

# California City Clerks' New Law Seminar



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## Today's Topics

- Campaign Recap
- New Laws and New Regulations for 2019 and 2020
- Enforcement News
- Form 700 Recap
- Looking Ahead

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## Year End Checklist

- Semi-annual Form 460 due January 31, 2020 for all open committees
- Did you have a November election? Defeated candidates without committees (Form 470 filers) have no further filing obligations
- Incumbents file either 470 or 460 by July 31, 2020 (less than \$200 salary exception applies)
- An official with an open committee in another jurisdiction is not eligible to file Form 470 with you

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## Elections in 2020 Candidate Filing Overview

- Re-election: Incumbents must file Form 501 and, if using existing committee, amend Form 410 to indicate current election and change committee name
- Provide Local Candidate Manual 2, Forms 501, 410, 460, 470, 497, Form 700 and filing schedule to candidates

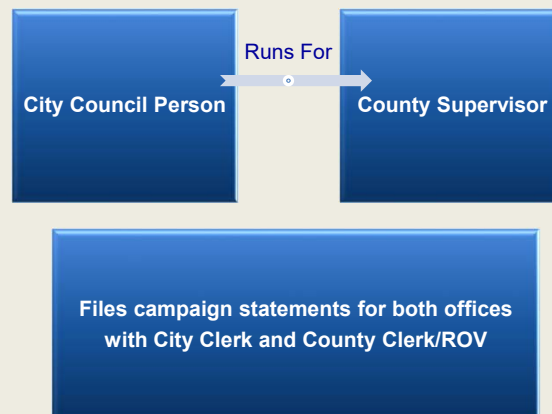
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## Campaign Statements Local Electronic Filings

- Local agencies may approve ordinances permitting or requiring electronic filing of campaign statements
- Redaction requirements exist for Internet postings
- You may not redact any information whatsoever on paper copies when requested
- Paper filings are not required as long as criteria in Section 84615 are met

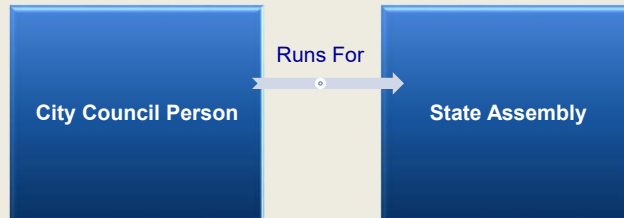
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## Multiple Committee Filing Requirements



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## Multiple Committee Filing Requirements



Files statements for both offices with city and SOS  
If state committee files electronically with SOS, city committee must also file electronically with SOS and no Assembly filing required with the city

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## Local Campaign Ordinances

### Local Campaign Ordinances

A local jurisdiction may enact a campaign ordinance that provides for additional or different campaign requirements for committees active exclusively in its jurisdiction as long as the provisions are stricter than those in the Act.

While the FPPC may neither interpret nor comment on the viability, enforceability, or constitutionality of a local ordinance, we are not constrained from identifying those provisions that may conflict with or impede a person's compliance with the Act.

Cities and counties that have adopted a campaign finance ordinance must submit a copy to the FPPC [here](#). The FPPC has received information from the agencies listed below, and the posted ordinances are the latest versions provided to the FPPC. For questions interpreting any of these provisions, or to check on any amendments to the ordinances, please contact the local jurisdiction directly.

Cities	▶
Counties	▶
Special Districts	▶

- Ordinances are posted on FPPC's website
- Review to ensure we have the most recent version
- Send updates to [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov)

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# Political Reform Act

New Laws – 2020 and beyond

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## Cal-Access Delay

Effective June 27, 2019

### Cal-Access Launch Date Delayed until February 2021

Under new legislation adopted by a Budget Trailer Bill, the Legislature has moved the deadline to launch the Cal-Access Replacement System from February 2020 to February 2021 to give the Secretary of State more time and resources to fully complete the project.

(SB 84 (Senate Budget Committee) – Chapter 30, Statutes of 2019)

### What this means:

There are numerous changes conditioned on the certification of the Cal-Access Replacement System, including the Secretary of State moving to a paperless filing model. This will effect committees, candidates, and electronic filing vendors.

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# Treasurers

## Effective Upon Certification of Cal-Access

### Acknowledgement of Treasurer and Assistant Treasurer Duties and Liabilities

A treasurer or assistant treasurer identified on the Statement of Organization must sign a separate statement acknowledging cognizance of the law. Requires the Statement of Acknowledgment to be filed with the Secretary of State at the same time as the Statement of Organization or an amendment identifying a new treasurer or assistant treasurer. This bill becomes operative upon certification of the new Cal-Access System.

(AB 909 (Gallagher) Chapter 313, Statutes of 2019.)

### What this means:

This will not be a new paper form. This requirement will be an electronic requirement built into the Secretary of State's Cal-Access system. A Form 410 Statement of Organization will not be accepted if this acknowledgment has not been made by the treasurer and assistant treasurer.

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# Candidate Public Financing

## Effective October 2019

### Public Financing of Candidate Campaigns

Senate Bill 1107 chaptered into law in 2016 would have permitted public financing of candidate elections in California if non-charter jurisdictions met specific requirements in the bill. California's 3rd District Court of Appeals affirmed a Superior Court ruling in favor of the Howard Jarvis Taxpayers Association's challenge against SB 1107. The Commission is enjoined from enforcing the bill. The provisions from SB 1107 will continue to be in the Act until it is repealed or amended by the Legislature or voters.

(Howard Jarvis Taxpayers Assn. v. Newsom (2019) 39 Cal.App.5th 158.)

### What this means:

Public financing for candidate campaigns in non-charter jurisdictions are impermissible under the Political Reform Act.

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# Local Contribution Limits

Effective 1/1/2021

## Statewide Default Contribution Limits:

Cities and counties without a candidate contribution limit will have to adhere to the state default contribution limit (currently \$4,700). The FPPC is charged with enforcing the default contribution limit. The FPPC will not enforce a city or county's contribution limit unless under contract to do so. The statewide default contribution limit will be adjusted for inflation in January of every odd-numbered year.

• (AB 571 (Mullin) – Chapter 556, Statutes of 2019)

## What this means:

No changes to your city or county if your jurisdiction has adopted or will adopt its own contribution limit ordinance. Please report it to the FPPC. Jurisdictions without a limit may wish to inform its candidates of the upcoming change in 2021.

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# Use of Campaign Funds

Effective 1/1/2020

## Childcare costs resulting from campaign activities

New law authorizes the use of campaign funds to pay for childcare expenses resulting from a candidate engaging in campaign activities. "Childcare expenses" is defined as reasonable costs of professional daycare services, babysitting, nannying services, food and beverages, transportation to and from the location of a childcare services provider, before and after school programs, summer day camps, preschool, and costs related to a nurse, home care provider, or other care provider for a disabled dependent child. Prohibited expenses include private school tuition, medical expenses, tutoring services, or payments to a relative, unless the relative's activities meet the exception in the legislation. .

(AB 220 (Bonta) – Chapter 384, Statutes 2019)

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# Use of Campaign Funds

## Effective 1/1/2020

### Campaign and officials cybersecurity

Campaign funds may be used to pay for, or reimburse the state for, the installation and monitoring of hardware, software, and services related to the cybersecurity of the electronic devices of a candidate, elected officer, or campaign worker. The law requires a candidate or elected officer to report any expenditure of campaign funds for these purposes on campaign statements.

(AB 1043 (Irwin) – Chapter 46, Statutes 2019)

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# Use of Campaign Funds

## Effective 1/1/2020

### Legal Costs; Sexual Harassment/Assault

The law permits expenditure of funds in a campaign committee account or legal defense fund account to pay for a candidate or elected official's defense against claims of sexual assault, sexual harassment, and sexual abuse. However, the candidate or elected official would be required to reimburse the committee account if he or she were ultimately "held liable for such a violation."

(SB 71 (Leyva) – Chapter 564, Statutes 2019)

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# Campaign Advertising

Effective 1/1/2020

## Disclosures on Mass Text Messages

Under certain conditions, text message advertisements require a candidate or committee to disclose the name of the candidate or committee or provide a hyper link in the text message to a website with required disclosures. The disclosure requirements depend on the type of committee paying for the advertisement and whether the person sending the text message is a paid staff, volunteer, or using mass distribution technology. There are additional exceptions provided for in the law.

(AB 201 (Cervantes) – Chapter 555, Statutes 2019)

## What this means:

If the campaign or committee is sending mass text messages using a text messaging platform or mass distribution technology, then the sender must be aware of the specific disclosure requirements or exceptions required on the text message advertisement or whether an exception applies.

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# Campaign Advertising

Effective 1/1/2020

## Social Media Platform Disclosure and Database

The Social Media DISCLOSE Act was adopted into law in 2018 and becomes operative in January 2020. The law requires new disclosure requirements for campaign advertisements on "online platforms," as defined in law. Social media platforms are required to maintain a database of advertisements with additional information about the advertisement and advertiser.

(AB 2188 (Mullin) – Chapter 754, Statutes 2018)

## What this means:

The requirements of this bill mostly fall on the online platforms to comply and to include specific disclaimers on advertisements run on the platforms. Candidates or committees will need to provide specific legally required information to the platform to comply with the law.

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# Campaign Advertising

## Effective 1/1/2020

### DISCLOSE Act Clean Up

This law clarified disclosure requirements for large print advertisements larger than those designed to be individually distributed, further defined the types of ads captured under the Social Media DISCLOSE Act, and addresses other legal conflicts or confusion in the new disclosure law.

(AB 2188 (Mullin) – Chapter 754, Statutes 2018)

### What this means:

The disclosure rules in the Political Reform Act should be more understandable and with less legal conflicts. It's still pretty complicated though...

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# Clean Up Legislation

## Effective 1/1/2020

### Old Sections Deleted, Regulations Codified, Confusing Language Clarified

The Commission sponsored three bills this year to 1) delete old, antiquated, and expired sections of the Act; 2) codify several regulations into statute including definitions of "candidate," "spouse," "assistant treasurer," filing officer duties, and other non-substantive policies; and, 3) clarified the preelection filing section to make it readable and understandable.

(AB 2188 (Mullin) – Chapter 754, Statutes 2018)

### What this means:

These are "housekeeping" bills! There are no practical changes or only minor changes to the day-to-day enforcement and interpretation of the Political Reform Act.

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## That's a lot!

### When does it all start??

#### Started in 2019 or starting in January 1, 2020

- Disclosures on mass text messages.
- Use of campaign funds for childcare costs, cybersecurity, or legal defense for sexual harassment and assault.
- Disclosures on online platform advertisements.
- Clean up and housekeeping provisions.
- Clean up of the California DISCLOSE Act.
- Delay of Cal-Access Replacement Project
- Prohibition on public funds for candidate elections.

#### Starting January 1, 2021 or later

- Default contribution limits for cities and counties (2021)
- Treasurer acknowledgment on Statement of Organizations (Cal-Access)

## Political Reform Act

New Regulations 2019

## **Disclose Act Regulations**

(Regulations 18435, 18405.2, 18405.3 & 18405.4)

- Disclosure requirements for certain mass mailings
- “Authorized and paid for” further defined
- Top contributor information for “affiliated entities”
- Required length of campaign ad disclosure for ads of less than 4 or 5 seconds

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## **Multipurpose Organizations**

(Regulations 18422 & 18422.1)

- Updates to the rules covering multipurpose organizations that file as committees.
- Greater detail now provided as to what records need to be kept and what information goes on a statement of organization.

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## Requesting Formal and Informal Advice

(Regulation 18329)

### Formal Advice:

- Who may request advice?
- What information must be provided by the requestor?
- Deadlines for responses for both Commission staff and advice requestors.
- Clarifies circumstances when advice may be declined.

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## Requesting Formal and Informal Advice

(Regulation 18329)

### Informal Assistance:

- Request and FPPC's response can be by phone or in writing (email).
- No immunity.
- Same guidelines for declining advice as formal advice.

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## **New Enforcement Streamline Program**

(Regulations 18360.1 & 18360.2)

- Eligibility for the Streamline Program – List of specific types of violations eligible for the program.
- Penalty levels for Streamline cases – Detailed provisions as to the fine level at various stages in the process.

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## **Commission Audits and Investigations**

(Regulation 18998)

- Auditing guidelines and standards set in regulation for discretionary audits and investigations.

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## **Conflict of Interest Materiality Standards Update**

(Regulations 18702.1, 18702.2, 18702.3, 18702.4, & 18702.5)

Updated materiality standards for financial interests in:

- Business Entities
- Real Property
- Sources of Income
- Sources of Gifts
- Personal Finances

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## **Statement of Economic Interests: Certification of Electronic Filing System**

(Regulation 18756)

- Agency's electronic filing system must meet FPPC data exchange requirements.

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# Agency Provided Tickets and Valuation

(Regulation 18944.1 & 18946)

- Amendments to requirements for agency-provided tickets or passes exemption.
  - Prohibition on disproportionate use of tickets by members of governing body/administrative officer/department heads.
  - When using tickets for purpose of oversight or inspection of facilities must provide a written report of findings and recommendations.
- Updated valuation for event tickets related to luxury boxes and suites.
  - Divide total cost of box or suite by number of tickets available for that box or suite.

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# Enforcement News

FPPC's Enforcement Division will again run the proactive campaign pre-election filing program in 2020 and will reach out to:

- All counties
- All cities holding elections in March or November with a population over 100,000
- Anyone else wishing to participate

If your city meets the criteria, you will receive an email 2-3 months in advance of the election explaining the program and again the day after the first and second pre-election deadlines. If a candidate or committee hasn't filed, FPPC's Enforcement Division will contact them directly. **This program resulted in almost 100% compliance in 2018!**

Please contact Tara Stock at [tstock@fppc.ca.gov](mailto:tstock@fppc.ca.gov) for any questions related to this program.

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## Making a Non-Filer Referral to FPPC?

Filing officers **must** submit referrals to the Enforcement Division using the Electronic Complaint System.


Provide all the information requested including:

- The most recent filing
- Copies of your notifications (at least two written notifications must be made prior to referral)
- A copy of the conflict of interest code (if applicable)

You will receive an email confirming receipt of the referral and notification when the FPPC takes action on the referral.

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## Enforcement Non-Filer Referral Program

 For Official Use Only.

The Referral section is only for use by Local and State Filing Officers and Officials.  
Do not complete this section if you are trying to file a Complaint.

SEI Non-Filer  
 Campaign Statement Non-Filer  
 Lobbying Report Non-Filer  
 Annual Fee

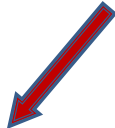
### Notification Information

Select the type of Notification you attempted.

Mail  
 Email  
 Telephone call  
 In-person Contact

**Date Attempted or Completed:**

**Attach a copy of each Notification for this missing filing. \***



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## Form 700 Late Fine Payments and Enforcement Penalty Payments

FPPC now provides a method for candidates, public officials and others to pay a late fine or an Enforcement penalty by credit or debit card via FPPC's website



The screenshot shows the FPPC website's payment interface. At the top is the FPPC logo and the text 'CALIFORNIA Fair Political Practices Commission'. Below this is a 'Payment' section with a 'Payee Information' sub-section containing fields for First Name, Last Name, Phone, Email ID, Case Number, and Additional Comments. A 'Billing Address' sub-section includes fields for Street, City, State (pre-filled with 'CA - California'), and Zip (Postal) Code. The 'Payment Information' sub-section features a 'Payment Amount' field, a 'Payment Method' dropdown set to 'CREDIT/DEBIT Accepted Cards' with icons for Visa, Mastercard, and Discover, and fields for Card Number, Expiry Date, and CVV. A 'Transaction Summary' box on the right lists 'Amount Due', 'Commission Fee', and 'Total Amount Due'. A 'Submit' button is located at the bottom right of the form. A blue starburst with the word 'NEW!' is overlaid on the left side of the form.

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## Assuming/Leaving Office Form 700 Exceptions

It is not necessary to obtain an assuming or leaving office Form 700 under the following situations:

- Re-election or re-appointment to the same position
- 87200 filer assumes another 87200 position within 45 days – e.g., Planning Commissioner elected to City Council

**Remember:** A filer who assumes office between October 1 and December 31, 2019 – no annual required in 2020

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## Form 700 2020 Update

- The updated Form 700 for 2019/2020 and Reference Pamphlet will be posted the first week in January
- An email reminder will be sent to all filing officers including information with important reminders and electronic filing updates and instructions
- No major changes to Form 700 and no changes to reporting rules this year
- Gift factsheets will be updated soon
- Form 700 is due on **April 1, 2019**

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## Form 700 Filings in 2019

- List of individuals whose statements are filed with FPPC was sent to all cities the week of November 4th for review.
- Update FPPC's electronic filing system with any changes (including those who have left office and assumed office)

**Note:** For cities utilizing their own e-filing program, filers' names/position titles/assuming office dates must match exactly with ours in order for filings to upload into our system

*It's your responsibility to ensure statements filed through your system are uploaded to our system*

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## Form 700 Electronic Filing for FPPC Filers – **Questions?**

**[form700@fppc.ca.gov](mailto:form700@fppc.ca.gov)**

For general questions, contact your FPPC filing officer:

Cities A-M – Sonia Rangel: [srangel@fppc.ca.gov](mailto:srangel@fppc.ca.gov)

Cities N-Z – Laura Mandler: [lmandler@fppc.ca.gov](mailto:lmandler@fppc.ca.gov)

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## Form 700 Electronic Filing for Your Filers (Those whose statements aren't sent to FPPC)

- All agencies may allow electronic filing for internal filers
- Application and \$1,000 fee must be submitted to FPPC for approval and certification of system
- Application form and more information on FPPC's website (under the Filing Officer link)
- There are now 257 cities, counties, and agencies approved for electronic filing
- The five-year renewal fee of \$1,000 will be waived for most agencies

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# Ticket Reporting - Form 802

You are no longer required to send Form 802 to FPPC, but instead, you will post them on your agency's website and email the link to us at [form802@fppc.ca.gov](mailto:form802@fppc.ca.gov).

Your agency's ticket policy must be also be posted on your website and a link must be sent to FPPC.

The FPPC will post on its website a link to the page of your agency's website that contains the ticket policy and the completed 802 forms.

It is not necessary to send an email each time a new Form 802 is posted. After the initial e-mail, it is only necessary to submit the link if the posting location on your website changes.

Regulation 18944.1

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# What's New on FPPC's Website?

What's New is what's new!



Click on this link at the bottom of our homepage

## What's New

Updated Rules, Forms, Manuals, etc.



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# What's New on FPPC's Website?

“What's New” is what's new!

The screenshot shows the 'What's New' section of the FPPC website. On the left, there is a vertical list of links: Campaign Rules, Conflicts of Interest Rules, Lobbyist Rules, Rules on Conflict of Interest Codes, Guidance for Filing Officers, Public Officials and Employees Rules, San Bernardino County Candidates, Training & Outreach, and What's New. Below this list is a box titled 'How to Request Advice' with a 'Request Advice' button. On the right, there is a 'What's New' heading followed by a paragraph about updates to laws and manuals. Below that are sections for 'Recent Changes to the Law', 'Advertising Disclaimer Comparison Chart', 'Candidate Toolkit', and 'Recall Elections FAQs', each with a brief description of the update.

# FPPC's Website – Resource for Filing Officers

The screenshot shows the 'Integrity & Transparency' section of the FPPC website. At the top, there is a banner with the text 'The nonpartisan FPPC is the agency primarily responsible for the fair application, interpretation, and enforcement of the Political Reform Act.' Below the banner are three buttons: 'File a Form 700', 'How to File a Complaint', and 'Need a Form? View All Forms'. Below these buttons is a section titled 'I Want To...' with tabs for 'View', 'Find', 'File', and 'Get Involved'. To the right of this section is a 'Resources For...' menu with a red arrow pointing to the 'Filing Officers' option. Below the 'I Want To...' section is a 'Resources for Filing Officers...' section with icons and links for 'Campaign Filing Officer Duties', 'Form 700 Filing Officer Duties', 'Form 700 Electronic Filing Certification for an Agency's Internal Filers', 'Ask FPPC for Advice', and 'FPPC Training & Outreach'.

## What's Ahead for FPPC?

- Form 700 trainings are being scheduled throughout the state for both filing officers and filers. If you are interested send an e-mail to [seminars@fppc.ca.gov](mailto:seminars@fppc.ca.gov)
- New training videos being developed for our website for common questions.
- The campaign manuals were updated in November 2019 and will again be updated early next year with the new laws for 2020.
- We are continuing to update our website – comments and suggestions always welcome.

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## Keep in Touch

- Toll-Free Advice Line: (866) 275-3772
- Email: [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov)
- Website: [www.fppc.ca.gov](http://www.fppc.ca.gov)
- Facebook: CA FPPC
- Twitter: @CA\_FPPC
- Sign up for mailing lists to stay up to date

**We're Here to Help!**



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