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OFFICE OF THE CITY CLERK
OAKLAND

2013 FEB -7 PM 5:10

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: City Attorney Barbara Parker
Councilmember Libby Schaaf
City Clerk LaTonda Simmons

SUBJECT: Mandatory Electronic Filing
Of Campaign Statements

DATE: January 17, 2013

City Administrator
Approval

Date

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Adopt An Ordinance to amend Title Three Chapter 3.12 Articles I, II, VI And VII Of The Oakland Municipal Code And Adding Article IX Requiring Electronic Filing Of Campaign Statements For (1) Candidates Seeking Election In The City Of Oakland, (2) Committees Formed Or Existing Primarily To Support Or Oppose An Oakland Candidate(s) Or To Support Or Oppose The Qualification Of, Or Passage Of, An Oakland Ballot Measure, And (3) General Purpose Committees Active Only In Oakland.

EXECUTIVE SUMMARY

The Office of the City Clerk serves as filing officer for all campaign reporting activity in the City of Oakland. As filing officer, the Office of the City Clerk is responsible for the tracking, notification review and referrals for all campaign statements filed with the City of Oakland. In June 2012, the City Council adopted a resolution (*Attachment A*) authorizing the Office of the City Clerk to enter into a professional services contract with NetFile Inc., a web-based tracking and notification system for the financial management of political committees. Utilizing NetFile, the Office of the City Clerk has made great strides in reconciling campaign statements and campaign filers in the City of Oakland.

NetFile provides committees the ability to file campaign statements electronically via a free online web-based filing portal. Due to many of NetFile's automated functions, committees who file electronically will likely have significantly less filing errors than those who use the paper filing method. Committees who file electronically are also less likely to submit late filings as they access the NetFile system for free 24 hours a day, seven days a week from any personal computer with an internet connection.

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February 21, 2013

On July 13, 2012 Governor Brown signed AB 2452 (*Attachment B*), which is the legislation that authorizes local jurisdictions to eliminate the paper filing requirement for Campaign Disclosure statements and replace it with an electronic version. The bill requires specific criteria that must be satisfied in order for local agencies to require electronic filing.

Currently, under California law, committees that file electronically are still required to file in paper format; however, once a local ordinance requiring electronic filing is passed, committees will no longer be required to file in paper format. This has been a huge deterrent as many filers don't see the benefit of filing electronically if they must still meet the paper filing requirement.

NetFile meets state law requirements for electronic filing systems, and with the passage of an electronic filing ordinance, the City of Oakland would be among other local jurisdictions who have taken an innovative lead in requiring committees to electronically file campaign statements.

OUTCOME

Council action would result in a decrease in erroneous campaign statement filings, modernize and streamline the management of the City of Oakland's campaign filings, and eliminate complaints from the media and members of the public about campaign filings that are not posted on-line. Staff time to manually process filings would decrease and electronic filing is completely paperless.

BACKGROUND/LEGISLATIVE HISTORY

Assembly Bill 2452 was signed by Governor Jerry Brown July 13, 2012. AB 2452 is the legislation that amends California Government Code Section 84615 and, beginning January 1, 2013, allows local agencies to require an elected officer, candidate, committee, or other person required to file statements, reports, or other documents, to file those statements, reports, or other documents online or electronically with their local filing officer.

According to Government Code Section 84615, a local government agency that requires online or electronic filing must comply with several requirements including, (1) adopting an ordinance approving the use of online or electronic filing, (2) ensuring that the filing system used is compatible with the Secretary of State's system for receiving an online or electronic filing, (3) ensuring that the integrity of the data submitted is secure, (4) issuing and electronic confirmation for all electronic or online filings, (5) ensuring that data is accessible to the public free of charge, and (6) retaining electronic records for at least ten years. Filings required to be submitted electronically, shall not be required to be filed in paper format.

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Prior to the passage of AB 2452 in July 2012, local jurisdictions could not mandate electronic filing, however they could require the dual filing of both electronic and paper filings for their respective jurisdictions. Jurisdictions that required dual filings include the cities of San Francisco, Pleasanton, San Diego, Sacramento, San Jose, Riverside, Santa Barbara, and the counties of Orange, Riverside and Santa Clara. We expect that these cities will now mandate electronic filing as it eliminates the paper filing requirement altogether.

NetFile is an approved vendor by the Secretary of State for electronic filing in California and is compatible with the Secretary of State's system for receiving electronic filings. The NetFile system has three main parts: (1) administration application, (2) e-filer application, and (3) public and private viewing application.

The administration application helps local filing officers administer the various tasks involved with managing committees. Automatic redaction of filings instantly posted to the viewing portal, automated generation of notification letters and the elimination of technical filing errors are just a few advantages that NetFile offers. Additionally, the campaign finance administration application has custom built-in reports that track committee data.

Currently, the majority of City of Oakland's required filers utilize the paper filing method for their campaign statements. When amendments are necessary, it can take several days to notify filers of erroneous filings; whereas with electronic filing, filers are notified of errors immediately and required to fix those errors prior to submission. Local filers use the e-filer application free of charge via a secure web portal with their individual filer identification and password. The system is easy to use and comes equipped with online documentation to answer filer questions. Filers are able to view their filing in draft form prior to submission and easily submit the document electronically. Filers immediately receive notification informing them if their filing was accepted or rejected. If accepted, the filing is immediately posted in redacted form on the public viewing site, without any delay or lag time.

The public viewing portal allows members of the public to view campaign statements 24 hours a day, seven days a week. Currently, when the Office of the City Clerk receives paper filings, the filings have to be redacted, scanned and manually uploaded by staff. This process can take 24 to 72 hours depending on the volume of filings and staff availability.

ANALYSIS

The City of Oakland has a strong commitment to providing transparency in government and accessibility of information to its citizens. Since it implemented the NetFile system, the City of Oakland is able to provide an even higher standard of efficiency and service to members of the public.

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AB 2452 provides local jurisdictions the ability to mandate electronic filing provided an ordinance mandating electronic filing is passed, the filing system is compatible with the Secretary of State's system, access to members of the public is free and accessible and the filing system must include a record retention component. Requiring electronic filing of campaign statements will allow the City of Oakland to provide even greater transparency and access to public campaign records.

The proposed ordinance amends Oakland Municipal Code (OMC) Chapter 3.12, the City's Campaign Reform Act, to require electronic filing of campaign statements for local candidates and committees. The proposed ordinance only applies to candidates running for local elected office and committees that are (1) controlled by a candidate for city office, (2) primarily formed to support or oppose a candidate's election for City office, (3) primarily formed to support or oppose a local ballot measure, or (4) a general purpose committee active only in Oakland. The ordinance only imposes the requirement for those candidates and committees receiving contributions or making expenditures of \$1,000 or more in a calendar year.

The ordinance mandates that once a committee or candidate is subject to the electronic filing requirements, that committee or candidate shall remain subject to the electronic filing requirements regardless of the amount of contributions received or expenditures made during each reporting period. This provision is necessary to prevent gaps in the electronic records and also makes it easier for the agency, the filer, and the public to have an accurate account of past financial figures. This is also parallel with state law requirements for filing of hard copy statements. Once a candidate or committee meets the threshold amounts to require hard copy filing, the candidate or committee must continue to file, even if the campaign amounts fall below the threshold.

The proposed ordinance imposes late filing fees of \$10 per day after the deadline until the statement is filed. No liability for late fees shall exceed the cumulative amount stated in the late statement or report, or \$100, whichever is greater. Further, any person who intentionally or negligently violates a provision of the proposed ordinance is subject to enforcement proceedings before the Public Ethics Commission. The enforcement procedure follows the established Public Ethics Commission General Rules of Procedure. If the Public Ethics Commission determines that a violation of the electronic filing regulations has occurred, the Commission may administer penalties not to exceed three times the amount the person failed to report properly or \$2,000, whichever is greater. A knowing or willful violation of the filing requirement is a criminal misdemeanor.

Under the proposed ordinance the City Clerk has additional duties to ensure proper administration of the electronic filing system and to ensure that the filing system meets the requirements set out by state law. The City Clerk is also required to coordinate with Netfile to provide training for filers during reporting periods. The existing NetFile contract provides that

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NetFile will conduct training and offer support to filers that need assistance with the filing system at no additional cost to candidates or the City.

NetFile is highly regarded as a reliable, secure electronic filing system and is used by many local and State candidates, committees and others that are required to file campaign statements. The Netfile filing system is accepted by the Secretary of State and already meets all the system requirements set out by state law and the proposed ordinance.

PUBLIC OUTREACH/INTEREST

The Ordinance and report were properly noticed according to state and local laws. The report and ordinance were presented at the February 4, 2013 Public Ethics Commission meeting. Netfile's vice-president gave a presentation on campaign disclosure filings, legislation pertaining to campaign disclosures and provided an overview of what other Northern California Jurisdictions are doing with regard to electronic filings. Councilmember Schaaf, the City Clerk's and City Attorney's Offices also presented and provided specific information on how NetFile has improved the management of campaign filings and how electronic filing will create transparency in government and eliminate erroneous filings. Questions and concerns of the public and Commissioners were addressed at this meeting. The Ethics Commission voted unanimously to support the proposed ordinance. At the Public Ethics Commission meeting the issue was raised for the City to consider requiring mandatory electronic filing of Statements of Economic Interest (Form 700) for all elected officials and City employees. The City Attorney, City Clerk, and Councilmember Schaaf's office will continue to explore this issue.

COORDINATION

Offices consulted in preparation of this report are the following:
Office of the City Clerk
Office of Councilmember Libby Schaaf

COST SUMMARY/IMPLICATIONS

Passage of this Ordinance will have a positive fiscal impact on the City of Oakland as staff time will be saved with the reduction of paper committee filings.

SUSTAINABLE OPPORTUNITIES

Economic: There is no economic impact to the City of Oakland.

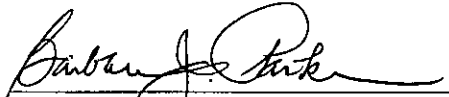
Environmental: The environment would be positively impacted with the elimination of paper filing and implementation of mandatory on-line filings.

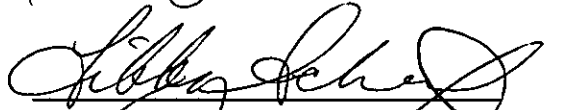
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Social Equity: Council action would provide for greater transparency in electronic campaign statement filings, elimination of erroneous statement filings and immediate 24- hour access to on-line filings.

For questions regarding this report, please contact Amber Macaulay, Deputy City Attorney, at 238-7543, or Tamika Thomas, Assistant City Clerk, at 238-7369.

Respectfully submitted,


City Attorney Barbara Parker


Councilmember Libby Schaaf


City Clerk LaTonda Simmons

Prepared by:

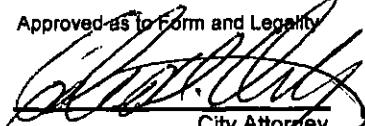
Tamika Thomas
Assistant City Clerk

Shereda Nosakhare
Policy Analyst/Community Liaison
Office of Councilmember Libby Schaaf

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February 21, 2013

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL


City Attorney

RESOLUTION No. 83983 C.M.S.
2012 JUN 28 PM 3:05
Introduced by Office of City Clerk

RESOLUTION WAIVING ADVERTISING AND COMPETITIVE BIDDING REQUIREMENTS OF THE OAKLAND MUNICIPAL CODE AND AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT WITH NETFILE FOR HOST-SITE SOFTWARE FILING SYSTEM SERVICE FOR A THREE-YEAR TERM IN A COMPENSATION AMOUNT OF \$102,000.00 (ONE HUNDRED TWO THOUSAND DOLLARS) PLUS TWO (2) ONE-YEAR OPTIONS TO RENEW THE CONTRACT AT THE CITY'S SOLE DISCRETION AT AN ANNUAL CONTRACT COMPENSATION RATE OF \$34,000.00 WITH AN ANNUAL INCREASE OF UP TO FIVE PERCENT (5%) OF THE ANNUAL COMPENSATION AMOUNT (OR \$71,400.00 TOTAL FOR THE TWO OPTION YEARS IF EXERCISED BY THE CITY) FOR A GRAND TOTAL NOT-TO-EXCEED CONTRACT AMOUNT OF ONE HUNDRED SEVENTY-THREE THOUSAND, FOUR HUNDRED DOLLARS (\$173,400.00)

WHEREAS, the State of California has mandatory filing requirements for Lobbyist Disclosures, Campaign Disclosure Statements and Conflict of Interest Statements ("election related documents"); and

WHEREAS, Title 2, Division 6, of the California Code of Regulation stipulates the duties of Filing Officers; and

WHEREAS, the Office of the City Clerk, is the Filing Officer for all election related documents regulated by the State of California's Fair Political Practices Commission (FPPC); and

WHEREAS, the FPPC requires filing officers to track and accept for filing any election related documents required by the Political Reform Act (The Act) and to determine whether those documents have been filed in conformance with The Act; and

WHEREAS, the Office of the City Clerk must provide public access to all election related documents and maintain a log of all statements filed; and

WHEREAS, diminished City Clerk staff has made it increasingly difficult to manage election related documents manually; and

WHEREAS, increased oversight by the FPPC requires the Office of the City Clerk to utilize more sophisticated tracking and filing systems to enforce mandatory regulations set forth by the FPPC; and

WHEREAS, NetFile, provides host-site software filing system services for all election related documents for over 20 local California Governments; and

WHEREAS, Section 2.04.040.B 2 and 2.04.050.A and E of the Oakland Municipal Code (the "OMC") require formal advertising for the solicitation for bids for products and incidental services related to the products, and if an award is made, the City must award to the lowest responsive bidder; and

WHEREAS, Council may waive these advertising and bidding requirements under Section 2.04.050.1 5 when it finds and determines that it is in the best interests of the City to do so; and

WHEREAS, waiving of the advertising and competitive bid requirement is in the best interests of the City, because NetFile is the sole-source provider of a public viewing portal, efiled documents automatically create state forms, does not require licensing agreements or software updates and upon viewing efiled documents redacts specific personal information as required by the state; and

WHEREAS, the Office of the City Clerk has realized significant increases in compliance and tracking since utilizing NetFile; and therefore be it

RESOLVED, that pursuant to Section 2.04.050.1 5 the Council determines and finds that it is in the best interests of the City to waive the advertising and bidding requirements of the OMC for the purchase of the NetFile host-site software filing systems service because of reason set forth in this Resolution and in the Report that accompanies this Resolution, and so waives these requirements; and be it

FURTHER RESOLVED; that the City Administrator is authorized to enter into an agreement with NetFile for an initial term of three years at a total compensation rate of \$102,000.00 (\$34,000.00 a year x 3 years), plus two (1) one-year options to renew the contract at the City's sole discretion at the annual contract compensation rate of \$34,000.00 per year with an annual increase of up to 5% of the annual compensation amount of \$34,000.00 per year (or \$71, 400.00 total for the two option years if exercised by the City) for a grand total not-to-exceed contract amount of one One Hundred Seventy-Three Thousand, Four Hundred Dollars (\$173,400.00); and be it

FURTHER RESOLVED, that the contract shall be reviewed and approved by the City Attorney for form and legality and placed on file in the Office of the City Clerk, and be it

FURTHER RESOLVED, that funding for NetFile host-site services were previously allocated and approved in the FY 2012/13 City Clerk budget.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 17 2012

PASSED BY THE FOLLOWING VOTE:

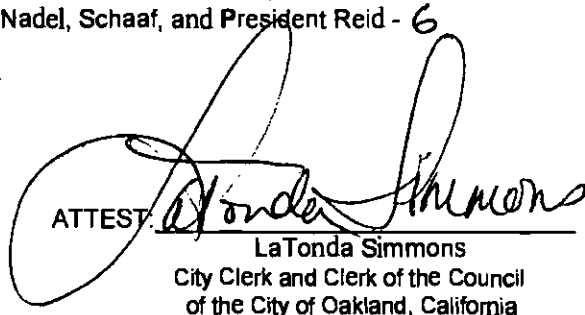
AYES – Brooks, ~~Brunner~~, De La Fuente, ~~Kaplan~~, Kernighan, Nadel, Schaaf, and President Reid - 6

NOES - 0

ABSENT - Brunner - 1

ABSTENTION - 0

Excused - Kaplan - 1

ATTEST: 
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

ASSEMBLY BILL

No. 2452

Introduced by Assembly Member Ammiano

February 24, 2012

An act to add Section 84615 to the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 2452, as introduced, Ammiano. Political Reform Act of 1974: online disclosure.

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

This bill would authorize a local government agency to require an elected officer, candidate, committee, or other person required to file specified statements, reports, or other documents to file those statements, reports, or other documents online or electronically with a local filing officer. The bill would prescribe criteria that must be satisfied by a local government agency that requires online or electronic filing of statements, reports, or other documents, as specified, including, among others, that the system be available free of charge to filers and to the public for viewing filings, and that the system include a procedure for filers to comply with the requirement that they sign statements and reports under penalty of perjury.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes

upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION I. Section 84615 is added to the Government Code,
2 to read:

3 84615. A local government agency may require an elected
4 officer, candidate, committee, or other person required to file
5 statements, reports, or other documents required by Chapter 4
6 (commencing with Section 84100) to file those statements, reports,
7 or other documents online or electronically with a local filing
8 officer. A local government agency that requires online or
9 electronic filing pursuant to this section shall comply with all of
10 the following:

11 (a) The legislative body for the local government agency shall
12 adopt an ordinance approving the use of online or electronic filing,
13 which shall include a legislative finding that the online or electronic
14 filing system will operate securely and effectively and would not
15 unduly burden filers. The ordinance adopted by the legislative
16 body for the local government agency may, at the discretion of
17 that legislative body, specify that the electronic or online filing
18 requirements apply only to specifically identified types of filings
19 or are triggered only by identified monetary thresholds.

20 (b) The online or electronic filing system shall only accept a
21 filing in the standardized record format that is developed by the
22 Secretary of State pursuant to paragraph (2) of subdivision (a) of
23 Section 84602 and that is compatible with the Secretary of State's
24 system for receiving an online or electronic filing.

25 (c) The online or electronic filing system shall ensure the
26 integrity of the data transmitted and shall include safeguards against
27 efforts to tamper with, manipulate, alter, or subvert the data.

28 (d) The date of filing for a statement, report, or other document
29 that is filed online or electronically shall be the day that it is
30 received by the local filing officer.

31 (e) The local filing officer shall make all the data filed available
32 on the Internet in an easily understood format that provides the

1 greatest public access. The data shall be made available free of
2 charge and as soon as possible after receipt. The data made
3 available on the Internet shall not contain the street name and
4 building number of the persons or entity representatives listed on
5 the electronically filed forms or any bank account number required
6 to be disclosed by the filer

7 (f) The online or electronic filing system shall include a
8 procedure for filers to comply with the requirement that they sign
9 statements and reports under penalty of perjury pursuant to Section
10 81004.

11 (g) The local government agency shall enable filers to submit
12 filings free of charge.

13 (h) The local filing officer shall maintain, for a period of 10
14 years commencing from the date filed, a secured, official version
15 of each online or electronic statement, report, or other document
16 filed pursuant to this section, which shall serve as the official
17 version of that record for purpose of audits and any other legal
18 purpose.

19 (i) Notwithstanding any other provision of law, any statement,
20 report, or other document filed online or electronically pursuant
21 to this section shall not be required to be filed with the local filing
22 officer in paper format.

23 SEC. 2. The Legislature finds and declares that this bill furthers
24 the purposes of the Political Reform Act of 1974 within the
25 meaning of subdivision (a) of Section 81012 of the Government
26 Code.

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OAKLAND

INTRODUCED BY COUNCILMEMBER MICHAEL SCHAAF
CITY ATTORNEY BARBARA PARKER, AND
CITY CLERK LATONDA SIMMONS

APR 16 5:10 PM

APPROVED AS TO FORM AND LEGALITY

Maabalarz
CITY ATTORNEY

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AMENDING TITLE THREE CHAPTER 3.12 ARTICLES I, II, VI AND VII OF THE OAKLAND MUNICIPAL CODE AND ADDING ARTICLE IX REQUIRING ELECTRONIC FILING OF CAMPAIGN STATEMENTS FOR (1) CANDIDATES SEEKING ELECTION IN THE CITY OF OAKLAND, (2) COMMITTEES FORMED OR EXISTING PRIMARILY TO SUPPORT OR OPPOSE AN OAKLAND CANDIDATE(S) OR TO SUPPORT OR OPPOSE THE QUALIFICATION OF, OR PASSAGE OF, AN OAKLAND BALLOT MEASURE, AND (3) GENERAL PURPOSE COMMITTEES ACTIVE ONLY IN OAKLAND

WHEREAS, California law mandates that elected officers, candidates, and committees file semiannual statements each year as well as preelection statements, and

WHEREAS, the required campaign statements must contain information such as contributions received, expenditures made, total contributions made by persons who have given one hundred dollars or more, balance of cash and cash equivalents on hand at the beginning and end of each period covered by the campaign statement, the amount of expenditures to persons, and information sufficient to identify the nature and interest of the filer if the filer is a committee (Gov't Code 84211), and

WHEREAS, California law allows local government agencies to institute electronic filing requirements so long as the electronic filing system will operate securely and effectively and would not unduly burden filers, and

WHEREAS, the City Council finds that the proposed electronic filing system will operate securely and effectively and will not unduly burden filers, and

WHEREAS, public access to campaign and lobbying disclosure information is a vital and integral component of a fully informed electorate, and

WHEREAS, complete and timely online disclosure ensures that this information is easily accessible to the public,

**NOW THEREFORE
THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

Section 1. That the City Council finds and determines the foregoing recitals to be true and correct and hereby makes the recitals a part of this Ordinance by adding them to Chapter 3.12, Article I section 3.12.030.

Section 2. Oakland Municipal Code Title Three, Chapter 3.12 is hereby amended to add, delete, or modify the sections as set forth below (additions are indicated by italicized underlined type and deletions are indicated by strikethrough-type; portions of the Oakland Municipal Code not cited or not shown in italicized underlined or strikethrough type are not changed).

Section 3. Article II, section 3.12.040 "Interpretation of this Act" is hereby amended as set forth below:

"Local Candidate" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000 et seq., but shall include only candidates for City office that receive contributions totaling more than one thousand dollars (\$1,000) or make expenditures totaling more than one thousand dollars (\$1,000) in a calendar year.

"Local Committee" shall mean those committees that receive contributions totaling more than one thousand dollars \$1,000 or make expenditures totaling more than one thousand dollars \$1,000 in a calendar year that are:

- i. a committee controlled by a candidate for city office,
- ii. a committee primarily formed to support or oppose a candidate's election for City office,
- iii. a committee primarily formed to support or oppose a local ballot measure, or
- iv. a general purpose committee as defined in the California Political Reform Act, California Government Code section 81000 et seq. that is active only in Oakland.

Section 3. Article IX is hereby added to Oakland Municipal Code Chapter 3.12 as set forth below:

Article IX Electronic Filing Requirements

§ 3.12.340 Electronic filing of Campaign Statements

- A. **Electronic Filing of Campaign Statements. Whenever any local candidate or local committee is required by state or local law to file a campaign statement with the City Clerk, that candidate or committee shall file the statement or**

report in an electronic format with the City Clerk's office provided that the City Clerk has prescribed the format at least 60 days before the statement or report is due to be filed.

- B. Continuous Filing of Electronic Statements. Once a committee, including a candidate's committee, is subject to the electronic filing requirements imposed by this section, the committee shall remain subject to the electronic filing requirements, regardless of the amount of contributions received or expenditures made during each reporting period, until the committee terminates pursuant to this Chapter and the California Political Reform Act (California Government Code Section 8100 et seq.).
- C. Late Filing Fees. If any person files an original statement or report after the deadline imposed by state or local law, he or she shall, in addition to any other penalties or remedies established by this Title or state law, be liable in the amount of ten dollars (\$10) per day after the deadline until the statement or report is filed, to the City Clerk. No liability under this subsection C shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100), whichever is greater. The City Clerk shall deposit any funds received under this section into the general fund.
- D. Adoption of General Law. Except as otherwise provided in, or inconsistent with, this Chapter or other provisions of local law, the provisions of the Government Code of the State of California (commencing at section 81000), relating to local elections including any subsequent amendments, are hereby incorporated as part of this Article.

Section 4. Oakland Municipal Code Chapter 3.12, Article VI, section 3.12.250 "Duties of the City Clerk" is hereby amended as set forth below:

§3.12.250 – Duties of the City Clerk

The City Clerk shall: ~~prescribe the necessary forms for filing the appropriate statements:~~

- A. Prescribe the necessary forms and manuals for filing the appropriate statements.
- B. Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this title.
- C. Notify promptly all persons and known committees who have failed to file a report or statement in the form and at the time required by this title.
- D. Ensure that any electronic filing system will operate securely and effectively and will not unduly burden filers.

- E. Ensure that any electronic filing system shall only accept a filing in the standardized record format that is developed by the Secretary of State and that is compatible with the Secretary of State's system for receiving an online or electronic filing.
- F. Report violations of this title to the appropriate agencies, including the Public Ethics Commission, the City Attorney, and/or the District Attorney.
- G. Compile and maintain a current record of all reports and statements filed with the City Clerk, and
- H. Offer trainings, at no cost on the electronic filing system prescribed by the City during the time period between the end of the statement reporting period and the statement filing due date.

Section 5. Oakland Municipal Code Chapter 3.12, Article VII, sections 3.12.270 "Criminal misdemeanor actions" and 3.12.280 "Enforcement actions" are hereby amended as set forth below:

§3.12.270 – Criminal misdemeanor actions.

Any person who knowingly or willfully violates Articles III, IV, or V, or IX of this Act is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of the Act, or who knowingly or willfully aids and abets any other person in violation of any provision of this Act, shall be liable under the provisions of this section. Prosecution for violation of any provision of this Act shall be commenced within four years after the date on which the violation occurred.

§3.12.280 – Enforcement actions.

- A. Any person who intentionally or negligently violates Articles III, IV, or V, or IX of this Act is subject to enforcement proceedings before the Public Ethics Commission pursuant to the Public Ethics Commission General Rules of Procedure.
- B. If two or more persons are responsible for any violation, they shall be jointly and severally liable.
- C. Any person alleging a violation of Articles III, IV, or V, or IX of this Act shall first file with the Public Ethics Commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The Commission shall respond within ninety (90) days after receipt of the complaint indicating whether there is probable cause to conduct a hearing and whether mediation will be undertaken.

- D. If mediation is not undertaken, if any party refused mediation, or if mediation is unsuccessful in resolving the issues raised in the complaint, the Commission may within ninety (90) days thereafter convene a hearing. The Commission has full authority to settle any action filed by or on behalf of the Commission in the interest of justice.
- E. If the Commission determines a violation has occurred, the Commission is hereby authorized to administer appropriate penalties and fines not to exceed three times the amount of the unlawful contribution or expenditure.
- i. For any violation of Article IX the Commission is authorized to administer penalties and fines not to exceed three times the amount the person failed to report properly or two thousand dollars (\$2,000), whichever is greater.*
- F. No complaint alleging a violation of any provision of this Act shall be filed more than two years after the date the violation occurred.

Section 5. The City Clerk, with the assistance of the City Attorney, shall codify the above sections in the Oakland Municipal Code

Section 6. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

Section 7. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2013

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN,
SCHAAF, REID AND PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation: