

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF APRIL 24, 2019

REGULAR MEETING

TO: Shiva Frentzen, Chair, and
Members of the El Dorado County Local Agency Formation
Commission

FROM: José C. Henríquez, Executive Officer

PREPARED BY: Erica Sanchez, Assistant Executive Officer

AGENDA ITEM #4C: **CONSIDER UPDATES TO THE COMMISSION'S POLICIES
AND GUIDELINES BASED ON CHANGES IN STATE LAW**

RECOMMENDATION

Staff recommends that the Commission update Section 3.1.1.1 within the Commission's Policies and Guidelines, based on changes to State law effective in 2009. Recommended updates include amending this section to substitute the Secretary of State as the reporting entity, and requiring applicants to provide copies of the disclosures to LAFCO.

REASON FOR RECOMMENDED ACTION

Section 3.1.1.1 of the Commission's Policies and Guidelines relates to Disclosure of Political Expenditure Regarding LAFCO Proceedings. Policy 3.1.1.1 references an outdated requirement for political expenditure reporting directly to LAFCO. The recommended updates to Policy 3.1.1.1 would bring it into compliance with Government Code Sections 56100.1, 84252, and 84204.5, as currently written.

BACKGROUND

The language in the Policies and Guidelines dates back to pre-2009 when applicants were required to report any political expenditures they made related to their boundary change petition directly to LAFCO. In 2009, the law was amended to change the reporting agency to be the Secretary of State. Please note that while the recommended updates delete much of Section 3.1.1.1, these changes will not only conform the policy to current law, but they will also require applicants to submit copies of their disclosures to LAFCO. If applicants only submit their reporting and disclosure requirements to the Secretary of

State, LAFCO would not know about it since the Secretary of State is not required to notify LAFCO. Adding such a requirement to your Policies & Guidelines will ensure that the disclosure and reporting information is provided to you by the time of the Commission hearing and can also be disclosed to the public. The changes are as follows:

- 3.1.1.1 Disclosure of Political Expenditure Regarding LAFCO Proceedings
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 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.

El Dorado LAFCO adopts the following reporting and disclosure requirements to implement Government Code Sections 56700.1 and 57009.

3.1.1.1.1 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 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, LAFCO deposits and fees, payments of fees required by other agencies during the processing of a LAFCO petition, 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~~ **have the same definition as provided in Government Code Section 84251, as amended**

3.1.1.1.2 Disclosure **and Reporting** Requirements for Proposals for Organization or Reorganization

(a) Contributions and expenditures for political purposes related to a proposal for a change of organization or reorganization, or conducting authority proceedings for a change of organization or reorganization, shall be disclosed and reported to the Secretary of State, pursuant to Sections 56100.1, 84252, and 84204.5 of the Government Code.

(b) In addition to complying with the above disclosure and reporting requirements, the applicant shall also provide copies of all disclosure documents to LAFCO, within the same timeframes as specified in Sections 56100.1, 84252 and 84204.5 of the Government Code.

~~(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.~~

~~(b) Contributions and expenditures made pursuant to this Section shall be disclosed and reported pursuant to the Political Reform Act of 1974 as designated in Section 3.1.1.1.5 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 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 organization or reorganization is rescheduled or continued to a later date, the obligation to file continues reports shall be filed on or before the 10th 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.~~

~~3.1.1.1.3 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) Contributions and expenditures made pursuant to this Section shall be disclosed and reported pursuant to the Political Reform Act of 1974 as designated in Section 3.1.1.1.5 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 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 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 10th 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.~~

~~3.1.1.1.4 Certain Reports and Disclosures Excluded~~

~~This policy requires only that the persons subject to it disclose and report expenditures with respect to expenditures for political purposes related to a proposal for an organization or reorganization pursuant to the Political Reform Act of 1974.~~

~~3.1.1.1.5 Reporting Requirements~~

~~Contributions and expenditures for political purposes related to a proposal or proceeding shall be disclosed and reporting pursuant to Article 2.5 (commencing with Section 84250) of Chapter 4 of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).~~

~~3.1.1.1.6 3 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.~~

~~3.1.1.1.7 Sunset provision~~

~~This policy is intended to implement Government Code Sections 56100.1, 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 terminate the responsibility of this commission to adopt and implement this policy.~~

Attachment

Attachment A: Current Section 3.1.1.1 of the Commission's Policies & Guidelines