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## OFFICE OF THE CITY CLERK

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# REPORT

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### REPORT TO THE BUDGET & GOVERNMENT EFFICIENCY COMMITTEE

**DATE:** Written June 29, 2015 for the Budget & Government Efficiency Committee  
Meeting of July 15, 2015

**REPORT#:** 15-05

**SUBJECT:** Proposed Update to Lobbying Fees & Process Improvements

#### **BACKGROUND**

On July 31, 2007, the Council adopted ordinance O-19656 which revised San Diego Municipal Code §27.4010 to remove the current listing of lobbyist registration fees from the Municipal Code and to require that the approved fee schedule be filed in the City Official Rate Book. San Diego Municipal Code §27.4010 further provides that the City Clerk shall from time to time recommend fee amounts to the City Council that reflect, but do not exceed, the City's costs of administering the lobbyist filing requirements.

On November 8, 2007, Council approved Resolution R-303107 which established fees as follows, beginning January 1, 2008:

Annual Lobbyist Registration:	\$40.00
Pro-rated Registration after October 1:	\$20.00
Annual Client Registration:	\$15.00
Pro-rated Client Registration after October 1:	\$10.00

## **IMPACTS TO REVIEW SCHEDULE**

Given the January 1, 2008 roll-out of the fee schedule, the initial goal was to allow for three years of data in order to fairly and comprehensively assess the impacts associated with implementing the ordinance. The initial plan was to bring potential fee updates forward to the Council in 2011.

However, in 2011 my department began outreach efforts to interested parties in anticipation of initiating on-line filing for lobbyists. By 2012, the Office of the City Clerk was heavily involved in beta testing, training and fine-tuning the on-line system with the City's vendor and customers. Paperless filing of Campaign Disclosures and Lobbying was fully implemented January 1, 2013.

Thus, in an attempt to allow for two full years of electronic filing to fully assess the costs and impacts associated with this change, the time is finally ripe for a thorough review of the lobbying on-line system and the fees established in 2008.

## **BENCHMARKING**

To begin the Clerk's review of lobbyist fees, staff benchmarked 27 other government entities within California which regulate lobbyist registration. Table 1, below, ranks the 20 cities included in the study in descending order by fee charged per lobbyist, which ranges from \$500 to \$0. Where applicable, the table also reflects fees per client, pro-rated fees for lobbyists and clients registered for a partial year, renewal (re-registration) fees, and registration amendment fees. Finally, the size of each city included in the study is indicated in the right-most column, which provides rank by total population among 482 California cities.

As shown, with an annual fee per lobbyist of \$40, San Diego ranks 12<sup>th</sup> among the 16 cities which impose an annual lobbyist registration fee. Among the eight (8) cities which charge an annual fee per client, San Diego is tied with Oceanside and Richmond for the lowest fee (\$15).

For purposes of comparison, Table 2 provides additional information from eight (8) non-city entities which regulate lobbyist registration, again in descending order by lobbyist registration fee. If included as a ninth entity in this table, San Diego would rank seventh, with the lowest registration fee among those which impose such fees.

TABLE 1: CALIFORNIA CITIES WITH LOBBYING ORDINANCES

March, 2015

	Lobbyist Annual Fee	Renewal Fee	Pro- Rated Fee?	Client Fee	Pro- Rated Fee?	Fee to Amend?	City Rank by Pop.*
San Francisco	\$500	--	--	--	--	--	4
Irvine	\$487	--	\$229 (7/1)	\$69	--	--	15
Los Angeles	\$450	--	\$337 (10/1)	\$75	\$56 (10/1)	--	1
San Jose	\$350	--	--	\$60	--	--	3
Oceanside	\$150	--	--	\$15	--	--	27
Santa Clarita	\$120	--	--	--	--	\$25	18
Sacramento	\$100	--	--	\$25	--	--	6
Long Beach	\$100	--	--	\$25	--	--	7
Carson	\$100	\$50	--	--	--	\$10	78
Santa Rosa	\$94	--	--	--	--	\$30	28
Malibu	\$45	--	--	--	--	--	346
<b>San Diego</b>	<b>\$40</b>	--	<b>\$20 (10/1)</b>	<b>\$15</b>	<b>\$10 (10/1)</b>	--	<b>2</b>
Richmond	\$35	--	--	\$15	--	--	64
Cathedral City	\$25	--	--	--	--	--	168
Fresno	\$25	--	--	--	--	--	5
West Hollywood	\$10	--	--	--	--	--	221
Lancaster	--	--	--	--	--	--	31
Milpitas	--	--	--	--	--	--	120
Oakland	--	--	--	--	--	--	8
San Luis Obispo	--	--	--	--	--	--	187

\*based on California Dept. of Finance Demographic Research Unit city population data for January 2014

TABLE 2: OTHER CALIFORNIA ENTITIES WITH LOBBYIST REGISTRATION REGULATIONS

March, 2015

	Lobbyist Annual Fee	Renewal Fee	Pro-Rated Fee?	Client Fee	Pro- Rated Fee?	Fee to Amend?
Los Angeles Co.	\$450/lobbyist; \$75/employer	--	\$337/lob; \$56/emp ( 10/1)	--	--	--
LA USD	\$200 (org.) + \$100/lobbyist	--	--	\$150	--	--
Santa Clara Co.	\$180	--	\$90 (6/30)	--	--	--
LA MTA	\$40/lobbyist; \$75/employer	\$25/lob; \$50/emp	\$45/lob; \$85/emp (1/16)	--	--	--
Orange Co.	\$75	\$50	--	--	--	--
State of California	\$50	--	--	--	--	--
San Diego Co.	--	--	--	--	--	--
San Diego RAA	--	--	--	--	--	--

## **CITY OF SAN DIEGO FEE UPDATE PROCESS**

User fees, or charges for services, are an important component of government revenues. State and local governments use charges and fees to fund the provision of goods and services for a specific benefit, or government service conferred, directly to the payor or recipient of that specific benefit. These charges and fees are not required of those who do not receive the specific benefit or service, and they shall not exceed the reasonable cost of providing the service or product.

The City of San Diego performs a comprehensive user fee study or cost of service study (COSS) in order to determine appropriate fees for any particular service. The COSS assumes full cost recovery of city services. City Council can decide to collect less than the full cost for a service in certain instances, but never more than the full cost. Examples of partial collection of fees are those that the Council has decided should be subsidized as in recreation or senior services charges, or those that are not cost effective to collect.

On November 2, 2010, California voters approved Proposition 26, a ballot initiative that limits the ability of local government agencies to impose certain fees and charges. This resulted in many local government fees being considered a "tax" and thereby requiring a two-thirds approval by the voters with a few exceptions. Per a City Attorney's Opinion letter dated March 4, 2011, a user fee, or charge for service, is exempt from Proposition 26 if it relates to a charge for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and the fee does not exceed reasonable costs by the City in conferring this benefit or privilege.

## **COSS ANALYSIS**

In an attempt to be as scientific as possible in capturing the costs associated with carrying out the powers and duties of the City Clerk as outlined in the City's Municipal Lobbying Ordinance, a multi-faceted approach was taken.

City Clerk staff involved in administering and overseeing specific duties associated with Lobbyist registration were identified by classification. The specific duties as outlined in the Municipal Lobbying Ordinance were catalogued, broken out by position, and time spent was determined using hours captured through time card entries and an analysis that used all job duties by position as a contextual backdrop.

In order to ensure that registered lobbyists were not overcharged, or that the fee was not inflated based on a single year's potential anomaly, multiple year data was used where appropriate, and the following assumptions were made:

1. No cost associated with the on-line filing system was added to the analysis since the system provides on-line disclosure abilities in the subject areas of Campaign Finance, Statements of Economic Interests and Lobbyist Registration. The

Lobbyist component of the system was initially provided by the vendor at no charge. The ongoing cost of the lobbyist module (with additional programmatic enhancements discussed later in this report) will be assessed and considered for the next update, when data will be more accurately available over a period of time.

2. Where there is anticipated cost savings due to programmatic changes that are expected to be implemented January 1, 2016, in conjunction with the fee updates, that savings was proactively incorporated into the proposed fees before you. Thus, as an example, currently there is staff time involved in hand-processing fees in the form of checks. It is anticipated that upon implementation of electronic payment on January 1, 2016, those costs will significantly diminish – if not disappear entirely. Thus, those labor costs have been proactively removed from the proposed fees, with the caveat that, should the anticipated savings not materialize, a future update will capture any variation from the anticipated savings presented here.

A separate analysis was performed for the two types of fees that are identified in the Municipal Lobbying Ordinance: Firms/Organizations v. Clients. The number of hours spent by classification was entered into a spreadsheet provided by Financial Management so that direct and indirect costs could be calculated (see Attachment A). Once this cost of service was established, the average number of Firms/Organizations and the average number of Clients registered from 2008 through 2014 was applied to the cost of the program to get an individual cost (see Attachment B for all Calculation Assumptions).

Current Pro-rated fees (those fees charged after October 1<sup>st</sup> of any given year) are 40% of the posted fees for January 1<sup>st</sup> of any given year (the lobbyist program is based on a calendar year, not fiscal year). Thus, updated pro-rated fees were calculated using this same proportional relationship, which is based on the work done at the time of registration and then for each of the four quarterly reports due throughout the year.

Based on the Cost of Service Study and a conservative approach outlined above to ensure that any proposed cost could not possibly exceed the cost of service, the proposed update to Lobbyist Fees, effective January 1, 2016 is as follows:

Annual Lobbyist Registration:	\$150.00
Pro-rated Registration after October 1:	\$ 60.00
Annual Client Registration:	\$ 30.00
Pro-rated Client Registration after October 1:	\$ 12.00

## **PROCESS IMPROVEMENTS**

It is the goal of this office to implement two major enhancements to the Electronic Filing System (ELF) as it relates to lobbyists by January 1, 2016: parsing of lobbyist data and online payments for lobbyist registration.

### *Parsing Data*

Staff is working closely with our vendor regarding expectations for the parsing enhancement. The system will be upgraded to allow for date range searches. Testing of this function began in April. Issues were identified and modifications requested in June 2015. Once fully implemented, this parsing function will allow customers to search the system and sort results based on categories like "municipal decision," "client" and "lobbyist."

### *On-line Payment*

The San Diego Municipal Code (§27.4010, *Registration Fees*) requires lobbyist payment at the time of registration. Currently, staff manually tracks all lobbyist registration payments. Implementing online payments will benefit both the lobbyists and the City. When registered lobbyists were apprised of the upcoming review of fees and the Clerk's process, they were asked for feedback. Of the 16 lobbyists who responded, 11 suggested electronic payments for registration as a desired enhancement.

The first step in making electronic payment possible requires upgrades to the electronic registration by the current vendor, so that the system can be linked with an electronic payment program. In addition, on the City side, coordination with the City Treasurer's Office is necessary. Discussions are already underway and several of the first hurdles have been cleared.

Once electronic payment is implemented, lobbyists will have two choices for paying their registration:

- ACH (Check routing number)
- Credit/Debit card

The cost for online payments will be passed on to the lobbyist through a convenience fee. The convenience fee is collected by the bank and the registration fees collected will be transferred into the General Fund.

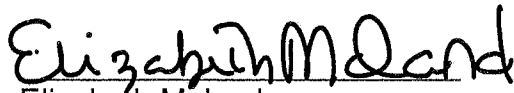
In order to achieve the cost savings incorporated into the COSS, once electronic payment is implemented, it will be the only method by which lobbyists may submit their registration fees. The goal is to have online payments ready for testing by the end of September 2015 with a roll-out to coincide with the fee update to take effect January 1, 2016.

## CONCLUSION

The time is ripe for a review and update of the lobbying fees in the City of San Diego. Careful consideration of benchmarking data, as well as input from interested parties were combined with the fee update process established for the City of San Diego by Financial Management and the City Attorney to propose updated fees which will take effect January 1, 2016:

Annual Lobbyist Registration:	\$150.00
Pro-rated Registration after October 1:	\$ 60.00
Annual Client Registration:	\$ 30.00
Pro-rated Client Registration after October 1:	\$ 12.00

System upgrades will also be implemented to coincide with this roll-out date to better serve the City's filers and customers wishing to access the on-line data.



Elizabeth Maland  
City Clerk

## Attachment A



## User Fee Cost Recovery Calculations

**Department:** City Clerk      **Fee Title:** Lobbyist Registration/Disclosure  
**Contact:** Denise Jenkins      **Legal Authority:** SDMC Article 7, Division 40  
**Date:** 2/3/2015      **Fee Description:** Lobbyist registration for Organizations and Firms.

**Load Rate:** 21.9%  
**Overhead Rate:** 13.7%

PE Costs		A	B	C	D	E	F	G	H	I	J
Job Class	Job Code	Direct Cost						Indirect Cost			Total Cost (Direct Cost + Labor Load + Overhead + Fringe Load)
		Hourly Salary Rate	Annual Labor Hours for Program	Labor Cost (Hourly Rate x Hours)	Estimated Hourly Fringe	Fringe Cost (Estimated Hourly Fringe x Hours)	Direct Cost (Labor Cost + Fringe)	Labor Load (Labor Cost x Labor Load)	Dept/City Overhead (Labor Cost + Labor Load) x Department/City Overhead)	Fringe Load (Fringe x Labor Load)	
				(A x B)		(D x B)	(C + E)	(C x load rate %)	((C + G) x OH %)	(E x load rate %)	(F + G + H + I)
Filing Coordinator	1879	\$ 20.69	454.00	\$ 9,393.26	\$ 19.62	\$ 8,907.48	\$ 18,300.74	\$ 2,057.12	\$ 1,568.70	\$ 1,950.74	\$ 23,877.30
Elections Analyst	1218	\$ 30.04	151.00	\$ 4,536.04	\$ 23.89	\$ 3,607.39	\$ 8,143.43	\$ 993.39	\$ 757.53	\$ 790.02	\$ 10,684.37
Deputy Director		\$ 58.30	10.00	\$ 583.00	\$ 20.73	\$ 207.30	\$ 790.30	\$ 127.68	\$ 97.36	\$ 45.40	\$ 1,060.74
City Clerk		\$ 66.35	5.00	\$ 331.75	\$ 39.03	\$ 195.15	\$ 526.90	\$ 72.65	\$ 55.40	\$ 42.74	\$ 697.69
				\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
			620.00	\$ 14,844.05	\$ 103.27	\$ 12,917.32	\$ 27,761.37	\$ 3,250.85	\$ 2,479.00	\$ 2,828.89	\$ 36,320.11
NPE											
											\$ 36,320.11

Notes:

**Fee Title:** Lobbyist Registration/Disclosure  
**Legal Authority:** SDMC Article 7, Division 40  
**Fee Description:** Lobbyist registration for Clients

PE Costs		A	B	C	D	E	F	G	H	I	J
Job Class	Job Code	Direct Cost						Indirect Cost			Total Cost (Direct Cost + Labor Load + Overhead + Fringe Load)
		Hourly Salary Rate	Annual Labor Hours for Program	Labor Cost (Hourly Rate x Hours)	Estimated Hourly Fringe	Fringe Cost (Estimated Hourly Fringe x Hours)	Direct Cost (Labor Cost + Fringe)	Labor Load (Labor Cost x Labor Load)	Dept/City Overhead (Labor Cost + Labor Load) x Department/City Overhead	Fringe Load (Fringe x Labor Load)	
				(A x B)		(D x B)	(C + E)	(C x load rate %)	((C + G) x OH %)	(E x load rate %)	(F + G + H + I)
Filing Coordinator	1879	\$ 20.69	170.00	\$ 3,517.30	\$ 19.62	\$ 3,335.40	\$ 6,852.70	\$ 770.29	\$ 587.40	\$ 730.45	\$ 8,940.84
Elections Analyst	1218	\$ 30.04	57.00	\$ 1,712.28	\$ 23.89	\$ 1,361.73	\$ 3,074.01	\$ 374.99	\$ 285.96	\$ 298.22	\$ 4,033.17
				\$ -	\$ 20.73	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
			227.00	\$ 5,229.58	\$ 64.24	\$ 4,697.13	\$ 9,926.71	\$ 1,145.28	\$ 873.36	\$ 1,028.67	\$ 12,974.02
<b>NPE</b>											
											\$ 12,974.02

**Notes:**

## Attachment B

## Calculation Assumptions

### Time & Duties by position

#### Filing Coordinator

Big Picture: 1/10 Admin. (time card, meetings, other duties as assigned)  
1/10 Ambassador, Front Counter Phone Coverage, etc.  
2/10 Campaign Finance Disclosure  
3/10 SEI  
**3/10 Lobbyist** (this would translate into roughly 12.5 hrs/week assuming a 50 wk year)

Lobbyist Duties: Set up new lobbyists with account for on-line filing (MC §27.4045)  
  
Track registered lobbyist amendments, payments, changes to information in the system (MC §27.4010 & §27.4012)  
  
Notify lobbyists of upcoming quarterly deadlines (MC §27.4040)  
  
Track quarterly filings (MC §27.4040)  
  
Assist filers with issues related to on-line filing (MC §27.4045)

#### Election Analyst

Big Picture: 1/10 Admin. (time card, meetings – not captured under supervision)  
1/10 Supervision  
2/10 (3/5) Special Projects  
3/10 Elections (includes petitions)  
1/10 Campaign Finance Disclosure  
1/10 SEI  
**1/10 Lobbyist** (this would translate into roughly 4 hrs/week assuming a 50 week year)

Lobbyist Duties: Review registration/follow-up with amendments (MC §27.4009 & §27.4041)  
  
Notify lobbyists of upcoming quarterly deadlines (MC §27.4040)  
  
Review filing to make sure clients are properly identified (MC §27.4017 & §27.4041)  
  
Follow-up with deficiencies (MC §27.4018)  
  
Follow-up with non-filers (MC §27.4040)

Prepare quarterly summaries for Mayor & Council (MC §27.4040)

Discuss referral of non-filers with Deputy Director & City Clerk (MC §27.4040)

### **Deputy Director**

Big Picture: **10 hours/year Lobbyist Duties**

Specific Duties: Discuss non-filing referrals for recommendation to City Clerk for action (MC §27.4040)

Review quarterly lobbyist activity summaries for Mayor & Council prior to City Clerk signature (MC §27.4040)

Assist filers with issues related to on-line filing (MC §27.4045)

### **City Clerk**

Big Picture: **5 hours/year Lobbyist Duties**

Specific Duties: Discuss non-filing referrals and determine next steps (MC §27.4040)

Review and sign-off on quarterly lobbyist activity summaries for Mayor & Council (MC §27.4040)

### Lobbyist Registration Stats

Calendar Year	Number of Firm Lobbyists	Number of Registered Clients	Number of Registered Orgs
2008	269	622	53
2009	197	488	48
2010	178	430	49
2011	177	389	56
2012	152	343	54
2013	166	339	58
2014	183	381	55
2015 (as of 5/5/15)	159	300	46

2008-2014 average (mean)                       $1,322/7 = 189$                        $2,992/7 = 428$                        $73/7=54$

2008-2014 average:

Clients:                      428

Firm Lobbyists/Orgs:     $(189 + 54) = 243$

Annual cost of administering Lobbyist Registration/Disclosure for identified clients = \$12,974

Divided by the average number of clients for 2008 through 2014 (428) = **\$30/client**

Annual cost of administering Lobbyist Registration/Disclosure for identified firm lobbyists & orgs = \$36,320

Divided by the average number of firm lobbyists/orgs for 2008 through 2014 (243) = **\$150/firm lobbyist/org**

Pro-Rated Fees (After October 1):

40% of the registration cost since original fee is based on registration plus four quarterly reports and registration after Oct 1<sup>st</sup> would include registration plus one quarterly report):

Client = \$12

Firm Lobbyist/Org = \$60