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# Assembly California Legislature



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March 15, 2016

The Honorable Jodi Remke  
Chair, California Fair Political Practices Commission  
428 J Street, Suite 620  
Sacramento, CA 95814

Dear Ms. Remke:

As the authors of AB 700 "The Disclose Act," we respectfully request that the Commission delay taking a position on this legislation. Instead, we respectfully request that you allow some time for Commission staff to work with our offices to address the issues raised in your staffs' analysis.

This bill will likely not be heard in its next committee until June.

Please see the attached for a brief discussion of some of the issues raised by Commission staff. We hope the Commission will take the opportunity to allow Commission staff to refine these issues through discussions with our offices before taking a formal position.

The Commission has taken strong positions in favor of public disclosure and the need for more transparency in political activities. We applaud those actions, and this bill is in keeping with the Commission's efforts.

We hope that the Commission will accept our invitation to work together before formally taking a position on this landmark measure.

Thank you, in advance, for your consideration.

Sincerely,

JIMMY GOMEZ

MARC LEVINE



## FPPC Concerns with Drafting of AB 700

Emphasizing the need for further discussion, Commission staff states that one of the reasons it has recommended an oppose position recommendation is because AB 700 uses objectionably ambiguous wording. Specifically, Commission staff identified as objectionable AB 700's use of the word "*impracticable*" and the phrase "*easily readable*."

The authors are committed to working through issues raised by the Commission staff. However, we need to have further discussions to more fully understand why the staff believes the bill to be ambiguous.

For example, the word "*impracticable*" is a commonplace legal term and is used in more than 80 different sections of California law. Furthermore, the Commission has itself elected to use the word in at least two sections of its own regulations:

§ 18450.1 (b)(3) An electronic media advertisement where inclusion of any of the disclosure requirements of Sections 84503, 84504, 84506, or 84506.5 or of Regulation 18450.4(b)(3)(G)(iv) **would be impracticable** because:

§ 18450.4. ... 4. Electronic Media Advertisement Disclosure Exception: In electronic media advertisements whose size, space, or character limit constraints (i.e., SMS text message) **render it impracticable** to include the full disclosure information specified in Sections 84503, 84504, 84506, 84506.5

Likewise, the phrase "*easily readable*" or similar phrases is used in at least 22 different places in existing law. Additionally, the phrase already appears in the Political Reform Act, thus the Commission has been interpreting and applying "*easily readable*" for years:

§ 84612. Rejection of Electronic Filing; Procedures. If the Secretary of State rejects a filing made under this chapter, the Secretary of State shall immediately notify the filer, by electronic mail, of the reason or reasons for rejection using plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and **easily readable** style.

Also, the Commission's regulations use the term "*readable*" (§ 18115, § 18110) and it used in at least one Commission opinion:

<http://www.fppc.ca.gov/content/dam/fppc/documents/Opinions/bunyan.PDF>

That, in just these three examples, staff's oppose recommendation in part appears to be based on words that the Commission already uses and interprets suggests that further discussions will be fruitful. If more clarity is needed, the authors are happy to work with Commission staff. Please keep in mind that the Commission has the option of promulgating a regulation to create additional clarity, as has historically been the case for the Commission as it gives the Commission the greatest level of flexibility in reacting to changes in political practices as they occur.