



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

EXECUTIVE STAFF REPORTS

June 29, 2017 Commission Hearing

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I. ENFORCEMENT DIVISION

STAFF: GALENA WEST, CHIEF OF ENFORCEMENT

During the period of May 12, 2017 through June 15, 2017, the Enforcement Division received 67 complaints, opened 7 for investigation, and rejected 47. The Enforcement Division received 47 non-filer referrals during this time.

Also during this time, the Enforcement Division closed a total of 141 cases including:

- 45 warning letters,
- 1 advisory letter,
- 30 no action letters,
- 44 as a result of the adoption of stipulations and defaults at May Commission meeting, and
- 21 committees were administratively terminated.

The Division had 972 cases in various stages of resolution at the time of the May Monthly Report and currently has approximately 969 cases in various stages of resolution, including the 28 cases before the Commission as listed in the June 2017 agenda.

On May 1, 2015, the Division received from the Secretary of State's office 2,460 \$50 Annual Fee referrals for 2013 fees not paid timely. Of those, 205 have been resolved with fines and 80 remain pending. On October 22, 2015, the Division received the \$50 Annual Fee referrals for 2014, which totaled 1,786. Of those, 79 have been resolved with fines and 127 remain pending. As for other referrals, they were rejected, the committees were terminated locally without notice to Secretary of State, the committees were administratively terminated or are slated for administrative termination, or the committee received no violation or warning letters. We are receiving 2015 and 2016 referrals periodically through the new Electronic Complaint System.

II. LEGAL DIVISION

STAFF:

JACK WOODSIDE, GENERAL COUNSEL

JOHN WALLACE, ASSISTANT GENERAL COUNSEL

TRISH MAYER, ASSISTANT CHIEF

A. Pending Litigation

Howard Jarvis Taxpayers Association v. Edmund Brown, et al.

On December 12, 2016, the Howard Jarvis Taxpayers Association and retired State Senator and Judge Quentin L. Kopp filed a lawsuit against Governor Brown and the Commission to invalidate a new law that would allow public funds to be used for political campaigning. In September of 2016, the Governor signed Senate Bill 1107 which authorizes the use of public funds for the purpose of financing campaigns if a jurisdiction adopts a law or ordinance creating a public financing program. Plaintiffs allege the new law improperly eliminates the prohibition against public financing of campaigns, implemented pursuant to Proposition 73 in 1988, because it was done without voter approval. In addition, plaintiffs allege that the new law violates the Act because it does not “further the purposes of the Act,” an express requirement in the Act for legislative amendment. The Attorney General’s Office is representing both Governor Brown and the Commission in this litigation. The hearing is currently scheduled for August 4, 2017. The briefing schedule is as follows: Petitioners’ opening brief was filed on May 15; Respondents’ opposition brief is due June 28; and Petitioner’s reply is due July 20.

Frank J. Burgess v. Fair Political Practices Commission

Frank J. Burgess filed a writ of mandate in Riverside Superior Court on October 4, 2015, seeking relief from the Commission’s decision and order in *In re Frank J. Burgess*, Case No. 12/516.

Mr. Burgess’s case was first heard by an Administrative Law Judge (ALJ), and then Mr. Burgess challenged the ALJ’s decision to the Commission. On March 19, 2015, the Commission rejected the ALJ’s decision and decided the case based on the record and the parties’ supplemental briefing. Ultimately, the Commission found that Mr. Burgess had violated Section 87100 of the Political Reform Act (Act)¹ and imposed a \$5,000 fine on July 7, 2015.

Mr. Burgess challenged that decision as an excess of the Commission’s jurisdiction, an abuse of discretion, and a denial of due process rights. On September 15, 2016, the superior court issued

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to this source, unless otherwise indicated.

its judgment granting the petition on due process grounds. The Court further ordered the Commission to file a Return to the Writ on or before November 7, 2016.

After a closed session discussion at the Commission meeting on October 20, 2016, the Commission voted to let the superior court's judgment stand and to vacate and set aside its Decision and Order in the underlying matter. The Commission has therefore dismissed the administrative proceedings against Mr. Burgess and timely filed a Return to the Writ.

On November 14, 2016, Burgess filed a Motion for Attorney's Fees under Code of Civil Procedure section 1021.5 ("private attorney general"). The FPPC in conjunction with the Attorney General's office prepared an opposition to this motion which was filed on January 25, 2017. The fee motion was heard on April 3, 2017, and the superior court took the matter under submission after argument by the parties. On April 10, 2017, the superior court granted Burgess's motion for attorney's fees. The Commission voted in closed session to appeal the superior court's order granting Burgess attorney's fees at the June meeting.

B. Outreach and Training

On May 3, 2017 Jack Woodside and Sukhi K. Brar conducted a presentation on Section 1090 for the League of Cities annual City Attorneys' Spring Conference in San Francisco, California. Jack and Sukhi provided a thorough overview of Section 1090 and provided information related to recent Commission advice letters on the subject.

C. Advice

In May 2017, the Legal Division responded to the following requests for advice:

- **Requests for Advice:** Legal Division Political Reform Consultants and attorneys collectively responded to more than 638 email and telephone requests for advice.
- **Advice Letters:** Legal Division received 27 advice letter requests and issued 25 advice letters.
- **Section 1090 Letters:** Legal Division received 16 new advice letter requests concerning Section 1090 and issued five. This year to date we have received 39 requests regarding Section 1090.

D. Advice Letter Summaries

Full copies of FPPC Advice Letters, including those listed below, are available at:
<http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

Campaign

Brian T. Hildreth

A-17-072

A law firm requested advice on whether several proposed public communications contain "express advocacy" that qualify them as either "contributions" or "expenditures" under the Act.

We advised that they did contain “express advocacy” because, taken as a whole, they unambiguously urged a particular result in the election.

Conflict of Interest

Paul J. Dohring

A-17-039

A city councilmember was advised that he had a conflict of interest in decisions related to creating a Property and Business Improvement District under the Act given that those decisions would lead to increased property taxes/assessments for some of the clients of his private law practice that own real property in the proposed area.

Philip C. Kohn

I-17-046

A city councilmember may participate in decisions involving the city’s potential acquisition of a privately-owned lot despite his past discussions with the property’s leaseholder about acquiring an interest in the property. The councilmember has no financial interest in the decisions.

Bill Smallman

A-17-053

Even though a surcharge applies to the official’s residence, a water district board member may take part in decisions to adjust or eliminate a special surcharge that applies to all former customers of a smaller water district that has been merged into the district, under the public generally exception for broadly provided public services.

Sue Sorensen

A-17-076

A city councilmember has a conflict of interest in the decision to adopt proposed amendments to a zoning ordinance to eliminate zoning restrictions on professional office locations outside the downtown area because (1) the councilmember owns an interest in a professional office building in the downtown area and (2) receives income from tenants who will be affected by the decision.

Patrick Tang

I-17-085

So long as a decision adjusts the rate of all residences in an assessment district equally, proportionally, or by the same percentage, the official who resides in an assessment district may take part in decisions under the public generally exception for broadly provided public services in Regulation 18703(e)(1). This includes preliminary determinations regarding a resolution describing the proposed improvements or substantial changes and ordering an engineer’s report.

Denise Athas

A-17-092

A city official does not have a conflict of interest in the decision to adopt proposed zoning ordinance amendments related to the city’s Northwest Quad Area, despite her financial interest in a real estate brokerage firm, commission-based associates, and leasehold of an office building adjacent to the Area. The facts indicate that it is not reasonable to foresee a material impact on any of the official’s financial interests due to the number of real estate firms in the immediate area, the difficulty in developing the Northwest Quad Area, and the lack of business from this area for the firm or its agents in the past.

Ashley K. Dunning**A-17-093**

The Act would prohibit an Employees' Retirement Association Retirement board member from taking part in decisions regarding the agency's investments in funds of certain business entities, given that the board member has personal investments in each of those entities.

Jonathan W. Smith**I-17-094**

General discussion of whether a councilmember may have a conflict of interest in near-term and long-term amendments to the city's Downtown Precise Plan which controls development in the downtown area. The letter discusses decisions affecting architectural style requirements, encouraging the creation of small "pocket parks" and/or paseos and pedestrian access and amenities, development requirements related to proposals that exceed existing development caps, establishing a task force to develop policy goals and visioning for longer-term development in the downtown area, and longer term amendments to the development caps.

Katharine L. Elliott**A-17-097**

The Act does not prohibit a Mendocino County Supervisor from taking part in decisions regarding the implementation of Proposition 64, which legalized adult-use marijuana under State law, so long as those decisions would not have a reasonably foreseeable material financial effect on any of the Supervisor's financial interests. The Supervisor has interests in his personal finances and those of immediate family, residential real property management business, residential real property and adult-child tenants as sources of income, and one of those tenants runs a medical marijuana cultivation business from the Supervisor's rented property.

Steven A. Herum**I-17-099**

Generally, speaking fees or honoraria are prohibited if the source is one that would otherwise be reported on the official's form 700 as a source of income or gifts. However, there is an exception for earned income for personal services which are customarily provided in connection with the practice of a bona fide business, trade, or profession, such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting, unless the sole or predominant activity of the business, trade, or profession is making speeches.

Daniel G. Sodergren**A-17-101**

A planning commissioner does not have a conflict of interest in a decision on a Downtown Specific Plan update despite having an interest in her jewelry making business, and receiving income for the sale of jewelry from an art gallery that leases retail space within the Plan area, because there would be no reasonably foreseeable financial effect on her financial interests.

Daniel G. Sodergren**A-17-104**

The Act prohibits a Pleasanton City Councilmember from taking part in decisions related to road improvements near his residence because those improvements may have a reasonably foreseeable material financial effect on the Councilmember's real-property interest in his residence. The decisions could result in a more than 500 percent traffic increase at an intersection that the Councilmember must pass through for to-and-from his residence.

Phaedra Norton**A-17-108**

The cost of the flight, ground transportation, per diem, lodging and the value of a tandem skydiving jump from the US Army are reportable gifts that are subject to the gift limits.

Debbie Peterson**A-17-111**

The Act prohibits a Grover Beach City Councilmember from taking part in decisions relating to a land use ordinance establishing a zone within the City in which medical marijuana businesses are permitted, because those decisions would contribute to a change in the value of the Councilmember's real estate business by increasing the demand for its services. The Councilmember's real estate office is in close proximity to the proposed zone, real estate prices in the proposed zone have increased significantly, the Councilmember has received inquiries from potential clients about property within the proposed zone, and the business advertises the Councilmember as a leading expert on the City's cannabis ordinances.

Sarah E. Tobias**A-17-114**

Generally, the Act does not affect the conduct of public officials acting in their capacity as private individuals. Rather, the Act prohibits a public official from making, participating in making, or influencing a governmental decision if the public official has a financial interest in the decision. Thus, a councilmember may donate food from his privately-owned restaurant, in his capacity as a private citizen, to feed law enforcement officers and volunteers during the 24-hour vigil at the Tulare County Peace Officer Memorial.

Judith Propp**A-17-124**

Generally, when an official pays an individual for legal services, the hiring and payment do not create a financial interest in the attorney hired by the official. Moreover, the advance of funds by the official to the attorney and the attorney's refund of the unused funds that belong to the councilmember at the termination of their employment relationship would not make the attorney a source of income to the official.

Nancy Diamond**A-17-134**

Section 87100 prohibits any public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest, including a decision that effects the official's personal finances or those of his or her immediate family. As used in Section 87103, "Immediate family" means the spouse and dependent children. (Section 82029.) Regulation 18229.1 defines a "dependent child" of a public official as someone "who is under 18 years old and whom the official is entitled to claim as a dependent on his or her federal tax return." Consequently, the Councilmember's 33-year-old son would not be a member of his immediate family for purposes of Section 87103.

Gifts**Thomas Martin****A-17-113**

A public official may solicit gifts to be paid to a nonprofit to benefit his child. Certain gifts, such as gifts from long-term friends, neighbors, former co-workers, or members of the same local religious or other similar organization would not trigger responsibilities under the Act. In all other cases, absent an exception, the gifts will be subject to a \$470 annual gift limit per donor

and, if the source is a lobbyist or lobbying firm registered to lobby the official's agency, the gift will be subject to a \$10 monthly limit. A gift will also be reportable if it is worth \$50 or more and may subject the official to potential disqualification if it is valued at \$470 or more in the 12 months before a decision affecting the donor.

Section 1090

Paula Deel

I-17-030

Neither the Act nor Section 1090 requires public officials to resign from their positions when confronted with financial conflicts. However, both the Act and Section 1090 may limit the official from participating (and sometimes the official's agency) in certain decisions.

Dennis R. La Salle

A-17-074

A private subcontractor who participated in the scheduling services on the project management phase of the Pure Water Project, is not prohibited by Section 1090 in bidding on a Request for Proposals (RFP) related to construction management services: pipeline inspections for the Project. Section 1090 is not applicable where the facts indicate the subcontractor was not acting as a public officer. Here, the subcontractor's scheduling services were of a technical nature, the position was not a one with a potential to exert considerable influence on the contracting decisions of the prime contractor or the city, and no facts showed involvement by the scheduler in the development of the construction management RFP. Additionally, the construction management phase involving pipeline inspections will have a separate scheduler.

Kenneth R. Hetge

A-17-078

The Act does not prohibit a councilmember from taking part in decisions relating to the ground leases of Tehachapi Municipal Airport because those decisions would not have a reasonably foreseeable material financial effect on the Councilmember's financial interests in his aviation business located at the airport. Moreover, Section 1090 does not prohibit the Councilmember from making or participating in the making of, or the City from entering into, potential new ground leases of airport lands because the Councilmember does not have a financial interest in those leases.

Sarah E. Tobias

A-17-112

Pursuant to Section 1091.1, Councilmember Nunley may apply to the city to subdivide property that he owns or in which he has an ownership interest, so long as he abstains from any participation on any matter pertaining to the subdivision and fully discloses the nature of his interest in the land.

Bill Nicholson

A-17-132

San Benito Local Agency Formation Commission executive director, Bill Nicholson, was found to have a disqualifying conflict under Section 1090 and the Act's conflict of interest provisions in negotiating with the Commission to modify his current employment contract to hire his spouse for clerical support.

SEI**Kelly White****A-17-107**

If D.R. Horton, a residential developer, pays the costs of a special election in the City of Chino, regarding whether to enact a ballot measure that would amend the city's general plan to authorize increased housing density, pursuant to an agreement with the city, that payment would be reportable on D.R. Horton's Form 461. The payment would be for political purposes because it is inextricably linked to D.R. Horton's efforts to secure the ballot measure's enactment.

E. Miscellaneous Decisions

None to report.

F. Upcoming Regulations

August 2017: Amend the Commission's Conflict of Interest Code (Regulation 18351). The Commission will consider amendments to the agency's conflict of interest code due to changed circumstances, including the creation of new positions which must be designated pursuant to Section 87302 and relevant changes in the duties assigned to existing positions.

September 2017: Pre-Notice: Conflict of Interest Regulations. Having advised on the new conflict of interest rules for over a year, staff will propose refinements of the conflict of interest regulations enacted in 2014 and 2015 to clarify obligations and requirements.

G. Conflict of Interest Codes**Adoptions and Amendments***State Agency Conflict of Interest Codes*

- None

Multi-County Agency Conflict of Interest Codes

- Alta Irrigation District
- Kings River East Groundwater Sustainability Agency
Joint Powers Authority
- Knights Landing Ridge Drainage District
- Livermore Valley Joint Unified School District
- Reclamation District #108
- Sacramento Metropolitan Fire District
- Sacramento River West Side Levee District
- Solano County Water Agency
- Workforce Alliance of the North Bay

Exemptions and Extensions*Exemption*

- California Partnership for the San Joaquin Valley

Extension

- None

H. Probable Cause Hearings

Please note, a finding of probable cause does not constitute a finding that a violation has occurred. The respondents are presumed to be innocent of any violation of the Act unless a violation is proven in a subsequent proceeding.

The following matters were decided based solely on the papers. The respondents did not request a probable cause hearing.

1. In the Matter of Consumers for Choice, Tim Snipes, and John Stoos, Case No. 15/078.

On May 1, 2017, probable cause was found to believe Respondents committed the following violations of the Act:

Count 1: Snipes and Consumers for Choice failed to timely file a semi-annual statement covering the reporting period of July 1, 2011 through December 31, 2011, due by January 31, 2012, in violation of Section 84200.

Count 2: Snipes and Consumers for Choice failed to timely file a semi-annual campaign statement covering the reporting period of January 1, 2012 through June 30, 2012, due by July 31, 2012, in violation of Section 84200.

2. In the Matter of Janice Keating for Assembly 2010, Janice Keating, and Jeff Perine, Case No. 16/19743. On May 1, 2017, probable cause was found to believe Respondents committed the following violations of the Act:

Count 1: The Committee, Keating, and Perine failed to timely file their semi-annual campaign statement for the period of July 1, 2014 to December 31, 2014, electronically, by February 2, 2015, in violation of Sections 84200(a); and 84605(a)(1).

Count 2: The Committee, Keating, and Perine failed to timely file their semi-annual campaign statement for the period of January 1, 2015 to June 30, 2015, electronically, by July 31, 2015, in violation of Sections 84200(a); and 84605(a)(1).

Count 3: The Committee, Keating, and Perine failed to timely file their semi-annual campaign statement for the period of July 1, 2015 to December 31, 2015, electronically, by February 1, 2016, in violation of Sections 84200(a); and 84605(a)(1).

Count 4: The Committee, Keating, and Perine failed to timely file their semi-annual campaign statement for the period of January 1, 2016 to June 30, 2016, electronically, by August 1, 2016, in violation of Sections 84200(a); and 84605(a)(1).

Count 5: The Committee, Keating, and Perine failed to timely file their semi-annual campaign statement for the period of July 1, 2016 to December 31, 2016, electronically, by January 31, 2017, in violation of Sections 84200(a); and 84605(a)(1).

Count 6: As a committee required to file a statement of organization, the Committee, Keating, and Perine were required to pay an annual fee of \$50 to the Secretary of State no later than January 15, 2016. However, the Committee, Keating, and Perine failed to timely pay the requisite fee, in violation of Section 84101.5(c).

Count 7: As a committee required to file a statement of organization, the Committee, Keating, and Perine were required to pay an annual fee of \$50 to the Secretary of State no later than January 15, 2017. However, the Committee, Keating, and Perine failed to timely pay the requisite fee, in violation of Section 84101.5(c).

3. In the Matter of Ella M. “Lee” Rogers, Case No. 16-128. On May 10, 2017, probable cause was found to believe Respondent committed the following violations of the Act:

Count 1: Rogers failed to timely file the pre-election statement due September 29, 2016, in violation of Section 84200.5(a), and 84200.8(a).

Count 2: Rogers failed to timely file the pre-election statement due October 27, 2016, in violation of Section 84200.5(a), and 84200.8(b).

III. EXTERNAL AFFAIRS AND EDUCATION DIVISION

STAFF: TARA STOCK, MANAGER

Phone Advice Requests

The External Affairs and Education Division responded to 463 requests for advice via phone in May.

Training Presentations

Division staff continues to work on producing training video modules to assist Form 700 filers. Staff is also gearing up for the following presentations to be made in June:

- Workshop for local agency Form 700 filing officers
- Workshop for local agency campaign filing officers
- Speech at the California Political Treasurers' Association conference

Filing Schedules

Staff created and posted the filing schedules for the June and November 2018 local elections, so now all 2018 filing schedules for state and local committees are available on the website. Staff also created two filing schedules for local jurisdictions holding special elections in 2017.

Educational Materials

Based on questions and comments received from the public, as well as suggestions from the Secretary of State's office, staff made clarifying updates to Form 410 (Statement of Organization).

Staff also worked with the Legal Division to:

- Update the advertisement disclaimer charts to conform with advice recently issued by the Legal Division,
- Update the fact sheet for multipurpose organizations reporting political activity to clarify information about 24-hour contribution reports, and
- Create a new fact sheet for publicly funded nonprofit organizations reporting their political activities based on requirements enacted by AB 2318 (Low), effective January 1, 2017.

IV. LEGISLATIVE UPDATE

STAFF: PHILLIP UNG, DIRECTOR, LEGISLATIVE AND EXTERNAL AFFAIRS

There are 12 active bills affecting the Political Reform Act. This is a reduction from 16 bills in the May report. Since the May report, the Legislature failed to pass three bills in fiscal committees and one bill on the Assembly Floor. The Legislature's policy committees are actively evaluating and amending the bills listed below, so please visit the Commission's Pending Legislation page to view updated versions and descriptions. Staff is not recommending any positions this month.

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

Political Reform Act or Related Bills (#1-12)

1. **AB 14 (Gomez): Advertisement Disclosure and Earmarking of Funds**

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Urgency: Yes

Last Amended: May 1, 2017

Last Action: Amended and Re-referred to Assembly Elections and Redistricting Committee
(05/01/17)

Summary:

The Act provides comprehensive regulations for campaign finance disclosure requiring committees that support or oppose ballot measures to use the name or phrase that clearly identifies the economic or other special interest of its donors of \$50,000 or more. If major donors share a common employer, then the employer is disclosed. The Act prohibits any person from making any contribution to a committee on the condition or with the agreement that it will be contributed to a particular candidate (i.e., earmarked) unless the true source of the contribution is fully discussed.

The bill would redefine and recast the Act's advertisement disclaimer provisions. The bill prescribes the disclosure statements, location, and format criteria required for television, radio, telephone, and internet advertisements with some exemptions. The bill would require on-advertisement disclosure of the top three contributors. Certain committees would be exempt from the top contributor disclosure, including major donors and individuals and entities making independent expenditures.

The bill also explicitly exempts from the definition of "advertisement" a communication paid for by a political party or a candidate controlled election committee. It should be noted that

there is a potential risk for litigation resulting from the provision in the bill that would expand the advertisement rules to general purpose committees. This bill contains an urgency clause.

There are several concerns regarding the earmarking provisions of the bill. First, the bill would narrow the circumstances of when contributions are considered illegally earmarked. It also would allow up to \$4,400 in contributions from a single source per calendar year to flow through elections without disclosure of the true source of that money - an exemption that could be particularly detrimental in local races. Lastly, the bill prohibits the Commission from using “timing” as the sole basis for finding violations related to earmarking. Staff has flagged these issues with the author’s office and sponsor.

2. AB 187 (Gloria): Local Ballot Measure Expenditure Reporting

FPPC Position: *None currently*

Status: Senate Appropriations Committee

Fiscal Estimate: Minor and absorbable

Last Amended: March 23, 2017

Last Action: Approved by Senate Elections Committee (3 ayes, 1 noes.) and referred to Senate Appropriations Committee. (06/06/2017)

Summary:

The Act subjects a committee that receives contributions totaling \$2,000 or more in a calendar year to specified reporting requirement, that committee is required to file online or electronically each time it makes contributions of independent expenditures of at least \$5,000 to support or oppose the qualification or passage of a single state ballot measure. Existing law requires that the filing occur within 10 business days of the contribution or independent expenditure and that it contain detailed information relating to the committee, ballot initiative, and contribution or independent expenditure.

This bill additionally requires a committee to file a report each time it makes contributions totaling \$5,000 or more or independent expenditures aggregating \$5,000 or more to support or oppose the qualification of a single local ballot measure. The report will be filed with the local filing officer within 10 business days of reaching the aggregated amount.

3. AB 551 (Levine): Post-Governmental Employment; Exemptions

FPPC Position: *None currently*

Status: Senate Elections and Constitutional Amendments Committee

Fiscal Estimate: Minor and Absorbable

Last Amended: April 18, 2017

Last Action: Set for June 20 committee hearing. (05/31/2017)

Summary:

The Act prohibits a local official from receiving compensation to communicate with or appear before their former agency to influence legislative action. This prohibition lasts for one year after

leaving office. The Act excludes from the prohibition government-to-government communications.

This bill prohibits an independent contractor of a local government agency or a public agency from appearing or communicating on behalf of that agency before their former agency. The prohibition lasts for one year.

4. AB 867 (Cooley): Behested Payments

FPPC Position: *None currently*

Status: Senate Appropriations Committee

Fiscal Estimate: Minor and Absorbable

Last Amended: April 17, 2017

Last Action: Approved by Senate Elections Committee (4 ayes, 0 noes) and referred to Senate Appropriations Committee. (04/17/2017)

Summary:

The Act defines “contribution” as 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 to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes. The Act further describes types of payments that are expressly included or excluded from the definition, including specified payments made at the behest of a committee, elected officer, or member of the Public Utilities Commission. The Act requires that certain behested payments that are made principally for legislative, governmental, or charitable purposes be reported, as specified.

This bill revises the definition of “contribution” for purposes of the Act and creates sections for the definitions of “behested payments,” “election-related activities,” and “made at the behest of.”

5. AB 895 (Quirk): Campaign Statements; Electronic Filing

FPPC Position: *None currently*

Status: Senate Appropriations Committee

Fiscal Estimate: Minor and Absorbable

Last Amended: April 18, 2017

Last Action: Approved by Senate Elections Committee, recommended to Consent Calendar, and referred to Senate Appropriations Committee. (06/06/2017)

Summary:

The Act requires certain individuals and entities to file campaign statements with the Secretary of State including requiring some to file online and others to file online voluntarily. The Act requires paper filers to continue to file in paper format until the Secretary of State determines online filing is secure and effective. The Act also requires paper filing be considered the official filing for audits and other legal purposes.

This bill would eliminate the requirement of certain filers to file in the paper format if they file online. The bill will be implemented upon certification by the Secretary of State of the new Cal-ACCESS system.

6. AB 1620 (Dababneh): Post-Governmental Employment

FPPC Position: *None currently*

Status: Senate Elections and Constitutional Amendment Committee

Fiscal Estimate: Minor and Absorbable

Last Amended: June 13, 2017

Last Action: Referred to Senate Elections and Constitutional Amendments Committee.
(06/01/2017)

Summary:

The Act prohibits a former Member of the Legislature from receiving compensation to communicate to or appear before the Legislature to influence legislative action. This prohibition lasts for one year after leaving office.

The bill would extend the prohibition for a Member of the Legislature who resigns from office prior to the completion of a term. For these individuals, the prohibition begins the day of resignation and ends one year after the last day in the second year of the legislative session which the officer was elected to serve.

7. SB 24 (Portantino): Statement of Economic Interests

FPPC Position: *None currently*

Status: Assembly Elections Committee

Fiscal Estimate: Minor and absorbable.

Introduction: December 5, 2016

Last Action: Referred to Assembly Elections Committee. (05/18/2017)

Summary:

The Act requires the disclosures to include a statement indicating, within a specified value range, the fair market value of investments or interests in real property and the aggregate value of income received from each reportable source.

This bill would revise the dollar amounts associated with these ranges to provide for 8 total ranges of fair market value of investments and real property interests, and 10 total ranges of aggregate value of income.

8. SB 45 (Mendoza): Mass Mailing Prohibition

FPPC Position: *None currently*

Status: At Assembly Desk

Fiscal Estimate: \$141,171 first year; \$134,171 ongoing

Last Amended: April 24, 2017

Last Action: In Assembly. Read first time. Held at desk. (05/31/2017)

Summary:

Existing law provides that no newsletter or other mass mailing shall be sent at public expense. The Commission's regulation defines criteria for mass mailings at public expense, and lists certain forms of mass mailings that will be permitted despite the Act's prohibition, including announcements of specified meetings or events sent by elected officials.

This bill would adopt the Commission's regulation in its entirety, including the list of exceptions from the prohibition. The bill also would provide that despite the exceptions, a mass mailing shall not be sent within the 90 days preceding an election by or on behalf of a candidate, state or local, whose name will appear on the ballot, except as otherwise specified in the bill.

9. SB 226 (Hertzberg): Slate Mailers

FPPC Position: *None currently*

Status: Assembly Appropriations Committee

Fiscal Estimate: Minor and Absorbable

Last Amended: April 4, 2017

Last Action: Approved by Assembly Elections Committee and referred to Assembly Appropriations Committee. (06/15/2017)

Summary:

The Act regulates slate mailer organizations and prescribes specific disclosures on slate mailers and mass mailings. There are slate mailer organizations that identify themselves as representing non-governmental organizations including organizations composed of or affiliated with public safety-related occupations. The Act specifies additional disclosures for mailers that imply association with public safety-related occupations.

Regarding public safety-related occupations, this bill would require the slate mailer organization to disclose on the mailing, in a specified format, the number of members of public safety personnel the slate mailer organization represents, or a statement that the organization does not represent any public safety personnel.

10. SB 267 (Pan): City of Sacramento Enforcement

FPPC Position: *None currently*

Status: Assembly Local Government Committee

Fiscal Estimate: City of Sacramento to reimburse FPPC's costs

Urgency: Yes

Last Amended: Amendments pending

Last Action: Approved by Assembly Elections Committee with amendments, referred to Assembly Local Government Committee. (06/14/2017)

Summary:

The Act authorizes the Commission to contract with the County of San Bernardino and the City of Stockton to provide impartial, effective administration, implementation, and enforcement of local campaign finance ordinances.

This bill would authorize the Commission and the City of Sacramento to enter a similar agreement. The bill also requires the Commission provide a report to the Legislature no later than four years after contracting with the City of Sacramento. This bill contains an urgency clause.

Staff Update:

SB 267 was approved by Assembly Elections Committee with committee amendments. The amendments will be officially in print after the notice of the Commission's June meeting. The amendments as described in the committee analysis would insert a sunset date of January 1, 2023 and require the mandated report due to the Legislature by January 1, 2022.

11. SB 358 (Stern): Secretary of State; local disclosure websites

FPPC Position: *None currently*

Status: Assembly Elections Committee

Fiscal Estimate: No cost to the Commission

Introduction: February 14, 2017

Last Action: Referred to Assembly Elections Committee. (05/18/2017)

Summary:

The Act requires candidates and committees to file periodic campaign statements with the Secretary of State or the local filing officer.

This bill would require the Secretary of State to post hyperlinks on his or her website of any local government agency that has publicly-disclosed campaign finance information and update the hyperlinks accordingly.

12. SB 679 (Morrell): Post-Governmental Employment

FPPC Position: *None currently*

Status: Assembly Elections Committee

Fiscal Estimate: Minor and Absorbable

Last Amended: April 26, 2017

Last Action: Referred to Assembly Elections Committee. (06/12/2017)

Summary:

The Act prohibits a former Member of the Legislature from receiving compensation to communicate to or appear before the Legislature to influence legislative action. This prohibition lasts for one year after leaving office.

This bill prohibits lobbying by Members of the Legislature who resign prior to the end of their term. This prohibition lasts for two years commencing on the day of resignation.

Bills Expected Not to Move Further in 2017 (#13-20)

13. AB 664 (Steinorth): Campaign Expenditures

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Introduction: February 14, 2017

Last Action: Failed Passage in Assembly Elections and Redistricting Committee. Granted Reconsideration. (04/26/17)

Summary:

The Act requires that contributions deposited into a campaign account for a candidate for elective office be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office. The Act imposes limitations on certain expenditures as political, legislative, or government purposes. Government Code 84307.5 prohibits compensation from campaign funds to a candidate's spouse or domestic partner in exchange for services rendered.

This bill would prohibit payment, in exchange for services rendered, to a parent, spouse or domestic partner, grandparent, sibling, child, or grandchild of that officer or candidate.

14. AB 774 (Harper): Foreign Contributions

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Introduction: February 15, 2017

Last Action: Failed Passage in Elections and Redistricting Committee. Granted Reconsideration. (04/26/17)

Summary:

The Political Reform Act prohibits a foreign government or principal, as defined, from making a contribution or expenditure in connection with a ballot measure, and prohibits a person or committee from soliciting or accepting a contribution from a foreign government or principal for this purpose. (Section 85320.)

This bill would expand the scope of the law by also prohibiting a foreign government, principal, or foreign national from making a contribution or expenditure, and a person or committee from soliciting or accepting this type of contribution, in connection with any election in California (not just ballot measures). While this activity is currently prohibited under federal law, this bill expands the Commission's authority to enforce incidents of foreign contributions or expenditures

into California campaigns should the Federal Election Commission (FEC) not act. There is a risk for potential litigation because the bill expands the current law prohibition to foreign nationals.

15. AB 1089 (Mullin): Local Contribution Limits

FPPC Position: *None currently*

Status: Assembly Appropriations Committee – Suspense File

Fiscal Estimate: \$1,091,973 (first year), \$1,035,973 (ongoing)

Introduction: February 17, 2017

Last Action: Held under submission. (05/26/2017)

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 local and special 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.

16. AB 1234 (Levine): Contribution Limits; Political Parties

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: \$141,171 first year; \$134,171 ongoing

Introduction: February 17, 2017

Last Action: Held under submission. (05/26/2017)

Summary:

The Act contains contribution limits on state offices, statewide offices, the Governor and small contributor committees. The Act exempts a political party committee from these contribution limits.

This bill would eliminate the exemption and make political party committees subject to contribution limits.

17. AB 1333 (Dababneh): Local Government Agency Notices

FPPC Position: *None currently*

Status: Assembly Appropriations Committee – Suspense File

Fiscal Estimate: Assembly Appropriations estimate over \$150,000

Introduction: February 17, 2017

Last Action: Held under submission. (05/26/2017)

Summary:

Whenever an ordinance is submitted to voters of a county, city, or district at an election, election officials must print the ordinance and make a copy of the ordinance available to any voters who requests a copy.

This bill adds a new chapter to the Act to require every local government agency that maintains a website to post notice of any upcoming election in which voters will vote on a tax or bond measure of the agency. The bill also requires every local government agency that publishes an electronic newsletter to include the notice in the newsletter.

18. AB 1458 (Friedman) Candidate websites; Cal-Access

FPPC Position: *None currently*

Status: Assembly Floor

Fiscal Estimate: Minor and Absorbable

Last Amended: April 18, 2017

Last Action: Refused passage on Assembly Floor. (06/01/2017)

Summary:

The Act requires candidate and committees to file periodic campaign statements with the Secretary of State or local filing officer. Secretary of State is required to disclose certain information from campaign statements in a user-friendly, easily understandable format.

This bill would require a candidate for state elective office to include and conspicuously display on their campaign homepage a hyperlink to the Secretary of State's online disclosure website that displays the candidate's campaign finance information. This requirement would not apply to social media.

19. AB 1524 (Brough): Mass Mailing Prohibition

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Introduction: February 17, 2017

Last Action: Heard in Assembly Elections and Redistricting Committee; Two-year Bill
(04/26/17)

Summary:

Commission regulations defines criteria for mass mailings at public expense and specify certain forms of mass mailing that are not subject to the Political Reform Act's prohibition against mass mailings.

This bill would prohibit a mass mailing that complies with the Commission's regulatory criteria from being sent within the 90 days preceding an election by or on behalf of a candidate, state or

local, whose name will appear on the ballot or on behalf of an agency, if a measure on the ballot will have a direct financial impact on the agency. The bill exempts school districts or community college districts who provide impartial and informative information regarding a bond issue or other measure. The bill does not apply to mass mailings required by law.

20. SB 529 (Nguyen): Inspection of Public Records

FPPC Position: *None currently*

Status: Senate Elections and Constitutional Amendment Committee

Fiscal Estimate: None requested

Introduction: February 17, 2017

Last Action: Set for hearing. Cancelled at Request of Author; Two-Year Bill (04/04/17)

Summary:

The Act provides that every report and statement filed pursuant to the Act is a public record and open for public inspection and reproduction. The Act prohibits any conditions upon persons seeking to inspect reports and statements.

This bill specifies recipient committee campaign statements filed with local filing officers be furnished promptly and would clarify that a request to inspect does not need to be made pursuant to the California Public Records Act.