Item 7 - Staff Memo

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Public Ethics Commission | **CITY OF OAKLAND**

TO: Public Ethics Commission
FROM: Suzanne Doran, Acting Executive Director
Ana Lara-Franco, Commission Analyst
DATE: March 30, 2023
RE: Proposed Lobbyist Registration and Late Filing Fees

The Public Ethics Commission (PEC or Commission) ensures compliance with the City of Oakland's lobbyist registration laws and acts as filing officer for lobbyist disclosure. During the budget development process, City departments may propose fees to recover the reasonable costs of their direct services. This memorandum provides a comparison of fees charged by lobbyist registration programs in other cities and recommends that the Commission authorize staff to request City Council add comparable fees to the Master Fee Schedule, effective January 2024.

Background

The Oakland Lobbyist Registration Act (LRA) requires any person that qualifies as a lobbyist to register annually with the Public Ethics Commission before conducting any lobbying activity. The LRA also requires that lobbyists submit quarterly reports disclosing their lobbying activities to ensure that the public knows who is trying to influence City decisions.

Under Oakland's law, a person qualifies as a local government lobbyist in Oakland if:

- They are paid $1,000 or more in a calendar month to communicate with City officials to influence any proposed or pending governmental, legislative, or administrative action; or
- Their duties as an employee, officer, or director of an organization or business entity include communicating (directly or through an agent) with City officials or employees to influence any proposed or pending governmental, legislative, or administrative action.

In 2018, the Commission became filing officer for lobbyist disclosure, and all Oakland lobbyist forms and reports must be filed with the PEC. Examples of filing officer activities include processing registrations, maintaining records of lobbyists and their clients, noticing registration and filing deadlines, providing advice and technical assistance, reviewing filings for completeness, engaging with non-filers to gain compliance, and maintaining of the PEC's online filing system. In 2022, 75 lobbyists registered with the City of Oakland and filed over 350 disclosure forms and reports. Over 18 percent of requests to staff for advice and technical assistance came from lobbyists. At present, the City of Oakland does not charge lobbyists a registration fee or fees for late filings.

Lobbyist Registration Fees

A staff survey of California cities and counties that require lobbyist registration found that most (over 70 percent) charge a registration fee. For example, Anaheim, Berkeley, Long Beach, Los Angeles, Sacramento, San Diego, San Francisco, and San Jose all charge lobbyist registration fees that range from $100 to $500. Long Beach, Los Angeles, Sacramento, San Diego, and San Jose also charge a fee for each additional client a lobbyist takes on.

Late Policies

California cities charging fees for late registration include Anaheim, Berkeley, Long Beach, Los Angeles, Sacramento, San Diego, San Francisco, and San Jose. The City of Oakland charges other individuals required to file disclosure reports late fees for missed deadlines. Campaign filers, for example, pay a late fee of $10 per day after the filing deadline until the statement is filed. Similarly, Form 700 filers are also subject to a late fee of $10 per day after the filing deadline until the statement is filed.

Waiver Policies

Almost half of the jurisdictions with registration fees included waiver policies for certain non-profit organizations engaging in lobbying activity. The most common waiver is for lobbyists that are employees or representatives of a 501(c)(3) nonprofit organization. Los Angeles narrows the exemption to 501(c)(3) organizations that receive government funding to provide direct services to people experiencing poverty or homelessness. Long Beach and San Jose also exempt neighborhood associations and project area committees from fees. The table below summarizes lobbyist fee policies in surveyed cities.

City	Annual Fee	Per Client Fee	Waiver Policy	Late Penalty	Maximum Penalty
Anaheim	$100.00	N/A	FALSE	$50 per day	N/A
Berkeley	$500.00	N/A	TRUE	3-month disbarment	N/A
Long Beach	$129.00	$31.00	TRUE	$25 per day	$500
Los Angeles	$450.00	$75.00	TRUE	$25 per day	$500
Sacramento	$100.00	$25.00	FALSE	$25 per day	$500
San Diego	$191.94	$40.23	FALSE	Misdemeanor	N/A
San Francisco	$500.00	N/A	TRUE	$50 per day	$500
San Jose	$223.55	$74.41	TRUE	5% of unpaid fee	100% of unpaid fee

Conclusion

City agencies are allowed to impose fees for the reasonable regulatory costs to the City for issuing licenses and permits; performing investigations, inspections, and audits; and administrative enforcement as well as monetary charges because of a violation of law. Given the substantial staff resources associated with administering the lobbyist registration program, staff recommends that the Commission authorize staff to request City Council include the following fees in the Master Fee Schedule to take effect January 2024:

1. An annual lobbyist registration fee of $500.
2. A late filing fee of $10 per day after the filing deadline until the form is filed for lobbyist registration and lobbyist reports.

The proposed fees are reasonable and comparable to fees charged by cities with lobbyist disclosure programs as well as late fees charged to other regulated groups.

Staff also recommends that the Commission develop a registration fee waiver policy for lobbyists that are employees or representatives of 501(c)(3) nonprofit organizations and/or community-based organizations that can demonstrate hardship, prior to fee implementation.