



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich and Commissioner Cardenas

From: Lindsey Nakano, Legislative Counsel
L. Karen Harrison, Senior Commission Counsel

Subject: Legislative Proposal on Behested Payment Reporting

Date: November 4, 2020

Existing Law on Behested Payment Reporting

Section 84224 of the Government Code requires elected officers and members of the Public Utilities Commission (PUC) to file behested payment reports with their agency within 30 days of a behested payment or payments of \$5,000 or more in the aggregate from the same source in the same calendar year, and to subsequently disclose any additional behested payments from the same source in the same calendar year within 30 days of each payment. Within 30 days of receipt of a report, a state agency is required to forward a copy of the report to the FPPC, and a local agency is required to forward a copy of the report to the local filing officer.

Proposed Changes Previously Approved by the Law and Policy Committee

Based on the direction of the Law and Policy Committee at the October meeting, staff has prepared draft language that would require an elected state officer or member of the PUC to electronically file directly with the FPPC, instead of with their agency, within 30 days of the behested payment, and would require an elected officer who is not an elected state officer to file directly with the filing officer, instead of with their agency, within 30 days of the behested payment. Additionally, the draft language would authorize the use of electronic filing for elected officers who are not elected state officers, as provided, and would provide that an electronically filed report is an original report.

Additional Concepts for Consideration

Staff proposes the following additional concepts for consideration by the Committee:

1. After the initial behested payment report, require subsequent reporting not after every additional dollar from the same source in the same calendar year, but after another set amount.
2. Authorize elected officers to file behested payment reports with an estimated amount of the behested payment when the actual amount is not known, in order to facilitate more timely reporting.
3. Clarify recordkeeping duties for elected officers.
4. Require additional disclosure when an elected officer or family member is associated with the payee.

Draft Language: Electronic Filing for Behested Payment Reports

Section 84224 of the Government Code is amended to read:

(a) (1) An elected state officer or member of the Public Utilities Commission who is subject to the reporting requirement in subdivision (b) shall electronically file a behested payment report with the Commission.

(2) An elected officer who is not an elected state officer who is subject to the reporting requirement in subdivision (b) shall file a behested payment report with the filing officer with whom campaign reports are filed pursuant to Section 84215. A behested payment report may be filed with a filing officer using an electronic filing system maintained by the applicable jurisdiction. An electronically filed behested payment report shall be considered an original report.

~~(a)~~

(b) (1) A behested payment described in subdivision ~~(b)~~ (c) shall be reported pursuant to subdivisions (a) and (d) within 30 days following the date on which the behested payment or payments equal or exceed five thousand dollars (\$5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the behesting officer or member of the Public Utilities Commission with the officer's or member's agency and is a public record subject to inspection and copying pursuant to Section 81008. The report shall contain all of the following information: name of payor; address of payor; amount of the payment or payments; date or dates the payment or payments were made; the name and address of the payee; a brief description of the goods or services provided or purchased, if any; and a description of the specific purpose or event for which the payment or payments were made.

(2) Once the five-thousand-dollar (\$5,000) aggregate threshold from a single source has been reached for a calendar year, all year and an initial behested payment report has been filed, any subsequent payments for in the same calendar year made by that source shall be disclosed reported within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, state agencies, including the Public Utilities Commission, shall forward a copy of these reports to the Fair Political Practices Commission, and local agencies shall forward a copy of these reports to the officer with whom elected officers of that agency file their campaign statements. following the date of each payment.

~~(b)~~

(c) The reporting requirement imposed by this section applies to a behested payment that satisfies each of the following:

(1) The payment is made at the behest of an elected officer or member of the Public Utilities Commission.

(2) The behesting elected officer or member of the Public Utilities Commission does not provide full and adequate consideration in exchange for the payment.

(3) The payment is made principally for a legislative, governmental, or charitable purpose.

(4) If made principally for a legislative or governmental purpose, the payment is made by a person other than a state, local, or federal governmental agency.

(d) A behested payment report shall contain information about the elected officer or member, payor, payee, and nature of the payment, including the name and address of the payor, the amount of the payment, the date the payment was made, the name and address of the payee, a description of the purpose or event for which each payment was made, and, if applicable, a brief description of the goods or services provided or purchased that constitute the behested payment.

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