of another.

## The DISCLOSE Act (AB 249)

The Governor signed into law a comprehensive revision of California's campaign finance disclosure laws. AB 249 (Mullin), the California DISCLOSE Act, changes the advertising disclosure requirements for ballot measures and independent expenditure. Campaigns are now required to display or announce new types of disclaimers on television, radio, telephone, mail, and e-mail communications. The intent of these new laws is to provide voters with more information about a campaign's top contributors. Additionally, the AB 249 changes the reporting requirements for earmarked contributions.



## FPPC on the Move

After 32 years on the corner of 5th and J Streets, the FPPC moved to a new location in downtown Sacramento in the summer of 2017. The FPPC's new offices are at 1102 Q Street. A number of factors necessitated the FPPC moving from The Travelers Hotel Building. An anticipated rise in rent and renovations to the building, in conjunction with the ongoing development around the Golden 1 Center and Downtown Commons, resulted in the FPPC leaving offices it called home since 1985.

While staff was spread over three floors in the old offices, the new offices feature everyone on the same floor. This provides improved agency workflow and cohesiveness. An added benefit is the FPPC is now closer to entities central to our mission and work, including being three blocks from the State Capitol Building and two blocks from the Secretary of State's Office. That is convenient because the FPPC and the Secretary of State work in conjunction with

one another in administering the Political Reform Act. Additionally, FPPC officials are often called to the Capitol, the heart of the State's legislative and political world. Being closer provides easier access for agency staff and others who have business at the FPPC.

## Educating the Regulated Community

### Workshops and Presentations

Political Reform Consultants presented 35 workshops for state and local agencies, candidates and treasurers. They also developed a proactive approach to educating the FPPC's constituents by conducting outreach visits and phone calls to city and county clerks and school boards to offer training and guidance on filing officer responsibilities, gift policies, the Form 700 and campaign reports. The increased effort to be proactive about educational opportunities has resulted in strengthened partnerships between the regulated community and the FPPC.

### Form 700 Tutorials

Political Reform Consultants created a comprehensive Form 700 online tutorial that provides information for each schedule of the form. From the Cover Page to Schedule E, filers can view detailed examples of what is required to be disclosed and can watch at anytime from anywhere.

### Candidate Toolkit Update

The Candidate Toolkit was given a refresh, and updated information was added to make it easier for candidates to obtain all they need to know about running for state and local office.



## League of California Cities Conference & Expo and California State Association of Counties Annual Meeting Participation

In 2017, the FPPC had a presence at the League of California Cities Conference & Expo and the California State Association of Counties Annual Meeting, both of which took place in Sacramento.

At the League of Cities Conference & Expo in September, Executive Director Erin Peth was a panelist at the session titled, "The Public Official and FPPC: Silent Partners in Transparency." The discussion surrounded a new initiative between California cities and the FPPC which aims to "achieve greater transparency and enhance the capacity to respond to increasing demands for ethical behavior in public service." Approximately 50 city clerks and elected officials attended the discussion.

At the League Expo, FPPC staff provided informal advice on campaign finance reform and the Form 700, and walked interested participants through a brief tutorial on the Form 700 Electronic Filing System. Several attendees stated that they were grateful for the FPPC's participation in the event.



At the California State Association of Counties Annual Meeting, FPPC staff provided general information on the work of the Commission and provided informal advice on the Form 700.



bring that salary into revenue for the state to make political expenditures. In California, a committee (recipient, campaign) reports contributions received and all expenditures made

## Partnerships with Local Agencies

FPPC staff assisted in organizing an Ethics Agency Retreat in Oakland, CA where representatives from San Diego, Los Angeles, Oakland, San Francisco, Sacramento, Berkeley and Orange County discussed best practices and emerging issues in campaign finance reform in California. Participants focused their discussion around current policies, and agreed to build on their collective efforts to promote the integrity of state and local government in California.

## Council on Governmental Ethics Law Conference

In December, Chair Jodi Remke and Senior Counsel Sukhi Brar attended and participated in panels at the annual Council on Governmental Ethics Law (COGEL) Conference in Toronto, ON Canada. COGEL is the preeminent organization of government ethics administrators whose members work in the fields of governmental ethics, freedom of information, elections, lobbying, and campaign finance. Chair Remke spoke on a panel providing an overview of Federal PAC activity in California's elections, and Sukhi served as member of COGEL's Program Committee, which is responsible for planning the 45+ conference sessions, and moderated a panel on campaign advertising disclosures.



# Outreach Statistics



## 7,270 Phone Calls

1-866-Ask-FPPC is open Monday-Thursday, 9 am-11:30 am. The FPPC also offers extended hours of operation in the days leading up to filing deadlines.



## 9,735 E-Mails

Members of the public may submit e-mails to [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov) 24/7. Staff quickly responds to basic questions regarding compliance with the Act.



## 50 Presentations

FPPC staff conducted 35 in person workshops and hosted 15 webinars which covered a variety of topics.



## 114 Tweets

The FPPC highlights upcoming events, updates, filing deadlines and other important dates to help ensure the public stays connected to the Commission.



## 209 Advice Letters

Commission attorneys researched and authored 209 advice letters in 2017; 85 of these letters related to Government Code Section 1090.

# Commission Overview and New Commissioners

The Fair Political Practices Commission is a five-member bipartisan commission which meets monthly to make decisions on a wide spectrum of matters including enforcement cases, adopting and rescinding regulations, and taking positions on legislation related to the Act.

Commissioners are appointed by various constitutional officers and serve staggered four-year terms. The Governor is responsible for appointing the Chair of the Commission and one other Commissioner from a different political party. The other Commissioners are appointed by California's Attorney General, Secretary of State, and State Controller. The Commission's Chair is the only full-time Commissioner and is responsible for setting the overall policy direction for the FPPC. Together with the Chair, the Executive Director provides day-to-day leadership to the Commission's staff, who are organized into four divisions: Legal, Administration and Technology, Enforcement, and External Affairs and Education.



**Commissioner**  
Frank Cardenas

Commissioner Cardenas joins the California Fair Political Practices Commission with more than 25 years of practicing law and government service. He is currently an adjunct instructor at California State University, Los Angeles. Mr. Cardenas served as Executive Director of the Los Angeles City Council Redistricting Commission and as Chief of Staff and Executive Officer at the Los Angeles County Metropolitan Transportation Authority. He has also been a consultant on matters such as business planning, organizational assessment, and government relations. In his years in private legal practice, his work focused on the areas of business, administrative and public law.

Mr. Cardenas received his Juris Doctor from Harvard Law School and his undergraduate degree from the University of Southern California. Cardenas, a Democrat, was appointed to the Commission by Attorney General Xavier Becerra in December 2017. His term ends January 31, 2021.



**Commissioner**  
Brian Hatch

Commissioner Hatch represented the California Professional Firefighters (CPF) for nearly 40 years. He began his career as a firefighter with the Ontario Fire Department in San Bernardino County, and would later become a fire captain. He was a union leader, two years as treasurer and 8 years as president of Ontario Firefighters Local 1430. He later became the lead advocate for CPF where he had a hand in nearly every significant advance affecting firefighters' lives and livelihoods including the creation of Cal-JAC apprenticeship program, workers' compensation protection for firefighters with job-related cancer, fallen firefighter survivor benefits, and secure retirement for all first responders.

Commissioner Hatch also played a key role in the founding and ongoing management of several finance companies, as well as the development of a statewide Internet service provider. He has shared his expertise through lectures with government, trade groups and public and private universities including UC Berkeley, UC Davis, and Pepperdine University. He has also provided technical consulting services on municipal bankruptcy, governmental reorganization and tax policy.

A Democrat, Commissioner Hatch was appointed to the Fair Political Practices Commission by Secretary of State Alex Padilla. His term ends January 31, 2021.



**Commissioner**  
Allison Hayward

Commissioner Hayward currently serves on the board of the Office of Congressional Ethics of the U.S. House of Representatives. Previously, she was vice president of policy at the Center for Competitive Politics, an assistant professor at George Mason University School of Law, and chief counsel to Commissioner Bradley A. Smith of the Federal Election Commission. Hayward has practiced election law in California and Washington, D.C., and she is a member of the U.S. Supreme Court Bar, as well as the American Law Institute. After law school, she clerked for the Honorable Danny J. Boggs of the U.S. Court of Appeals for the Sixth Circuit.

Hayward, a Republican, earned her bachelor of arts in political science and economics from Stanford University and her Juris doctorate from the University of California, Davis, School of Law. Hayward's term ends January 31, 2021.

# Appendix A

## 2017 Major Enforcement Cases

### Laundered Campaign Contributions/True Source

#### Huntley Hotel; Richardson Patel and Pure Pilates (aggregate penalty \$320,000)

August 2017

The Huntley Hotel is a luxury hotel located in Santa Monica that opposed the expansion and development of the neighboring Fairmont Miramar Hotel. The hotel's assistant general manager, attorneys, and a local political consultant executed a campaign laundering scheme that involved 62 contributions totaling \$97,350 to support various "slow growth" candidates and general purpose committees over two election cycles. The scheme involved convincing other businesses to make campaign contributions with the understanding that The Huntley would reimburse the businesses through payments for services never rendered. The scheme also involved The Huntley's employees and friends making contributions to candidates with the promise of being reimbursed. The hotel violated California prohibition against making contributions in the name of another.

#### California Republican Leadership Fund (penalty \$30,000)

February 2017

For the 2012 and 2014 statewide elections, six Republican central committees made contributions to state legislative candidates in their names without disclosing that the Fund was the true source of those contributions since it solicited the contributions, maintained control of the money, and made all decisions regarding contributions. As a result, the Fund negligently caused the central committee to make contributions without identifying the Fund as the true source of the contributions.

#### Michael Preston (penalty \$20,000)

May 2017

Preston is a businessman in Milpitas. He wanted to have a piece of property he owned to be re-zoned from industrial to residential. Wishing to act upon advice from a consultant about pro-growth, pro-development candidates, Preston asked several of his employees to make maximum contributions to two sitting Milpitas city council members. The contributions went to pay off campaign debt for one councilmember and to support a state assembly race of another. Preston reimbursed some of the employees with cash payments from his personal bank account. Preston was not identified as the actual source of the contributions on campaign disclosures violating California's anti-laundering laws.

### Personal Use of Campaign Funds

#### Mark Peterson (penalty \$45,000)

January 2017

Mark Peterson was the elected district attorney for Contra Costa County and served as his own campaign treasurer. Beginning in January of 2011 and continuing until October of 2015, Peterson routinely used Committee funds for personal expenditures. This included using the Committee debit card for personal items such as meals at restaurants, gasoline, clothing, movie tickets, hotel rooms, cellular telephone bills, etc. Peterson also made a number of cash withdrawals from the Committee bank account and used the cash for personal

purposes, and transferred funds from the Committee account to his personal bank account. In total, Peterson made personal use of \$66,372.03 in campaign funds. He reimbursed the Committee for all of the personal expenditures. Approximately, 600 expenditures were made by Peterson for personal use.

In June 2017 and subsequent to the FPFC's adopted penalty, the California Attorney General charged Peterson with 12 felony counts of perjury and one count of felony grand theft for lying on campaign disclosure forms. Peterson resigned from office and pled guilty to one count of perjury. Peterson was sentenced to three years informal probation and to serve 250 hours of community service. In August 2017, the California state bar suspended Peterson's license to practice law in the state.

#### In the Matter of John Lindner and Franklin-McKinley for Our Kids - Yes on Measure J 2010 (penalty \$18,500)

October 2017

John Lindner was a successful incumbent candidate for Franklin-McKinley School District Member in the November 8, 2016 General Election. Franklin-McKinley for our Kids—Yes on Measure J 2010 was a ballot measure committee primarily formed to support Measure J, a successful school bond measure, in the November 2, 2010 General Election. Lindner was the Committee's treasurer. The Committee was terminated on or about December 31, 2015. The Committee and Lindner failed to disclose and itemize expenditures of \$100 or more on campaign statements. In addition, Lindner used campaign funds which conferred a substantial personal benefit to him for purposes not directly related to a political, legislative or governmental purpose.

### Lobbying

#### In the Matter of eBay, Inc. (penalty \$6,500) January 2017

eBay, Inc., a lobbyist employer, failed to timely file three lobbyist employer reports and failed to timely disclose campaign contributions.

#### In the Matter of Transform and Stanley Lam (penalty \$2,129) May 2017

Transform qualified and filed as a Person Who Spend \$5,000 or More to Influence Legislative or Administrative Action (\$5,000 filer) since 2010. Stanley Lam is Transform's responsible officer. Transform and Lam failed to timely file seven \$5,000 reports (Form 645) for the reporting periods of January 1, 2014 through December 31, 2016 by their respective due dates.

#### In the Matter of Mercury Public Affairs (penalty \$4,000) June 2017

Mercury Public Affairs, a lobbying firm, made a gift to then-State Senator Ronald Calderon that exceeded the applicable gift limit and failed to fully disclose the gift on its lobbying firm report for the second quarter of the 2013 through 2014 legislative session.



## Gifts

### In the Matter of Ronald Davis (penalty \$4,000)

October 2017

Ronald Davis is the warden at San Quentin State Prison. As warden, Davis is required to annually report his interests in real property, investments, business positions, and sources of income including gifts, on an Annual Statement of Economic Interests. Davis failed to timely disclose gifts amounting to \$1,550 in value that he received on his 2015 Annual Statement of Economic Interests and accepted gifts in excess of the annual gift limit by \$2,840 in 2015.

### In the Matter of Timothy Simon (penalty \$5,500)

June 2017

Timothy Simon was a member of the California Public Utilities Commission from 2007 to 2012. On Simon's Leaving Office Statement of Economic Interests, he was required to disclose gifts and travel-related payments that he received during the 2012 calendar year from approximately 40 sources (totaling roughly \$21,000), but he failed to do so. Additionally, in June 2012, Simon accepted an over-the-limit gift worth approximately \$1,600.

## Behested Payments

### In the Matter of Tony Rackauckas (penalty \$21,000)

September 2017

Tony Rackauckas, the District Attorney for Orange County, failed to timely report 14 payments of \$5,000 or more made at his behest to the Orange County Gang Reduction and Intervention Partnership, a non-profit organization.



# Appendix B 2017 Legislation

## Local Ballot Measure Qualification Expenditures (AB 187 (Gloria) - Chapter 183, Statutes of 2017)

This bill requires a committee to file an activity-based report each time it makes contributions or independent expenditures of \$5,000 or more to support or oppose the qualification of a single local initiative or referendum. The committee must file this report in the same local jurisdiction as the local initiative or referendum as if the committee was primarily formed to support or oppose the measure. The report must be filed within 10 business days of reaching \$5,000 in aggregate.

## Comprehensive Changes to Campaign Advertising Disclaimers (AB 249 (Mullin) - Chapter 546, Statutes of 2017)

This bill makes comprehensive amendments and adds new requirements to advertising disclaimers for all advertising formats. Generally, ballot measure committees and independent expenditure committees will have to list their top donors in accordance with formatting and other criteria listed in the bill. Additionally, AB 249 changes the reporting requirements for earmarked contributions.

## Removing Paper Original and Copy of Campaign Statement (AB 895 (Quirk) - Chapter 11, Statutes of 2017)

This bill is not operative until the Secretary of State certifies an online filing and disclosure system. This bill removes the requirement to file a paper original and copy in addition to online filing for candidates and controlled committees for state office, statewide ballot measures, and state general purpose committees.

### **State Mailer Disclaimers Public Safety Organizations** (SB 226 (Hertzberg) - Chapter 855, Statutes of 2017)

If a state mailer organization or other sender of a mass mailing identifies itself as representing public safety personnel, as defined, then the state mailer or mass mailing must disclose additional information in a format and under other specifications, as described in the law.

### **City of Sacramento Campaign Finance Ordinance** (SB 267 (Pan) - Chapter 622, Statutes of 2017)

This bill authorizes the Fair Political Practices Commission to have primary responsibility for the impartial, effective administration, implementation, and enforcement of the local campaign ordinance of the City of Sacramento upon the adoption of an agreement between the City and the Commission. The Commission must provide a report to the Legislature about the agreement by January 1, 2022.

### **Independent Contractors for Local Government Agency** (AB 551 (Levine) - Chapter 196, Statutes of 2017)

Generally, the law prohibits a local elected official, chief administrative officer of a county, city manager, or other high ranking local official from leaving office and lobbying their former agency for compensation for one year after leaving office. There is a general exemption for former officials who lobby for another local government agency as an employee or representative. This bill would apply the one year lobbying prohibition to a former official who became an independent contractor for a local government agency.

### **Legislators Who Leave Prior to the End of the Term** (AB 1620 (Dababneh) - Chapter 800, Statutes of 2017)

The bill prohibits a member of the Legislature, who resigned from office, from lobbying the Legislature beginning with the effective date of the resignation to one year after the Legislature adjourns sine die.

### **Behested Payments Definition Clarification** (AB 867 (Cooley) - Chapter 749, Statutes of 2017)

This bill does not make any substantive public policy changes to requirements of behested payments. The intent of the bill is to make technical and clarifying changes only. The bill creates a stand-alone definition of "behested payments," "election-related activities," and "made at the behest of." Prior to this bill, these definitions were located within the definition of "contribution."

### **Mass Mailing at Public Expense 60-Day Prohibition** (SB 45 (Mendoza) - Chapter 827, Statutes of 2017)

Under previous law, mass mailings at public expense were generally prohibited under certain circumstances under FPCC regulations. This bill codifies the Commission's Regulation 18901. The regulation had permitted certain types of mass mailings at public expense as long as those communications met certain requirements. This bill prohibits three types of mass mailings if they are sent 60 days preceding an election by or on behalf of a candidate on the ballot at that election.

### **Links to Local Government Campaign Finance Information** (SB 358 (Stern) - Chapter 624, Statutes of 2017)

This bill requires the Secretary of State to create a website that contains hyperlinks to any local government agency website that contains publicly-disclosed campaign finance information.

## Appendix C 2017 Regulations

### 18351 Conflict of Interest Code of the Fair Political Practices Commission.

Commission Order 18351-2

Every agency must adopt a Conflict of Interest Code which prohibits those officials within the agency who must file a Report 700 (Statement)

of Economic Interests) and the types of holdings each official must report. The FPCC's Conflict of Interest Code is contained in Regulation 18351, which was previously last amended in 2016. The adopted amendments to Regulation 18351 included:

(1) adding new positions, (2) reflecting title changes to existing job classifications, (3) eliminating job classifications that no longer exist or which are no longer making or participating in governmental decisions, (4) revising disclosure categories for existing job classifications with expanded duties and (5) making other non-substantive revisions. The most significant changes were a result of the reorganization and remaining of the former Technical Assistance Division (TAD) to the External Affairs and Education Division.

### 18531.5 Recall Elections, amended 12/27/17

Section 85305 prohibits a candidate for elective state office or committee controlled by that candidate from making any contribution to any other candidate for elective state office in excess of the contribution limits set forth in subdivision (a) of Section 85301. Section 85315 allows an elected state officer to accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contributions limits set forth in this chapter.

At its July 27, 2017 hearing, the Commission deliberated over issues raised with respect to the interplay between Sections 85305 and 85315, and whether the prohibition in Section 85305 applied to state candidates that are the subject of a recall. The Commission decided to issue an opinion finding that Sections 85305 and 85315 require that there be no limit on contributions from state candidates to a recall committee controlled by another state candidate to oppose the recall of that state candidate.

The Commission adopted the new opinion (In re Ross Opinion No. 0-17-001) at its August 17, 2017 hearing. At its October meeting, consistent with this opinion, the Commission adopted amendments to Regulation 18351 to make clear that the contribution limits in Section 85305 does not apply to state candidates who are the subject of a recall.





## 2017 ANNUAL REPORT

Fair Political Practices Commission

1402 Q Street, Suite 3000, Sacramento, California 95811 • (916) 322-5660

# Exhibit B



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# EXECUTIVE STAFF REPORTS

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*August 17, 2017 Commission Hearing*

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# I. ADMINISTRATION AND TECHNOLOGY DIVISION

STAFF: ERIN PETH, EXECUTIVE DIRECTOR  
LORESSA HON, CHIEF OF ADMINISTRATION AND TECHNOLOGY

Since the new State fiscal year began on July 1, 2017, we are providing the Commission with an overview of the budget.

The State budget for FY 17-18 appropriates a total of \$11,843,000 to the FPPC. Approximately 88.5% (or \$10,481,000) of the budget covers the required salaries, wages and benefits for our 82.5 authorized positions, and 11.5% (or \$1,362,000) is allocated to operating expenses and equipment.

Staff will be available at the meeting to answer any questions you may have on this topic.

<b>Funding</b>		
<b>Total Appropriation and Reimbursements</b>		<b>\$ 11,843,000</b>
<b>Budget Allocation</b>		
Salaries and Wages		7,153,000
Staff Benefits		3,328,000
<b>Operating Expenses and Equipment Total</b>		<b>1,362,000</b>
- General Expenses (e.g., membership dues, subscriptions, disability and unemployment claims)	184,000	
- Printing	54,000	
- Communications	44,000	
- Postage	16,000	
- Travel	44,000	
- Training	19,000	
- Facilities Operations (Rent)	614,000	
- Consulting and Professional Services (Internal State Government)	154,000	
- Consulting and Professional Services (External State Government)	105,000	
- Consolidated Data Centers	96,000	
- Data Processing / Information Technology	32,000	
<b>Total Budget Allocation</b>		<b>\$ 11,843,000</b>



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**MEMORANDUM**

**To:** Chair Remke, Commissioners Audero, Casher, Wasserman, and Wynne

**From:** Erin V. Peth, Executive Director  
 Loressa Hon, Chief, Administration and Technology Division

**Subject:** Update on FPPC 2015-2016 Budget

**Date:** January 11, 2016

Since it is now six months into Fiscal Year 2015-2016, we are providing the Commission with an update on the agency's budget for the year. Below please find a chart detailing our revenues and expenditures for this fiscal year. The expenditure totals include actual spending year-to-date and projected expenditures through the end of the fiscal year on June 30, 2016. We are happy to answer any questions you may have on this topic.

Revenues		
General Fund		10,427,000
Reimbursements		10,678
<b>Total Revenues</b>		<b>\$ 10,437,678</b>
Expenditures		
Salaries and Wages		6,062,882
Staff Benefits		2,425,153
Operating Expenses and Equipment Total		1,941,104
- General Expense	134,339	
- Printing	27,885	
- Communications	41,708	
- Postage	24,284	
- Travel	65,531	
- Training	13,000	
- Facilities Operations	653,758	
- Utilities	3,163	
- Consulting and Professional Services (Internal State Government)	196,146	
- Consulting and Professional Services (External State Government)	274,955	
- Consolidated Data Centers	130,399	
- Data Processing / Information Technology	375,936	
<b>Total Expenditures</b>		<b>\$ 10,429,139</b>
<b>Balance: Surplus / (Deficit)</b>		<b>\$ 8,539</b>

# Exhibit C



**FAIR POLITICAL PRACTICES COMMISSION**  
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**To:** Chair Remke and Commissioners Casher, Eskovitz, Wasserman and Wynne  
**From:** Erin V. Peth, Executive Director  
**Subject:** Update on Form 700 Electronic Filing System and Implementation of Assembly Bill 409  
**Date:** June 6, 2014

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Last year the Legislature passed and the Governor signed Assembly Bill 409, which authorizes the Commission to develop and operate an online system for Statements of Economic Interests. This memorandum outlines the background on an online system for Statements of Economic Interests and provides an update on the progress towards obtaining such a system.

**Relevant Background**

Public officials whose decisions could affect their economic interests are required by law to file economic interest disclosure statements, which are public records. These public officials disclose their private economic interests on a document titled "Statement of Economic Interests" (SEI) or the "Form 700." The purpose of the Form 700 is two-fold: 1) it provides necessary information to the public about a public official's personal financial interests so there is assurance that officials are making decisions that do not enhance their personal finances, and 2) it serves as a reminder to the public official of potential conflicts of interests so the official can abstain from making or participating in governmental decisions that are deemed conflicts of interest. In short, the Form 700 provides transparency and ensures accountability.

The Commission is charged with the administration and enforcement of the SEI reporting requirements for all state and local agencies and filers. Currently, filers at various levels of state and local government submit an estimated 500,000 forms annually, which are funneled through an array of state and local agencies. Under the Act, the Commission is the direct filing officer for specific officials, including elected officials and candidates, judges, and heads of most state departments. (Gov. Code, sec. 87200.) In total, the Commission receives approximately 25,000 SEIs directly per year.

The current process by which this important disclosure is accomplished is unnecessarily complicated, decentralized, and burdensome for all involved. First, public officials who are

required to file the forms are often confused about where the forms are filed and that they are required to file paper forms. Second, since most of the work by filing officers (including the Commission) is done manually, processing and administering the Form 700s is extremely cumbersome and time consuming. Third, since there is no central repository of SEIs and most are not readily available online it is difficult for members of the public, who are entitled to access this important information, to monitor public officials. In short, the current system is difficult for everyone – the officials who file Form 700s, the officials who administer the program, and the public.

### **The Gradual Movement Towards Electronic Filing**

Throughout the last several years, there has been a gradual movement to electronic filing of SEIs. First, in 2008, the Legislature authorized a pilot project for specified local jurisdictions to develop an electronic filing program for SEIs. (Gov. Code, section 87500.1.) Those local jurisdictions were the Counties of Los Angeles, Merced, Orange, Santa Clara, Stanislaus, and Ventura, and the City of Long Beach. All of the local agencies stated there were significant efficiencies and costs savings. The agencies reported annual cost savings ranging from \$21,120 to \$86,420, and several operational efficiencies including a reduction in late filings, a reduction in errors, and a simplified review process.

Then, in 2012 the Legislature authorized all state and local agencies to develop SEI electronic filing systems, so long as the agency complies with Commission rules. (Gov. Code, section 87500.2.) In less than a year-and-a-half, 68 agencies, including 21 of the 58 counties, have instituted electronic filing programs. This also includes three large state departments that have started electronic filing (Cal-PERS, EDD and SCIF).

### **Assembly Bill 409**

Importantly, in 2013 the Legislature passed and the Governor signed Assembly Bill 409, which authorizes the Commission to develop and operate an online system for filing SEIs. (Gov. Code, sec. 87500.3.) The system would allow officials to file electronically and also could have a public portal through which the public media will have increased access to this information. If the Commission establishes an online system for filing SEIs, the statute requires that the system: (1) be provided free of charge to the filers, (2) include safeguards including firewalls and data encryption, (3) provide electronic confirmation, including date and time of filing, to filers, and (4) provide a printable copy of the SEI and confirmation of receipt to the filers. Additionally, the Commission is also required to hold at least one public hearing to receive input on the implementation, maintenance, and training programs associated with the online filing system.

The statute also allows the Commission to make all data filed through this online system available on the Commission's website in an easily understood format that provides the greatest public access. If the Commission publishes this data on its website, the statute requires that the Commission provide technical assistance to those seeking to access this information, and redact private information, including but not limited to the signatures of filers. The statute requires the Commission to hold at least one public hearing to receive input on how best to implement a redaction policy. Finally, while this system is originally intended to support the approximately

25,000 SEIs for which the Commission is currently the filing officer, the legislation also contemplates that the Commission can become the filing officer for additional state and local agencies, and that in the future there could be a comprehensive, statewide database for SEIs.

#### **Coordination with Other Efforts**

The development of an online filing system, and potentially, a public portal for SEIs is congruent with other pending efforts within State government to increase transparency of public officials' financial activities and to make that data more easily accessible to the citizens of California. Specifically, the Secretary of State's Office is currently planning an update to the electronic system that houses campaign finance and lobbying data. As these systems are planned, developed, and implemented in the coming years, the Commission will work with the Secretary of State's Office. Such coordination will assist in future technological efforts to increase transparency of this kind of data, and will increase the public's ability to have a complete a picture of all the financial influences on public officials.

#### **Current Status of the Project**

As an information technology project of a State agency, the Form 700 electronic filing system must be reviewed and approved by the California Department of Technology. The Department has a mandatory project approval process, which is to ensure projects are undertaken with clear business objectives, accurate costs and realistic schedules. The project approval process has several stages.

The Commission is in the process of working through the Department of Technology's approval process. We have already completed the first step and are well on the way to completing the second step, which is to draft a Feasibility Study Report (see Statewide Information Management Manual section 20). The Feasibility Study Report is due to the Department of Technology by July 21, 2014, and the Commission is on track to meet that deadline. After approval by Department of Technology, the Commission may submit a Budget Change Proposal to the Department of Finance this fall to request funding for the project in the 2015-16 budget year.

Staff will continue to update the Commission on this important project as it progresses.



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**To:** Chair Remke and Commissioners Audero, Casher, Wasserman, and Wynne  
**From:** Erin V. Peth, Executive Director  
**Subject:** Political Reform Act Revision Project  
**Date:** February 8, 2016

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California is a national leader in campaign finance, lobbying and governmental ethics. The cornerstone of California's campaign finance and ethics law is the Political Reform Act. First adopted by voters in 1974 as Proposition 9, the Act has been amended several times through voter initiative and dozens of times by the Legislature. The result is a body of law that can be hard to understand, overly complex and inconsistent.

The current condition of the Act causes several problems. Some politicians and special interest groups have used the complexity as an excuse to explain away violations. On the other side, many well-meaning citizens do not get involved in public service because they are daunted by the complicated rules. The situation fosters distrust in government among citizens groups and individuals who are suspicious of compliance by the officials and enforcement by the regulators.

At the direction of Chair Remke, the Commission staff has partnered with the California Constitution Center at the University of California Berkeley School of Law, University of California Davis School of Law and California Forward to conduct a comprehensive review and revision of the Act to ensure decades of amendments are given clarity and continuity.

Through this process we will streamline and simplify the Act in order to:

- Improve compliance and reduce technical violations;
- Encourage participation in the political process by reducing the burdens and costs of seeking office;
- Increase public understanding of the law to promote trust in the system; and
- Strengthen accountability and enforcement efforts.

This project furthers the Commission's mandate to provide strict enforcement while promoting accessibility to public service and transparency to the political system. Below are four key ways in which the Act can be improved:

1. Redraft the Act with "plain English" using the simplest, most straightforward language to express ideas and minimize legalese.
2. Incorporate key provisions from Regulations into the Act.
3. Reorganize the Act in order to have all related provisions in the same chapter with self-explanatory titles for each chapter and section.

4. Repeal or amend current statutes that are inaccurate or inoperative as a result of judicial decisions and other changes in law.

The law schools are currently working on an initial review and revision of the Act. Throughout the project, we will be engaging with interested stakeholders, public officials and members of the public to inform the revision process. The goal is to have a final proposal to present to the Legislature next year. Below is the projected timeline.

<b>Spring 2016</b>	Project initiated with the California Constitution Center, Davis School of Law and California Forward. Weekly check-in calls are scheduled with the law schools to discuss progress. Law schools conclude the initial review and revision. This draft will be submitted to Commission staff for review.
<b>Summer 2016</b>	Draft of the revised Act will be shared with an advisory group consisting of representatives from the regulated community, advocacy groups, the Legislature and local ethics commissions. The advisory group will be given 60 days to provide comments, questions or amendments. Commission staff will evaluate the comments and recommendations from the advisory group with the aim of incorporating changes in line with the goals of the project.
<b>Fall 2016</b>	The Commission will provide notice and an opportunity for the general public to comment on the proposed revision. This will be a 45-day public review period. Commission staff will evaluate and incorporate suggestions in line with the goals of the project.
<b>December 2016</b>	The Commission's Chair and Executive Director will present the revised Political Reform Act to the Commission for approval.
<b>January 2017</b>	Revised Political Reform Act submitted to the Legislature for consideration and enactment.

We believe that this timeframe allows for a thoughtful and deliberate revision process that will yield an outstanding product – one that will serve as a model for other states and keep California at the forefront of campaign finance and governmental ethics.





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**To:** Chair Remke and Commissioners Audero, Casher, Wasserman, and Wynne

**From:** Erin V. Peth, Executive Director  
Phillip Ung, Legislative and External Affairs Director

**Subject:** Update on Political Reform Act Revision Project and Request to Sponsor Implementing Legislation

**Date:** January 9, 2017

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At the February 2016 Commission Meeting, staff discussed the general goals and timeframe of the project to revise the Political Reform Act. This memorandum summarizes the numerous activities that have taken place in the past year on this project. Staff requests that the Commission vote to “sponsor” implementing legislation.

### **Summary of Political Reform Act Revision Project**

The overarching goal of the project is to streamline and simplify the Act without weakening disclosure or sacrificing accountability. Specifically, there are four main objectives of the Revision Project:

- (1) Improve compliance and reduce technical violations,
- (2) Encourage participation in the political process by reducing the complexities and costs of seeking office,
- (3) Increase public understanding of the law to promote trust in the system, and
- (4) Strengthen accountability of public officials and advance enforcement efforts.

The project will help increase participation in the political process, minimize the excuses of those who violate the Act and make our landmark law more accessible and current so that California can continue to be a leader in governmental ethics throughout the country.

### **The Process of Developing the Revised Act**

The Commission partnered with the California Constitution Center at the University of California Berkeley School of Law and University of California Davis School of Law. Supported by leadership at both law schools and supervised by Professor David Carrillo of Berkeley, four students from each school undertook a comprehensive review of the Act and presented a draft to Commission staff. Commission staff then made additional edits to ensure decades of amendments to the Act are given clarity and continuity.

In August, we released the first draft for a 12-week public comment period. We received many comments and proposed edits, of all which were evaluated and carefully considered by

Commission staff. During this time, Professor Bryan Garner, a nationally-recognized legal writing expert, also reviewed the draft and made additional suggestions to further make the Act accessible to the ordinary reader. Once all of that work had been completed, the Commission staff released a second draft for public comment at the beginning of December.

Throughout the entire process of developing the draft, Commission staff worked with California Forward, another project partner, to educate and inform as many people as possible about this important project and to solicit as many comments as possible. In addition to a webinar that is posted on the FPPC website, three in-person public meetings were held throughout California to attract and encourage participation from academic experts, practitioners, other stakeholder groups, and the interested public. Additionally, these public meetings promoted transparency, inclusiveness, and efficient processes to build public, stakeholder, and legislative support for the proposed revisions to the law.

With the support of our partners and the valuable comments made by many stakeholders, the result is a final draft of the Act that:

- (1) Uses the simplest, most straightforward language to express ideas and minimize legalese,
- (2) Reorganizes the Act in order to have all related provisions in the same chapter with self-explanatory headings for each chapter, and
- (3) Incorporates limited, key provisions from regulations to provide further clarity to statutory obligations when it provides helpful guidance to the reader.

All the [PRA Revision materials](#), including [PRA Revision Draft 2](#), are on the FPPC's website.

### **The Legislative Process and Next Steps**

Commission staff is reviewing and incorporating comments received during the second comment period. In the meantime, Commission staff has worked with the Legislature to submit the draft to the Office of Legislative Counsel to prepare a formal bill. We are also currently in discussions with the Legislature and other stakeholders to determine how best to ensure the bill's success. And, while the formal comment periods have concluded, Commission staff encourages stakeholders to submit comments at any time throughout the legislative session.

### **Staff Recommendation**

To ratify the Commission staff's efforts in pursuing legislation and to further ensure the legislation's success, staff recommends the Commission adopt a "sponsor" position. This position will permit the Commission to have greater input in legislative decisions and strategy. It also demonstrates strong support for the bill and its goal to increase civic participation through improved accessibility of this important area of law.



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**To:** Chair Remke, Commissioners Audero, Hatch and Hayward  
**From:** Erin V. Peth, Executive Director  
Sukhi Brar, Senior Commission Counsel  
**Subject:** Implementation of AB 249 (The Disclose Act)  
**Date:** November 6, 2017

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On October 7, 2017, Governor Brown signed AB 249 (the Disclose Act) into law. The substantive provisions of the bill go into effect on January 1, 2018. The Disclose Act significantly changed various provisions in the Act. FPPC staff has begun implementing the legislation and efforts will continue in the coming months. Below is a summary of the implementation plan for AB 249.

Implementation Activity	Timeline
<b>Regulations</b>	
18225 – Expenditure 18247.5 – Primarily Formed Committees 18402 – Committee Names 18420 – Reporting of Campaign Contributions and Expenditures of State and Local Government Agencies 18423 – Payments for Personal Services as Contributions and Expenditures 18435 – Definition of Mass Mailing and Sender 18450.1 – Definitions Advertisement Disclosure 18450.3 – Committee Name ID Ad Disclosure 18450.5 – Amended Advertising Disclosure 18521.5 – Ballot Measure Committees Controlled by Candidates for Elective State Office	December Commission Meeting

18401 – Required Recordkeeping 18419 – Sponsored Committees 18420.1 – Payments by State or Local Agencies for a Campaign Related Communication 18432.5 – Intermediary 18435.5 – Slate Mailer Requirements 18440 – Telephone Advocacy 18450.4 – Contents of Disclosure Statements. Ad Disclosure 18450.11 – Spokesperson Disclosure 18531.10 – Communications Identifying State Candidates 18533 – Contributions from Joint Checking Accounts 18901.1 – Campaign Related Mailings Sent at Public Expense	January Commission Meeting
<b>Website</b>	
Disclaimer That All Materials Impacted by AB 249 will be updated	Completed
Post chaptered bill	Completed
Chart comparing current law to AB 249	Completed
Update the Candidate Toolkit	Completed
Update the Political Ad Disclaimer Fact Sheet	December 1, 2017 (In Progress)
Update Disclaimer Charts	December 15, 2017 (In Progress)
<b>Manuals</b>	
All Manuals Updated with New Provisions	January Commission Meeting
<b>Education and Outreach</b>	
Incorporate AB 249 requirements into existing trainings and webinars	In progress
Develop Internal Staff Training	January 2, 2018 (In Progress)
<b>Additional Legislation</b>	
Draft Possible Technical Clean-Up Amendments to Present to the Commission	February Commission Meeting