



California Political Attorneys Association

c/o OLSON REMCHO LLP
555 Capitol Mall, Suite 400
Sacramento, CA 95814
Telephone: (916) 442-2952
eandrews@olsonremcho.com

September 12, 2023

VIA ELECTRONIC MAIL: chackert@fppc.ca.gov

Chair Miadich and Commissioners Baker, Wilson & Wood
California Fair Political Practices Commission
ATTN: Chloe Hackert
1102 Q Street, Suite 3000
Sacramento, CA 95811

Re: Request for Delayed Implementation of Regulation 18410

Dear Chair Miadich and Commissioners:

The California Political Attorneys Association (CPAA) writes to offer comments related to the proposed updates to the Form 410 Statement of Organization. On August 10, 2023, the FPPC noticed draft amendments to Form 410 to now be considered by the Commission at its October meeting. The proposed updates include a requirement for committees to include the names of those persons authorized, other than the treasurer, to obtain committee bank records, in compliance with amendments to FPPC Regulation 18410 adopted in 2022. By way of this letter, we respectfully request the Commission further delay implementation of the amendments made to Regulation 18410 until the Political Reform Act can be amended to align more clearly with modern privacy standards.

Regulation 18410 was amended by the FPPC at its October 20, 2022 Commission Meeting to require inclusion of the names of individuals authorized to obtain bank records on the Form 410, with a delayed implementation date of January 1, 2024. At the time this regulatory amendment was first proposed in 2022, CPAA opposed adoption because of a concern that providing the combination of bank account numbers and signer information on a single form without appropriate fiscal control safeguards creates a significant risk for fraud. Both the Secretary of State and many local jurisdictions often distribute requested 410 copies without any redaction of this information whatsoever. Without strict, standardized fiscal controls to protect the data, CPAA remains concerned about the significant risk for fraud.

In response to the concerns raised by CPAA, the FPPC approved a delayed implementation date of January 1, 2024 for amendments to Regulation 18410 to allow time for the Legislature to pass statutory reforms to implement safeguards in the Political Reform Act to protect the sensitive financial information provided to filing officers on the Form 410. To achieve this, Senate Bill 888 ("SB 888") was introduced during the 2023-2024 legislative

session. Supported by the FPPC, SB 888 would have provided a statutory requirement to redact information on the Form 410 to reduce the risk of fraud. This bill was held in the Appropriations Committee in May 2023 and is not moving forward this year.

While CPAA is extremely appreciative of the FPPC's support of SB 888, failure of this bill to advance means that the same fraud concerns we raised in 2022 in response to the adoption of the amendments to Regulation 18410 will remain if the Regulation goes into effect in January. As noted by the Association for Financial Professional's (AFP) 2023 Payments Fraud and Control Survey Report, 65 percent of organizations were victims of payments fraud attacks or attempts in 2022. Instances of fraud via ACH credits and virtual cards increased by 6 percentage points each from prior years. For a nefarious actor to commit ACH fraud, they need a bank account and a routing number. Any additional information the potential fraudster can obtain, such as authorized signer information, only helps to make commission of the fraud easier. Committees are already required to provide bank account numbers on the Form 410 without appropriate protections in the law to require redaction. Routing numbers for all banks can be found online via a quick Google search. Adding additional, valuable information to the 410 before safeguards are put in place further jeopardizes the safety of funds located in campaign bank accounts.

Until the Legislature is able to pass appropriate legislation to protect sensitive financial data on the Form 410 and reduce the risk of fraud, we request that the FPPC further delay implementation of the amendments to Regulation 18410.

We appreciated the FPPC's willingness to discuss and listen to our concerns in 2022 and appreciate the Commission's consideration of further delayed implementation of Regulation 18410 to continue to work through the legislative process to find a statutory solution to the fraud risks posed by disclosure of the information required by the amendments to Regulation 18410.

Respectfully submitted,



Emily Andrews
Olson Remcho LLP
Member, CPAA Board of Directors



KC Jenkins
Bell, McAndrews & Hiltachk, LLP
Chair, Regulatory Committee, CPAA