



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich, Commissioners Cardenas, Hatch, and Hayward
From: Phillip Ung, Director, Legislative and External Affairs
Subject: Legislation Report – May 2019
Date: May 6, 2019

Commission-sponsored Legislation

Since the Commission’s March meeting, four sponsored bills made significant progress through the Legislature. Assembly Bills 902, 903, 909, and 946 were approved by the Assembly and sent to the Senate. Senate Bill 71 is waiting to be set for a hearing in Senate Appropriations Committee. Senate Bill 423 will be heard in Senate Appropriations Committee on May 6. Staff is proposing substantive amendments to SB 423 for Commission approval.

Pending Legislation

The Commission is tracking 18 active bills proposed to amend the Political Reform Act or Government Code 1090. This is a reduction from 23 bills in the March Legislation Report. The Commission has adopted active positions on 10 bills. Law and Policy Committee is proposing actions on 7 bills.

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

Legislation Consent Calendar (#1-4)

1. [AB 864](#) (Mullin): Amendments to DISCLOSE Act

L&P Recommendation: *Support*

FPPC Position: *Support if Amended*

Fiscal Estimate: No costs to the Commission

Status: Senate Desk for referral

Amended: April 11, 2019

Last Action: Approved by Assembly; referred to Senate (05/02/19)

Summary:

The bill makes various substantive and non-substantive changes to the DISCLOSE Act:

1. The bill would exempt from the definition of “mass electronic mailing” communications that were solicited by recipients.
2. Within the exemption of advertisement for an electronic media communication, the bill would require a customer who has opted in to receive communications from a provider of

goods or services to provide express approval to receive political messages from that provider of goods or services in order for the communication to be an exempt.

3. Clarifies disclosure requirements for large print advertisements larger than those designed to be individually distributed.
4. Further defines “online platform disclosed advertisements” and other clarifying amendments to AB 2188 (2018) Social Media DISCLOSE Act.
5. Corrects conflict from AB 249 related to electronic media advertisements and the applicable disclosures for political party committee and candidates committees who pay for independent expenditures or advertisement supporting or opposing a ballot measure.
6. Other non-substantive conforming, clarifying, and cross-reference corrections in the Act.

Staff Comments:

The Commission adopted a “support if amended” position and directed staff to work with the bill’s author and principal supporter to address staff concerns with substantive policy proposals. At the April 10th Assembly Elections Committee hearing, Assembly Member Mullin agreed to remove all substantive policy changes from AB 864 and retain only the clarifying proposals developed by FPPC staff. Staff recommends the Commission position change from “support if amended” to “support.”

2. [AB 1306](#) (Garcia): Misuse of public funds

L&P Recommendation: *Support; send letter to Senate and Assembly leaders to make AB 1306 a priority for their caucuses.*

Status: Assembly Appropriations Committee – Suspense File

Fiscal Impact: \$657,201 first year, \$629,102 ongoing.

Amended: March 18, 2019

Last Action: Referred to Assembly Appropriations Committee Suspense File (04/24/19)

Summary:

The Political Reform Act of 1974 establishes the Fair Political Practices Commission (FPPC) as the agency responsible for enforcing the act. The act generally prohibits a public officer from expending, and a candidate from accepting, public moneys for the purpose of seeking elective office. The act authorizes the Commission to seek and impose administrative and civil penalties against persons who violate the act, as prescribed.

This bill would amend the Political Reform Act of 1974 to prohibit any elected state or local officer, including any state or local appointee, employee, or consultant, from using or permitting others to use public resources for a campaign activity. The bill would authorize the FPPC to impose an administrative or civil penalty against a person for a misuse of public resources for campaign activity, not to exceed \$1,000 for each day on which a violation occurs, plus three times the value of the unlawful use of public resources.

Staff Comments:

Assembly Member Garcia authored AB 1306 in response to the Commission's request sent in February 2019.

Commission staff has provided technical assistance to Assembly Member Garcia's office, including background information, answered technical questions, and appeared before the Asm. Elections Committee at the invitation of the Assembly Member.

The Asm. Elections Committee raised three issues with the current version of AB 1306:

1. Whether the Commission should be able to levy treble damages through its administrative process.
2. Whether there is sufficient clarity in the law as to what is and is not permissible content for public agencies to communicate.
3. Are there other alternatives to addressing insufficient enforcement other than duplicating statutes in another body of law?

Commission staff believes the issues raised by the Asm. Elections Committee can be resolved, but staff is limited in its ability to communicate/advocate on the bill. Staff recommends the Commission support the bill and authorize staff to work closely with the Assembly Member's office on resolving potential roadblocks to approval.

AB 1306 would require the Commission to increase staff in Legal Division and Enforcement Division: two Senior Commission Counsel, one Commission Counsel, and one Special Investigator.

3. [SB 300](#) (Umberg): Political Reform Act; Foreign Contributions

L&P Recommendation: *Support*

Status: Senate Appropriations Committee; hearing set for May 6, 2019

Amended: March 20, 2019

Last Action: Referred to Senate Appropriations Committee; set for hearing (04/23/19)

Summary:

The Political Reform Act of 1974 prohibits a foreign government or a foreign principal, as defined, from making any contribution, expenditure, or independent expenditure in connection with the qualification or support of, or opposition to, a state or local ballot measure. The act prohibits a person or committee from soliciting or accepting a contribution from a foreign government or foreign principal for the same purposes. The Act makes a violation of these prohibitions a misdemeanor, punishable by a fine equal to the amount contributed or expended.

This bill would expand these prohibitions to include contributions, expenditures, or independent expenditures in connection with the qualification or support, or opposition to, a state or local candidate. The act would change the fine to an amount up to the greater of \$10,000 or 3 times the amount contributed or expended.

Staff Comments:

In 2016, the Commission supported nearly identical legislation ([AB 2250 – Ridley-Thomas](#)) to address the potential gap in the Political Reform Act related to foreign contributions to state and

local candidates. The Federal Election Campaign Act generally prohibits foreign nationals from directly or indirectly donating or spending money in connection with *any* U.S. election. This federal law is one of the issues being litigated in the 9th Circuit Court of Appeals in [United States v. Ravneet Singh](#) on whether Congress has the authority to prohibit foreign contributions in state and local elections. SB 300 may provide a backstop to this important policy in the scenario the Court rules against the federal government. Commission staff recommends a “support” position.

4. [SB 423](#) (Umberg): Committee Bank Accounts

Recommendation: Approve substantive amendments

FPPC Position: *Sponsor*

Status: Senate Appropriations Committee; hearing set for May 6, 2019

Amended: April 9, 2019

Last Action: Set for hearing in Senate Appropriations Committee (04/23/19)

Summary:

This bill would expand the bank account requirement to include all recipient committees, as defined in [subdivision \(a\) of §82013](#). This would mean all contributions (§82015) received by the committee would have to be deposited in the designated account, and all expenditures (§82025) made by the committee would have to be drawn from the designated account. This bill would also permit a committee to redact its bank account number on the copy of the committee’s statement of organization filed with local filing officers. The bill permits the Secretary of State to redact bank account numbers on statement of organization disclosed in any form.

Staff Comments:

Staff received inquiries from interested persons regarding the intent and effects of SB 423 on existing committee practices, specifically political party committees. As a result of constructive conversations with interested persons, staff is presenting substantive amendments to SB 423 to make clear that political party committees and general purpose committees may create additional campaign contribution accounts consistent with Section 85303 and also to codify substantial portions of Regulation 18534 dealing with “restricted” and “all purpose” accounts. The proposed amendments will also make clear that it is not the Commission’s intent to limit committees to exclusively one account.

Discussion Items: Bills with Recommendations (#5-7)

5. [AB 201](#) (Cervantes): Campaign disclosure: mass text messages.

L&P Recommendation: *Support if amended*

Status: Assembly Appropriations Committee

Fiscal Impact: Minor and absorbable

Amended: April 22, 2019

Last Action: Approved in Asm. Elections Committee; referred to Asm. Appropriations
(04/12/19)

Summary:

The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing and activities. The act defines “mass mailing” to mean over two hundred substantially similar pieces of mail, and defines “mass electronic mailing” to mean sending more than 200 substantially similar pieces of electronic mail within a calendar month. The act prohibits a candidate or committee from sending a mass mailing or mass electronic mailing unless certain information regarding the source of the mailing is shown in or on the mailing, as specified. The act also regulates political advertisements. The act requires electronic media advertisements, other than email messages or internet websites, 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 comply with certain disclosure requirements.

This bill would require a candidate or committee to disclose the name of the candidate or committee in certain text message advertisements and provide a hyperlink in the text message to an internet website containing more information about the candidate or committee, as specified.

Staff Comments:

Assembly Member Cervantes agreed to amend AB 201 in response to recommendations from the Assembly Elections Committee analysis including defining the term “mass distribution technology.” Commission staff has not had an opportunity to review those amendments. However, based on the discussion in the Assembly Committee hearing, the author indicated it is not her intent to capture technologies such as Toskr’s “Relay” service. Commission staff believes amendments are needed to ensure disclaimer requirements for services like “Relay” do not fall out of the Political Reform Act.

6. [AB 1217](#) (Mullin): DISCLOSE Act – Issue and Electioneering Ads

L&P Recommendation: *Support if Amended*

Fiscal Estimate: \$1,026,259 for first year and \$977,259 for ongoing

Status: Assembly Appropriations Committee

Amended: April 29, 2019

Last Action: Approved by Assembly Elections Committee; referred to Assembly
Appropriations Committee (04/30/19)

Summary:

The Political Reform Act requires specified disclosures in advertisements regarding the source of the advertisement. The Act defines “advertisement” for these purposes to mean a general or

public communication that is authorized and paid for by a committee for the purpose of supporting or opposing a candidate or candidates for elective office or a ballot measure or ballot measures. The Act also requires certain advertisements paid for by certain committees to disclose the names of the top contributors, which is defined for these purposes to mean the persons from whom the committee paying for an advertisement has received its three highest cumulative contributions of \$50,000 or more.

This bill does the following:

1. Amends the definition of “advertisement” to include “electioneering communication,” “issue advocacy advertisement,” and “major advertiser.” The bill designates “top contributors” established under the Disclose Act as “top funders.” Also, defines “nondonor funds,” “small donor funds,” and “lobbying donor.”
2. Adds the definition of “lobbying-available donation” to mean a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except if full and adequate consideration is received or if it is clear from the circumstances the payment is not made for lobbying purposes. Describes what is and is not a “lobbying-available donation.”
3. Would adopt disclaimer requirements of “major advertisers” and “top funders” of an issue advocacy advertisement totaling \$50,000 or more in a calendar year and require disclosure of three highest lobbying-available donations of \$10,000 or more, as specified.

Staff Comments

Assembly Bill 1217 would adopt disclaimer requirements for advertisements defined as “electioneering” and “issue advertisements.” This ambitious bill suffers from structural deficiencies that would make interpretation, administration, and enforcement difficult. Some of the deficiencies include:

1. The provisions of these non-campaign related communications are being added to the Chapter and Article of the Act previously exclusive to campaign advertisements. Inserting unrelated, non-campaign terms and requirements into the campaign advertising sections will severely complicate portions of the Act already filled with complexity.
2. Enforcing the provisions of this bill would require resource-heavy investigations of issue and electioneering ads because there would be no corresponding disclosures filed with filing officers disclosing “lobbying-available donations” and payments for communicating.
3. Establishes pre-election timing thresholds (60 days before a general or special election, 30 days before a primary election) that are substantively different than current electioneering requirements under Section 85310 (within 45 days of any election).

In addition to potential policy and structural issues, Commission staff believes this bill could lead to legal challenges over its constitutionality.

7. **AB 1752 (Kalra): Committee registration fee; penalty**

L&P Recommendation: *Support if Amended*

Status: Assembly Floor – Consent Calendar

Amended: March 21, 2019

Last Action: Approved by Assembly Elections Committee Consent Calendar; referred to Assembly Floor (05/02/19)

Summary:

This bill prohibits the Commission from administering any other penalty for violation of the \$50 committee registration fee outside of the \$150 penalty established in statute.

Staff Comments:

In December 2018, the Commission authorized staff to communicate to the Secretary of State and the Legislature the need to clarify the penalties applied to the annual registration fee for committees. At that time, the Commission did not express a policy preference on how the penalties might be clarified. Assembly Member Kalra introduced AB 1752 to make the \$150 penalty the exclusive remedy.

The Law & Policy Committee has recommended a “support if amended” position and requests either of the following amendments:

1. Transfer the enforcement and collection of the \$150 penalty to the Franchise Tax Board; or
2. Administratively terminate the committee after 90 days of non-compliance or non-payment of the registration fee and penalty.

Bills with Active Positions (#8-15)

8. **AB 220 (Bonta): Campaign funds: childcare costs.**

FPPC Position: *Support if Amended*

Status: Assembly Floor – Third Reading

Amended: April 24, 2019

Last Action: Approved in Assembly Elections Committee; referred to Assembly Floor (05/01/19)

Summary:

The Political Reform Act prohibits the use of campaign funds to pay for professional services not directly related to a political, legislative, or governmental purpose. The Commission has previously advised that expenses incurred by a candidate in providing a baby-sitter for his or her children are reasonably related to a political purpose, but not directly related. (*Mahoney* Advice Letter, No. A-94-285.) As such, we advised that campaign fund expenditures on baby-sitting services are permissible if there is no substantial benefit to the candidate. In other words, if each baby-sitting payment is less than \$200 per event, the campaign fund expenditure is permissible.

This bill would authorize the use of campaign funds to pay for child care expenses resulting from a candidate or officeholder engaging in campaign activities or performing official duties.

Staff Comments:

Commission staff continues to have productive discussions with Assembly Member Bonta's office about amendments to further clarify permissible childcare-related expenses and when an expense would "result from" campaign or official duties.

9. [AB 322](#) (Gallagher): Electronic filing

FPPC Position: *Support if Amended*

Status: Assembly Appropriations Committee – Suspense File

Fiscal Impact: Minor and absorbable to the Commission

Amended: March 20, 2019

Last Action: Referred to Assembly Appropriations Committee Suspense File (04/03/19)

Summary:

Would require a local government agency to post on its internet website a copy of any specified statement, report, or other document filed with that agency in paper format. This bill would require that the statement, report, or other document be made available for four years from the date of the election associated with the filing. By imposing a new duty on local government agencies, this bill would impose a state-mandated local program.

Staff Comments:

The Commission's position and recommended amendments were communicated to Assembly Member Gallagher's office. To date, we have not heard any feedback from Mr. Gallagher's office about this specific bill. The bill is currently in the Asm. Appropriation Committee suspense file due to substantial state-mandated local costs.

10. [AB 902](#) (Levine): Codify Commission Regulation.

FPPC Position: *Sponsor*

Status: Senate Desk for referral

Amended: April 1, 2019

Last Action: Approved by Assembly; referred to Senate (04/25/19)

Summary:

The Political Reform Act authorizes the Commission to adopt, amend, or rescind regulations to carry out the purposes and provisions of the Act and to govern the procedures of the Commission. Long-standing and generally accepted regulations become essential to proper administration of the Political Reform Act. There are several regulations the Commission staff has identified as being long-standing, non-controversial, and essential to complying the Act.

11. [AB 903](#) (Levine): Minor and Clarifying Amendments to Political Reform Act.

FPPC Position: *Sponsor*

Status: Senate Elections Committee – Hearing set for May 7, 2019

Amended: March 28, 2019

Last Action: Set for hearing in Senate Elections Committee (04/11/19)

Summary:

This bill would clarify that communications paid for with public moneys by a state or local government agency, under certain conditions, are considered expenditures, as specified, and not included in the exception described above. Clarify the language in Section 84200.5 to eliminate confusing language leading to multiple potential interpretations. Clarify the disclosure of income from a gift or business entity include the street address of each source or entity.

12. [AB 909](#) (Gallagher): Treasurer Signature

FPPC Position: *Sponsor*

Status: Senate Desk for referral

Amended: April 2, 2019

Last Action: Approved in Assembly; referred to Senate (04/25/19)

Summary:

This bill requires a treasurer or assistant treasurer identified on the Statement of Organization to sign a separate statement acknowledging that the person must comply with duties imposed by the Act and regulations and that violation of those duties could result in criminal, civil, or administrative penalties. Requires the Statement of Acknowledgment be filed with the Secretary of State at the same time as the Statement of Organization or an amendment identifying a new treasurer or assistant treasurer. This bill will become operative on July 1, 2020.

13. [AB 946](#) (Assembly Elections Committee): Omnibus Non-substantive

FPPC Position: *Sponsor*

Status: Senate Elections Committee – Hearing set for May 7, 2019

Last Action: Set for hearing in Senate Elections Committee (04/04/19)

Summary:

This bill is the Commission's housekeeping bill repealing expired provisions of the Act no longer applicable or antiquated.

14. [AB 1043](#) (Irwin): Use of Campaign Funds; cybersecurity

FPPC Position: *Support*

Status: Assembly Floor – Consent Calendar

Introduced: February 22, 2019

Last Action: Approved by Assembly Privacy and Consumer Protection Committee; referred to Consent Calendar (04/30/19)

Summary:

The Political Reform Act generally prohibits the use of campaign funds for payment or reimbursement for the lease of real property or for the purchase, lease, or refurbishment of any appliance or equipment if the lessee or sub lessor is, or the legal title resides in, a specified individual, such as a candidate, elected officer, or a member of the candidate or officer's immediate family. Notwithstanding that prohibition, existing law authorizes the use of campaign funds to pay or reimburse the state for the costs of installing and monitoring an electronic security system in a candidate or elected officer's home or office.

This bill would authorize the expenditure of campaign funds to pay for, or reimburse the state for, the installation and monitoring of hardware, software, and services related to the cybersecurity of the electronic devices of a candidate, elected officer, or campaign worker. The bill would require a candidate or elected officer to report any expenditure of campaign funds for these purposes to the Fair Political Practices Commission in the candidate or elected officer's campaign statements.

15. [SB 71](#) (Leyva): Campaign expenditure limitations: harassment and discrimination

FPPC Position: *Sponsor*

Status: Senate Appropriations Committee

Fiscal Estimate: Minor and absorbable

Introduced: January 9, 2019

Last Action: Approved by Senate Elections Committee; referred to Senate Appropriations Committee (03/19/19)

Summary:

The Political Reform Act of 1974 authorizes certain candidates and elective officers to establish a separate legal defense fund campaign account to defray attorney's fees and other related legal costs incurred in the defense of the candidate or elective officer who is subject to one or more civil, criminal, or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officers' governmental activities and duties, as specified.

This bill would prohibit the expenditure of funds in a campaign committee account or legal defense fund account to pay or reimburse a candidate or elected officer for attorney's fees or other legal costs in connection with claims of unlawful practices made pursuant to California Fair Employment and Housing Act. This would include expenses for filing a claim, defending a claim, and payment of a penalty or settlement related to a claim.

At the March 2018 meeting, the Commission rescinded the [Mendoza Advice Letter A-18-009](#). The letter concluded then-Senator Tony Mendoza may establish a legal defense fund to defray attorney's fees related to a claim of wrongful termination, proceedings related to Senate Resolution 69 (2018), and a subsequent civil proceeding should one be filed. The letter had also stated Mr. Mendoza may use campaign and legal defense funds to defend himself from claims of sexual harassment that arose directly out of his activities, duties, or status as a candidate or elected officer.

Political Reform Act Bills (#16-18)

16. [AB 571](#) (Mullin): Contribution Limits.

Status: Assembly Appropriations Committee – Suspense File

Fiscal Estimate: \$920,023 first year, \$878,023 ongoing.

Amended: April 2, 2019

Last Action: Referred to Assembly Appropriations Committee Suspense File (04/21/19)

Summary:

The Act contains contribution limits and other restrictions related to contribution limits for state office and statewide offices. The Act specifies nothing in the law prevents the Legislature or local agency from adopting additional requirements, and nothing nullifies contribution limitations or prohibitions in local jurisdictions. All ordinances or other provisions adopted by local governments must be filed with the Commission.

The bill would establish a state-mandated contribution limit on city and county jurisdictions, which the Commission would be required to regulate and enforce. The state-mandated contribution limit is equal to the limits of state legislative candidates and would be adjusted for cost-of-living. Jurisdictions that adopt their own limit or have already established a limit would not be subject to the state limit established by this bill. This bill will become operative January 1, 2021.

Staff Comments

To adequately implement and enforce a statewide default contribution limit, the Commission would need to add 2 Political Reform Consultants II, 2 Senior Commission Counsel, 1 Special Investigator, and 1 Program Specialist II.

17. [AB 626](#) (Quirk-Silva): Conflicts of Interest; Government Code 1090

Status: Assembly Appropriations Committee

Fiscal Impact: Minor and absorbable

Amended: March 21, 2019

Last Action: Approved in Asm. Elections Committee; referred to Asm. Appropriations Committee (04/10/19)

Summary:

Existing law prohibits members of the Legislature, and state, county, district, judicial district, and city officers or employees, from being financially interested in a contract, as specified, made by them in their official capacity or by any body or board of which they are members, subject to specified exceptions. Existing law prohibits an officer or employee from being deemed to have an interest in a contract if the person's interest is one of certain types.

This bill prohibits an officer or employee from being deemed interested in a contract, as described above, if the interest is that of an engineer, geologist, architect, land surveyor, or planner, performing specified services on a project, including preliminary design and preconstruction services, when proposing to perform services on a subsequent portion or phase of the project.

Staff Comments:

Staff has provided technical assistance to the sponsors of AB 626, the American Council of Engineering Companies.

18. [AB 1574](#) (Mullin): Lobbying Reports; Monthly Filing

Status: Assembly Appropriations Committee – Suspense File

Fiscal Impact: \$252,741 first year, \$238,741 ongoing

Amended: April 11, 2019

Last Action: Referred to Asm. Appropriations Committee Suspense File (04/24/19)

Summary:

The Political Reform Act requires lobbyists employed by a lobbyist employer or a lobbying firm to provide a periodic report of the lobbyist's activity expenses and contributions to the employer or firm within 2 weeks following the end of each quarter. The act requires lobbying firms, lobbyist employers, and persons who make payments to influence legislative or administrative action of \$5,000 or more in value in any calendar quarter to file with the Secretary of State, during the month after the end of each calendar quarter of a biennial legislative session, reports regarding lobbying expenditures made during the calendar quarter.

This bill would instead require lobbying reports to be filed monthly. This bill will become operate January 1, 2021.

Staff Comments:

To adequately implement AB 1574, the Commission would need two additional Political Reform Consultants II.

Bills Unlikely to Progress Further in 2019 (#19-23)

19. [AB 225](#) (Brough): Campaign funds: childcare costs.

FPPC Position: *Support if Amended*

Status: Assembly Elections Committee

Last Action: Referred to Assembly Elections Committee (02/04/19)

Summary:

The Political Reform Act prohibits the use of campaign funds to pay for professional services not directly related to a political, legislative, or governmental purpose. The Commission has previously advised that expenses incurred by a candidate in providing a baby-sitter for his or her children are reasonably related to a political purpose, but not directly related. (*Mahoney* Advice Letter, No. A-94-285.) As such, we advised that campaign fund expenditures on baby-sitting services are permissible if there is no substantial benefit to the candidate. In other words, if each baby-sitting payment is less than \$200 per event, the campaign fund expenditure is permissible.

This bill would provide that campaign funds may be used to pay for child care provided for a candidate's dependent child if the costs are incurred as a direct result of campaign activity.

20. [AB 359](#) (Melendez): Revolving door prohibition; Members of the Legislature

Status: Assembly Elections Committee

Last Action: Heard in Asm. Elections Committee; held without recommendation (04/10/19)

Summary:

The Political Reform Act of 1974 prohibits a Member of the Legislature, for a period of one year after leaving office, from acting as a compensated agent or attorney for, or otherwise representing, any other person by making appearances before, or communications with, the Legislature or its committees, Members, or officers or employees, if the appearance or communication is made for the purpose of influencing legislative action. If the Member resigns from office, this prohibition applies from the effective date of the resignation until one year after the adjournment sine die of the session in which the resignation occurred.

This bill would extend the time periods for these prohibitions for a Member of the Legislature to 5 years.

21. [SB 401](#) (Bates): Candidate Controlled Ballot Measure Committee; contribution limits

FPPC Position: *Oppose unless Amended*

Status: Senate Elections Committee

Last Action: Failed passage in Senate Elections Committee (0 ayes, 4 noes) (04/23/19)

Summary:

The Political Reform Act imposes a contribution limit of \$4,700 on contributions made to, and received by, candidates for elective state offices that are not statewide elective offices. The Act does not limit the amount of contributions that a person may make to a committee that is primarily formed to support or oppose one or more ballot measures. The act prohibits a candidate for elective state office or a committee controlled by that candidate from contributing to another candidate for elective state office in excess of the contribution limit for elective state offices.

This bill would prohibit a person from contributing to a primarily formed candidate controlled ballot measure committee more than the contribution limit imposed on candidates for elective state offices. The bill would prohibit a candidate for any elective office, or the candidate's controlled committees, from making a contribution to another candidate for elective office or a committee controlled by a candidate that is primarily formed to support or oppose one or more ballot measures in excess of the contribution limit established for candidates for elective state office. This bill would prohibit a committee controlled by a candidate for elective office that is primarily formed to support or oppose one or more ballot measures from expending campaign funds to make a contribution or other transfer of campaign funds to a committee for a purpose other than supporting or opposing a ballot measure that the controlled committee was primarily formed to support or oppose.

22. [AB 1141](#) (Melendez): Misuse of public funds

Status: Asm. Elections Committee

Amended: March 26, 2019

Last Action: Set for first hearing; hearing cancelled at the request of the author

Summary:

This bill would amend the Political Reform Act of 1974 to prohibit any elected state or local officer, including any state or local appointee, employee, consultant, or agency, from using or permitting others to use public resources for a campaign activity. The bill would authorize the FPPC to impose an administrative or civil penalty against a person for a misuse of public resources for campaign activity, not to exceed \$1,000 for each day on which a violation occurs, plus 3 times the value of the unlawful use of public resources.

23. [AB 1245](#) (Low): Contribution prohibition; business entities

Status: Asm. Elections Committee

Amended: April 9, 2019

Last Action: First hearing. Held without recommendation. (04/25/19)

Summary:

This bill would prohibit a business entity from contributing to a candidate for state elective office and for candidate for state elective office from accepting a contribution from a business entity.

AMENDMENTS TO SENATE BILL NO. 423
AS AMENDED IN SENATE APRIL 9, 2019

Amendment 1

In the title, in line 1, strike out the first "Section" and insert:

Sections

Amendment 2

In the title, in line 1, after "84101" insert:

and 85303

Amendment 3

On page 4, in line 18, strike out "one" and insert:

a

Amendment 4

On page 4, between lines 31 and 32, insert:

(f) A political party committee or a general purpose committee may establish additional campaign contribution accounts consistent with the requirements of Section 85303.

SEC. 3. Section 85303 of the Government Code is amended to read:

85303. (a) A person may not make to any committee, other than a political party committee, and a committee other than a political party committee may not accept, any contribution totaling more than five thousand dollars (\$5,000) per calendar year for the purpose of making contributions to candidates for elective state office.

(b) A person may not make to any political party committee, and a political party committee may not accept, any contribution totaling more than twenty-five thousand dollars (\$25,000) per calendar year for the purpose of making contributions for the support or defeat of candidates for elective state office. Notwithstanding Section 85312, this limit applies to contributions made to a political party used for the purpose of making expenditures at the behest of a candidate for elective state office for communications to party members related to the candidate's candidacy for elective state office.

(c) Except as provided in Section 85310, nothing in this chapter shall limit a person's contributions to a committee or political party committee provided the contributions are used for purposes other than making contributions to candidates for elective state office.

(d) Nothing in this chapter limits a candidate for elected state office from transferring contributions received by the candidate in excess of any amount necessary



to defray the candidate's expenses for election related activities or holding office to a political party committee, provided those transferred contributions are used for purposes consistent with paragraph (4) of subdivision (b) of Section 89519.

(e) A committee that receives contributions subject to the limitations in this section shall make all contributions to candidates for elective state office, and contributions to other committees for the purpose of making contributions to candidates for elective state office, from a bank account maintained and designated as an all-purpose committee account. A check drawn on the account shall include the words "all purpose" in the title of the account appearing on the check.

(f) (1) A committee shall do one of the following with a contribution that exceeds the aggregate limit described in subdivision (a) or (b):

(A) Return the contribution to the contributor.

(B) Deposit the contribution into a committee bank account maintained and designated as a restricted use account.

(C) Split the contribution between a committee's all-purpose account described in subdivision (e) and a restricted-use account described in subparagraph (B). The amount deposited in the all-purpose account pursuant to this subparagraph shall not exceed the contributor's limit pursuant to subdivision (a) or (b), as applicable.

(2) (A) Within 14 calendar days after receipt of a contribution that was deposited into a restricted-use account, a committee may transfer any portion of the deposited contribution to the committee's all-purpose account, provided that the total amount transferred into the all-purpose account does not exceed the contributor's limit pursuant to subdivision (a) or (b), as applicable.

(B) For each contribution transferred pursuant to subparagraph (A), the committee shall maintain records that are sufficient to establish that the transfer was made within 14 days after receipt of the contribution.

(3) A check drawn on a restricted-use account shall include the words "restricted use" in the title of the account appearing on the check.

(g) Except for a transfer described in paragraph (2) of subdivision (f), funds from a restricted-use account shall not be used to make contributions to candidates for elective state office, or to make contributions to other committees for the purpose of making contributions to candidates for elective state office.

(h) (1) A committee may transfer funds from its all-purpose account to any other account. Any such transfer need not be considered in determining whether a person making a contribution to the committee has exceeded the annual contribution limits for that person under subdivision (a) or (b).

(2) Except as set forth in subdivision (f), a committee shall not transfer funds to an all-purpose account from a restricted-use or other committee account.

(i) A committee that makes a contribution to any other committee shall notify the recipient whether the contribution is from the contributor committee's all-purpose or restricted-use account, or from some other account. A check that designates on its face the type of account from which the check is drawn is presumed to be adequate notification of the nature of the funds to the recipient committee.

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Amendment 5

On page 4, in line 33, strike out "SEC. 3." and insert:

SEC. 4.

Amendment 6

On page 5, in line 3, strike out "SEC. 4." and insert:

SEC. 5.

Amendment 7

On page 5, in line 16, strike out "SEC. 5." and insert:

SEC. 6.

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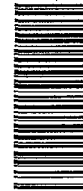
PROPOSED AMENDMENTS TO SENATE BILL NO. 423
AMENDED IN SENATE APRIL 9, 2019

SENATE BILL

No. 423

Introduced by Senator Umberg

February 21, 2019



RN1914324

An act to amend ~~Section~~ *Sections* 84101 and 85303 of, and to add Section 84109 to, the Government Code, relating to the Political Reform Act of 1974.

Amendments 1 & 2

LEGISLATIVE COUNSEL'S DIGEST

SB 423, as amended, Umberg. Political Reform Act of 1974: committee accounts.

(1) The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees.

The act requires a candidate committee to establish one campaign contribution account at an office of a financial institution located in the state and generally requires all candidate contributions to be made to the account and all candidate expenditures to be made from the account. The act requires the candidate's statement of organization to include the name and address of the financial institution in which the committee has established an account and the account number.

This bill would impose similar requirements on non-candidate committees that qualify as a committee under the act by receiving contributions totaling \$2,000 or more in a calendar year.

The bill would authorize a committee to redact the bank account number on a copy of a statement of organization filed with a local filing officer, and would require the Secretary of State to redact the bank

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account number on a statement of organization filed with the Secretary of State before making the statement available to the public in any form.

(2) *The act establishes specified annual contribution limits for persons who make contributions to committees for the purpose of making contributions to candidates for elective state office or for the support or defeat of candidates for elective state office.*

This bill, consistent with an existing regulation adopted by the Fair Political Practices Commission, would require a committee that receives contributions subject to those contribution limits to make all direct or indirect contributions to candidates for elective state office from a bank account that is maintained and designated as an all-purpose account. The bill would require contributions received by a committee that exceed those limits to be returned to the contributor, deposited into an account maintained and designated as a restricted-use account, or split between an all-purpose account and a restricted-use account, as specified. The bill would authorize transfer of a contribution from a restricted-use account to an all-purpose account, as specified. The bill would prohibit a committee from using funds from a restricted-use account to make direct or indirect contributions to candidates for elective office, except as specified. The bill would require a committee to notify a committee to which it makes a contribution whether the contribution is drawn from an all-purpose or restricted-use account.

(2)

(3) A violation of the act's provisions is punishable as a misdemeanor. By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3)

(4) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(4)

(5) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a 2/3 vote of each house of the Legislature and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

Page 2 1 SECTION 1. Section 84101 of the Government Code is
2 amended to read:

3 84101. (a) A committee that is a committee by virtue of
4 subdivision (a) of Section 82013 shall file a statement of
5 organization. The committee shall file the original of the statement
6 of organization online or electronically with the Secretary of State
7 and shall also file a copy of the statement of organization with the
8 local filing officer, if any, with whom the committee is required
9 to file the originals of its campaign reports pursuant to Section
10 84215. The original and copy of the statement of organization shall
11 be filed within 10 days after the committee has qualified as a
12 committee. The Secretary of State shall assign a number to each

Page 3 1 committee that files a statement of organization and shall notify
2 the committee of the number. The Secretary of State shall email
3 or send a copy of statements filed pursuant to this section to the
4 county elections official of each county that the Secretary of State
5 deems appropriate. A county elections official who receives a copy
6 of a statement of organization from the Secretary of State pursuant
7 to this section shall email or send a copy of the statement to the
8 clerk of each city in the county that the county elections official
9 deems appropriate.

10 (b) In addition to filing the statement of organization as required
11 by subdivision (a), if a committee qualifies as a committee under
12 subdivision (a) of Section 82013 within 16 days before the date
13 of an election in connection with which the committee is required
14 to file preelection statements, the committee shall file, within 24
15 hours of qualifying as a committee, the original of its statement
16 of organization online or electronically with the Secretary of State,
17 and a copy with the local filing officer, if any, with whom the
18 committee is required to file the originals of its campaign reports

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Page 3 19 pursuant to Section 84215 by email, fax, online transmission,
20 guaranteed overnight delivery, or personal delivery.

21 (c) If an independent expenditure committee qualifies as a
22 committee pursuant to subdivision (a) of Section 82013 during the
23 time period described in Section 82036.5 and makes independent
24 expenditures of one thousand dollars (\$1,000) or more to support
25 or oppose a candidate or candidates for office, the committee shall
26 file, within 24 hours of qualifying as a committee, the original of
27 its statement of organization online or electronically with the
28 Secretary of State. The committee shall also file a copy of its
29 statement with the filing officer with whom the committee is
30 required to file the original of its campaign reports pursuant to
31 Section 84215, and at all locations required for the candidate or
32 candidates supported or opposed by the independent expenditures,
33 by email, facsimile transmission, guaranteed overnight delivery,
34 or personal delivery. The filings required by this section are in
35 addition to filings that may be required by Section 84204.

36 (d) For purposes of this section, in calculating whether two
37 thousand dollars (\$2,000) in contributions has been received,
38 payments for a filing fee or for a statement of qualifications to
39 appear in a sample ballot shall not be included if these payments
40 have been made from the candidate's personal funds.

Page 4 1 (e) (1) A committee may redact the bank account number on
2 a copy of a statement of organization filed with a local filing
3 officer. A local filing officer shall not require a committee to
4 disclose the bank account number on a statement of organization
5 before accepting the filing, unless otherwise permitted by
6 Commission regulation.

7 (2) Notwithstanding Section 81008 or the California Public
8 Records Act (Chapter 3.5 (commencing with Section 6250) of
9 Division 7 of Title 1), the Secretary of State shall redact the bank
10 account number on a statement of organization filed with the
11 Secretary of State before making the statement available to the
12 public in any form.

14 SEC. 2. Section 84109 is added to the Government Code, to
15 read:

16 84109. (a) Within 10 days of qualification as a committee
17 under subdivision (a) of Section 82013, the committee shall
18 establish ~~one~~ a campaign contribution account for the committee
19 at an office of a financial institution located in the state.

Amendment 3

Page 4 20 (b) As required by subdivision (f) of Section 84102, the
21 committee shall set forth the name and address of the financial
22 institution where the committee has established a campaign
23 contribution account and the account number on the committee
24 statement of organization filed pursuant to Sections 84101 and
25 84103.

26 (c) All contributions or loans made to the committee or to a
27 person on behalf of the committee shall be deposited in the account.

28 (d) All campaign expenditures by the committee shall be made
29 from the account.

30 (e) This section does not apply to candidate committees that are
31 subject to Section 85201.

+ (f) *A political party committee or a general purpose committee
+ may establish additional campaign contribution accounts consistent
+ with the requirements of Section 85303.*

+ *SEC. 3. Section 85303 of the Government Code is amended to
+ read:*

+ 85303. (a) A person may not make to any committee, other
+ than a political party committee, and a committee other than a
+ political party committee may not accept, any contribution totaling
+ more than five thousand dollars (\$5,000) per calendar year for the
+ purpose of making contributions to candidates for elective state
+ office.

+ (b) A person may not make to any political party committee,
+ and a political party committee may not accept, any contribution
+ totaling more than twenty-five thousand dollars (\$25,000) per
+ calendar year for the purpose of making contributions for the
+ support or defeat of candidates for elective state office.
+ Notwithstanding Section 85312, this limit applies to contributions
+ made to a political party used for the purpose of making
+ expenditures at the behest of a candidate for elective state office
+ for communications to party members related to the candidate's
+ candidacy for elective state office.

+ (c) Except as provided in Section 85310, nothing in this chapter
+ shall limit a person's contributions to a committee or political party
+ committee provided the contributions are used for purposes other
+ than making contributions to candidates for elective state office.

+ (d) Nothing in this chapter limits a candidate for elected state
+ office from transferring contributions received by the candidate
+ in excess of any amount necessary to defray the candidate's

Amendment 4

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+ expenses for election related activities or holding office to a
+ political party committee, provided those transferred contributions
+ are used for purposes consistent with paragraph (4) of subdivision
+ (b) of Section 89519.

+ (e) *A committee that receives contributions subject to the
+ limitations in this section shall make all contributions to candidates
+ for elective state office, and contributions to other committees for
+ the purpose of making contributions to candidates for elective
+ state office, from a bank account maintained and designated as
+ an all-purpose committee account. A check drawn on the account
+ shall include the words "all purpose" in the title of the account
+ appearing on the check.*

+ (f) (1) *A committee shall do one of the following with a
+ contribution that exceeds the aggregate limit described in
+ subdivision (a) or (b):*

+ (A) *Return the contribution to the contributor.*

+ (B) *Deposit the contribution into a committee bank account
+ maintained and designated as a restricted use account.*

+ (C) *Split the contribution between a committee's all-purpose
+ account described in subdivision (e) and a restricted-use account
+ described in subparagraph (B). The amount deposited in the
+ all-purpose account pursuant to this subparagraph shall not exceed
+ the contributor's limit pursuant to subdivision (a) or (b), as
+ applicable.*

+ (2) (A) *Within 14 calendar days after receipt of a contribution
+ that was deposited into a restricted-use account, a committee may
+ transfer any portion of the deposited contribution to the
+ committee's all-purpose account, provided that the total amount
+ transferred into the all-purpose account does not exceed the
+ contributor's limit pursuant to subdivision (a) or (b), as applicable.*

+ (B) *For each contribution transferred pursuant to subparagraph
+ (A), the committee shall maintain records that are sufficient to
+ establish that the transfer was made within 14 days after receipt
+ of the contribution.*

+ (3) *A check drawn on a restricted-use account shall include the
+ words "restricted use" in the title of the account appearing on the
+ check.*

+ (g) *Except for a transfer described in paragraph (2) of
+ subdivision (f), funds from a restricted-use account shall not be
+ used to make contributions to candidates for elective state office,*

+ or to make contributions to other committees for the purpose of
+ making contributions to candidates for elective state office.

+ (h) (1) A committee may transfer funds from its all-purpose
+ account to any other account. Any such transfer need not be
+ considered in determining whether a person making a contribution
+ to the committee has exceeded the annual contribution limits for
+ that person under subdivision (a) or (b).

+ (2) Except as set forth in subdivision (f), a committee shall not
+ transfer funds to an all-purpose account from a restricted-use or
+ other committee account.

+ (i) A committee that makes a contribution to any other committee
+ shall notify the recipient whether the contribution is from the
+ contributor committee's all-purpose or restricted-use account, or
+ from some other account. A check that designates on its face the
+ type of account from which the check is drawn is presumed to be
+ adequate notification of the nature of the funds to the recipient
+ committee.

Page 4 33 SEC. 3.

+ SEC. 4. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within
1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

Page 5 1 SEC. 4.

3 SEC. 4.
+ SEC. 5. The Legislature finds and declares that Section 1 of
4 this act, which amends Section 84101 of the Government Code,
5 imposes a limitation on the public's right of access to the meetings
6 of public bodies or the writings of public officials and agencies
7 within the meaning of Section 3 of Article I of the California
8 Constitution. Pursuant to that constitutional provision, the
9 Legislature makes the following findings to demonstrate the interest
10 protected by this limitation and the need for protecting that interest:
12 In order to protect filers' privacy and to prevent financial fraud,
13 the limitations on the public's right of access imposed by Section
14 1 of this act are necessary.

Amendment 5

Amendment 6

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Amendment 7**

Page 5

16 ~~SEC. 5.~~
+ *SEC. 6.* The Legislature finds and declares that this bill furthers
17 the purposes of the Political Reform Act of 1974 within the
18 meaning of subdivision (a) of Section 81012 of the Government
19 Code.



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