

California City Clerks' New Law Seminar



December 2022

PRESENTED BY

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LEGAL DIVISION

FAIR POLITICAL PRACTICES COMMISSION

Before We Get Started, We Just Want to Say...



Congratulations on another successful election!

Today's Topics

- Campaign
 - Recap
- Form 700
 - Recap
 - 2023 Update
- New Laws for 2023
- New Regulations for 2022 and 2023
- What's New!
 - Upcoming Opportunities
- Resources

Campaign and Form 700

RECAP, POST ELECTION REQUIREMENTS, & 2023 UPDATE

Campaign End of Year Checklist

- Semi-annual Form 460 due January 31, 2023 for all open committees.
- Did you have a November election?
 - Defeated candidates without committees who filed a Form 470 have no further filing obligations.
- Successful candidates file either a Form 470 or Form 460 by July 31, 2023.
 - If the incumbent does not have an open committee, they are eligible to file a Form 470.
 - Exception: Officeholders who receive salaries of less than \$200 per month do not have to file the Form 470
 - If the incumbent has an open committee, then they will file the Form 460.
- Note: An official with an open committee in another jurisdiction is not eligible to file Form 470 with you.

Future Elections? Candidate Filing Overview

- If your City has a local contribution limit in place:
 - Candidates seeking **re-election to the same office** must file a Form 501 and, if using existing committee, amend their Form 410 to indicate the current election (redesignate the committee).
 - Candidates seeking **a different office** must file a Form 501 and file a new Form 410 to indicate the new office sought.
 - Before the funds become surplus!
- If your City does not have a local contribution limit in place:
 - Candidates seeking **re-election to the same office** must file a Form 501 and a new Form 410 for the future election.
 - Candidates seeking **a different office** must file a Form 501 and file a new Form 410 to indicate the new office sought.
 - Before the funds become surplus!

Leftover funds become surplus 90 days after an official leaves office (incumbents) or 90 days after the end of the post-election reporting period, whichever is later. The end of the post-election reporting is December 31 for elections held between July 1 and December 31.

Filing Schedule Requests

- If after the 2022 election candidates are elected into new positions creating vacancies to fill requiring a special election in 2023, you can request a filing schedule from the FPPC!
 - Once the election has been called, then you can request a schedule by emailing advice@fppc.ca.gov and attaching the resolution calling for an election.
 - If the election has not been called, the FPPC cannot create the schedule.

Enforcement News

In 2022, FPPC's Enforcement Division ran their proactive pre-election filing program to identify committees who did not timely file pre-election statements.

The Enforcement Division received 290 pre-election non-filer referrals and achieved nearly 100% compliance!

If after the election, you have non-filers with the post-election semi-annual due 1/31, please refer them to the Enforcement Division for compliance!

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

You will receive a 10 digit complaint number confirming receipt of the referral and notification when the FPPC takes action on the referral.

Local Campaign Ordinances

- Ordinances are posted on FPPC's website.
- You are required to provide us with most recent ordinances.
- Send updates to advice@fppc.ca.gov.

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



Post-Election Form 700 Recap

Assuming Office

- If non-incumbent candidates are elected into new positions after the November general election, they will be required to file Assuming Office Statements of Economic Interests (aka Form 700).
 - Assuming Office Form 700 due within 30 days of starting a new position.
 - Assuming Office date is the date the official was sworn in or otherwise authorized to serve in the position.
 - Period covered is the previous 12 months.
 - We'll cover exceptions to this rule on the next slide!

Post-Election Form 700 Recap 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 in the final three months of the year (between October 1 and December 31, 2022) is not required to file an annual Form 700 by April 3 of 2023 if they filed an Assuming Office Form 700.

Form 700 – 2023 Update

- The updated Form 700 for 2022 and Reference Pamphlet will be posted the first week in January to FPPC's website.
- An email reminder will be sent to all filing officers including a newsletter with important reminders and electronic filing updates and instructions
- No major changes to Form 700 and no changes to reporting rules this year
 - More information on digital signatures added to the form and instructions!
- Local gift fact sheets will be updated soon and posted to the website January 2023!
- Annual Form 700 is due on April 3, 2023

Managing Your FPPC Form 700 Filers

- Electronic filers whose statements are forwarded to FPPC will use either their agency's FPPC certified electronic filing system or FPPC's electronic system to file their Form 700s.
 - Please make sure the data exchange is up-to-date on both systems.
- *For original statements that you forward to the FPPC that aren't e-filed:* Forward assuming, annual, and leaving office original "wet signature" statements to the FPPC within five days of the filing deadlines.
 - If you accept digital signatures, you will need to forward the Form 700 signed by a secure electronic signature via email with the signature affixed to the document. Do not print and scan a copy with a digital signature!

Questions on FPPC Electronic Filing Requirements? FPPC Filer Questions?

Contact your FPPC filing officer:

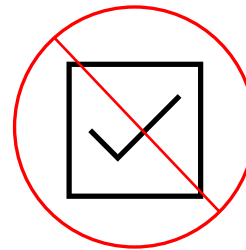
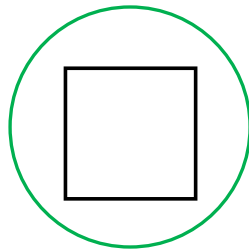
- Cities A-M: Sonia Rangel
 - srangel@fppc.ca.gov
- Cities N-Z: William Cameron
 - wcameron@fppc.ca.gov
- For general inquiries on filing requirements, please email Form700@fppc.ca.gov.

Political Reform Act New Law

2023 AND BEYOND

New Law: Automatic Recurring Contributions

- AB 775 (Berman)
 - Requires candidates and committees to obtain affirmative consent from a contributor for enrollment in automatic recurring contributions.
 - Pre-checked boxes are no longer allowed.



New Law: Filing Copies of Campaign Statements with SOS

- AB 2528 (Bigelow)
 - Requires elected local government officers or candidates for elective local government who receive \$15,000 or more in campaign contributions to file copies of their campaign statements on the state's upcoming new electronic filing system.
 - Likely operative no sooner than 2028.



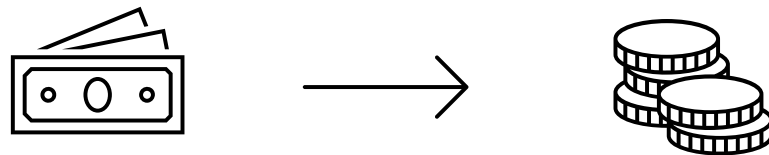
New Law: Additional Lobbying Disclosure

- SB 459 (Allen)
 - Revises and adds to the content required in the quarterly reports filed by lobbying firms and lobbyist employers.
 - Requires two new reports for specified lobbying activity occurring in the 60-day period before the Legislature is scheduled to adjourn in a calendar year.
 - Imposes new requirements, including a new reporting requirement, relating to issue lobbying advertisements.
 - Becomes operative one year after the Secretary of State certifies the upcoming new electronic filing system.

New Law: Acceptance and Return of Over-the-Limit Contributions

- SB 794 (Glazer)

- Authorizes a committee that receives a contribution with actual knowledge that the contribution is over the applicable contribution limit to accept the contribution and subsequently return or attribute the portion in excess within 72 hours of receipt or before the date of the election, whichever is sooner.
- “Attribute” means to designate the portion of the contribution in excess of the applicable limit to another election.



The bill allows a committee to give back change for an excessive contribution, instead of having to return the entire contribution.

New Law: Campaign Advertisement Disclaimers

- SB 1360 (Umberg)
 - Makes several changes to the disclaimer requirements for campaign ads, including changes to the required form, content, and presentation of the disclaimers.



New Law: Contributions from Parties or Participants

- SB 1439 (Glazer)
 - Extends existing law to require directly elected officers of local government agencies to be disqualified from participating in a proceeding if the officer accepted and did not return contributions over \$250 received in the prior 12 months from parties or participants in the proceeding. An officer who returns an impermissible contribution within 30 days from the time the officer knows, or should have known, about the contribution and the proceeding is permitted to participate.
 - During the proceeding and for 12 months after, prohibits officers from accepting contributions over \$250 from parties or participants.
 - Creates a 14-day grace period to return contributions accepted after the proceeding, so long as the officer did not knowingly and willfully accept, solicit, or direct the prohibited contribution.

The Commission is scheduled to approve an opinion interpreting the new law to not apply to contributions received in 2022.

Political Reform Act New Regulations

2022 – 2023

Campaign Regulations

Regulation 18400 – Treasurer and Responsible Officer Capacity

- An individual must be at a minimum 18 years of age to serve as a treasurer, assistant treasurer, responsible officer, or principal officer.

Regulation 18410 – Disclosure of Individuals Authorized to Access Committee's Bank Records

- Requires a committee to disclose on a Form 410 the names of persons, other than the treasurer, who have authorization to obtain the committee's bank account records from the financial institution where the account is maintained.
- This new requirement does not take effect until January 2024.

Campaign Regulations Cont'd

Amendments to Regulation 18531.5 – Recall Elections

These amendments clarify existing rules regarding recall elections, such as:

- The target officer of a recall is not required to file a Candidate Form 700;
- Pre-election reports and 24-hour reports are not required for a target officer's other controlled committees by virtue of the recall being on the ballot;
- Timeline of closure of a target officer recall committee. Committees are allowed to remain open for no more than 12 months after the failure of a petition or a recall election; and
- Further explain what disclosures are required on recall and replacement candidate related advertisements.

Cryptocurrency

Effective September 21, 2022, candidates and committees under the Act are permitted to solicit a contribution of cryptocurrency as an in-kind contribution.

This repeals the prior Commission Regulation to prohibit the making or acceptance of cryptocurrency contributions.

However, now these contributions are subject to specific requirements as detailed on the next slide.

Quick Tip: Check out our Cryptocurrency Contributions fact sheet!

Regulation 18421.2

Cryptocurrency

- Committees may solicit contributions of cryptocurrency, or virtual currency, in any amount not exceeding any applicable contribution limit.
- While committees cannot receive cryptocurrency contributions directly, committees may receive these types of contributions through a payment processor selected to act as a vendor on behalf of the committee.
- The amount of a cryptocurrency contribution is the fair market value of the cryptocurrency at the time the payment processor obtains possession of the contribution.
- Any cryptocurrency contribution must be made and received through a U.S. based cryptocurrency payment processor registered with the U.S. Department of Treasury, Financial Crimes Enforcement Network.

Regulation 18421.2

Filing Officer Referrals

The Commission adopted amendments to Regulation 18360 regarding filing officer referrals. The amendments include:

- Providing the email address, mailing address or telephone number at which the referred person or entity was contacted.
- Attempts to contact a referred person who left office or is no longer at an agency should be made to a personal email address, home mailing address, or personal telephone number known by the filing officer if the filer cannot be contacted through an agency email address, phone number, or mailing address.

Regulation 18360

Filing Officer Referrals – Campaign

- For campaign non-filer referrals, filing officers must include:
- A copy of the most recently filed campaign statement, if any, including all relevant schedules.
- Office sought or held, if applicable
- Current contact information for the committee, candidate if applicable, and the committee's treasurer.
- Filing methods available to the filer at their agency, such as paper or electronic filing.
- If a filing officer subsequently receives a filing from a referred candidate or committee, the filing officer must notify the Enforcement Division within 7 days of receipt of the filing.

Regulation 18360

Filing Officer Referrals – Form 700

- If the filing officer does not have any personal contact information for the filer, the filing officer shall make best efforts to obtain personal contact information for the filer, including requesting the information from the filer.
- If the filer is on leave, provide that information along with the expected return date, if known.
- Before making a referral to the Enforcement Division, the filing officer shall attempt to contact the filer by telephone at least once.
- For 87300 filers, include a copy of the agency's conflict of interest code.
- If a filing officer subsequently receives a filing from a referred Form 700 filer, the filing officer must notify the Enforcement Division within 7 days of receipt of the filing.

Regulation 18360

Gift Limit Increase

\$590

For 2023 and 2024

Watch for current limit of \$520 on the 2022 annual
Form 700s filed by 4/3/23

Regulation 18940.2
Effective 1/1/2023

NEW 2023 – 2024 Contribution and Expenditure Limits

- The FPPC is required to make cost of living adjustments to reflect changes in the Consumer Price Index in January of every odd-numbered year.
- Updated charts are posted to FPPC’s website.
- The updated charts will be live on the website by the end of December.

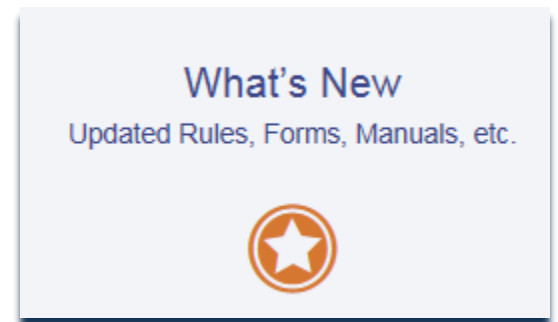
2023 – 2024 Contribution Limits:

Candidate or Officeholder	Contributor Sources		
	Person (individual, business entity, committee/PAC)	Small Contributor Committee (see definition on page 2)	Political Party
City and County Candidates subject to Section 85301 (d)	\$5,500	\$5,500	\$5,500

What's New is What's New!



Click on this link at the bottom of our homepage



What's New is What's New!

What's New

In an effort to keep you informed regarding new and updated laws, manuals, forms, and other FPPC publications and services, this page will be updated each time changes occur. In most cases, links to updated material will remain for six months after the date of publication.

Campaign Manuals

- The Campaign Disclosure Manuals have been updated through June 1, 2020. They can be found on the [Campaign Disclosure Manuals page](#).

New Fact Sheets

-  [AB 571 Fact Sheet](#)
-  [Behested Payment Report Fact Sheet](#)
-  [Updated Filing Officer and Filing Official Duties Relating to Statements of Economic Interests](#)
-  [Limited Liability Company Fact Sheet on New Regulations](#)
-  [Committee Naming Fact Sheet](#)
-  [Sponsored Committee Qualification and Naming Fact Sheet](#)
-  [Filing with a Digital Signature Fact Sheet](#)
-  [An Overview of Conflicts of Interest](#)

Biennial Notices for Multi-County Agencies

- The Act requires every multi-county agency to review its conflict of interest code biennially and notify FPPC by October 1, 2020 as to whether or not the agency's code needs to be amended. The appropriate documents are posted on the [Rules on Conflict of Interest Codes for State and Local Agencies page](#).

What's New

- ▶ [Campaign Rules](#)
- ▶ [Conflicts of Interest Rules](#)
- ▶ [Section 1090](#)
- ▶ [Lobbyist Rules](#)
- ▶ [Rules on Conflict of Interest Codes](#)
- ▶ [Guidance for Filing Officers](#)
- ▶ [Public Officials and Employees Rules](#)
- ▶ [San Bernardino County Candidates](#)
- ▶ [San Bernardino City Candidates](#)
- ▶ [Training & Outreach](#)
- ▶ [Political Reform Education Program \(PREP\)](#)
- ▶ [What's New](#)
- ▶ [2022 Election](#)
- ▶ [Contribution Limits: City and County Candidates](#)
- ▶ [Fact Sheets](#)

FPPC's Website – Resource for Filing Officers



Integrity & Transparency
The nonpartisan FPPC is the agency primarily responsible for the fair application, interpretation, and enforcement of the Political Reform Act.

File a **Form 700** How to **File a Complaint** Need a Form? **View All Forms**

I Want To...
View **Find** File Get Involved

- Filing Deadlines
- Form 700s Filed by an Elected Official
- Upcoming Events
- Training and Outreach
- Enforcement Case Resolutions
- Hearings, Meetings and Workshops
- Agendas for Commission Meetings
- Webinar Videos

Resources For...
Filing Officers
Candidates & Committees
Public Officials & Employees
Lobbyists

Resources for Filing Officers...

-  Campaign Filing Officer Duties
-  Form 700 Filing Officer Duties
-  Form 700 Electronic Filing Certification for an Agency's Internal Filers
-  Ask FPPC for Advice
-  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
- New training videos being developed for our website for common questions.
- The campaign manuals will be updated early next year with the new laws for 2023.
- We are continuing to update our website – comments and suggestions always welcome.

Political Reform Education Program (PREP)

WHAT IS PREP?

PREP is a new educational program created by the Commission!

The purpose of PREP is to allow for education of Respondents who have little or no experience with the Act and commit minor violations, in lieu of monetary penalties.

PREP has launched their first course, Statements of Economic Interests Course, with plans for future courses on other topics, such as local campaign.



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How do you Sign Up for the Program?



PREP has its own webpage www.fppc.ca.gov → Learn → Political Reform Education Program (PREP)

Remember...

- Filing officer campaign duties are noted in Regulation 18110.
- Filing officer Form 700 duties are noted in Regulation 18115.
- Technical questions about FPPC's Form 700 e-filing system should be sent to form700@fppc.ca.gov.
- Our e-mail and phone Advice teams can answer your customers' questions about the content of their statements.
 - advice@fppc.ca.gov
 - (866) 275-3772

Keep in Touch!



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

Thank you for attending today's training!

If you have any questions, please do not hesitate to contact us at advice@fppc.ca.gov.