

LEAGUE OF CALIFORNIA CITIES CITY ATTORNEYS' 2018 SPRING CONFERENCE FPPC UPDATE

Presented by:

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OVERVIEW

- ▶ POLITICAL REFORM ACT REVISION PROJECT
- ▶ RECENT FPPC REGULATIONS
- ▶ COMMISSION ACTIVITIES
- ▶ SELECT RECENT FPPC ADVICE LETTERS

POLITICAL REFORM ACT REVISION PROJECT

- ▶ PROJECT STARTED IN SUMMER 2016.
- ▶ IN JANUARY 2017, DRAFT WAS PROVIDED TO THE OFFICE OF LEGISLATIVE COUNSEL.
- ▶ IN SEPTEMBER 2017, COMMENTS RECEIVED FROM LEGISLATIVE COUNSEL WERE SUBSTANTIAL.
- ▶ IN MARCH 2018, FPPC STAFF INDICATED PROJECT ON HOLD.

FPPC REGULATIONS

- ▶ LEAGUE'S FPPC COMMITTEE MONITORED PROPOSED REGULATIONS.
- ▶ NO SIGNIFICANT CHANGES TO CONFLICT OF INTEREST ANALYSIS REGULATIONS.
- ▶ REPEAL OF 18901 MASS MAILINGS SENT AT PUBLIC EXPENSE PER SB 45.

REGULATION 18901 REPEAL PURSUANT TO SENATE BILL 45

- ▶ In October 2017, SB 45 codified the FPPC mass mailing restrictions into Government Code § 89002
- ▶ SB 45 added Government Code § 89003 which created additional prohibitions on otherwise permissible mailings when within 60 days of an election.
- ▶ *Notwithstanding subdivision (b) of Section 89002, a mass mailing, as defined in Section 82041.5, that meets the criteria of subdivision (a) of Section 89002 shall not be sent within the 60 days preceding an election by or on behalf of a candidate whose name will appear on the ballot at that election, except as provided in paragraphs (2) to (8), inclusive, and paragraph (10) of subdivision (b) of Section 89002.*

SB 45 MASS MAILING PROHIBITIONS

- ▶ SB 45 further restricts prior permissible mass mailings for officials who will appear on a ballot as it relates to letterhead and certain public meetings related to the candidate, as found in b(1) and b(9).
- ▶ (1) An item in which the elected officer's name appears only in the letterhead or logotype of the stationery, forms, including "For Your Information" or "Compliments of" cards or stamps, and envelopes of the agency sending the mailing, or of a committee of the agency, or of the elected officer, or in a roster listing containing the names of all elected officers of the agency....

SB 45 MASS MAILING PROHIBITIONS

- ▶ (A) An announcement of any meeting or event of either of the following:
 - ▶ (i) An announcement sent to an elected officer's constituents concerning a public meeting that is directly related to the elected officer's incumbent governmental duties, is to be held by the elected officer, and that the elected officer intends to attend.
 - ▶ (ii) An announcement of any official agency event or events for which the agency is providing the use of its facilities or staff or other financial support.
- ▶ (B) Any announcement provided for in this paragraph shall not include the elected officer's photograph or signature and may include only a single mention of the elected officer's name except as permitted elsewhere in this section.

PRIORITIES OF THE COMMISSION

- ▶ Chair Renke: focus on 2018 election and assisting candidates, committees and filing officers.
- ▶ Undertaking a review of enforcement priorities and procedures.
- ▶ Undertook a review of governing practices of Commission.

FPPC ADVICE LETTERS

- ▶ Lucan Advice Letter No.A-18-002
- ▶ Gee Advice Letter No.A-17-249
- ▶ Schneider Advice Letter A-17-280

LUCAN ADVICE LETTER

- ▶ Question: Whether the construction of an extended stay hotel in an official's jurisdiction, where there currently was no similar rental option, will have a reasonably foreseeable material financial effect on the official's interest in multiple residential rental properties.
- ▶ Applied FPPC REG18702.1(b): Materiality Standard for Financial Interests in Business Entities: *For a governmental decision not identified in subdivision (a), the financial effect is material if a prudent person with sufficient information would find it is reasonably foreseeable that the decision's financial effect would contribute to a change in the price of the business entity's publicly traded stock, or the value of a privately-held business entity. Examples of decisions that may be applicable include those that:*
 - ▶ (2) Increase or decrease the amount of competition in the field in which the business entity is engaged;
- ▶ Permitted to participate based on the Public Generally Exemption.

GEE ADVICE LETTER

- ▶ Whether there was an impermissible conflict due to membership in a private country club where there was a decision related to downtown parking program located near the Country Club property.
- ▶ FPPC analyzed the nature of the membership structure.
- ▶ Found that their memberships were both a business investment interest and a real property interest.
- ▶ Permitted to participate because the creation of the downtown parking program will not have a reasonably foreseeable material effect on their interests.

SCHNEIDER ADVICE LETTER

- ▶ FPPC applied Regulation 18234: Interests in Trusts.
- ▶ FPPC advised a councilperson, who resides in a home held in a family trust, does not have an economic interest in the property because her parents, the trustees of the trust, may revoke the trust at their discretion, and she is not receiving any income from the trust.
- ▶ She was permitted to participate in actions related to improvements located on park property within 500 feet of the her residence.

THANK YOU.

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