



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 – October 2019
Date: October 8, 2019

Commission-sponsored Legislation

Since the September Commission meeting, Governor Gavin Newsom signed two FPPC-sponsored bills into law: AB 909 (Gallagher) requiring treasurers to acknowledge their duties and responsibilities and AB 946 (Committee on Elections) repealing obsolete and extraneous provisions of the Act.

Pending Legislation

The Commission adopted active positions on all four remaining Political Reform Act bills on the Governor's desk. The last day for the Governor to sign or veto legislation is October 13, 2019. The Legislature will reconvene for the second year of the two-year session on January 6, 2020.

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

Bills with Active Positions (#1-4) (Awaiting Governor Action)

1. **AB 201** (Cervantes): **Campaign disclosure: mass text messages.**
FPPC Position: *Support*
Status: Governor's Desk
Fiscal Impact: Minor and absorbable
Amended: August 29, 2019
Last Action: Presented to the Governor (9/24/19)

Summary:

This bill requires a candidate or committee to disclose the name of the candidate or committee in certain text message ads and provide a hyperlink in the text message to a website with more information. If the disclosure is impracticable, the bill instead permits inclusion of an identification number in the text message. The bill sets forth standards for color and size of the text in the text message and disclosures on the website.

At the September 2019 meeting, the Commission changed its position from “support if amended,” to a “support” position regarding the final version of the bill.

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

FPPC Position: *Support*

Status: Governor's Desk

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

Amended: April 2, 2019

Last Action: Presented to the Governor (9/17/19)

Summary:

This bill establishes a contribution limit for cities and counties, equal to state legislative limits, to be regulated and enforced by FPPC. Jurisdictions adopting their own limits, or with existing limits, are not subject to the state limit. The bill would become operative January 1, 2021.

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

FPPC Position: *Support*

Fiscal Estimate: No costs to the Commission

Status: Governor's Desk

Amended: August 30, 2019

Last Action: Presented to the Governor (9/24/19)

Summary:

This bill makes various changes to the DISCLOSE Act, including:

1. Exempts from the definition of "mass electronic mailing" communications that are solicited by recipients.
2. Exempts electronic media communications if a customer has agreed to receive communications from a commercial advertiser and expressly agrees to receive political messages from that provider.
3. Clarifies disclosure requirements for large print ads 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 ads and applicable disclosures for party committees and candidates committees who pay for independent expenditures or ads supporting or opposing a ballot measure.

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

FPPC Position: *Support*

Status: Governor's Desk

Fiscal Estimate: Minor and absorbable

Amended: August 26, 2019

Last Action: Presented to the Governor (9/19/19)

Summary:

This bill is related to the Commission's rescission of the [Mendoza Advice Letter A-18-009](#). The bill, as amended, allows expenditure of funds in a campaign committee account or legal defense fund account to pay for a candidate or elected official's defense against claims of sexual assault, sexual harassment, and sexual abuse. However, the candidate or elected official would be

required to reimburse the committee account if he or she were ultimately “held liable for such a violation.”

At the September 2019 meeting, the Commission changed its position from “support if amended,” to a “support” position regarding the final version of the bill.

Chaptered Bills (#5-11)

5. [AB 220](#) (Bonta): Campaign funds: childcare costs.

FPPC Position: *Support*

Status: Chaptered

Last Action: Signed by the Governor. Chapter 384, Statutes of 2019. (09/30/19)

Summary:

This bill authorizes the use of campaign funds to pay for childcare expenses resulting from a candidate engaging in campaign activities. The bill becomes operative on January 1, 2020.

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

FPPC Position: *Support*

Status: Chaptered

Last Action: Signed by the Governor. Chapter 312, Statutes of 2019. (09/20/19)

Summary:

This bill codifies several FPPC regulations that staff identified as being long-standing and non-controversial. The bill becomes operative on January 1, 2020.

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

FPPC Position: *Sponsor*

Status: Chaptered

Last Action: Signed by the Governor. Chapter 102, Statutes of 2019. (07/12/19)

Summary:

This bill clarifies: (1) 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; (2) the language in Section 84200.5 to eliminate confusing language leading to multiple potential interpretations; and, (3) that the disclosure of income from a gift or business entity include the street address of each source or entity. The bill becomes operative on January 1, 2020.

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

FPPC Position: *Sponsor*

Status: Chaptered

Last Action: Signed by the Governor. Chapter 313, Statutes of 2019. (09/20/19)

Summary:

This bill requires a treasurer or assistant treasurer identified on the Statement of Organization to sign a separate statement acknowledging cognizance of the law. Requires the Statement of

Acknowledgment to 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 becomes operative upon certification of the new Cal-Access System.

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

FPPC Position: *Sponsor*

Status: Chaptered

Last Action: Signed by the Governor. Chapter 315, Statutes of 2019. (09/20/19)

Summary:

This bill is the Commission's housekeeping bill repealing expired provisions of the Act no longer applicable or antiquated. The bill will become operative on January 1, 2020.

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

FPPC Position: *Support*

Status: Chaptered

Last Action: Signed by the Governor. Chapter 46, Statutes of 2019. (07/01/19)

Summary:

This bill authorizes 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 requires a candidate or elected officer to report any expenditure of campaign funds for these purposes to FPPC in campaign statements. The bill becomes operative on January 1, 2020.

11. [SB 84](#) (Senate Budget and Fiscal Review Committee): Cal-Access Implementation Delay

Status: Chaptered

Last Amended: June 4, 2019

Last Action: Signed by the Governor. Chapter 30, Statutes of 2019. (06/27/19)

Summary:

This bill extends the date for the Secretary of State to make the filing and disclosure system available for use to February 2021, with no provision allowing for an extension.

Two-Year Bills (#12-17)

12. [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.

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

Status: Assembly Floor – Inactive File

Fiscal Impact: Minor and absorbable

Amended: May 13, 2019

Last Action: Ordered to the Inactive File by the author (5/30/19)

Summary:

This bill would prohibit 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.

14. [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 – Suspense File

Amended: April 29, 2019

Last Action: Referred to Assembly Appropriations Committee Suspense File (05/08/19)

Summary:

This bill does the following:

1. Amends the definition of “advertisement” in the PRA 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 definition of “lobbying-available donation” to mean payment, forgiveness of a loan, 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 clearly 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 ad 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 ads 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 ads. 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, FPPC staff believes this bill could lead to legal challenges over its constitutionality.

In August 2019, Assembly Member Mullin decided to make AB 1217 a two-year bill in order to work with the FPPC and other stakeholders on address ongoing issues with the bill.

15. [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:

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

Staff Comments:

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

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

L&P Recommendation: *Support*

Status: Assembly Elections Committee

Amended: March 20, 2019

Last Action: Referred to the Assembly Elections Committee. No hearing set. (5/30/19)

Summary:

This bill would expand prohibitions against foreign influence in campaigns 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 FPPC supported near-identical legislation ([AB 2250 – Ridley-Thomas](#)) to address a potential gap in the PRA related to foreign contributions to state and local candidates. Federal law generally prohibits foreign nationals from spending money in *any* U.S. election. The federal law is one of the issues before the 9th Circuit Court of Appeals in [United States v. Ravneet Singh](#). SB 300 may provide a backstop in CA if the Court rules against the federal government.

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

FPPC Position: *Sponsor*

Status: Assembly Elections Committee

Amended: April 9, 2019

Last Action: Set for hearing; hearing cancelled at the request of the author (6/24/19)

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 effects of SB 423 on existing committee practices, specifically political party committees. As a result of conversations with interested persons, staff is presenting substantive amendments to make clear that political party and general purpose committees may create additional 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 clarify that it is not the FPPC's intent to limit committees to exclusively one account.