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Agenda No. 67A
and 67B

09/13/05

TO: SUPERVISOR GLORIA MOLINA, Chair
SUPERVISOR YVONNE BRATHWAITE BURKE
SUPERVISOR ZEV YAROSLAVSKY
SUPERVISOR DON KNABE
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: RAYMOND G. FORTNER, JR.
County Counsel

CONNY B. McCORMACK
Registrar-Recorder/County Clerk

RE: **Campaign Finance Screening and Enforcement**

This is in response to motions brought by Supervisors Antonovich and Yaroslavsky on September 13, 2005, as approved by your Board.

Supervisor Antonovich's motion directed the Registrar-Recorder/County Clerk ("Registrar") to report on the Registrar's ability to establish a unit to monitor compliance with the County's ordinance that governs campaign finance reporting of the eight County elected offices ("Proposition B"). In addition, the motion directed the Registrar to recommend for the Board's consideration rules establishing procedures to be followed when the Registrar determines that a candidate/officer-holder is out of compliance. The motion directed that the rules should notify the candidate of the noncompliance and provide an opportunity to correct the defect, and provide for referral to the District Attorney or appropriate agency if the violations are not corrected. In addition, the motion allows County Counsel and the District Attorney to recommend other options for noncompliance and referral of violations.

Supervisor Yaroslavsky's motion requested that County Counsel, in conjunction with the District Attorney and the Registrar, present a plan to the Board that would: 1) assign screening for compliance with Proposition B to the Registrar; 2) establish a protocol by which the Registrar refers violations of Proposition B to the District Attorney; 3) ensure that the District Attorney enforces the campaign finance laws pursuant to Proposition B; and, 4) include funding for staffing necessary to implement any recommendations.

In response to the motions, County Counsel, the Registrar, and District Attorney met on September 15, 2005, to discuss the screening and enforcement issues relating to each department. Currently, the language of Proposition B assigns the responsibility to administer the provisions of the ordinance to the Registrar. LA County Code 2.190.140 C. The Registrar has interpreted this duty to include the screening of campaign disclosure reports. As a result, the Registrar has maintained a staff of individuals that manually review the filings since the inception of Proposition B. Based on this duty and authority, at the recent meeting, the Registrar agreed to prepare a plan, including protocols, for the enhanced screening of campaign finance filings.

The enclosed plan prepared by the Registrar addresses both Board motions by outlining the Registrar's current staffing levels and the screening process of her existing campaign finance compliance unit. The plan further identifies necessary improvements to screen campaign finance filings, including one additional supervisory staff member to oversee the compliance unit, as well as a proposal to acquire a computer program from the City of Los Angeles that automatically screens for contribution limits and lobbyist contributions. The plan also describes a protocol to address issues of noncompliance, including providing candidates an opportunity to correct deficiencies/violations, and the referral of violations to the District Attorney or an appropriate State agency. (*See* Attachment A)

At the September 15, 2005, meeting, the departments discussed the logistics of using civil and criminal processes to enforce the obligations of Proposition B. We have been advised that the District Attorney will address his concerns and suggestions regarding specific enforcement mechanisms in a separate letter to your board in the next two to three weeks.

If you have questions concerning this matter, please contact me, Conny McCormack at (562) 462-2716, Senior Assistant County Counsel Leela A. Kapur at (213) 974-1807, or Senior Deputy County Counsel Judy W. Whitehurst at (213) 974-8948.

RGF:JWW:ds

Enclosure

c: Steve Cooley, District Attorney
David E. Janssen, Chief Administrative Officer
Violet Varona-Lukens, Executive Officer, Board of Supervisors

Attachment A

PLAN FOR CAMPAIGN FINANCE SCREENING BY THE REGISTRAR-RECORDER/COUNTY CLERK

Background - Proposition B

In 1996 the County of Los Angeles adopted the County Campaign Finance Ordinance (commonly referred to as "Proposition B") which regulates campaign contributions to candidates for elective County offices. Proposition B applies to candidates running for the offices of Assessor, District Attorney, Sheriff, and the members of the Board of Supervisors.

Campaign Finance Section Responsibilities

Pursuant to the California Political Reform Act, the Registrar's Campaign Finance Section is responsible for the receipt and review of campaign statements and personal finance disclosure reports for all elections. Further, as part of the Registrar's administration of Proposition B, the Section receives and reviews reports filed by candidates/officeholders in County elections. Reports are received from over 8,000 committees in support or opposition of candidates and measures. The Section is comprised of a section head, three support staff and six reviewers for a total of ten employees.

Section staff collaborates with schools, community college and special districts to notify over 700 officeholders of campaign statement deadlines. Staff maintains a close liaison with the Fair Political Practices Commission (FPPC), the Secretary of State's Political Reform Division, Franchise Tax Board, Los Angeles County Treasurer-Tax Collector, Collection Division, Los Angeles County District Attorney's Office and the State Attorney General's Office.

Current Proposition B Screening/Review

Campaign statements filed pursuant to Proposition B are reviewed by six staff reviewers. Current screening procedures are completed manually (no automated features). Reviewers determine filing status, notify non-filers of obligations and report violations to the District Attorney's Office. If the filer is a candidate/officeholder for the office of District Attorney, violations are referred to the State Attorney General's Office.

The review process is required for semi-annual and pre-election campaign financial disclosure periods. Semi-annual reports are filed on January 31 and July 31 of each year. Candidates/officeholders are required to file pre-election reports if: 1) they are on the ballot or 2) contribute to a Primary and/or General Election. Reviewers examine pre-election and semi-annual campaign statements to determine if the filer has submitted required documents, and to ensure required information pertaining to contributions, loans and expenditures is disclosed.

Procedures performed by the current reviewers in the campaign statement review process are as follows:

- Review cover pages to ensure that the document contains original signatures; verify that the identification number is correct; verify committee information to ensure accuracy of cover period; review committee and statement type; verify physical address, mailing address and telephone numbers for candidates, committees and treasurers.

- Verify summary totals against supporting schedules to ensure that totals reconcile. Determine if totals are accurately carried over from the preceding filed statements. Confirm that loans received do not exceed $20,000 loan limit, loans made to other committees or candidates, campaign expenditures and total outstanding debts do not exceed the Voluntary Expenditure Limit.

- Verify contributions and contributor information to ensure limits have not exceeded $1,000.

- Review personal loans to ensure $20,000 limit is not exceeded.

- Review non-monetary contributions to ensure total contributions, monetary and non-monetary, do not exceed $1,000 limit.

- Review contribution information made to other candidates and committees to verify that expenditures do not exceed the Voluntary Expenditure Limit (County-wide offices $.25 per county resident; Board of Supervisors $.75 per county resident in each supervisorial district).

- Verify that total payments made do not exceed the voluntary expenditure limit.

- Verify that total expenses accrued are within the voluntary expenditure limit.

- Review itemized payments made by an agent or independent contractor on behalf of a candidate to ensure that payments do not exceed the voluntary expenditure limit.

- Screen loans made to other parties to verify that payments do not exceed the voluntary expenditure limit.

- Verify surplus cash to ensure cash transferred from the surplus campaign account to the officeholder account does not exceed $10,000.

The current screening process does not include examination for contributions from lobbyists.

Plans for Enhanced Proposition B Screening

The Registrar-Recorder/County Clerk plans to automate the current manual screening process and review of candidate statements with implementation of programs and protocol to increase accuracy and efficiency including:

1. Hire an Administrative Services Manager (see requested staffing on page 5 for details) to oversee the enhanced Proposition B screening process. This manager will have the ultimate responsibility for determining if violations have occurred.

2. Establish an electronic filing system with exception reporting capabilities to identify Proposition B non-compliance; an appropriation was included in this year's fiscal budget. Implementation of the electronic filing system is anticipated in time for the June 2006 Primary Election filings.

The City of Los Angeles developed a database with all of the capabilities necessary to conduct on-line filing and has agreed to license it to our office. Final conditions of the license are pending. Once licensed, our department will modify the database to allow the printing of exception reports for Proposition B violations, including lobbyist's contributions. The Administrative Services Manager will coordinate with the Executive Office of the Board to establish a timely import function for comparison with the lobbyist contributors listed in the database.

Current Protocol For Proposition B Violations

If a campaign finance reviewer identifies a Proposition B violation currently the following protocol is followed:

- For loan limit or voluntary expenditure limit violations, written notification to all opponents and referral to applicable agency (District Attorney's Office or State Attorney General's Office). Immediate notification is required when a violation occurs because such violation, under the terms of Proposition B, generates an increase in loan limits and voluntary expenditure limits for all candidates in that race.

- For contribution limit violations, contact campaign treasurer by telephone at time of detection and inform him/her of discrepancy and request an amendment to the filing. This allows sufficient time to correct the violation without impact on the opponents.

- If amendment is not received within ten (10) days from date of contact, follow-up telephone call is placed to the treasurer.

- If amendment is not received within twenty (20) days from date of contact, written notification is sent to the treasurer.

- Amendment must be received by Register-Recorder, Campaign Finance section, on or before next required filing period.

- If amendment has not been received on or before the next filing period, a referral is made to the applicable agency; District Attorney's Office or the State Attorney General's Office.

Improved Protocol For Proposition B Violations

The Administrative Services Manager will review all exception reports to identify potential Proposition B violations where contribution, loan or expenditure limits are exceeded. The following procedures will be followed:

- If loan limit or voluntary expenditure limit violations are identified, a written notification, by certified mail, will be issued to the officeholder/treasurer and all opponents within five (5) business days. In addition, a referral will be made to the applicable agency; District Attorney's Office or the State Attorney General's Office. Again, as these types of violations trigger an increase in loan limits and volulntary expenditure limits for the other candidates, immediate referral, without the opportunity to correct, is warranted.

- If contribution limits violations are identified, a first notification letter by certified mail will be issued to the candidate/officeholder within five (5) business days. The letter will indicate the specific nature of the violation with instructions regarding opportunity to correct the violation, and the need for candidate/officeholder to file an amendment reflecting the correction.

- If an amendment is not received within ten (10) business days of first notification, the Administrative Services Manager will ensure that candidate/officeholder are contacted via telephone indicating the specific nature of the violation with instructions regarding opportunity to correct the violation.

- If an amendment is not received within twenty (20) business days from date of initial written notification, a final written notification will be sent by certified mail to the candidate/officeholder.

- If an amendment has not been received within forty-five (45) days of contact, a referral will be made to the applicable agency; District Attorney's Office or the State Attorney General's Office.

Additional Requested Staffing

Administrative Services Manager II, Item Number - 1003A
Approximate annual cost (salary and employee benefits) $87,491

Manage Section Operations Through Subordinate Supervisors.

Specific Responsibilities to include:

1. Rotate between primary management assignments. Responsible for the systematic review of work functions and the planning, assignment, direction and evaluation of staff performing responsibilities with regard to Proposition B and California Political Reform Act screening and violation reporting procedures.

2. Supervise technical staff responsible for implementation of electronic filing system to include filing reporting structure for exception reports pertaining to Proposition B mandates.

3. Oversee the screening and violation review process to ensure that loans and Voluntary Expenditure Limit violations are sent to appropriate agencies and opponents.

4. Direct the referral and notification process to ensure that applicable agency is informed (District Attorney or State Attorney General's Office).

5. Serve as departmental liaison to candidates, officeholders, treasurers, District Attorney's Office and State Attorney General's Office.

6. Supervise the development of procedural manual (Proposition B) to include practical guidelines and working templates for staff reporting functions.

7. Interpret and review section operations (specifically as they relate to Proposition B). Train staff on review procedures specifically as they pertain to Proposition B violations.