



DATE: May 15, 2018

TO: Mayor and Council

FROM: City Clerk

SUBJECT Introduction of Ordinance Adding Section 15 to Chapter 2, Article 13 of the Hayward Municipal Code Relating to Electronic and Paperless Filing of the Fair Political Practices Commission Campaign Disclosure Statements

RECOMMENDATION

That the City Council introduces an ordinance adding Chapter 2.13.15 to the Hayward Municipal Code relating to electronic and paperless filing of California Fair Political Practices Commission (FPPC) campaign disclosure statements filed by elected officers, candidates or committees.

SUMMARY

The proposed ordinance will allow for electronic and paperless filing of California Fair Political Practices Commission (FPPC) campaign disclosure statements. It is recommended that filers participate through an “opt-in” approach which will give filers a choice of filing electronically or continue with paper filing. Filers opting to file electronically will not need to turn in a wet signed paper copy.

BACKGROUND

The Political Reform Act of 1974 requires specified candidates, committees, slate mailer organizations, and lobbyists to file campaign statements and reports online or electronically with the Secretary of State. The Act also requires certain entities to file campaign statements and reports with local filing officers as specified.

On January 1, 2013, Assembly Bill 2452 went into effect, adding Section 84615 to the California Government Code Title 9. Political Reform, Chapter 4.6 Online Disclosure Act of 1997, which allows local government agencies to require an elected officer, candidate, or committee to file statements, reports, or other documents online or electronically with its local filing officer, if the filer receives contributions and makes expenditures totaling \$1,000 or more in a calendar year (Attachment III).

On November 17, 2014, the City of Hayward entered into an agreement with NetFile, an electronic and paperless filing system for FPPC Statement of Economic Interests (Form 700) and Campaign Forms. The scope of service in the 2014 agreement was only for Statements of Economic Interests.

DISCUSSION

Government Code Section 84615 requires local jurisdictions that accept electronic campaign form filings to enact an ordinance, with required findings, approving the use of an electronic system, which includes that the system will operate securely and effectively and will not unduly burden filers. The proposed ordinance will also designate the filings received electronically by the City Clerk's Office as the filings of record for the City.

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 ten-year period.

The system will be free of charge to those who are interested in using it. For filers who may not have access to computers, the computer at the counter in the City Clerk's Office can be used (on an appointment basis) for online campaign forms filing. Additionally, the proposed ordinance will only apply to those filers who exceed a threshold of \$1,000 for expending or receiving campaign funds. The threshold is consistent with Government Code Section 84615.

Government Code Section 84615 requires the online or electronic filing systems to only accept a filing in the standardized record format that is developed by the Secretary of State and is compatible with the Secretary of State's system for receiving online or electronic filings. The NetFile system is one of two electronic filing systems in California created for cities and counties responsible for administering campaign form filings and that meets the requirements of the Secretary of State.

Currently, there are 78 cities and counties in California that utilize NetFile and have adopted ordinances to allow for paperless electronic filings. Of the cities that have authorized online filing, 37 have chosen to issue a mandate that all committees raising or expending \$1,000 or more must file electronically. About 25 use a more moderate approach by allowing candidates or committees to "opt-in" to using the system, which provides potential filers with the opportunity to receive training, establish a level of familiarity in using the system and give their filers a choice to file electronically or continue paper filing. If filers file electronically, they do not need to turn in a wet signed paper copy. Approximately three agencies enacted ordinances with an opt-in approach that turned into a mandate after a period of time. About 13 cities and counties use the system but have not enacted an ordinance yet.

Although Government Code 84615 authorizes a local agency to mandate electronic filings, staff recognizes that such a mandate could have a direct effect on those individuals or committees that do not have computer access or familiarity with computer programs. To prevent any hardship, staff recommends the Council approve an “opt-in” approach. Once a filer has successfully completed an online filing, the ordinance would then require the committee to continue to file online in the future. This will ensure the continuity and integrity of the data. Any filer who is unable or unwilling to file electronically may continue to file paper forms with the City Clerk’s Office.

To ensure a smooth transition, and as part of the contract with NetFile, the City Clerk’s Office in partnership with NetFile will provide extensive training to elected officials, candidates, and committees interested in using the system. Once the ordinance is in effect, staff will schedule one-on-one trainings with NetFile staff and filers and individual treasurers. The training will include the entire filing process from setting-up filer accounts, explaining the online filing process, showing how to input data and save reports, preparing statements for e-signature, and filing statements.

Electronic filings will promote transparency and provide timely viewing of campaign forms to members of the public. The NetFile program will also increase the accuracy of filed campaign statements.

FISCAL IMPACT

During the Fiscal Year 2016 budget review for the City Clerk’s Office, staff reported its intention to acquire an electronic filing software for administering campaign form disclosure filings. Due to vacancies in the office, the project was delayed and in 2017 funds were carried forward for implementation of the electronic filing system in Fiscal Year 2017.

A per quarter payment will be paid to NetFile to maintain a system that permits the City and users to electronically file FPPC campaign statements for committees that have a responsibility to file with the City. NetFile includes an online filer application administrative portal and public viewing portal. The City already uses NetFile for online filings of Statements of Economic Interests.

STRATEGIC INITIATIVES

This agenda item is a routine operational item and does not relate to one of the Council’s Strategic Initiatives.

SUSTAINABILITY FEATURES

The proposed electronic filing of FPPC campaign forms is in alignment with the City’s Green Priority in providing a 100% paperless filing system.

PUBLIC CONTACT

The agenda report will be made available to all FPPC committee filers on record.

NEXT STEPS

If introduced, the ordinance will be added to the May 22, 2018 agenda for adoption. A summary of the ordinance will be published in the Daily Review on May 18, 2018. After the ordinance is effective, trainings will be scheduled so that users can file their Semi-Annual Statements due July 31, 2018.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Kelly McAdoo, City Manager