

DATE: January 27, 2009

TO: Mayor and City Council Members

FROM: City Clerk's Department

SUBJECT: RESOLUTION NO. 8445 - A RESOLUTION APPROVING GUIDELINES FOR IMPOSING AND WAIVING FINES RELATED TO POLITICAL REFORM ACT FILINGS (CAMPAIGN DISCLOSURE AND STATEMENTS OF ECONOMIC IMPACTS)

BACKGROUND / ISSUE

The Political Reform Act (Act) requires public officials to disclose assets and income which may be materially affected by their official actions. The Act requires governmental agencies, such as the City of Folsom, to ensure that its public officials disclose those interests within established statutory deadlines.

POLICY / RULE

Government Code section 81000 et seq establishes the Political Reform Act (Act). The Act establishes the statement and report format, statutory deadlines, filing officer duties. Government Code section 91000 et seq establishes enforcement provisions for the Act, including fees for late filing of statement or reports.

ANALYSIS

The City of Folsom receives approximately 275 campaign disclosure and statement of economic interest filings each year. Over the last three calendar years, approximately 13% of these filings have been filed late. As noted above, State law already grants filing officials with the authority to assess fines for late filings. In the past, staff has not assessed fines, and instead has attempted to coach filers into compliance. In recent years, however, staff has found that timely compliance has become more difficult to obtain.

Staff is now seeking City Council approval of these Guidelines as a demonstration of the City Council's support of a new practice of implementing these fines. The proposed Guidelines would provide a clear and consistent manner for imposing fines or waiving fines upon those filers filing late statements.

The proposed Guidelines establish the following fine and waiver parameters:

Fines. Pursuant to the proposed Guidelines, and in compliance with Government Code, if any person files a statement or report after any deadline, he or she shall, in addition to any other penalties or remedies established by the Political Reform Act, be liable in the amount of \$10 per

day after the deadline until the statement or report is filed. No liability shall exceed \$100.

Waivers. Pursuant to the proposed Guidelines, and in compliance with Government Code, liability need not be enforced by the filing officer if, on an impartial basis, the filing officer determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the Political Reform Act, except that no liability shall be waived if a statement or report is not filed within 30 days for a Statement of Economic Interest, five days for a campaign statement required to be filed 12 days before an election, and 10 days for all other statements and no liability shall be waived for filers who have filed late statements or reports within the previous two years.

Staff Responsibility. Pursuant to the proposed Guidelines, staff will provide a pre-filing notification to filers at least 30 days prior to the deadline of their filing obligation and filing due dates. If a statement or report is not received by the filing due date, a written first non-filer notification will be sent to the filer. If a statement or report is not received in response to the first non-filer notification, a second non-filer notification will be sent. If a statement or report is not received in response to the second non-filer notification, the filer will be referred to the Fair Political Practices Commission Enforcement Authority.


ATTACHMENT

Resolution No. 8445 – A Resolution Approving Guidelines for Imposing and Waiving Fines Related to Political Reform Act Filings (Campaign Disclosure and Statements of Economic Impacts)

RECOMMENDATION / CITY COUNCIL ACTION

Staff requests that the City Council approve Resolution No. 8445 – A Resolution Approving Guidelines for Imposing and Waiving Fines Related to Political Reform Act Filings (Campaign Disclosure and Statements of Economic Impacts).

Respectfully submitted,


Christa Schmidt
City Clerk

RESOLUTION NO. 8445

**A RESOLUTION APPROVING GUIDELINES FOR
IMPOSING AND WAIVING FINES RELATED TO
POLITICAL REFORM ACT FILINGS
(CAMPAIGN DISCLOSURE AND STATEMENTS OF ECONOMIC IMPACTS)**

WHEREAS, the Political Reform Act (Act) requires public officials to disclose assets and income which may be materially affected by their official actions; and

WHEREAS, the Act requires governmental agencies, such as the City of Folsom, to ensure that its public officials disclose those interests within established statutory deadlines; and

WHEREAS, the Political Reform Act provides that Campaign Disclosure and Statement of Economic Interest forms which are filed late are subject to fines; and

WHEREAS, as the filing officer for the City of Folsom, the Folsom City Clerk's Department enforces these fines; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom approves the attached Guidelines for Imposing and Waiving Fines Related to Political Reform Act Filings (Campaign Disclosure and Statements of Economic Impacts).

PASSED AND ADOPTED this 10th day of February 2009 by the following roll-call vote:

AYES: Council Member(s):

NOES: Council Member(s):

ABSTAIN: Council Member(s):

ABSENT: Council Member(s):

Stephen E. Miklos, MAYOR

ATTEST:

Christa Schmidt, CITY CLERK

Folsom City Clerk's Department

Guidelines for Imposing and Waiving Fines ~ Campaign Disclosure and Statements of Economic Interest

PURPOSE

The Political Reform Act provides that Campaign Disclosure and Statement of Economic Interest forms which are filed late are subject to fines. As the filing officer for the City of Folsom, the Folsom City Clerk's Department enforces these fines.

These Guidelines shall provide clear and consistent implementation of fines and waivers related to campaign disclosure and statements of economic interest. These Guidelines are consistent with the Political Reform Act.

TO ASSIST FILERS IN MEETING THEIR FILING OBLIGATIONS, THE FOLSOM CITY CLERK'S DEPARTMENT WILL:

1. Send a Pre-Filing Notification to filers at least 30 days prior to the deadline of their filing obligation and filing due dates.
2. If a statement or report is not received by the filing due date, a written First Non-Filer Notification will be send to the filer. If the statement is filed within 10 days of the Notification without providing any written reason why the filing officer should consider waiving the fee, the filer will be assessed \$10 per day following the day after the statement was due up to the maximum allowed by law.
3. If the statement is filed within 10 days of the Notification with a written letter explaining why the statement is late, the filing officer will review the reasons for being late and will make a determination of whether to waive the late fee.
4. If a statement or report is not received in response to the First Non-Filer Notification, a Second Non-Filer Notification will be sent.
5. If a statement or report is not received in response to the second non-filer notification, the filer will be referred to the Fair Political Practices Commission Enforcement Authority.

FILING AND DEADLINES

Reports or statement shall be filed with the Folsom City Clerk, 50 Natoma Street, Folsom, CA 95630. Reports or statements may be delivered in person, or they may be delivered by mail or by fax in accordance with the following sections.

Filing deadlines are available from the Folsom City Clerk's Department or on the Fair Political Practices Commission (FPPC) website at www.fppc.ca.gov. There is no provision in the Political Reform Act for an extension of a filing deadline.

MAILING STATEMENTS OR REPORTS

When a report or statement has been sent by first-class mail or by any other guaranteed overnight delivery service addressed to the filing officer, it shall for purposes of any deadline be deemed to have been received by him or her on the date of the deposit in the mail or of receipt by that delivery service, as shown on the date stamped by the Post Office or the delivery service.

FAXING STATEMENTS OR REPORTS

Any report or statement may be faxed by the applicable deadline, provided that the required originals or paper copies are sent by first-class mail or by any other personal delivery or guaranteed overnight delivery service within 24 hours of the applicable deadline and provided that the total number of pages of each report or statement faxed is no more than 30 pages.

FINES

Any person who files a statement or report after any deadline imposed by the Political Reform Act shall be subject to penalties and remedies established by the Act. Said person shall also be liable in the amount of \$10 per day after the deadline until the statement or report is filed, up to a maximum of \$100.

Liability need not be enforced by the filing officer if, on an impartial basis, the filing officer determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the Political Reform Act, except that no liability shall be waived if a statement or report is not filed within 30 days for a Statement of Economic Interest, five days for a campaign statement required to be filed 12 days before an election, and 10 days for all other statements and no liability shall be waived for filers who have filed late statements or reports within the previous two years.

Authority

These Guidelines were approved on February 10, 2009, by Folsom City Council Resolution No. 8445.

The following Government Code sections provide authority for the preceding information in these guidelines:

- §81007 Mailing of Report or Statement
- §81007.5 Faxing of Report or Statement
- §91013 Late Filing of Statement or Report; Fees