



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Germond, Commissioners Cardenas, Hatch, and Hayward

From: Phillip Ung, Director, Legislative and External Affairs

Subject: Attachment 3: Regulation Codification – RN 19 00561

Date: December 14, 2018

Background

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 a number of regulations the Commission staff has identified as being long-standing, non-controversial, essential to complying the Act.

Analysis

This bill does the following:

1. Codify [Regulation 18116](#) to clarify that, where the filing deadline for filing statements or reports falls on a Saturday, Sunday, or official state holiday, the filing deadline shall be extended to the next regular business day with the exception of specified reported filed immediately before an election.
2. Codify [Regulation 18117](#) that failure by a filing officer or filing official to comply with a duty or to provide notice of a filing or disclosure obligations does not affect a person's duty to file statements and reports disclosing information required by the Act.
3. Clarify in statute that "candidate" includes an elected officeholder from [Regulation 18404](#), recasts Section 82007 to improve readability.
4. Repeals Section 85311, recasts its provisions in newly added Section 82015.5, and integrates [Regulation 18215.1](#) to clarify the same aggregation definition applies for limits and reporting purposes for state and local committees.
5. Codify [Regulation 18616.4](#) to extend filing requirements of lobbyist employers to lobbying coalitions and define lobbying coalition in the Act.
6. Codify [Regulation 18229](#) to include registered domestic partners recognized under state law in the definition of "spouse."
7. Codify [Regulation 18426.1](#) permitting recipient committees to designate an assistant treasurer, who may sign and verify campaign statements on behalf of the committee under certain circumstances.

8. Repeals and recasts Section 84105, integrating [Regulation 18427.1](#) to add detail that major donor notice is required to be sent when a committee receives contributions totaling \$5,000 in a calendar year; recasts to improve readability.
9. Codify [Regulation 18729](#) to specify what information must be provided whenever an official must disclose a leasehold interest.
10. Clarify Section 87313 that a person who makes a gift is the source of the gift, unless acting as an intermediary; recasts section to improve readability. ([Regulation 18945](#))
11. Add new Section 89503.5 from [Regulation 18941](#) to clarify in statute when an official “receives” or “accepts” a gift.
12. Codify [Regulation 18996](#), repeal and recast Section 90002, to restore statutory notice to filers regarding what is subject to audit that was inadvertently deleted in prior legislation.

Fiscal Impact

No costs to the Commission.

Legislative Counsel has keyed the as a state-mandated local program which generally requires the state, under the California Constitution, to reimburse local agencies and school districts for certain costs mandated by the state. However, no reimbursement is required by this bill because the only costs that may be incurred by a local agency or school district will be incurred because this bill creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of [Section 17556 of the Government Code](#).

Staff Recommendation

1. Approve the Legislative Counsel draft as presented;
2. Adopt a sponsorship position; and
3. Authorize Commission staff to retain an author for bill introduction.

LEGISLATIVE COUNSEL'S DIGEST

Bill No. _____
as introduced, _____.
General Subject: Political Reform Act of 1974: Fair Political Practices Commission:
regulations.

(1) The Political Reform Act of 1974 requires certain statements and reports to be filed on specified dates or during or within specified time periods. An existing regulation adopted by the Commission clarifies that, where the filing deadline for filing these statements or reports falls on a Saturday, Sunday, or official state holiday, the filing deadline shall be extended to the next regular business day, with the exception of specified reports that must be filed immediately before an election.

This bill would codify this regulation.

(2) The act requires filing officers to process and maintain certain statements and reports, among other specified duties. An existing regulation adopted by the Commission provides that the failure by a filing officer or filing official to comply with a duty or to provide notice of a filing or disclosure obligation does not affect a person's duty to file statements and reports disclosing information, as required by the act or any enforceable conflict of interest code.

This bill would codify this regulation.

(3) The act defines "immediate family" as the spouse and dependent children. An existing regulation adopted by the Commission defines "spouse" to include registered domestic partners recognized by state law.

This bill would codify this regulation.

(4) The act requires all committees to have a treasurer, who must authorize all expenditures made by or on behalf of the committee. An existing regulation adopted by the Fair Political Practices Commission permits recipient committees, as defined in the act, to designate one assistant treasurer, who may sign and verify campaign statements on behalf of the committee under certain circumstances.

This bill would codify this regulation and make other conforming changes.

(5) The act requires lobbying firms and lobbyist employers to file a registration statement with the Secretary of State, as specified. An existing regulation adopted by the Commission extends the filing requirements of lobbyist employers to lobbying coalitions, which are defined as a group of 10 or more persons formed primarily to influence legislative or administrative action, whose members make payments to the coalition for sharing the expenses of employing a lobbyist or contracting for the services



of a lobbying firm. The regulation also specifies that a bona fide federation, confederation, or trade, labor, or membership organization is not a lobbying coalition if it is ongoing in nature and its membership services are not limited to influencing legislative or administrative action.

This bill would codify this regulation.

(6) The act requires lobbying firms and specified lobbyist employers to register with the Secretary of State, unless specified exceptions apply. Individual lobbyists must submit a lobbyist certification as part of this registration. Certain lobbyist employers are not required to register with the Secretary of State, but must file statements pursuant to the act. An existing regulation adopted by the Commission additionally requires that lobbyist employers who are not required to register with the Secretary of State must complete a written authorization for a lobbying firm to engage in activities on its behalf, which must be filed with the lobbying firms registration, and maintain records and file quarterly reports.

This bill would revise and recast these provisions of the act and codify the Commission's regulation.

(7) The act requires elected officials to file statements disclosing the official's investments, interests in real property, and income. The interests in real property that must be disclosed include leasehold interests. An existing regulation adopted by the Commission specifies the information that must be provided whenever an official must disclose a leasehold interest.

This bill would codify this regulation.

(8) The act prohibits specified public officials from receiving gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250), as adjusted biennially for inflation. An existing regulation adopted by the Commission specifies that a gift is both "received" and "accepted" when the public official, or the official's immediate family member, knowingly takes actual possession of the gift, is provided the benefit of the gift, or takes any action exercising direction or control over the gift.

This bill would codify this regulation.

(9) The act prohibits a person from making a gift of fifty dollars (\$50) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another to a person whom he knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift must include this information on the recipient's statement of economic interest.

This bill would clarify that this prohibition applies to gifts made to employees designated under a conflict of interest code and specified public officials. The bill would also specify that any person who makes a gift to an official is the source of a gift unless that person is acting as an intermediary or agent, consistent with an existing regulation adopted by the Commission.

(10) The act requires that audits and investigations of lobbying firms and lobbyist employers be performed on a biennial basis and cover reports filed during a period of two years, as specified. An existing regulation adopted by the Commission incorporates



this requirement and provides further detail regarding the scope of the audits and investigations required by the act.

This bill would codify this regulation.

(11) This bill would make various other technical, nonsubstantive changes to provisions of the act.

(12) Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(13) 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.

(14) 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 $\frac{2}{3}$ 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.



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An act to amend Sections 84100 and 86105 of, to add Sections 81005, 81010.5, 82015.5, 82038.3, 82048.8, 87206.5, and 89503.5 to, to repeal and add Sections 82007, 84105, 86100, 87313, and 90002 of, and to repeal Section 85311 of the Government Code, relating to the Political Reform Act of 1974.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 81005 is added to the Government Code, to read:

81005. (a) If this title requires that a statement or report be filed before or on a specified date or during or within a specified period, and the filing deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for the statement or report shall be extended to the next regular business day.

(b) This extension does not apply to the following statements or reports:

(1) Contribution reports required by Section 84203, subdivision (b) of Section 84203.3, or Section 85309, or the contributor's notice of a late in-kind contribution required by subdivision (a) of Section 84203.3, when the due date for these types of reports falls on a Saturday, Sunday, or official state holiday immediately before an election.

(2) Independent expenditure reports required by Section 84204 or 85500.

SEC. 2. Section 81010.5 is added to the Government Code, to read:

81010.5. A filing officer or filing official's failure to comply with a duty or to provide notice of a filing or disclosure obligation does not affect a person's duty to file statements and reports disclosing information as required by this title or any enforceable conflict of interest code.

SEC. 3. Section 82007 of the Government Code is repealed.

~~82007. "Candidate" means an individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials, for nomination for or election to any elective office, or who receives a contribution or makes an expenditure or gives his or her consent for any other person to receive a contribution or make an expenditure with a view to bringing about his or her nomination or election to any elective office, whether or not the specific elective office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time. "Candidate" also includes any officeholder who is the subject of a recall election. An individual who becomes a candidate shall retain his or her status as a candidate until such time as that status is terminated pursuant to Section 84214. "Candidate" does not include any person within the meaning of Section 301(b) of the Federal Election Campaign Act of 1971.~~

SEC. 4. Section 82007 is added to the Government Code, to read:

82007. (a) "Candidate" means any of the following:

(1) Anyone who is listed on a ballot or is qualified to have write-in votes cast on their behalf counted by elections officials for nomination or election to any elective office.

(2) Anyone who receives a contribution, makes an expenditure, or gives their consent for another person to receive a contribution or make an expenditure, to bring about his or her nomination or election to an elective office, even if any of the following apply:

(A) The specific elective office for which the person will seek nomination or election is unknown at the time the contribution is received or the expenditure is made.

(B) The person has not announced the candidacy or filed a declaration of candidacy.

(3) An elected officer, including any elected officer who is the subject of a recall.



(b) Anyone who becomes a candidate retains candidate status until that status is terminated under Section 84214.

(c) "Candidate" does not include any candidate, as defined in Section 30101(2) of Title 52 of the United States Code, for federal office, as to the person's activities related to seeking nomination or election to that federal office.

SEC. 5. Section 82015.5 is added to the Government Code, to read:

82015.5. (a) To determine when contributions are aggregated under this title, "entity" means any person other than an individual, and "majority owned" means ownership of more than 50 percent.

(b) If an individual directs or controls an entity's contributions, the entity's contributions shall be aggregated with contributions made by both of the following:

(1) That individual.

(2) Any other entity whose contributions that individual directs or controls.

(c) If two or more entities make contributions that are directed or controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(d) Contributions made by entities that are majority owned by a person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their contribution-making decisions.

SEC. 6. Section 82038.3 is added to the Government Code, to read:

82038.3. (a) "Lobbying coalition" means a group of 10 or more persons formed primarily to influence legislative or administrative action, whose members make payments to the coalition for sharing the expenses of employing a lobbyist or contracting for the services of a lobbying firm.

(b) A lobbying coalition is subject to the same registration and filing requirements as a lobbyist employer.

(c) A bona fide federation, confederation, or trade, labor, or membership organization is not a lobbying coalition if it is ongoing in nature and its membership services are not limited to influencing legislative or administrative action.

(d) A person making payments to a lobbying coalition does not qualify as a lobbying firm or lobbyist employer as a result of those payments.

SEC. 7. Section 82048.8 is added to the Government Code, to read:

82048.8. "Spouse" includes registered domestic partners recognized by state law.

SEC. 8. Section 84100 of the Government Code is amended to read:

84100. (a) Every recipient committee, as defined by subdivision (a) of Section 82013, shall have a treasurer. No An expenditure shall not be made by or on behalf of a committee without the authorization of the treasurer or that of his or her the treasurer's designated agents. No A contribution or expenditure shall not be accepted or made by or on behalf of a committee at a time when there is a vacancy in when the office of treasurer is vacant.

(b) A recipient committee, as defined by subdivision (a) of Section 82013, may designate one assistant treasurer on the committee's statement of organization. The assistant treasurer may sign and verify a campaign statement on behalf of the committee if the assistant uses reasonable diligence to prepare and review the statement and signs to that effect under penalty of perjury as required by Section 81004.

SEC. 9. Section 84105 of the Government Code is repealed.



~~84105. A candidate or committee that receives contributions of five thousand dollars (\$5,000) or more from any person shall inform the contributor within two weeks of receipt of the contributions that he or she may be required to file campaign reports, and shall include a reference to the filing requirements for multipurpose organizations under Section 84222. However, a candidate or committee that receives a contribution of ten thousand dollars (\$10,000) or more from any person during any period in which late contribution reports are required to be filed pursuant to Section 84203 shall provide the information to the contributor within one week. The notification required by this section is not required to be sent to any contributor who has an identification number assigned by the Secretary of State issued pursuant to Section 84101.~~

SEC. 10. Section 84105 is added to the Government Code, to read:

84105. (a) A candidate or committee that receives contributions totaling five thousand dollars (\$5,000) or more from a person in a calendar year shall inform that contributor within two weeks of receipt that the contributor may be required to file campaign reports. The notice shall include a reference to the filing requirements for multipurpose organizations under Section 84222.

(b) A candidate or committee that receives a contribution of ten thousand dollars (\$10,000) or more from a person during a period in which late-contribution reports are required to be filed under Section 84203 shall provide the information in subdivision (a) of that section to the contributor within one week.

(c) The notifications required by this section need not be sent to a contributor who has an identification number assigned by the Secretary of State issued under Section 84101.

SEC. 11. Section 85311 of the Government Code is repealed.

~~85311. (a) For purposes of the contribution limits of this chapter, the following terms have the following meanings:~~

~~(1) "Entity" means any person, other than an individual.~~

~~(2) "Majority owned" means an ownership of more than 50 percent.~~

~~(b) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.~~

~~(c) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.~~

~~(d) Contributions made by entities that are majority owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions.~~

SEC. 12. Section 86100 of the Government Code is repealed.

~~86100. (a) Individual lobbyists shall prepare lobbyist certifications pursuant to Section 86103 for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee or as part of the registration of the lobbyist employer by which the lobbyist is employed.~~

~~(b) Lobbying firms shall register with the Secretary of State.~~

~~(c) Lobbyist employers as defined in subdivision (a) of Section 82039.5 shall register with the Secretary of State.~~



~~(d) Lobbyist employers as defined in subdivision (b) of Section 82039.5 and persons described in subdivision (b) of Section 86115 are not required to register with the Secretary of State but shall file statements pursuant to this article.~~

~~(e) A registration statement shall be filed by online or electronic means.~~

SEC. 13. Section 86100 is added to the Government Code, to read:

86100. (a) The following persons shall register with the Secretary of State:

- (1) Lobbying firms.
- (2) Lobbyist employers under subdivision (a) of Section 82039.5 who employ one or more in-house lobbyists.

(3) Lobbying coalitions.

(b) Each individual lobbyist shall submit a lobbyist certification under Section 86103 for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee, or as part of the registration of the lobbyist employer that employs the lobbyist.

(c) Lobbyist employers under subdivision (b) of Section 82039.5 who contract only for a lobbying firm's services, and persons described in subdivision (b) of Section 86115, are not required to register with the Secretary of State, but shall do both of the following:

(1) Complete a written authorization for a lobbying firm to engage in activities on its behalf, which shall be filed with the lobbying firm's registration.

(2) Maintain records and file quarterly reports under this chapter.

SEC. 14. Section 86105 of the Government Code is amended to read:

86105. The registration of for a lobbyist employer shall that employs lobbyists or a lobbying coalition shall include:

(a) The following information regarding the lobbyist employer or coalition:

(a)

(1) The filer's full name, business address, email address, and telephone number of the lobbyist employer.

(b) A list of the lobbyists who are employed by the lobbyist employer.

(c) The lobbyist certification of each lobbyist employed by the lobbyist employer, included by electronic link.

(d)

(2) Information sufficient to identify the nature and interests of the filer, including:

(1)

(A) For an individual, the name and address of the filer's employer, if any, or if self-employed, his or her the filer's principal place of business, and a description of the business activity in which the filer or his or her the filer's employer is engaged.

(2)

(B) For a business entity, a description of the business activity in which it is engaged.

(3)

(C) For an industry, trade, or professional association, a description of the industry, trade, or profession it represents including a specific description of any part or faction of the industry, trade, or profession that the association exclusively or primarily represents and, if the association has 50 or fewer members, the names of the members.

(4)



(D) For other persons, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest that the person principally represents or from which its membership or financial support is principally derived.

(e)

~~(3) The lobbying employer's or coalition's lobbying interests of the lobbyist employer, and a interests.~~

~~(4) A list of the state agencies whose legislative or administrative actions the lobbyist employer or coalition will attempt to influence.~~

~~(b) The lobbyist employer or coalition shall provide:~~

~~(1) A list of the lobbyists who are employed by the lobbyist employer or coalition.~~

~~(2) The lobbyist certification of each lobbyist employed.~~

(f)

~~(c) Any other information required by the commission Commission consistent with the this chapter's purposes and provisions of this chapter. provisions.~~

SEC. 15. Section 87206.5 is added to the Government Code, to read:

87206.5. If an official must disclose a leasehold interest, the official shall do all of the following:

(a) Identify the interest as a leasehold interest.

(b) Disclose the number of years remaining on the lease.

(c) Provide the leased property's address or other precise location.

(d) Provide the exact date the lease became effective or terminated if the lease became effective or terminated during the period covered by the statement.

(e) Disclose the value of the leasehold interest as specified in subdivision (d) of Section 87206.

SEC. 16. Section 87313 of the Government Code is repealed.

~~87313. No person shall make a gift of fifty dollars (\$50) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another to a person whom he knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.~~

SEC. 17. Section 87313 is added to the Government Code, to read:

87313. (a) Any person who makes a gift to an official is the source of the gift unless that person is acting as an intermediary or agent.

(b) If a person makes a gift, as specified in this subdivision, on behalf of another or while acting as the intermediary or agent of another, to an individual who must disclose the gift on a statement of economic interests, the intermediary or agent shall disclose to the recipient their own full name, street address, and business activity, if any, and the same information of the actual donor. The recipient shall disclose the information of both the intermediary or agent and the actual donor on their statement of economic interests. This subdivision applies to both of the following:

(1) Designated employees, if the person makes a gift of fifty dollars (\$50) or more in a calendar month to anyone whom the person knows or has reason to know may be required to disclose the gift under a conflict of interest code.



(2) Individuals specified in Section 87200, if the person makes a gift of fifty dollars (\$50) or more in a calendar month.

SEC. 18. Section 89503.5 is added to the Government Code, to read:

89503.5. A gift is both "received" and "accepted" when the public official, or the official's immediate family member, knowingly takes actual possession of the gift, is provided the benefit of the gift, or takes any action exercising direction or control of the gift.

SEC. 19. Section 90002 of the Government Code is repealed.

~~90002. (a) Audits and investigations of lobbying firms and lobbyist employers shall be performed on a biennial basis and shall cover reports filed during a period of two years.~~

~~(b) If a lobbying firm or lobbyist employer keeps a separate account for all receipts and payments for which reporting is required by this chapter, the requirement of an audit under subdivision (a) of Section 90001 shall be satisfied by an audit of that account and the supporting documentation required to be maintained by Section 86110.~~

SEC. 20. Section 90002 is added to the Government Code, to read:

90002. (a) The scope of audits and investigations under Section 90001 is as follows:

(1) Audits and investigations of lobbying firms and employers of lobbyists shall be conducted biennially covering reports filed during the previous two-year period. If a lobbying firm or lobbyist employer keeps a separate account for all receipts and payments for which reporting is required by this chapter, the requirement of an audit under subdivision (a) of Section 90001 shall be satisfied by an audit of that account and the supporting documentation required to be maintained by Section 86110.

(2) For campaign statements or reports of a candidate, controlled committee, or committee primarily supporting or opposing a candidate, the audit or investigation shall cover all campaign statements and reports filed for the primary and general election, or a special or runoff election, as well as any previous campaign statements or reports filed since the last election for that office. The audit or investigation shall not include statements or reports previously audited under Section 90001 or 90003.

(3) For campaign statements or reports of a committee primarily supporting or opposing a measure, the audit or investigation shall cover all campaign statements and reports filed by the committee in connection with the measure.

(4) For all other committees, the audit or investigation shall cover all campaign statements and reports filed during the previous two calendar years.

(b) The audit or investigation periods may be extended to include any transaction that relates to or is connected with the election being audited or investigated for the two-year period.

(c) An audit or investigation conducted under Section 90001 shall not include campaign statements or reports filed in conjunction with an election for any other office.

(d) This section shall not be interpreted to act as a limit on the Franchise Tax Board or the Commission in undertaking a discretionary audit under Section 90003.

SEC. 21. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime



or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 22. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

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