



AGENCY: City Council
MEETING DATE: February 28, 2022
DEPARTMENT: Administrative Services
PRESENTED BY: June Lemos, MMC
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AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance No. 977-2022 Adding Chapter 2.02 (Electronic Filing of Campaign Disclosure Statements and Statements of Economic Interest) to Title 2 (Administration and Personnel) of the Fort Bragg Municipal Code to Mandate Electronic and Paperless Filing of Fair Political Practices Commission Campaign Disclosure Statements and Statements of Economic Interest

ISSUE:

The City of Fort Bragg is currently a paper-filing agency for statutory Fair Political Practices Commission (FPPC) campaign disclosure forms and statements of economic interest. Appointed officials, City Council candidates, campaign committees and designated City employees may file their statements in hard copy form only, with an original signature per FPPC regulations. Filers identified in Government Code Section 87200 have the alternative option to file electronically directly with the FPPC.

Pursuant to Government Code Section 84615, local agencies may mandate electronic filing of FPPC disclosure statements. To increase efficiency and facilitate compliance with state law and FPPC regulations, the City Clerk's Office looks to employ a system for electronic filing of economic and financial disclosure statements for all required filers in the City of Fort Bragg organization. In addition to increased efficiency, electronic filing will eliminate the need for wet signatures, will redact statements posted online, and will automatically link to the FPPC's system.

If approved, all filers will be required to submit their statutory filings through the automated system, and paper filings will no longer be accepted. However, to support the City's efforts toward diversity, equity and inclusion, the City Clerk, as the City's filing officer, will have the right to accept a paper filing in lieu of an electronic filing at the City Clerk's discretion, under certain circumstances, and to accommodate an Americans with Disabilities Act (ADA) request. Examples of exceptions may include limited access to an electronic device or internet connection.

In order for the City of Fort Bragg to accept electronically filed statements, the City Council must adopt an ordinance permitting the use of an online filing system 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.

AGENDA ITEM NO. 8A

ANALYSIS:

The City entered into a contract with NetFile, a hosted solution created specifically for cities and counties responsible for administering campaign finance filings and Statements of Economic Interest, which meets the requirements of the Secretary of State and allows for electronic and paperless filing of campaign statements. NetFile is widely used by other agencies throughout California.

Campaign Finance Disclosure Statements (Form 460)

Adoption of the proposed ordinance is required to implement electronic filings of the campaign finance component of the NetFile system, and will only apply to those filers that exceed a threshold of \$2,000 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 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 \$2,000 threshold, 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 Fort Bragg's local election campaigns.

Statement of Economic Interest (Form 700)

The "Statement of Economic Interest" Form 700 component of NetFile does not require an ordinance, however staff recommends that all designated Form 700 filers identified in the City's Conflict of Interest Code also be required to file electronically, to fully transition the City to electronic, paperless filing pursuant to Government Code 84615. This process would simply require an internal procedural change. The City Clerk is currently responsible for the annual filing of all Form 700s, which include the City Council, Planning Commission, City Manager, City Attorney, Finance Director/Treasurer, designated City employees and consultants. Form 700s occasionally need amendments or are submitted incomplete or without marked schedules attached. The Form 700 electronic filing incorporates an initial review process and alerts the filer of errors at the time they are entering information, thereby minimizing the need for the City Clerk to request amendments.

Upon adoption of the ordinance, all required and designated Form 700 filers, and filers of campaign disclosure statements, will use the online system, unless exempt from the requirement to file online pursuant to Government Code Section 84615(a) because the officer, candidate, or committee receives less than \$2,000 in contributions and makes less than \$2,000 in expenditures in a calendar year. An alternative to the proposed mandate ordinance is to provide for opt-in electronic filings, which would allow FPPC statements to be filed electronically, but paper filings would still be accepted. To maintain consistency with processing and publishing filers' FPPC statements, staff does not recommend the "opt-in" ordinance. The proposed mandate ordinance will still allow the City Clerk to accept a paper filing in lieu of an electronic filing at the City Clerk's discretion, under certain circumstances, and to accommodate an ADA request.

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 extensive 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 including the setup of filer accounts, explanation of the online filing process, demonstration of the data input and saving reports, preparation of 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. Implementation of the NetFile system will promote transparency and provide convenience 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).

Government Code Section 84615

A local government agency may require an elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 (commencing with Section 84100) to file online or electronically, unless the officer, candidate, or committee receives less than \$2000 in contributions and has less than \$2000 in expenditures in a calendar year. The following is a summary of requirements that a local government agency must meet:

- 1) Local legislative body must adopt an ordinance approving such online filing and include a legislative finding that the online or electronic filing system will operate securely and effectively and would not unduly burden filers;
- 2) Electronic system used must accept filings that are compatible with format developed by Secretary of State, must ensure security and integrity of data, and must provide a way for electronic filer to sign under penalty of perjury;
- 3) No charge to file;
- 4) File date will be date received by local filing officer;
- 5) Specifies that a timely electronic confirmation along with a copy of filing kept by filer constitute rebuttable presumption that filing was timely;
- 6) Filings must be made available on Internet, with certain information removed, and requires local filing officer to make complete and unredacted copies of electronic filings available to any person upon request;
- 7) Data shall be maintained for at least 10 years for audit purposes and may then be archived in a secure format;
- 8) Notwithstanding any other provision of law, any statement, report, or other document filed online or electronically pursuant to this section shall not be required to be filed with the local filing officer in paper format.

In order to comply with state law, the requirements from Government Code Section 84615 have been incorporated in the proposed ordinance for the City to transition to an electronic filing system (**Attachment 1**).

RECOMMENDED ACTION:

Introduce by title only and waive the first reading of Ordinance 977-2022 adding Chapter 2.02 (Electronic Filing of Campaign Disclosure Statements and Statements of Economic Interest) to Title 2 (Administration and Personnel) of the Fort Bragg Municipal Code.

ALTERNATIVE ACTION(S):

1. The City Council may elect not to introduce the Ordinance and remain a paper filing agency, or
2. The Council may choose to instead enact an “opt-in” ordinance where electronic filing will be optional but not required, or
3. The Council may provide direction to staff for further revisions to the Ordinance.

FISCAL IMPACT:

The contract amount for the NetFile system is \$2,900 per year for up to five years, for a total of \$14,500 through FY 2025/26. A budget amendment to cover this cost for FY 2021/22 will be included in the mid-year budget workshop on March 9, 2022. The FPPC requires a fee of \$1,000 to register as an electronic filing agency, however NetFile has agreed to pay this cost on behalf of the City.

GREENHOUSE GAS EMISSIONS IMPACT:

There is no direct greenhouse gas emissions impact with the proposed changes to the City’s municipal code.

CONSISTENCY:

This ordinance is consistent with California Government Code Section 84615.

IMPLEMENTATION/TIMEFRAMES:

If the ordinance is introduced on February 28, 2022 and adopted at a regular meeting of the City Council on March 14, 2022, the ordinance will go into effect April 13, 2022.

ATTACHMENTS:

1. Proposed Ordinance 977-2022
2. Government Code 84615

NOTIFICATION:

None.