



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

To: Chair Germond, Commissioners Cardenas, Hatch, and Hayward
From: Phillip Ung, Director, Legislative and External Affairs
Subject: Legislative Update, August 2018
Date: August 6, 2018

Staff is currently tracking eight active bills, seven of which amend the Political Reform Act. At the July meeting, the Commission adopted a position on one bill. The Legislature returns from summer recess on August 6. The legislative session ends on August 31. Staff plans to update this legislative report on August 14 to reflect bill status and location changes that will occur between the Commission's open meeting notice and the Commission meeting.

Legislation currently being tracked by Commission staff and other related documents can be found on the [Commission's Pending Legislation](#) page.

Bills with Active Positions (#1-4)

1. [AB 2155](#) (Mullin): Campaign disclosure

FPPC Position: *Support*

Sponsor: California Clean Money Campaign

Status: Senate Appropriations Committee

Fiscal Estimate: No costs to the Commission

Last Amended: June 13, 2018

Last Action: Approved by Senate Elections Committee and referred to Senate Appropriations Committee

Summary:

The Act requires advertisements, as defined, to disclose, among other things, the advertisement's funding source, including independent expenditures, and the names of the top contributors to the committee paying for the advertisement. The Act further requires that an advertisement supporting or opposing a candidate that is paid for by an independent expenditure include a statement that it was not authorized by a candidate or a committee controlled by a candidate. The Act further permits the Commission to adopt, amend, or rescind rules and regulations to carry out the purposes of the title.

This bill would exempt two additional types of communications from the Act's definition of advertisement. This bill would limit the Commission's regulatory authority for determining what types of communications are not advertisements. The bill prohibits the Commission from adopting regulations to change or insert quantity thresholds, as specified. The bill makes various formatting amendments required for television, video, print, and electronic media advertisements

paid for by a committee not controlled by a political party or is not a candidate controlled committee established for an elective office of the controlling candidate.

2. **[AB 2689](#) (Gray): Gift and contribution prohibition; Governor’s appointments**

FPPC Position: *Support*

Status: Senate Appropriations Committee

Last Amended: April 17, 2018

Fiscal Estimate: Minor and absorbable

Last Action: Approved by Senate Elections Committee and referred to Senate Appropriations Committee

Summary:

The Political Reform Act establishes limits on gifts that a person or group can give to a candidate or state elective officer and limits how much a candidate or state elective officer can accept in a calendar year. The Act also establishes limits on contributions that a person or group can contribute to a candidate for state elective office and limits how much a candidate for state elective office can accept per election.

This bill would prohibit a person appointed by the Governor to an office subject to Senate or Assembly confirmation from making to a Senator or Assembly Member or a controlled committee of the Senator or Assembly Member, a gift or contribution during the period between the appointment or reappointment by the Governor and confirmation by the Senate. The bill would also apply this prohibition to candidates for the Senate or Assembly, as specified.

Staff Comments:

The Law and Policy Committee, consisting of Commissioner Hatch, convened a conference call on Friday, July 13. Commissioner Hatch voted to recommend a “support” position to the Commission.

3. **[AB 2880](#) (Harper): Political Reform Act; local enforcement**

FPPC Position: *Support*

Sponsor: California Common Cause

Status: Senate Appropriations Committee

Last Amended: June 12, 2018

Fiscal Estimate: Costs to the FPPC in the tens of thousands for each individual jurisdiction, reimbursed by the jurisdictions. Minor and absorbable costs to the FPPC to make the required report.

Last Action: Approved by Senate Elections Committee and referred to Senate Appropriations Committee

Summary:

Existing law authorizes the Fair Political Practices Commission, upon mutual agreement between the Commission and the Board of Supervisors of the County of San Bernardino, to have primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance reform ordinance of the County of San Bernardino, as specified. Existing

law also authorizes the Fair Political Practices Commission to enter such agreements with the City Council of the City of Stockton and the City Council of the City of Sacramento, respectively.

This bill would repeal those provisions and would instead generally authorize the governing body of a local government agency to contract with the Commission for the administration, implementation, and enforcement of a local campaign finance or government ethics law. The authorization is limited to jurisdictions with a population of less than 3,000,000. This bill would also clarify that any agreement with one of the cities enumerated above that was in effect on December 31, 2018, is deemed to comply with this provision. The authorization will sunset January 1, 2026. The Commission would be required to produce a report to the Legislature regarding the performance of any agreements on or before January 1, 2025.

4. [SB 1239](#) (Hertzberg): Campaign disclosure: online filing system

FPPC Position: *Support*

Sponsor: Secretary of State Alex Padilla

Status: Assembly Appropriations Committee

Fiscal Estimate: No costs to the Commission, potential minor cost savings.

Last Amended: July 3, 2018

Last Action: Approved by Assembly Elections Committee with Committee amendments; referred to Assembly Appropriations Committee

Summary:

The Political Reform Act of 1974 generally requires elected officials, candidates for elective office, and committees formed primarily to support or oppose a candidate for public office or a ballot measure, along with other entities, to file periodic campaign statements and certain reports concerning campaign finances and related matters. The act generally provides for the filing of campaign statements and reports by various means, including personal delivery, guaranteed overnight delivery, facsimile transmission, and online transmission. The act requires the Secretary of State, in consultation with the Fair Political Practices Commission, to develop online and electronic filing processes for persons and entities that are required to file statements and reports with the Secretary of State's office. The act requires certain persons and entities to file online or electronically with the Secretary of State if their political contributions, expenditures, or loans reach specified monetary thresholds. The Act requires each committee that is required to file a statement of organization to pay the Secretary of State a fee of \$50 by January 15 of each year until the committee is terminated. The Act subjects a committee that fails to pay the fee on time to a penalty equal to three times the amount of the fee.

This bill would generally recast certain provisions governing the processing of campaign reports and statements to provide for the filing, verification, delivery, amendment, retention, and inspection of those documents online or electronically, as prescribed. The bill would repeal the above-mentioned monetary thresholds, thereby making the online and electronic filing requirements applicable to all specified filers. The bill would also repeal various obsolete or extraneous provisions of the act, and would make conforming and other technical, nonsubstantive changes. The bill would change the deadline for payment of the annual fee to April 30 of each year. The bill also makes other technical, non-substantive changes.

Active Political Reform Bills (#5-7)

5. AB 84 (Mullin): Political party committee disclosures

FPPC Position: *No Position*

Status: Senate Floor – Second Reading

Fiscal Estimate: Minor and absorbable

Urgency Clause: Yes

Last Amended: July 5, 2018

Last Action: From inactive file; amended and ordered to second reading

Summary:

Existing law requires the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. The act requires elected officers, candidates, and committees to file various reports, including semiannual reports, pre-election statements, and supplemental pre-election statements.

This bill would additionally require political party committees that receive or contribute \$50,000 or more in the year before a regularly scheduled statewide primary or general election to file monthly statements in the subsequent year. The bill would waive this requirement for months in which specified reports under existing law are also filed.

Existing law defines “political party committee” as the state central committee or county central committee of an organization that meets the requirements for recognition as a political party, as specified.

This bill would add to this definition committees created by a legislative caucus of a political party of each house of the Legislature. The bill would provide for the leadership of a legislative caucus committee, as specified. The bill would also provide that a legislative caucus committee is not a controlled committee for purposes of the Act, and would regulate the use of bank accounts and funds received by a legislative caucus committee, as specified. The bill provides that a campaign contribution to a legislative caucus committee is not a campaign contribution to the person who directs the committee or of any other candidate.

This bill contains an urgency clause. The bill also delays the operative date by 14-days after the effective date.

Staff Comments:

AB 84 was entirely amended on July 5 with new language. The bill is expected to be heard in policy committee when the Legislature returns from summer recess.

Historically, legislative caucus committees have been required to identify the caucus as controlling the committee. (Regulation 18430(c).) We have also advised that if a candidate controls the legislative caucus committee, the contributions to the caucus are contributions to the candidate, which would be subject to the candidate’s contribution limit and potentially violate the one-bank account rule. (See *Murray* Advice Letter, No. A-97-142, *Bergeson* Advice Letter, No. I-92-093, and *Purcell* Advice Letter, No. A-89-049.) A legislative caucus committee not

controlled by a candidate, but supporting or opposing a state candidate, would be subject to the \$7,300 contribution limit of Section 85303(b).

The proposed changes regarding legislative caucus committees will affect the Act's overall contribution limit scheme. The recharacterization of a legislative caucus committee as a type of political party committee "directed" by an elected official or candidate, and not "controlled" by that official or candidate would allow the new legislative caucuses to accept up to \$36,500 per source, per calendar year for the purpose of supporting state candidates. There would be no limits to how much a state candidates could receive from a legislative caucus committee.

Under current law, political party committees are required to file up to six comprehensive campaign finance reports in an election year. The proposed law would require political party committees to file 12 comprehensive campaign finance reports if the \$50,000 contribution or expenditure threshold is triggered.

6. [AB 664](#) (Steinorth): Campaign fund expenditures; fair market value

FPPC Position: *No Position*

Status: Senate Floor – Third Reading

Fiscal Estimate: Minor and absorbable

Last Amended: June 12, 2018

Last Action: Referred to Senate Floor from Senate Appropriations Committee

Summary:

Existing law prohibits the spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation from campaign funds controlled by the elected officer or candidate.

Under the *Harden* (A-90-498) and *Tierney* (A-04-094) Advice Letters, the Commission staff has advised that the compensation from campaign funds must be fair market value or a gift may result, so long as the duties performed by a non-spouse relative are directly related to a political, legislative, or governmental purpose.

This bill would prohibit compensation above fair market value to a parent, grandparent, sibling, child, or grandchild of an elected officer or a candidate or elective office from a controlled committee of the elected officer or candidate for elective office. The bill would additionally prohibit compensation above fair market value to any business owned or controlled by any above named relatives. The bill further states that nothing in the bill authorizes a controlled committee to pay campaign funds in excess of fair market value in exchange for goods, services, facilities, or anything of value, to any person or vendor.

7. **AB 2188 (Mullin): Campaign disclosure**

FPPC Position: *No Position*

Sponsor: California Clean Money Campaign

Status: Senate Appropriations Committee

Fiscal Estimate: \$192,800 first year, \$183,000 ongoing

Last Amended: May 9, 2018

Last Action: Approved by Senate Elections Committee and referred to Senate Appropriations Committee

Summary:

Among other things, the Act requires an electronic media advertisement, other than an Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, to include the text “Who funded this ad?” and a hyperlink to an Internet Web site containing specified disclosures. However, the act requires that an advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, only include specified disclosures in a contrasting color and in no less than 8 point font on the committee’s profile, landing page, or similar location, and not on each individual post, comment, or other similar communication.

This bill would require the disclosures on the committee’s profile, landing page, or similar location to be on the cover or header photo of the committee’s profile, landing page, or similar location and in no less than 10 point font. The bill would require the disclosures to be fully visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media.

This bill would require an online platform, as defined, to display a hyperlink with the text “Who funded this ad?” on an advertisement paid for by a committee. The bill would require an online platform to maintain and make available a complete record of any request to purchase an advertisement on the online platform made by a committee that purchased \$500 or more in advertisements on the online platform during the preceding 12 months. The bill would require an online platform to display a prominent button, tab, or hyperlink near the top of a profile, landing page, or similar location of the committee that links to a page clearly showing the records of any request made by the committee to purchase an advertisement on the online platform. The bill would make a person who intentionally violates these provisions for the purpose of avoiding disclosure liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

This bill would require an electronic media advertisement, other than a mass electronic mailing, that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, to include a specified disclosure regarding who paid for the advertisement.

Miscellaneous Bills (#8)

8. [AB 2958](#) (Quirk): State Bodies; meetings; teleconference

Status: Senate Appropriations Committee

Last Amended: June 18, 2018

Last Action: Referred to Senate Government Organizations Committee

Summary:

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meeting of a state body, except as provided. Existing law does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. Existing law, among other things, requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations, to identify each teleconference location in the notice and agenda, and to make each teleconference location accessible to the public. Existing law requires the agenda to provide an opportunity for members of the public to address the state body directly at each teleconference location, as specified.

This bill, for an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body that does not have rulemaking or voting authority, would instead require a member of a state body participating by teleconference to be listed in the meeting minutes. The bill would require a state body that meets this description to designate a primary physical meeting location where a quorum of the members of the state body will attend and where participants may physically attend the meeting and participate. The bill would require that the agenda include the teleconference phone number and, if applicable, the Internet Web site or other information indicating how the public can access the meeting remotely. The bill would require these state bodies, on and after January 1, 2019, to adopt teleconferencing guidelines, as specified, before holding a meeting by teleconference pursuant to these provisions.



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July 23, 2018

The Honorable Adam Gray
California State Assembly
State Capitol, Room 3152
Sacramento, CA 95811

RE: Assembly Bill 2689 (as amended April 17) – Support

Dear Assembly Member Gray,

At the July 19, 2018 meeting of the bipartisan Fair Political Practices Commission, the FPPC voted to support Assembly Bill 2689, a bill that would amend the Political Reform Act.

Assembly Bill 2689 would prohibit a gubernatorial appointee from giving a contribution or gift to a Senator or Assembly Member or to their controlled committees during the period between the appointment by the Governor and the confirmation by the Senate or Assembly.

The bill also prohibits gifts and contributions from gubernatorial appointees to a candidate for Senate if the candidate's term would begin within 365 days of the appointment or reappointment. Appointees are prohibited from giving gifts and contributions to Assembly candidates if the candidate's term would begin within 90 days of appointment or reappointment. Lastly, the prohibition would apply to costs related to a fundraising event at the home of a gubernatorial appointee.

For these reasons, the FPPC supports AB 2689 and looks forward to working with you on this bill. If you have any questions, please contact me at (916) 322-7635 or pung@fppc.ca.gov.

Sincerely,

Phillip R. Ung
Director, Legislation and External Affairs