

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: April 5, 2021
Reviewed by: NA

SUBJECT: Proposed Code Addition to Albany Municipal Code Section 2-30.10
Electronic Filing of Campaign Statements – Pass to Print

REPORT BY: Anne Hsu, City Clerk

SUMMARY

This report provides information for the City Council to consider proposed addition of Section 2-30.10 to Albany Municipal Code related to Electronic Filing of Campaign Disclosure Statements.

STAFF RECOMMENDATION

That the Council adopt Ordinance No. 2021-03, adding Section 2-30.10 Electronic Filing of Campaign Statements to Albany Municipal Code – Pass to Print.

BACKGROUND/DISCUSSION

Government Code section 84615 allows local government agencies to require an elected and appointed official, candidate, or committee to file FPPC (California Fair Political Practices Commission) campaign statements, reports, or other documents online or electronically with a local filing officer. The City Clerk is the local filing officer for the City of Albany.

In order for the City of Albany to accept electronically filed statements, the City Council must adopt an ordinance permitting the use of an online filing system as an option for filing and designating the filings received electronically by the City Clerk’s Office as the filings of record for the City. In addition, the system must operate securely and effectively, be no cost to filers, be available to the public to view filings, not place an undue burden on filers, and include procedures for filers to comply with the requirement that they sign statements and reports under penalty of perjury.

Adoption of the proposed ordinance is required to implement electronic filings of FPPC campaign statements and will only apply to those filers that exceed a threshold of \$2,000 (current limit) for expending or receiving campaign funds. This threshold is consistent with the Political Reform Act (the “Act”), which recognizes campaigns that spend or raise more than \$2,000 (current limit) as “Controlled Committees.” Under the Act, these types of committees are obligated to file detailed campaign finance disclosure statements, also known as Form 460s. For those smaller campaigns that do not exceed the threshold of \$2,000

(current limit), they may continue to file paper versions of the Form 470 disclosure forms. It should be noted that the NetFile system is able to accommodate the online filing of several types of required forms by the FPPC, including Forms 460, 470, 496, and 497, which are the most commonly used in Albany's local election campaigns.

Government Code 84615 authorizes a local agency to mandate electronic filing. Staff recommends upon adoption, elected officers, candidates, and committees required to file Campaign Finance Statement be required to file electronically, unless exempt from the requirement to file online pursuant to Government Code Section 84615 because the officer, candidate, or committee receives less than \$2,000 (current limit) in contributions and makes less than \$2,000 (current limit) in expenditures in a calendar year.

NetFile System

The City has selected the NetFile system as the best solution for filing FPPC required forms electronically. The NetFile system is created specifically for cities and counties responsible for administering campaign finance filings and Statements of Economic Interest, meets the requirements of the Secretary of State, and allows for electronic and paperless filing of campaign statements.

To ensure a smooth transition, and as part of the agreement and acquisition of the system, NetFile and the City Clerk's Office can offer training to filers and committees. Staff can schedule one-on-one training with NetFile staff and individual filers and treasurers that will cover the entire electronic filing process. This can include the set-up of filer accounts, explaining the online filing process, showing how to input data and save reports, preparing statements for e-signature, and finalizing statements for electronic filing.

In terms of security, the NetFile system is a web-based, vendor-hosted application that utilizes "industry best practices" for securing data, using the same data encryption for online filings that is used by banks for online banking. NetFile stores and backs up data at three separate locations, creating the essential safety measures and redundancy that will allow for recovery of information in the event of an emergency or disaster. The City's data will be retained for the required minimum 10-year period on the online filing system. For those reports/data that are subject to permanent retention, they will be archived in a secure format after the 10-year period. For professional treasurers that have already purchased campaign software, NetFile is able to receive uploaded data from certain types of third-party applications for electronic filing purposes.

Implementation of the NetFile system will promote transparency and be more convenient for committees, individuals, and the public. It provides 24-hour filing and viewing accessibility of campaign finance information from any computer, anywhere. In certain instances, the NetFile program will also increase the accuracy of filed campaign statements by prohibiting any filings that may have inadvertently omitted required information under the Act (e.g. missing addresses or the stated occupation of individual donors).

In addition, the Governor signed AB 2151 in September of 2020 which went into effect on January 1, 2021, requiring all campaign filings to be posted on the City website within 72 hours of each applicable filing deadline. Currently, filings are accepted on paper which requires significant staff time to redact appropriate information and post to the City website.

On March 15, 2021, the City Council introduced for first reading Ordinance No. 2021-03, adding Section 2-30.10 Electronic Filing of Campaign Statements to Albany Municipal Code.

SUSTAINABILITY CONSIDERATION

Implementation of paperless systems reduces overall consumption, not only of paper, but also of ink, plastic packaging, and reduces transportation emissions tied to delivery and disposal of products.

COUNCIL STRATEGIC PLAN INITIATIVE

Goal 5: Facilitate Government Accountability, Objective 2: Enhance Communication and Transparency Programs

FINANCIAL CONSIDERATIONS

N/A

Attachments

1. Ordinance No. 2021-03

1 **NOW, THEREFORE, THE ALBANY CITY COUNCIL DOES ORDAIN AS**
2 **FOLLOWS:**

3 **SECTION 1: CHAPTER II SECTION 2-30.10 OF THE ALBANY MUNICIPAL CODE**
4 **TITLED “ELECTRONIC AND PAPERLESS FILING OF FAIR POLITICAL**
5 **CAMPAIGN STATEMENTS” IS HEREBY ADDED AS FOLLOWS:**

6
7 **a. Purpose and Authority.**

8 The purpose of this chapter is to require the filing of Campaign Disclosure Statements
9 by elected officials, candidates, or committees electronically. The City Council enacts
10 this Ordinance in accordance with the authority granted to cities by State law. This
11 Ordinance is intended to supplement, and not conflict with, the Political Reform Act.

12
13 **b. Findings.**

14 Pursuant to California Government Code Section 84615, the City of Albany hereby finds
15 that the online or electronic filing system required by this chapter will operate securely
16 and effectively and will not unduly burden filers. Said system promotes the use of
17 electronic filing of campaign forms required by the State of California to provide for a
18 streamlined paperless and secure system to meet the demand for digital and transparent
19 systems.

20 **c. General.**

- 21 1. Any elected officer, candidate, committee, or other person required to file
22 statements, reports, or other documents ("Statements") as required by Chapter
23 4 of the Political Reform Act (California Government Code Section 84100 et
24 seq.) may file such Statements using the City Clerk's online filing system
25 according to procedures established by the City Clerk. These procedures shall
26 ensure that the online filing system complies with the requirements set forth in
27 Section 84615 of the Government Code. Elected officers, candidates, or
28 committees required to file statements must file such Statements using the City

1 Clerk's online filing system, unless exempt from the requirement to file online
2 pursuant to Government Code Section 84615, as may be amended from time
3 to time.
4

5 2. In any instance in which an original statement, report or other document must
6 be filed with the California Secretary of State and a copy of that statement,
7 report or other document is required to be filed with the City Clerk, the filer
8 may, but is not required to, file the copy electronically in the City Clerk's
9 online filing system.
10

11 3. The online filing system shall ensure the integrity of the data transmitted and
12 shall include safeguards against efforts to tamper with, manipulate, alter, or
13 subvert the data.

14 4. The online filing system shall only accept a filing in the standardized record
15 format that is developed by the California Secretary of State pursuant to
16 Section 84602(a)(2) of the California Government Code and that is compatible
17 with the Secretary of State's system for receiving an online or electronic filing.

18 5. The online filing system shall include a procedure for filers to comply with the
19 requirement that they sign statements and reports under penalty of perjury
20 pursuant to Section 81004 of the Government Code.

21 6. The City Clerk's office shall maintain for a period of at least 10 years
22 commencing from the date filed, or other period required by law, a secured,
23 official version of each online or electronic statement, report, form, or other
24 document on the City Clerk's online filing system, which shall serve as the
25 official version of that record for purpose of audits and any other legal purpose.
26 Data that has been maintained for at least 10 years may then be archived in a
27 secure format.
28

1 **d. Procedures for Utilizing Online Filing.**

- 2
- 3 1. Electronic filing is mandatory unless the officer, candidate, or committee is
- 4 exempt as described in Section 2-30.10(c)(1) or California Government Code
- 5 84615.
- 6
- 7 2. Any elected officer, candidate, or committee who has electronically filed a
- 8 statement using the City Clerk's online filing system is not required to file a
- 9 copy of that document in paper format with the City Clerk.
- 10
- 11 3. The City Clerk or the online filing system shall issue an electronic
- 12 confirmation that notifies the filer that the Statement was received, the
- 13 notification shall include the date and the time that the Statement was received
- 14 and the method by which the filer may view and print the data received by the
- 15 City Clerk. The date of filing for a Statement filed online shall be the day that
- 16 it is received by the City Clerk.
- 17
- 18 4. If the City Clerk's online filing system is not capable of accepting a Statement
- 19 due to technical difficulties, an elected officer, candidate, or committee shall
- 20 file that Statement in paper format with the City Clerk.
- 21
- 22 5. The online filing system shall enable electronic filers to complete and submit
- 23 filings free of charge.

24 **SECTION 2: SEVERABILITY**

25 If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or

26 any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court

27 of competent jurisdiction, such decision shall not affect the validity or effectiveness of the

28 remaining portions of this Ordinance or any part thereof. The City Council of the City of Albany

 hereby declares that it would have passed each section, subsection, subdivision, paragraph,

1 sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
2 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional
3 or invalid or ineffective.

4
5
6 **SECTION 3: CEQA - EXEMPTION:**

7 The Albany City Council finds, pursuant to Title 14 of the California Code of Regulations, Section
8 15378(b)(5), that this Ordinance is exempt from the requirements of the California Environmental
9 Quality Act (CEQA) in that it is a governmental, organizational or administrative activity that
10 will not result in direct or indirect changes in the environment.
11

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13 **SECTION 4: PUBLICATION AND EFFECTIVE DATE.**

14 This Ordinance shall be posted at three public places within the City of Albany and shall
15 become effective thirty days after the date of its adoption.

16
17 **PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on
18 the ____ day of April, 2021 by the following vote:

19 AYES:

20 NOES:

21 ABSENT:

22 ABSTAIN:

23
24 _____
25 GE'NELL GARY, MAYOR
26
27
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