

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

August 6, 2019

FROM

JANICE RUTHERFORD, Second District Supervisor, Board of Supervisors

SUBJECT

Updating Campaign E-File Requirements for Filers

RECOMMENDATION(S)

1. Direct the County Administrative Office (CAO), County Counsel, and the Registrar of Voters (ROV) to develop findings and a proposed ordinance necessary to eliminate the requirement that candidates for County office and others file both electronic and paper copies of campaign finance statements.
 2. Consider whether to provide in a future proposed ordinance that candidates for elective office for all of the school districts and special districts for which the ROV serves as the local filing officer must file statements electronically or, in the alternative, have the option to file electronically.
 3. Consider whether to include in a future proposed ordinance a lower threshold for which electronic filing is required for all candidates and committees as allowed by state law.
- (Presenter: Supervisor Janice Rutherford, Second District Supervisor, 387-4833)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Improve County Government Operations.

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of this item may result in the use of additional Discretionary General Funding (Net County Cost). If this item is approved and an ordinance is adopted by the Board of Supervisors (Board) at a future meeting, then it is possible that there will be a modest increase in Discretionary General Funding (Net County Cost) due to increased staffing needs. This would be determined after implementation of the new filing requirements. There will be no increase in software costs because the existing contract with NetFile can accommodate the additional electronic filing without increasing the cost of the contract.

BACKGROUND INFORMATION

On Sept. 27, 2011 (Item No. 3), at the request of Vice-Chair Brad Mitzelfelt and Supervisor Janice Rutherford, the Board directed the CAO, with the assistance of County Counsel, to prepare a draft ordinance that would establish campaign contribution limits for all candidates for elective County offices as well as certain additional reporting requirements.

On August 28, 2012 (Item No. 45), the Board adopted the Campaign Finance Reform Ordinance. It has been amended thereafter. Among other things, the ordinance requires candidates for elective County offices and committees filing contributions and expenditures in

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excess of \$10,000 to report those in a format approved by the Registrar of Voters for electronic filing. As detailed below, the County has a contract with NetFile through May 2022 for this purpose.

In 2013, the California Legislature adopted Assembly Bill (AB) 2452, which allows local government agencies to implement electronic filing requirements and eliminate the need for candidates and committees to file both electronic and paper copies of documents. More specifically, the current version of this law allows local governments to require candidates, committees, or other persons required to file statements, reports, or other documents under the Political Reform Act, except those who receive contributions totaling less than \$2,000 or who make expenditures totaling less than \$2,000 in a calendar year, to file such documents electronically. A local government can set the electronic filing threshold above \$2,000.

AB 2452 requires local government agencies implementing its electronic filing requirements to make findings that their online or electronic filing system will operate securely and effectively and will not unduly burden filers.

AB 2452 was enacted for two purposes: (1) to simplify filing requirements; and (2) to increase transparency. Prior to the enactment of AB 2452, some local jurisdictions required electronic filing of campaign statements, but these jurisdictions had no authority to eliminate the state's paper filing requirements. Filings thus had to be in both electronic and paper formats. A separate issue is transparency. Even when on-line viewing is available, if the original filings are in paper, there is a slight lag (due to the scanning process) between the filing date and the on-line posting date of up to one business day. Electronic filing reduces or eliminates such time lag.

AB 2452 provides that if a local jurisdiction adopts an electronic filing program pursuant to AB 2452, then the local jurisdiction may not require paper filing in addition to the electronic filing. A jurisdiction thus could require electronic filing only, or it could give the filers the option of filing either electronically or in paper. AB 2452 authorizes either approach. Giving filers the choice would accommodate the filers' preference, especially if they have technological challenges. However, continuing to allow paper filings would also mean the on-line viewing of such filings would be delayed.

Since the County of San Bernardino adopted electronic filing before the passage of AB 2452, candidates for elective County offices and others are still required to file both electronic and paper copies of campaign finance documents to the ROV in order to comply with state law.

As discussed above, the Campaign Finance Reform Ordinance only applies to elections for County elected office. With respect to this ordinance, the following issues are present:

- The ordinance must be amended so that it does not require filings in both electronic and paper format. The ordinance must also include findings.
- Whether the electronic filing requirement related to elective County offices is mandatory or optional.
- Whether the current \$10,000 threshold for electronic filing should be reduced, and if so, to what level (but not lower than \$2,000).

AB 2452 also allows counties to implement electronic filing requirements for all of the school districts and special districts for which a county's elections official serves as the local filing officer. There are more than 500 elective offices for which the ROV serves as the local filing officer, including elective offices with the Chino Valley Independent Fire Protection District,

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Colton Joint Unified School District, Inland Empire Utilities Agency, Yucaipa Valley Water District, and Apple Valley Fire Protection District.

With respect to elections for these other offices for whom the election official is the ROV, the following issues are present:

- Whether an electronic filing requirement should be applied to these other elections.
- Whether any such electronic filing requirement should be mandatory or optional.
- Whether the threshold for any electronic filing should be \$2,000 or some larger amount.

Prior to any adoption of changes to the filing requirements, the County will have to consult with the California Fair Political Practices Commission (FPPC) about such proposed changes, since the FPPC administers and enforces the County's campaign finance ordinance.

PROCUREMENT

As a result of a competitive process, on November 7, 2006 (Item No. 4), the Board approved a three-year agreement with NetFile to provide a management system for both Recipient Committee Campaign Statements and Statements of Economic Interests. Subsequent amendments and extensions approved by the Board have extended the term through May 7, 2017. A Request for Proposal for Statement of Economic Interests (CA Form 700) and Campaign Finance Forms Management System was released on August 8, 2016, and NetFile was selected to provide these services, for the period May 8, 2017 through May 7, 2022, with two one-year options to extend the contract, for a cost of \$262,200. Per County Policy 11-04, the Purchasing Agent may approve competitive or non-competitive purchase of services where the annual aggregate cost, per scope of services, per vendor, per agency, department or Board-Governed Special District does not exceed \$200,000 during a single annual period.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Kenneth Hardy, Supervising Deputy County Counsel, 387-5455) on July 26, 2019; Finance (Stephenie Shea, Administrative Analyst, 387-4919) on July 25, 2019; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on July 26, 2019.

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Record of Action of the Board of Supervisors
County of San Bernardino

DEFERRED/APPROVED

Moved: Janice Rutherford Seconded: Josie Gonzales
Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: August 6, 2019



cc: File-Supervisors
jr 08/12/2019