



FAIR POLITICAL PRACTICES COMMISSION

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To: Chair Ravel and Commissioners Eskovitz, Garrett, Montgomery, and Wasserman
From: Sukhi Brar, Commission Counsel and Legislative Coordinator
Subject: Legislative Update
Date: February 13, 2013

The 2012-2013 Legislative Session began on December 3, 2012. Staff believes it is important to work with the Legislature on legislative proposals that will further the purposes of the Political Reform Act (Act). Staff has discussed a number of ideas and is suggesting the Commission focus on increased disclosure and increased enforcement capabilities for independent expenditures, particularly before an election.

Ongoing Legislation – Positions Not Yet Adopted by Commission

AB 45 (Dickinson)

Existing Law

The Act currently defines a “committee” as any person or combination of persons who receive contributions or make independent expenditures of \$1,000 or more in a calendar year. The Act also defines a “controlled committee” as a committee that is controlled directly or indirectly by a candidate. The Act requires committees to file campaign statements and requires that those statements disclose certain information about contributors who have made aggregate contributions of \$100 or more. The Act also defines “surplus campaign funds” as campaign funds that are under the control of a former candidate or former elected official as of the date of leaving office or the end of the postelection reporting period following the defeat of the candidate for elective office, whichever occurs last. Additionally, the Act restricts the purposes for which surplus campaign funds can be used. The Act also imposes specified duties on a filing officer with respect to reports and statements filed with that filing officer. The Act requires that certain campaign statements be filed with the Secretary of State online or electronically. Statements that are filed electronically must also be filed in paper format. The Act authorizes the Commission and the Franchise Tax Board to perform discretionary investigations and audits with respect to campaign and lobbying reports and statements filed with the Secretary of State.

Proposed Law

This bill would increase the monetary threshold of contributions or independent expenditures that qualify a person or combination of persons as a committee from \$1,000 to \$2,000. The bill would revise the definition of “controlled committee” to specify that a committee controlled by a candidate who is elected to office is a controlled committee for the duration of the candidate’s entire term of office. The bill would increase the \$100 contribution disclosure threshold to from \$100 to \$250. The bill would revise the definition of “contribution” to include payments made to multipurpose organizations, by a person who “knows or has reason to know” that a payment will be used to make a contribution or independent expenditure. The bill would impose a presumption that a donor has “reason to know” (a) if the recipient organization has made aggregate contributions or

expenditures of \$2,000 or more within the calendar year, or the preceding four years, or (b) if the donor's payment is \$50,000 or more, is made in the six months preceding the election, and the multipurpose organization makes a contribution or an independent expenditure of \$50,000 or more within the 6 months prior to the election. The bill would increase the time at which campaign funds become surplus by 90 days. Additionally, the bill would require filing officers to immediately affix a date stamp to each statement of economic interest. The bill would also require the Secretary of State to make campaign and lobbying statements and reports that are filed with the Secretary of State available to the Commission upon request. The bill would specify that the Commission may perform an audit of a committee before a report or statement is required to be filed and would authorize a person to challenge an audit by seeking a writ of mandate. The bill would specify that the Commission is authorized to seek an injunction to prevent a violation of the Act or compel compliance with the Act. **Status: Referred to Assembly Committee on Elections and Redistricting**

SB 2 (Lieu and Yee)

Proposed Law

The bill does not yet contain provisions amending the Act, but states the intent of the Legislature is to enact legislation that would strengthen the Act and the campaign disclosure requirements within the Act to increase penalties for failing to properly disclose campaign contributions, tighten the disclosure requirements on mass mailings and campaign messages presented through television, and other forms of media, and close the loophole associated with campaign contributions from multipurpose groups and nonprofit organizations.

Status: Referred to Senate Rules Committee.

SB 3 (Yee and Lieu)

Proposed Law

The bill does not yet contain provisions amending the Act, but states the intent of the Legislature is to enact legislation that would strengthen the Act and the campaign disclosure requirements within the Act to increase penalties for failing to properly disclose campaign contributions, tighten the disclosure requirements on mass mailings and campaign messages presented through television, and other forms of media, and close the loophole associated with campaign contributions from multipurpose groups and nonprofit organizations.

Status: Referred to Senate Rules Committee.

SB 26 (Correa)

Existing Law

The Act regulates mass mailings known as slate mailers that support or oppose multiple candidates or ballot measures for an election. The Act requires that each slate mailer identify the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures that is sending the slate mailer, and to contain other information in specified formatting. The Act also requires a notice to voters in a specified type and color or print consisting of a prescribed statement included on a side or surface of the slate mailer.

Proposed Law

The bill would change the slate mailer name, street address and city and slate mailer disclaimer font sizes from 8pt. to 10 pt. These would be required to be written in black ink and against a solid white background instead of any contrasting background color. The disclaimer would be required to appear on each side or surface where any candidate or ballot measure has paid to appear instead of the top or bottom of the front side or surface of a postcard mailer or insert. **Status: Referred to Committee on Senate Elections and Constitutional Amendments.**

SB 27 (Correa)

Existing Law

The Act provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposes other reporting and recordkeeping requirements on campaign committees. Regulations previously adopted by the Commission require nonprofit organizations to disclose the sources of funds behind their independent expenditures when donors have made donations to the organization in response to a solicitation that indicates the organization's intent to use such funds to make contributions or expenditures or when such organizations have previously made contributions or independent expenditures from their general treasuries of \$1,000 or more during the calendar year, or the previous four years.

Proposed Law

This bill revises the definition of contribution in the Act to include payments by a donor who, at the time of making the payment, knows or has reason to know that the payment will be used to make contributions or expenditures. The bill would require multipurpose organizations that receive donations and use them to make contributions or expenditures in California of \$1,000 or more in a calendar year to disclose the sources of those donations. The bill defines multipurpose organization as a nonprofit organization, a federal or out of state PAC, or a local club focusing on educational or social activities. The bill establishes two presumptions as to whether a donor has reason to know that a payment will be used to make contributions or expenditures. The first presumption states that if a person (multipurpose organization) has been in existence for two years or more prior to making a contribution or expenditure and the organization's first contribution is less than \$500,000, there is a presumption that the donor did not have reason to know that all or part of the payment would be used to make a contribution or expenditure. However, if the person/organization has made contributions or expenditures of \$1,000 or more during the calendar year, or any of the preceding four calendar years the group cannot take advantage of this presumption. The second presumption states that if a person (multipurpose organization) has been in existence for less than two years before making a contribution or expenditure in California or the person's first contribution in California is \$500,000 or more, there shall be a presumption that a donor has reason to know that all or part of the payment will be used to make a contribution or expenditure.

The bill also provides discretionary audit authority to the FPPC over multipurpose organizations that make contributions or expenditures in California. Ballot measure committees and candidate committees that raise \$1,000,000 or more for an election would be required to maintain an accurate list of the committee's top 10 contributors, which would be posted on the FPPC's Internet website and the Committee's Internet website if any. **Status: Referred to Committee on Senate Elections and Constitutional Amendments.**

SB 52 (Leno and Hill)

Existing Law

Currently the Act requires disclosure of the top two donors of \$50,000 or more on ballot measure and independent expenditure advertisements. This applies to television, radio, and electronic media advertisements, robocalls, mass mailings, and print ads such as newspaper ads, billboards and yard signs.

Proposed Law

The bill does not yet contain provisions amending the Act, but states the intent of the Legislature is to enact legislation that would strengthen the Political Reform Act of 1974 and the campaign disclosure requirements within that Act to require that advertisements disclose the largest funders of all political television, radio, print, and other forms of advertising for ballot measures, independent expenditures, and issue advocacy in a manner that clearly and unambiguously identifies the three largest major donors. **Status: Referred to Senate Rules Committee.**