

Agenda Report

October 6, 2014

TO: Honorable Mayor and City Council

FROM: City Clerk

THROUGH: Legislative Policy Committee (September 24, 2014)

SUBJECT: DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE WITHIN 30 DAYS TO ALLOW FOR THE ELECTRONIC AND PAPERLESS FILING OF CAMPAIGN FINANCE DISCLOSURE STATEMENTS BY ELECTED OFFICIALS, CANDIDATES, OR COMMITTEES

RECOMMENDATION: It is recommended that the City Council:

- (1) Find that the proposed action is exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15061(d)(3), the General Rule that CEQA only applies to projects that may have an effect on the environment; and
- (2) Direct the City Attorney to prepare an ordinance within 30 days allowing for the electronic and paperless filing of campaign finance disclosure statements by elected officials, candidates, and committees.

BACKGROUND:

On September 17, 2014, the City Clerk's Office finalized the acquisition of NetFile, an electronic and paperless filing system for both Statement of Economic Interest (Form 700) and Campaign Finance Disclosure forms. Staff's recommendation for the preparation of an ordinance is related only to the campaign finance component of the NetFile system.

The NetFile system is the only electronic filing system in California created specifically for cities and counties responsible for administering campaign finance filings, meeting the requirements of the Secretary of State, and allowing for fully electronic and paperless filing of campaign statements. Filers are able to input campaign finance information periodically, or all at once, with the System retaining and aggregating data specific to a campaign, to be used and carried over from one reporting period to the next.

Pursuant to Government Code Section 84615 (Attachment A), "A local government agency may require an elected officer, candidate, committee.....to file [campaign] statements, reports, or other documents online or electronically with a local filing officer." In order for Pasadena to accept electronically filed statements, the City Council must first pass an ordinance permitting the use of an online filing system as an option for filing, and designating the filings received electronically by the City Clerk's Office as the filings of record for the City.

Several other cities currently utilize NetFile and have taken similar actions by adopting ordinances to allow for paperless electronic filings. These cities include San Francisco, San Diego, Berkeley, Oakland, Fresno, Glendale, and Anaheim (Attachment B provides a sample ordinance from the City of Anaheim). Of the cities that have authorized online filing, some have chosen to issue a mandate that all committees that raise or expend \$1,000 or more must file electronically. However, staff is proposing a more moderate approach by drafting an ordinance that allows for candidates or committees to "opt-in" to using the system. This opt-in approach will provide potential filers with the opportunity to receive training, establish a level of comfort and familiarity in using the system, and (when ready) to file electronically. Once a committee has successfully completed an online filing, the ordinance would then require the committee to continue to file online in the future. This will ensure the continuity and integrity of the data used to generate reports over the course of an election cycle. Any committee that is unable or unwilling to e-file may continue to file paper forms with the City Clerk's Office.

To ensure a smooth transition, and as part of the agreement and acquisition of the system, NetFile will partner with the City to provide the necessary training and customer service to properly bring the system online. The company's experience and proven track record in successfully implementing similar systems throughout California for local government clients is one of the key reasons for the City Clerk's Office to recommend this action to the City Council. The goal is to achieve 100% participation in online filing for the nearly dozen or so active committees, as well as the yet to be determined number of candidates and committees that will be participating in the upcoming 2015 Primary and General City elections.

For candidates and committees for the Pasadena Unified School District's Board of Education, the County of Los Angeles remains the designated filing officer for those statements. Staff has consulted with the County and confirmed that paper copies will continue to be required in order to meet filing obligations. Candidates and committees may still use the City's system to generate reports if they wish to have their campaign disclosure statements publically posted but will have to print and provide two signed original copies when filing.

Required Findings

Government Code Section 84615 requires the legislative body to “adopt an ordinance approving the use of online or electronic filing” by making certain findings “that the online or electronic filing system will operate securely and effectively and would not unduly burden filers....”

In terms of security, the NetFile system is a web-based vendor-hosted application that utilizes “industry best practices” for securing data, using the same data encryption for online filings that is used by banks for online banking. NetFile has met with the City’s Department of Information Technology on several occasions, and has completed the requisite screening process to comply with the City’s standards. NetFile stores and backs up data at three separate locations, creating the essential safety measures and redundancy that will allow for recovery of information in the event of an emergency or disaster. The City’s data will be retained for the required minimum ten-year period.

To address any concerns that the system may create an undue burden on filers, following are some highlights of the proposed ordinance, including some built-in safeguards utilized in other cities that have facilitated the successful transition from paper filing to online filing. First, the City has acquired this software as part of the City Clerk’s business model, and as is consistent with Government Code Section 84615, the system will be free to those that are interested in using it for Pasadena local elections. For those filers that may not have access to computers, staff plans to make available to committees a dedicated computer in the City Clerk’s Office to be used for online campaign filing.

In addition, the proposed ordinance will be limited in scope and will only apply to those filers that exceed a threshold of \$1,000 for expending or receiving campaign funds. This threshold is consistent with the Political Reform Act (PRA), which recognizes campaigns that spend or raise more than \$1,000 as “Controlled Committees.” Under the Act, these types of committees are obligated to file detailed campaign finance disclosure statements, also known as Form 460’s.

For those smaller campaigns that do not exceed the \$1,000 threshold, they may continue to file paper versions of the Form 470 disclosure forms. It should be noted that the NetFile system is able to accommodate the online filing of several types of required forms by the Fair Political Practices Commission (FPPC), including Forms 460, 470, 496, and 497, which are the most commonly used in Pasadena’s local election campaigns.

For professional treasurers that have already purchased campaign software, NetFile is able to receive uploaded data from certain types of 3rd party applications for electronic filing purposes. Any outside application will be required to produce data in a format that meets the Secretary of State's requirements for California Electronic Filing Format (CAL) in order to electronically file using the NetFile system.

As articulated above, NetFile and the City Clerk's Office will offer extensive training to those candidates and committees interested in using the system. Once an ordinance is in place, the City Clerk staff will schedule one-on-one training with NetFile staff and individual treasurers that will cover the full gamut of the electronic filing process. This will include the set-up of filer accounts, explaining the online filing process, showing how to input data and save reports, preparing statements for e-signature, and finalizing statements for electronic filing. As stated previously, in the event a committee is unable or unwilling to participate in online filing, paper filings will continue to be an optional filing method provided by the City Clerk's Office.

CITY COUNCIL POLICY CONSIDERATION


The proposed action will promote transparency and provide timely viewing of campaign finance information for members of the public. In addition, the data will allow those involved in the "open data" movement to utilize content filed by committees to generate a more complete analysis of campaign finance activities.

In certain instances, the NetFile program will also increase the accuracy of filed campaign statements by prohibiting any filings that may have inadvertently omitted required information under the Political Reform Act (e.g. missing addresses or the stated occupation of individual donors). Finally, the online electronic filing of campaign finance forms aligns with the City's Green Cities Initiatives in providing a 100% paperless filing system.

FISCAL IMPACT


During the Fiscal Year 2015 budget review for the City Clerk's Office, staff reported its intention to acquire electronic filing software for administering Form 700 Statement of Economic Interests and Campaign Finance Disclosure filings. As indicated earlier in this report, the acquisition of the NetFile system is now complete, with the City and NetFile agreeing to a purchase order contract for a term of four years at a cost of \$17,000 per year. The requested action to direct the City Attorney to prepare an ordinance has no fiscal impact, as it authorizes the use of the already acquired software system pursuant to Government Code Section 84615.

Respectfully submitted,



Mark Jonsky, CMC
City Clerk

Reviewed by:



Michele Beal Bagneris
City Attorney/City Prosecutor

Attachments:

Attachment A – Government Code Section 84615
Attachment B – Sample Ordinance from the City of Anaheim

GOVERNMENT CODE - GOV

ATTACHMENT A

TITLE 9. POLITICAL REFORM [81000 - 91014] (*Title 9 added June 4, 1974, by initiative Proposition 9.*)

CHAPTER 4.6. Online Disclosure Act of 1997 [84600 - 84615] (*Chapter 4.6 added by Stats. 1997, Ch. 866, Sec. 1.*)

A local government agency may require an elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 (commencing with Section 84100), except an elected officer, candidate, committee, or other person who receives contributions totaling less than one thousand dollars (\$1,000), and makes expenditures totaling less than one thousand dollars (\$1,000), in a calendar year, to file those statements, reports, or other documents online or electronically with a local filing officer. A local government agency that requires online or electronic filing pursuant to this section shall comply with all of the following:

(a) The legislative body for the local government agency shall adopt an ordinance approving the use of online or electronic filing, which shall include a legislative finding that the online or electronic filing system will operate securely and effectively and would not unduly burden filers. The ordinance adopted by the legislative body for the local government agency may, at the discretion of that legislative body, specify that the electronic or online filing requirements apply only to specifically identified types of filings or are triggered only by identified monetary thresholds. In any instance in which the original statement, report, or other document is required to be filed with the Secretary of State and a copy of that statement, report, or other document is required to be filed with the local government agency, the ordinance may permit, but shall not require, that the copy be filed online or electronically.

(b) The online or electronic filing system shall only accept a filing in the standardized record format that is developed by the Secretary of State pursuant to paragraph (2) of subdivision (a) of Section 84602 and that is compatible with the Secretary of State's system for receiving an online or electronic filing.

(c) The online or electronic filing system shall ensure the integrity of the data transmitted and shall include safeguards against efforts to tamper with, manipulate, alter, or subvert the data.

(d) (1) The local filing officer shall issue to a person who files a statement, report, or other document online or electronically an electronic confirmation that notifies the filer that the statement, report, or other document was received. The confirmation shall include the date and the time that the statement, report, or other document was received by the filing officer and the method by which the filer may view and print the data received by the filing officer.

(2) A copy retained by the filer of a statement, report, or other document that was filed online or electronically and the confirmation issued pursuant to paragraph (1) that shows the filer timely filed the statement, report, or other document shall create a rebuttable presumption that the filer timely filed the statement, report, or other document.

(e) The date of filing for a statement, report, or other document that is filed online or electronically shall be the day that it is received by the local filing officer.

(f) The local filing officer shall make all the data filed available on the Internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. The data made available on the Internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed by the filer. The local filing officer shall make a complete, unredacted copy of any statement, report, or other document filed pursuant to this section, including any street names, building numbers, and bank account numbers disclosed by the filer, available to any person upon request.

(g) The online or electronic filing system shall include a procedure for filers to comply with the requirement that they sign statements and reports under penalty of perjury pursuant to Section 81004.

(h) The local government agency shall enable filers to complete and submit filings free of charge.

(i) The local filing officer shall maintain, for a period of at least 10 years commencing from the date filed, a secured, official version of each online or electronic statement, report, or other document filed pursuant to this section, which shall serve as the official version of that record for purpose of audits and any other legal purpose. Data that has been maintained for at least 10 years may then be archived in a secure format.

(j) Notwithstanding any other provision of law, any statement, report, or other document filed online or electronically pursuant to this section shall not be required to be filed with the local filing officer in paper format.

(Added by Stats. 2012, Ch. 126, Sec. 1. Effective January 1, 2013.)

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF ANAHEIM ADDING
SECTION .053 TO CHAPTER 1.09 OF THE ANAHEIM
MUNICIPAL CODE RELATING TO ELECTRONIC AND
PAPER FILING METHODS OF CAMPAIGN FINANCE
DISCLOSURE STATEMENTS

WHEREAS, California Government Code Section 84615 provides that a legislative body of a local government agency may adopt an ordinance that requires an elected officer, candidate, committee, or other person required to file statements, reports or other documents required by Chapter 4 of the Political Reform Act, except those whose contributions and expenditure each total less than one thousand dollars (\$1,000) in a calendar year, to file such statements, reports, or other documents online or electronically with the City Clerk; and

WHEREAS the City Council expressly finds and determines that the City Clerk's web-based system contains multiple safeguards to protect the integrity and security of the data, and will operate securely and effectively and will not unduly burden filers; and

WHEREAS the software used by the City Clerk's electronic filing system has been certified by the Secretary of State and meets the requirements set by Government Code Section 84615; and

WHEREAS the City Clerk will operate the electronic filing system in compliance with the requirements of California Government Code Section 84615 and any other applicable laws.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ANAHEIM DOES ORDAIN AS FOLLOWS:

SECTION 1.

That new section 1.09.053 be, and the same is hereby added to, Chapter 1.09 of Title 1 of the Anaheim Municipal Code to read in full as follows:

1.09.053 ELECTRONIC FILING OF CAMPAIGN DISCLOSURE

.010 Except as set forth in subsections .050 and .060 herein, any elected officer, candidate, committee or other person required to file specified statements, reports, or other documents with the City Clerk as required by Chapter 4 (commencing with Section 84100) of Title 9 of the California Government Code, also known as the Political Reform Act, and that has received contributions or made expenditures of \$1,000 or more, may electronically file such statement using the City Clerk's online system according to procedures established by the City Clerk.

.020 To ensure reporting continuity, once a statement, report or other document is filed electronically on behalf of any elected officer, candidate, or committee as set forth in subsection

.010, above all future statements, reports and other documents on behalf of that officer, candidate or committee shall be required to be filed electronically using the City Clerk system.

.030 Any elected officer, candidate, committee or other person who has electronically filed a statement, report, or other document using the City Clerk's online system is not required to file a copy of that document in paper format with the City Clerk.

.040 An elected officer, candidate, committee or other person may choose to opt-out of the electronic filing system by filing all original statements, reports or other documents in paper format with the City Clerk. Electronic filing is not required until after an elected officer, candidate, committee or other person opts-in by electronically filing a statement, report or other document.

.050 In any instance in which an original statement, report, or other document must be filed with the Secretary of State or Orange County Registrar of Voters, and a copy of that document is required to be filed with the Anaheim City Clerk, the filer may electronically file a copy with the Anaheim City Clerk, the filer may, but is not required to file the copy online or electronically.

.060 If the City Clerk's system is not capable of accepting a particular type of statement, report or other document, an elected officer, candidate, committee or other person shall file that document in paper format with the City Clerk.

SECTION 2.

Except as expressly amended by the provisions of this ordinance, Chapter 1.09 of Title 1 of the Anaheim Municipal Code shall remain in full force and effect.

SECTION 3. CERTIFICATION; EFFECTIVE DATE OF ORDINANCE

The City Clerk shall certify to the passage of this ordinance and shall cause the same to be printed once within fifteen (15) days after its adoption in the Anaheim Bulletin, a newspaper of general circulation, published and circulated in the City of Anaheim, and thirty (30) days from and after its final passage, it shall take effect and be in full force.

SECTION 4. SEVERABILITY

The City Council of the City of Anaheim hereby declares that should any section, paragraph, sentence or word of this ordinance of the Code, hereby adopted, be declared for any reason to be invalid, it is the intent of the Council that it would have passed all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the ____ day of _____, 2014, and thereafter passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2014, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY OF ANAHEIM

By: _____
MAYOR OF THE CITY OF ANAHEIM

ATTEST:

CITY CLERK OF THE CITY OF ANAHEIM