

**TO: MEMBERS, FORMATION COMMISSION**

**FROM: PAUL L. HOOD, EXECUTIVE OFFICER**

**DATE: JANUARY 17, 2008**

**SUBJECT: AMENDMENT TO FINANCIAL DISCLOSURE POLICY**

**Recommendation:** It is respectfully recommended that the Commission approve the amendments to the Financial Disclosure Policy.

**Discussion:** At the last meeting, the Commission approved a Policy to Implement AB 745 – Disclosure of Political Expenditures Regarding LAFCO Proceedings. The model policy was drafted by a group of LAFCO legal counsels from around the State. The initial draft focused on contributions and expenditures for political purposes with respect to proposals before LAFCO initiated by petition. The statute is in fact applicable to contributions and expenditures with respect to proposals not matter how initiated. Therefore an amendment to the policy is necessary to delete the references to “initiated by petition.” In addition, the policy included several references to “organization or reorganization,” when the change terminology should be “**change of** organization or reorganization.” The revised policy includes this correction as well.

Policy to Implement AB 745  
Disclosure of Political Expenditures Regarding LAFCO Proceedings

Adopted December 6, 2007  
Revised January 17, 2008

Pursuant to Government Code Sections 56700.1 and 57009, effective January 1, 2008, expenditures for political purposes related to a proposal for a change of organization or reorganization ~~initiated by petition~~ and contributions in support of or in opposition to any proposal at the conducting authority stage of the LAFCO process are subject to the reporting and disclosure to the same extent as required for local initiative measures under the Political Reform Act, Government Code Section 81000 et seq., and the regulations of the Fair Political Practices Commission implementing that law.

San Luis Obispo LAFCO adopts the following reporting and disclosure requirements to implement Government Code Sections 56700.1 and 57009.

1. Definitions

- a. "Contribution" as used herein shall have the same definition as provided in Government Code Section 82015, as amended.
- b. "Expenditure" as used herein shall have the same definition as provided in Government Code Section 82025, as amended.
- c. "Independent expenditure" as used herein shall have the same definition as provided in Government Code Section 82031, as amended, except that the term "measure" as used in Section 82031 shall be replaced with the term "proposal for a change of organization or reorganization."
- d. "Political Purposes" as used herein shall mean for the purpose(s) of: (i) influencing public opinion; (ii) lobbying public officials; and/or, (iii) influencing legislative or administrative action as defined in Government Code § 82032. It shall not include for the purpose(s) of complying with legal requirements and LAFCO rules for the processing of a proposal, including, but not limited to and by way of example only, preparation of a comprehensive fiscal analysis for an incorporation (Government Code Section 56800) or documents necessary to comply with the California Environmental Quality Act, Public Resources Code Section 21000 et seq., such as a mitigated negative declaration or environmental impact report.

2. Disclosure Requirements for ~~Petitions for~~ Proposals for Organization or Reorganization
- a. Any person or combination of persons who directly or indirectly makes an expenditure or independent expenditure for political purposes of \$1,000 or more in support of, or in opposition to, a change of organization or reorganization submitted to the Commission to which Government Code Section 56700.1 applies, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §§ 81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures on the reporting and disclosure forms published by the Fair Political Practices Commission.
  - b. Disclosures made pursuant to this Section shall be filed with the Commission's Executive Officer as designated in Section 5 below.
  - c. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term "election" as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled commission hearing on a proposal for **a change of** organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the Executive Officer establish a date to serve as the "election" date for this purpose. The Executive Officer shall establish a date, such as, but not limited to, the date which is 6 months after the first filing with the Commission regarding the proposal, and inform the requestor of that date in writing.
  - d. In the event the originally scheduled hearing date for the proposal for **a change of** organization or reorganization is rescheduled or continued to a later date, the obligation to file continues reports shall be filed on or before the 10<sup>th</sup> day of each month following the original hearing date with respect to contributions and expenditures received in the previous calendar month up to and including the third calendar month following final action by the Commission on the proposal.

### 3. Disclosure Requirements for Conducting Authority Proceedings

- a. Any person or combination of persons who directly or indirectly makes an expenditure for political purposes of \$1,000 or more related to conducting authority proceedings for a change of organization or reorganization to which Government Code Section 57009 applies, or in support of or in opposition to those conducting authority proceedings, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §§ 81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.
- b. Disclosures made pursuant to this Section shall be filed with the Commission's Executive Officer as designated in Section 5 below.
- c. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term "election" as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled conducting authority hearing on the proposal for **a change of** organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the Executive Officer establish a date to serve as the "election" date for this purpose. The Executive Officer shall establish a date, such as, but not limited to, the date which is 6 months after the first filing with the Commission regarding the proposal, and inform the requestor of that date in writing.
- d. In the event the originally scheduled conducting authority hearing date for a proposal for **a change of** organization or reorganization is rescheduled or continued to a later date, the obligation to file continues and reports shall be filed on or before the 10<sup>th</sup> day of each month following the original hearing date with respect to contributions and expenditures received in the previous calendar month up to and including the third calendar month following final action by the Commission on the proposal.

### 4. Certain Reports and Disclosures Excluded

This policy requires only that the persons subject to it disclose via reports to the Commission's Executive Officer contributions, expenditures and

independent expenditures with respect to expenditures for political purposes related to a ~~petition to the Commission for a~~ proposal for an **change of** organization or reorganization and does not impose on such persons the regulations regarding the names of campaign committees, disclosures of the sources of mass mailings, and disclosures of the source of automated telephone calls under Government Code Sections 84501 et seq. and the regulations of the Fair Political Practices Commission implementing those sections.

5. Where to File

All reports and disclosures required hereunder shall be filed with the Commission's Executive Officer.

6. Reporting requirements are non-exclusive

The disclosure and reporting requirements herein are in addition to any other requirements that may be otherwise applicable under provisions of the Political Reform Act or by local ordinance.

7. Sunset provision

This policy is intended to implement Government Code Sections 56700.1 and 57009 and shall be of no further force and effect upon the effective date of legislation repealing or amending those sections to transfer responsibility for enforcing disclosure of expenditures for political purposes affecting Commission proceedings to the Fair Political Practices Commission or otherwise terminates the responsibility of this Commission to adopt and implement this policy.