

Notice
Fair Political Practices Commission
Law and Policy Committee Meetingⁱ
May 7, 2020 2:30 p.m.
Unapproved Minutes

The Law and Policy Committee was called to order at 2:30 p.m.

1. Public Comment for items not on the agenda.

No public comment.

2. Approval of April 20, 2020 Law and Policy Committee Minutes.

The April 20, 2020 minutes were approved 2-0.

Chair Miadich stated the Committee will take item 3: Behested Payment Discussion last.

3. Discussion of Modifications to the Streamline Program, Including Adding a Second Tier.

Galena West, Enforcement Chief, explained her proposal to modify the streamline program by adding a second tier with increased penalty. This second tier will add an additional threshold so more cases qualify for streamline and allow them to be processed much faster.

Chair Miadich asked Ms. West for a timeline of when this modification would be finalized. Ms. West is finalizing a draft and hoping to get a prenotice out in June.

4. Discussion of Advice Letter Report Process.

Dave Bainbridge, General Counsel, suggested edits to the Advice Letter reporting process. Chair Miadich asked Mr. Bainbridge for a timeline of when this could be presented to the Commission. Mr. Bainbridge stated he could present the proposal at the May Commission meeting.

5. Legislative Update.

Dave Bainbridge, General Counsel, gave an update from that the Legislature is not expected to move most PRA related bills over the next few months. AB 2407, AB 2505, SB 423, AB 2889,

and AB 3078 will not be moving forward this year. Mr. Bainbridge informed the committee of a new bill, AB 2467, from Assembly Member Levine that the Legal Division is still analyzing and will report back to the Commission.

Chair Miadich asked if AB 2079 would be moving forward this year and if there is an update from Staff on regulation of Investor Owned Utilities. Mr. Bainbridge stated he would need to know the governmental purpose of the bill to fully know if the bill is constitutional.

6. Behested Payment Discussion with Interested Persons.

Karen Harrison, Senior Commission Counsel, provided a summary of the purpose of behested payments, the general description of the law, and outlined the issues.

Chair Miadich asked Ms. Harrison to explain the difference between the Wiener Advice Letter and the Rivas Advice Letter. Ms. Harrison explained that the Rivas letter was based on scenarios and the Wiener letter was based on actual occurrence and facts.

Chair Miadich asked if elected officials have an obligation to obtain and aggregate information from multiple third parties for purposes of meeting their own reporting requirements.

Specifically, what does an elected official do if the requested information is not provided. Galena West, Chief of Enforcement, stated committees have started using only vendors who provide the information because of the obligation the committee has to report and the possibility of being fined.

Jim Sutton, Sutton Law Firm, stated that there is an assumption that the donor and elected official are connected. The perspective of the donor is missing from the analysis when linking elected official or speakers with donations. Mr. Sutton expressed that FPPC should not pass a reporting law that discourages politicians from fundraising for their local charities.

Anna Crane, League of Women Voters, stated that the underlying issue with charitable organizations is abuse. Ms. Crane then stated the rules should be more clear.

Jay Carson, from Nielsen Merksamer, stated that he wanted to see a reference to potential behested payment donation reporting by lobbyists employers in \$5,000 filers.

Commissioner Hayward suggested that putting together a FAQ and manual training materials to focus on agreement in interpretation. Chair Miadich stated that there are training materials on behested payments currently on the FPPC website but could be adjusted or added to.

Chair Miadich proposed for the next Law and Policy meeting to address these issues again with more engagement from public comment.

The meeting concluded at 3:46 p.m.

ADDITIONAL INFORMATION.

- You may listen to and participate in this committee meeting by teleconference by calling: (877) 411-9748; access code 723284.
- For questions about this meeting, you may contact the Commission Assistant at (916) 322-5660.

ⁱ The Commission has established two separate two-person standing advisory committees, the Budget and Personnel Committee and the Law and Policy Committee, to allow greater participation by individual Commissioners in making recommendations to the full Commission. In recognition of the public's interest in the meetings of these committees, the Commission has directed the committees to allow the public to monitor committee deliberations, whenever possible, by publishing a five-day notice of the meeting and allowing callers to listen to the proceeding with a call-in telephone number. Additionally, the Commission is permitting public participation in the noticed meeting in person or via telephone.

As two-person advisory committees, Bagley Keene Open Meeting Requirements (Government Code Sections 11120 - 11132) do not apply to the committee meeting. However, the Commission will be soliciting public comment before and during the meeting. If you would like to comment on an agenda item prior to the meeting, you may email your comments to the Commission Assistant at CommAsst@fppc.ca.gov. Any comments submitted prior to the meeting will be provided to the committee members for consideration at the meeting.