

LAFCO

Santa Barbara Local Agency Formation Commission

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February 7, 2008 (Agenda)

Local Agency Formation Commission

105 East Anapamu Street, Room 403

Santa Barbara CA 93101

Policy to Implement Campaign Disclosure Requirements Pursuant To AB 745 (Silva)

Dear Members of the Commission:

RECOMMENDATION

It is recommended the Commission adopt the enclosed policy regarding campaign disclosures pursuant to Government Code Sections 56100.1, 56700.1 and 57009. This policy will apply to applications that have not completed as of January 1, 2008.

DISCUSSION

Background:

Assembly Bill 745 (Silva) was signed by the Governor and became effective on January 1, 2008. It modifies two sections of the Cortese-Knox-Hertzberg Act, and adds a new section to address campaign disclosure requirements for LAFCO proceedings. A copy of AB 745 is enclosed.

The preexisting law required disclosure of expenditures for political purposes related to local government boundary changes or reorganizations submitted to LAFCO, and contributions in support of or in opposition to those proposals. The amended law requires similar disclosure for proposals that will be submitted to LAFCO and reporting to the same extent and same requirements of the Political Reform Act of 1974 as provided for local initiative measures.

With AB 745 LAFCO's must now adopt and administer regulations requiring disclosure of political contributions and expenditures even before proposals are considered by the Commission.

Enclosed is the report prepared by LAFCO attorneys who examined the legislative changes requiring the adoption of a Commission policy.

Statutory Changes

Affected Government Code sections are set forth below; new language is underlined:

- Section 56100.1 - A commission may require, through the adoption of written policies and procedures, the disclosure of contributions, as defined in Section 82015, expenditures, as defined in Section 82025, and independent expenditures, as defined in Section 82031, made in support of or opposition to a proposal.

Disclosure shall be made either to the commission's executive officer, in which case it shall be posted on the commission's website, if applicable, or to the board of supervisors of the county in which the commission is located, which may designate a county officer to receive the disclosure.

Disclosure pursuant to a requirement under authority provided in this section shall be in addition to any disclosure required by Section 56700.1, the Political Reform Act (Title 9 commencing with Section 81000) or by local ordinance.

- Section 56700.1 - Expenditures for political purposes related to a proposal for a change of organization or reorganization proposal that will be conducted pursuant to this part ~~that has been submitted to a commission,~~ and contributions in support of, or in opposition to, those ~~measures,~~ proceedings shall be disclosed and reported to the same extent and subject to the same requirements of the Political Reform Act (Title 9 commencing with Section 81000) as provided for local initiative measures ~~to be presented to the electorate.~~
- Section 57009 - Expenditures for political purposes related to proceedings for a change of organization or reorganization that will be conducted pursuant to this part, and contributions in support of, or in opposition to, those proceedings shall be disclosed and reported to the commission to the same extent and subject to the same requirements of the Political Reform Act (Title 9 commencing with Section 81000)), as provided for local initiative measures.”

Following the enactment of AB 745 several LAFCO attorneys met to review the legislation and outline its implications. Members of this group provided a presentation at the CALAFCO Annual Conference to discuss the rationale and requirements of the legislation.

The rationale is a desire to allow the public and governments to know who is funding campaigns to place a proposal before LAFCO (initiating petitions, preparing documents, soliciting support) and to know those seeking to influence whether the item is completed or placed on a ballot. AB 745 does not change the duties or obligations under the Political Reform Act that requires disclosure once an item is placed upon a ballot.

These are new reporting requirements; however, they do not change existing obligations on groups that have sought to influence the outcome of proposals. Any matter placed upon a ballot carried with it a duty to report campaign expenditures by those in support or opposition to the measure. AB 745 clarifies that this same duty applies to actions seeking to place an item before the Commission and to affect the outcome of the process for a boundary change.

Proposed Santa Barbara LAFCO Policy

The recommended policy is enclosed. Upon approval it would be added to the Commissioner Handbook chapter on Rules and Procedures.

Forms to Implement Policy

The staff proposes to use existing FPPC Forms, 410 – Statement of Organization, 460 Recipient Committee Campaign Statement, and 497 Late Contribution Report, as the filing documents required under this policy. These forms will be available in the LAFCO office. When filed these reports will be posted on our website, though we plan to redact home addresses and home and cellular phone numbers of individuals for their privacy and protection.

Please contact the LAFCO office if you have any questions.

Very truly yours,

BOB BRAITMAN
Executive Officer

Attachments:

Assembly Bill No. 745 as Chaptered
Proposed Santa Barbara LAFCO Policy
October 31, 2007 memorandum from Michael Colantuono

BILL NUMBER: AB 745 CHAPTERED
BILL TEXT

CHAPTER 109
FILED WITH SECRETARY OF STATE JULY 20, 2007
APPROVED BY GOVERNOR JULY 20, 2007
PASSED THE SENATE JUNE 28, 2007
PASSED THE ASSEMBLY JULY 9, 2007

INTRODUCED BY Assembly Member Silva

FEBRUARY 22, 2007

An act to amend Sections 56100.1 and 56700.1 of, and to add Section 57009 to, the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 745, Silva. Local agency formation commissions.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires specified procedures to be followed for the submission of a proposal for a change of organization or reorganization to the local agency formation commission. Existing law requires the disclosure of expenditures for political purposes related to a change of organization or reorganization proposal that has been submitted to a local agency formation commission, and contributions in support of or in opposition to those measures.

This bill would require expenditures for political purposes made in connection with a proposal that will be submitted to a local agency formation commission, and contributions in support of or in opposition to those proposals, and expenditures for political purposes made in connection to proceedings for a change of organization or reorganization, and contributions in support of or in opposition to those proceedings, to be disclosed and reported to the same extent and subject to the same requirements of the Political Reform Act of 1974 as provided for local initiative measures.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56100.1 of the Government Code is amended to read:

56100.1. A commission may require, through the adoption of written policies and procedures, the disclosure of contributions, as defined in Section 82015, expenditures, as defined in Section 82025, and independent expenditures, as defined in Section 82031, made in support of or opposition to a proposal. Disclosure shall be made either to the commission's executive officer, in which case it shall be posted on the commission's Web site, if applicable, or to the board of supervisors of the county in which the commission is located, which may designate a county officer to receive the disclosure. Disclosure pursuant to a requirement under the authority provided in this section shall be in addition to any disclosure otherwise required by Section 56700.1, the Political Reform Act (Title 9 (commencing with Section 81000)), or local ordinance.

SEC. 2. Section 56700.1 of the Government Code is amended to read:

56700.1. Expenditures for political purposes related to a proposal for a change of organization or reorganization that will be submitted to a commission pursuant to this part, and, contributions in support of or in opposition to those proposals, shall be disclosed and reported to the commission to the same extent and subject to the same requirements of the Political Reform Act (Title 9 (commencing with Section 81000)) as provided for local initiative measures.

SEC. 3. Section 57009 is added to the Government Code, to read:

57009. Expenditures for political purposes related to proceedings for a change of organization or reorganization that will be conducted pursuant to this part, and contributions in support of, or in opposition to, those proceedings shall be disclosed and reported to the commission to the same extent and subject to the same requirements of the Political Reform Act (Title 9 (commencing with Section 81000)), as provided for local initiative measures

RULES AND PROCEDURES

A. Authority

These rules are adopted pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act (Government Code Section 56000 et seq.) and apply to the Santa Barbara Local Agency Formation Commission and to all proceedings conducted before that Commission.

B. Officers

Selection of Officers -- The members of the Commission shall elect a Chair and Vice Chair at the first meeting of the Commission held in February of each year or as soon thereafter as practicable. The Chair and Vice Chair shall serve for one-year terms, with the Vice Chair automatically assuming the Chair at the end of the term. Officers shall be selected from the categories of members in the following order: Public, County, Special District and City.

Chair -- The Chair shall preside at all meetings of the Commission and shall conduct the business of the Commission in the manner prescribed by State law and by these rules. The Chair shall preserve order and decorum and decide all questions or order, subject to the action of a majority of the Commission.

Vice Chair -- In the event that the Chair is absent or for any reason unable to act, the Vice Chair shall act as Chair and exercise all the powers and duties of the Chair.

Chair Pro Tem -- In the event both the Chair and Vice Chair are absent or for any reason unable to act, the members of the Commission present shall select one of the members to act as Chair Pro Tem, said selection to be entered into the minutes.

The Chair Pro Tem shall have all of the powers and duties of the Chair while the Chair and Vice Chair are absent or for any reason unable to act.

C. Meetings

Date of Regular Meetings -- The regular meetings of the Commission shall be held the first Thursday of each month commencing at 2:00 p.m.

Location of Regular Meetings -- Regular meetings in the months of January, March, May, July, September and November shall be held at the Board of Supervisors Hearing Room, 105 East Anapamu Street, Santa Barbara, California. Regular meetings in the months of February, April, June, August, October and December shall be held at the County Hearing Room, Betteravia Government Center, 511 East Lakeside Parkway, Santa Maria, California.

Special Meetings -- Special meetings may be called by the Chair or a majority of the members of the Commission in a manner provided by State law. The notice shall be provided 24 hours in advance of the meeting to all of the Commission members and to all media outlets who have requested notification and shall be posted. The order calling the special meeting shall specify the time and place of the meeting and the business to be transacted at such meeting and no other business shall be considered. Where the notice of the special meeting is given by the Executive Officer, the notice shall specify that the meeting is being called by either the Chair or a majority of the members of the Commission.

Major Hearings -- Where possible, meetings regarding major or significant agenda items, especially those which will require lengthy or multiple hearings, should be held in proximity to the affected project area. The determination of what constitutes a major agenda item shall be made by the Executive Officer and is subject to modification by the Commission.

D. Conduct of Meetings

Order of Business The business of each regular meeting of the Commission shall be transacted to the extent practicable in the following order:

- 1) Call to order and roll call.
- 2) Approval of minutes of previous meeting or meetings.
- 3) Public comment period

- 4) Proposed boundary changes
- 5) Business items
- 6) Information items
- 7) Commissioner and staff announcements
- 8) Adjournment

Quorum. Four members of the Commission constitute a quorum and no act of the Commission shall be valid or binding unless at least four members concur therein.

Roll Call Voting

- 1) The roll need not be called in voting upon a motion except when requested by a member of the Commission.
- 2) If the roll is not called, and if there is no objection, the Chair may order the motion unanimously approved.
- 3) When the roll is called on any motion, any member present who does not vote in an audible voice shall be recorded as "aye."
- 4) Each roll call shall be in alphabetical order, except that the Chair shall be called last.

Review of Record

- 1) A member shall not participate in a final vote on a matter on which a hearing has been held at which such member was not in attendance, until that member has familiarized himself with the substance of such hearing.
- 2) This may be done by reviewing the written material presented at the hearing and by listening to the tape recording of such hearing or reading a transcript of the proceeding if one has been prepared.

- 3) In cases where the Minutes purport to report the hearing in detail the member may review such Minutes in lieu of reviewing the tape recording or transcript.

Public Comment

- 1) At each regular and special meeting the Commission shall allow any member of the public to address the Commission on a matter within its jurisdiction.
- 2) The Chair may establish reasonable regulations including, but not limited to, limiting the amount of time allocated for public testimony on particular issues and for each speaker.
- 3) If determined by the Chair, any person wishing to address the Commission must complete and submit a "Request to Speak" form prior to the time that the Public Comment period commences; the form shall identify the subject the speaker wishes to address.
- 4) A speaker shall not be heard during the "Public Comment" portion of the meeting on a matter listed on the Agenda. Comments on Agenda items are appropriate when the item is being discussed by the Commission.
- 5) The Commission shall only act on items appearing on the Agenda unless the action is authorized by Section 54954.2 of the Government Code. The Chair may refer matters raised during the "Public Comment" period to the appropriate staff.

E. Environmental Procedures

Section 1. The Commission hereby adopts pursuant to Section 21082 of the Public Resources Code as its objectives, criteria and procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations pursuant to the California Environmental Quality Act, the Guidelines for the Implementation of the California Environmental quality Act of

1970, as Amended, adopted by the Santa Barbara County Board of Supervisors on September 12, 1988.

Section 2. No application for any change of organization or reorganization, or amendment or revision of a sphere of influence shall be deemed accepted for filing by the Executive Officer unless the application is accompanied by a Statement of Exemption, Negative Declaration or Environmental Impact Report determined by the County Division of Environmental Review to be adequate covering the proposed action or actions.

Section 3. If the Commission is the lead agency, the environmental document must have been reviewed by the Santa Barbara County Resource Management Department Division of Environmental Review pursuant to the County's Guidelines for Implementation of the California Environmental Quality Act. If the Commission is not the lead agency, the environmental document must have been approved by the lead agency pursuant to that agency's guidelines and CEQA.

F. Conducting Authority Proceedings

Section 1. The Commission delegates to the Executive Officer the responsibility to conduct protest hearings as provided for in Government Code §57000 (c) and to order a change of organization or reorganization that complies with Government Code Section 57075 (a)(3) or 57075(b)(2).

Section 2. The purpose is to increase scheduling flexibility, to avoid extending Commission meetings to conduct non-discretionary procedures and to expedite the boundary change process.

Section 3. The staff will comply with statutory requirements respecting noticing, scheduling and conducting protest hearings. At the conclusion of the hearing the Executive Officer shall determine the value of written protests filed and not withdrawn.

Section 4. Within thirty (30) days of the hearing the Executive Officer shall based on the value of protests filed either order the change, terminate the proposal or, when required, return the matter to the Commission to request the County or city to call and conduct an election.

Section 5 The Executive Officer shall report to the Commission at its next meeting the outcome of any protest hearings that are conducted.

G. Amendment

These Rules and Procedures may be amended at a regular or special meeting on the Commission by a four-fifths vote of the members.

*Adopted July 7, 1994
Revised October 4, 2001
Revised May 8, 2003
Revised September 4, 2003
Revised November 2, 2006*