



**FAIR POLITICAL PRACTICES COMMISSION**

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**To:** Vice Chair Eskovitz and Commissioners Casher, Wasserman and Wynne

**From:** Erin V. Peth, Executive Director  
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**Subject:** Legislative Update

**Date:** April 5, 2014

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This report includes a summary of bills currently pending before the Legislature that would impact the Political Reform Act (the "Act"). Dozens of new bills have been introduced in 2014. Staff is presenting these bills as an informational item and plans to bring recommendations for positions on these bills to the Commission at a future meeting.

Additionally, the Governor signed AB 800, a bill the Commission supported. Commission sponsored SB 27 failed to pass out of the Senate on concurrence by one vote. Staff is working with the author's office to bring SB 27 up for another vote soon.

**New Bills Introduced in 2014**

**SB 831 (Hill)**

Existing Law

Under the Act, a payment made at the behest of a candidate for elective office is considered a contribution unless the payment is made for purposes unrelated to the candidate's candidacy. A payment is presumed to be unrelated to a candidate's candidacy if it is made principally for legislative, governmental, or charitable purposes. Payments principally for legislative, governmental, or charitable purposes made at the behest of a candidate who is an elected officer must be reported within 30 days following the date on which the payment or payments equal or exceed \$5,000 in the aggregate from the same source in the same calendar year in which they are made.

The Act prohibits specified officers from receiving gifts, as defined, in excess of \$440 in value from a single source in a calendar year. The Act exempts gift payments for the actual costs of specified types of travel that are reasonably related to a legislative or governmental purpose, or

to an issue of state, national, or international public policy from the annual limit on the value of gifts from a single source.

The Act requires that contributions deposited into a campaign account be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office. Expenditures must be reasonably related to a political purpose when associated with election of the candidate and must reasonably relate to a legislative or governmental purpose when associated with holding office. Expenditures which confer a substantial personal benefit must be directly related to a political, legislative, or governmental purpose. The Act authorizes the use of campaign funds to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt nonprofit organizations. The Act imposes additional limitations on certain expenditures, including those relating to automotive expenses, travel expenses, tickets for entertainment or sporting events, personal gifts, and real property expenses.

#### Proposed Law

This bill would reduce the reporting threshold for a behested payment to \$2,500 from \$5,000 and require the Commission to post certain behested payment reports on its website within 30 days of receipt of the report. An elected officer would be prohibited from requesting that a payment be made, or a person from making a payment, at the behest of the elected officer to a business entity or nonprofit organization owned or controlled by specified persons, including the officer, any other elected officer who serves on the same elective body as the behesting officer and family members of elective officers serving on that elective body.

The bill would prohibit an elected officer or a committee controlled by the elected officer from making an expenditure of campaign funds to a business entity or nonprofit organization owned or controlled by the officer, any other elected officer who serves on the same elective body, or family members of elective officers serving on that elective body.

This bill would also impose an annual limit on gift payments from a single source for gifts of travel that are reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy at \$5,000. The bill would also require a nonprofit that funds such travel to disclose donors whose funds were used to pay for the travel.

Additionally, this bill would limit the expenditure of campaign funds for specific items such as country club memberships, household food items, tuition payments, and payments to a health club or recreational facility.

**Status: Senate Elections and Constitutional Amendments**  
**Fiscal Impact: None yet completed.**

**SB 844 (Pavley)**

Existing Law

Each campaign committee formed or existing primarily to support or oppose a statewide ballot measure is required to file with the Secretary of State periodic reports identifying the sources and amounts of contributions received during specified periods. Existing law, including the Act, also specifies information required to be included in the statewide ballot pamphlet for each statewide ballot measure to be voted upon.

Proposed Law

This bill would require the Secretary of State to post on his or her Internet Web site, for each statewide ballot measure, a list of the 10 highest contributors of \$50,000 or more who have made the largest cumulative amount of contributions to campaign committees formed or existing primarily to support or oppose that ballot measure. The bill would require the Secretary of State to update each list of contributors at specified intervals up until 2 business days before the election and to post a final version of each list by a specified date after the election. In addition, the bill would require the statewide ballot pamphlet to include a printed statement that refers voters to the Secretary of State's website for the above-described lists of contributors.

**Status: Senate Appropriations.**

**Fiscal Impact: None yet completed.**

**SB 952 (Torres)**

Existing Law

Government Code Section 1090 prohibits Members of the Legislature, and state, county, district, judicial district, and city officers or employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. State, county, district, judicial district, and city officers or employees are also prohibited by law from being purchasers at any sale or vendors at any purchase made by them in their official capacity. Existing law also prohibits the Treasurer, Controller, county and city officers, and their deputies and clerks from purchasing or selling, or in any manner receiving for their own or any other person's use or benefit any state, county, or city warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the state, a county, or city. A willful violation of these prohibitions is a crime punishable by fine or imprisonment in the state prison, and forever disqualifies the offending public officer or person from holding any office in the state.

Proposed Law

This bill would prohibit an individual from aiding or abetting a public officer or person in violating these prohibitions, and expand these penalties to also apply to the individual who willfully aids or abets.

**Status: Senate Appropriations.**  
**Fiscal Impact: None yet completed.**

**SB 1101 (Padilla)**

Existing Law

The Act places limits on the amount of campaign contributions that a person may make to a candidate for elective state office, but does not restrict the dates on which those contributions can be made.

Proposed Law

This bill would prohibit any campaign contribution to a Member of the Legislature during the following periods of time: (1) in an odd-numbered year on the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and during the 7-day period following and the 100-day period preceding that date, and (2) in an even-numbered year during the period from May 23 to September 7, inclusive.

**Status: Senate Rules.**  
**Fiscal Impact: None yet completed.**

**SB 1102 (Padilla)**

Existing Law

The Act requires that a candidate for elective state office or a committee primarily formed to support or oppose a state ballot measure, if the candidate or committee has reportable contributions or expenditures of \$25,000 or more, file a report with the Secretary of State disclosing the receipt of a contribution of \$1,000 or more during an election cycle, as defined, within 24 hours of receiving the contribution. At times other than during the election cycle, the Act requires those candidates and committees to file a report for contributions of \$5,000 or more within 10 business days of receipt of the contribution.

Proposed Law

This bill would modify these reporting requirements to instead require the above-described candidates and committees to file a report with the Secretary of State disclosing the receipt of a contribution of \$100 or more during an election cycle within 24 hours of receipt of the contribution. At times other than during an election cycle, the bill would require those

candidates and committees to file a report for contributions of \$100 or more within 5 business days of receipt of the contribution.

**Status: Senate Elections.**

**Fiscal Impact: None yet completed.**

**SB 1103 (Padilla)**

Existing Law

The Act requires an individual to file a statement of intention to be a candidate for an elective office, signed under penalty of perjury, prior to soliciting or receiving a contribution or loan.

Proposed Law

This bill would provide that, if an individual files a statement of intention to be a candidate for elective state office, the filing of a subsequent statement of intention to be a candidate for a different elective state office that is to be voted upon at the same election would effect a revocation of the prior statement of intention to be a candidate, and the individual would thereafter be prohibited from soliciting or receiving a contribution or loan for the elective state office for which he or she previously filed a statement of intention to be a candidate. The bill would prohibit an individual from filing, and the Secretary of State from accepting, a statement of intention to be a candidate for an elective state office at an election other than the election at which that elective state office will next appear on the ballot.

**Status: Senate Elections.**

**Fiscal Impact: None yet completed.**

**SB 1104 (Padilla)**

Existing Law

The Act regulates certain communications, including mass mailings, slate mailers, and advertisements, by requiring those items to include specified information and disclosures.

Proposed Law

This bill would require a candidate for elective state office, a slate mailer organization, or a committee that authorizes an expenditure for a campaign communication to file an electronic copy of the campaign communication with the Secretary of State. The Secretary of State would be required to maintain an archive of the filed campaign communications and to make them available for public inspection.

**Status: Senate Elections.**

**Fiscal Impact: None yet completed.**

**SB 1441 (Lara)**

Currently, this bill makes nonsubstantive changes to the gift limit provisions of the Act.

**Status: Senate Rules.**

**Fiscal Impact: None yet completed.**

**SB 1442 (Lara)**

Existing Law

The Act provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. The Act requires elected officers, candidates, committees, and slate mailer organizations to file various reports, including semiannual reports, preelection statements, and supplemental preelection statements. The Act defines "late contributions" and "late independent expenditures" to include certain contributions and independent expenditures, respectively that are made within 90 days before the date of the election.

Proposed Law

This bill would require elected state officers, candidates for elective state office, and committees primarily formed to support or oppose a candidate for elective state office or one or more statewide ballot measures to file quarterly statements each year instead of semiannual statements. The bill would repeal some types of existing reports that are or would no longer be needed because they overlap with other reports these reports include supplemental preelection statements, supplemental independent expenditure reports, and odd-numbered year reports.

This bill would revise definitions of "late contribution" and "late independent expenditure" to specify that those terms also include contributions and independent expenditures that are made on the date of the election.

**Status: Senate Rules.**

**Fiscal Impact: None yet completed.**

**SB 1443 (De Leon)**

This bill does not yet contain language amending the Act.

**Status: Senate Rules.**

**Fiscal Impact: None yet completed.**

**SB 1444 (De Leon)**

This bill does not yet contain language amending the Act but states that it is the intent of the Legislature is to enact legislation to review the Commission's responsibilities.

**Status: Senate Rules.**

**Fiscal Impact: None yet completed.**

**SB 1226 (Correa)**

Existing Law

The Act authorizes the Commission, upon mutual agreement between the Commission and the Board of Supervisors of the County of San Bernardino, to have primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance reform ordinance of the County of San Bernardino. The Act authorizes the Commission to investigate possible violations of the local County of San Bernardino campaign finance reform ordinance and bring administrative actions against persons who violate the ordinance. The Act specifies that the Board of Supervisors of the County of San Bernardino and the Commission may enter into any agreements necessary and appropriate for the operation of these provisions, including agreements for reimbursement of state costs with county funds. The Board of Supervisors of the County of San Bernardino or the Commission may, at any time, by ordinance or resolution, terminate any agreement for the Commission to administer, implement, or enforce the local County of San Bernardino campaign finance reform ordinance or any provision thereof.

Proposed Law

This bill would extend these provisions to the County of Orange.

**Status: Senate Elections.**

**Fiscal Impact: None yet completed.**

**SB 1294 (Huff)**

Existing Law

The Act requires that the ballot pamphlet contain, among other things, the official summary prepared by the Attorney General. Existing law requires the Attorney General to provide a ballot label and a ballot title for each measure to be submitted to the voters at a statewide election and to prepare a summary of the chief purposes and points of each statewide ballot measure as part of the ballot title.

Proposed Law

This bill would require the Legislative Analyst, instead of the Attorney General, to prepare the ballot label and the ballot title and summary for all measures submitted to the voters of the state.

**Status: Senate Elections.**

**Fiscal Impact: None yet completed.**

**AB 1431 (Gonzalez)**

Existing Law

Existing law provides for election of certain officials of school districts and community college districts.

Proposed Law

This bill would amend the education code to provide that an administrator of a school district or community college district may participate in political management or in political campaigns, but would prohibit the administrator from knowingly soliciting, accepting, or receiving a political contribution from any person for the campaign of an elected official of the district employing the administrator, or any candidate for that office, unless the person making the contribution is a member of the same school labor organization as the administrator. The bill would require the Commission to enforce these provisions. The author has agreed to move these provisions into the Act at the request of the Assembly Elections Committee.

**Status: Assembly Judiciary.**

**Fiscal Impact: None yet completed.**

**AB 1666 (Garcia)**

Existing Law

The Act provides for the comprehensive regulation of campaign financing and prohibits the use of campaign funds to pay or reimburse fines, penalties, judgments, or settlements, except as specified.

Penal Code Section 86 subjects any member of the Legislature or any member of the legislative body of a city, county, city and county, school district, or other special district who asks for or receives a bribe in exchange for influence over his or her official action to imprisonment in a state prison and imposes prescribed restitution fines based on whether a bribe has actually been received.



Proposed Law

This bill would increase the restitution fines to twice the original amount and prohibit the use of campaign funds to pay for the restitution fines. Currently, the bill would also require the Commission to adjust the fine amounts on January 1 of each odd-numbered year to reflect any increase or decrease in the Consumer Price Index; however the author's office has agreed to remove the provisions requiring the Commission to adjust the Penal Code fine amounts.

**Status: Assembly Appropriations.**

**Fiscal Impact: None yet completed.**

**AB 1673 (Garcia)**

Existing Law

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 prohibits lobbyists from making campaign contributions, however the Act also allows for a payment made by an occupant of a home or office (including a lobbyist) for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are \$500 or less to be excluded from the definition of contribution.

Proposed Law

This bill would revise the definition of "contribution" to exclude a lobbyist, lobbying firm, or lobbyist employer from the exemption authorizing a payment of \$500 or less by the occupant of a home for costs related to a meeting or fundraising event at the home, thereby making those payments by a lobbyist, firm, or lobbyist employer a contribution for purposes of the Act. The author also agreed by recommendation of the Assembly Elections Committee to amend this bill to include a prohibition on fundraisers held at a lobbyist, lobbying firm or lobbyist employer's office.

**Status: Assembly Appropriations.**

**Fiscal Impact: None yet completed.**

**AB 1692 (Garcia)**

Existing Law

The Act provides that all contributions deposited into a campaign account are deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding offices. The Act provides that an expenditure to seek or hold office is within the lawful execution of this trust if it is reasonably related to a political, legislative, or governmental

purpose. Expenditures that confer a substantial personal benefit must be directly related to a political, legislative, or governmental purpose.

The Act also authorizes certain candidates and elective officers to establish a separate legal defense fund campaign account to defray attorney's fees and other related legal costs incurred in the defense of the candidate or elective officer who is subject to one or more civil, criminal, or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officers' governmental activities and duties.

#### Proposed Law

Currently, the bill would prohibit an expenditure of campaign funds of more than \$200 for a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in a personal benefit to the candidate or officer if it is determined that the expenditure was not reasonably related to a political, legislative, or governmental purpose. The bill would also impose the \$200 limitation with respect to a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in a substantial personal benefit to the candidate or officer if it is determined that the expenditure was not directly related to a political, legislative, or governmental purpose. The author's office has agreed to remove the \$200 threshold in this bill by recommendation of the Assembly Elections and Redistricting Committee.

**Status: Assembly Appropriations.**

**Fiscal Impact: None yet completed.**

#### **AB 1716 (Garcia)**

#### Existing Law

The Act prohibits a former state administrative official from participating in judicial, quasi-judicial, or other proceedings before a court or state administrative agency in which the State is a party or has a direct and substantial interest and in which the former state administrative official participated, subject to limited exceptions. This is commonly known as the revolving door "permanent ban."

#### Proposed Law

This bill would impose these restrictions, subject to the same exemptions, on local administrative officials with respect to judicial, quasi-judicial, or other proceedings before a court, local government agency, or state administrative agency.

**Status: Assembly Appropriations.**

**Fiscal Impact: None yet completed.**

## **AB 1728 (Garcia)**

### Existing Law

The Act prohibits an officer of an agency from accepting, soliciting, or directing a contribution of more than \$250 from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for 3 months following the date a final decision is rendered in the proceeding, if the officer knows or has reason to know that the participant has a financial interest. The Act also requires an officer to disclose on the record a contribution of more than \$250 from a party or participant received within the 12 months preceding a decision in a proceeding and would prohibit the official from making, participating in making, or otherwise using his or her official position to influence a decision in a proceeding in which the official knows or has reason to know that the party or participant has a financial interest in the decision.

The Act defines an “agency,” for these purposes, to mean any state or local government agency, except certain entities, including local governmental agencies whose members are directly elected by the voters. The Act defines a “participant,” for these purposes, as a person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision. The Act defines a “license, permit, or other entitlement for use,” for these purposes, to include, among other things, all contracts except competitively bid, labor, or personal employment contracts.

### Proposed Law

This bill would revise the definition of “agency” to include a local government agency formed pursuant to provisions of the Water Code. The bill would revise the definition of “license, permit, or other entitlement for use” with respect to proceedings before a local government agency formed pursuant to the Water Code to apply to all contracts that are not competitively bid. The bill would deem the financial interests of a person who compensates a participant to actively support or oppose a particular decision in a proceeding on his or her behalf to also be a financial interest of the participant.

**Status: Assembly Local Government.**

**Fiscal Impact: None yet completed.**

## **AB 1757 (Waldron)**

### Existing Law

The Act prohibits a public official at any level of state or local government from making, participating in making, or attempting to use his or her official position to influence a governmental decision in which he or she knows or has reason to know that he or she has a financial interest, as defined. Section 87200 of the Act also requires specified elected and appointed officers at the state and local levels of government to disclose specified financial interests by filing periodic statements of economic interests. The Act further requires public

officials who hold specified offices and who have a financial interest in a decision to publicly identify the financial interest giving rise to the conflict of interest or potential conflict of interest, recuse themselves from discussing and voting on the matter, and leave the room until after the discussion, vote, and other disposition of the matter is concluded.

#### Proposed Law

This bill would add members of the California Film Commission to the list of officers identified in Section 87200 that must publicly identify a financial interest giving rise to a conflict of interest or potential conflict of interest, and recuse themselves accordingly.

**Status: Assembly Elections and Redistricting.**

**Fiscal Impact: None yet completed.**

#### **AB 1800 (Alejo)**

#### Existing Law

The Legislative Code of Ethics prohibits a Member of the Legislature or an employee of either house of the Legislature from receiving or agreeing to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance, or other matter related to the legislative process, except for specified circumstances. The Act imposes gift reporting rules and gift limits for public officials.

#### Proposed Law

This bill would establish the California Law Fellowship Program for the purpose of offering licensed attorneys limited-term placement opportunities in public sector legal positions within the executive, legislative, and judicial branches of state government and encouraging each participating attorney to seek permanent employment in the public sector at the conclusion of his or her fellowship.

This bill would provide that the services of an attorney participating in the California Law Fellowship Program are not compensation, a reward, or a gift to a Member of the Legislature for purposes of the so-called Code of Ethics. The bill would also provide that an attorney participating in the program is not an employee of either house of the Legislature for purposes of the Code of Ethics. The bill specifically excludes participation in the program from the Act's definition of a gift.

**Status: Assembly Rules.**

**Fiscal Impact: None yet completed.**

**AB 2320 (Fong)**

Existing Law

The Act prohibits a spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation from campaign funds held by a controlled committee of the officer or candidate for services rendered in connection with fundraising.

Proposed Law

This bill would instead prohibit a spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation, in exchange for any services rendered, from campaign funds held by a controlled committee of the officer or candidate.

**Status: Assembly Appropriations.**

**Fiscal Impact: Minor and absorbable.**

**AB 2661 (Bradford)**

Existing Law

Existing law establishes the State Energy Resources Conservation and Development Commission, commonly known as the Energy Commission. Current law imposes a prohibition against receiving a substantial portion of income from specified energy-related entities in the 2 years preceding appointment to the Energy Commission. Members of the Energy Commission are prohibited from being employed by an electric utility or applicant or, within 2 years after the member ceases to be a member of the Energy Commission, a person who engages in the sale or manufacture of a major component of a facility. Members of the Energy Commission are also prohibited from holding any other elected or appointed public office or position, except as specified. Existing law prohibits persons with specified relationships to a member or employee of the Energy Commission from appearing in proceedings and other matters in which the Energy Commission is a party or has a direct and substantial interest.

Proposed Law

This bill would repeal these qualifications and conflict-of-interest requirements for members and employees of the Energy Commission that are currently outside of the Act and recast them within the Act. The bill would authorize the Commission to exempt a member or employee of the Energy Commission from the application of certain of these provisions after a finding that the member's or employee's interest is not sufficiently substantial to affect the integrity of services expected from the member or employee.

**Status: Assembly Elections and Redistricting.**

**Fiscal Impact: None yet completed.**

**AB 2692 (Fong)**

Existing Law

The Act requires that an expenditure of campaign funds that confers a substantial personal benefit be directly related to a political, legislative, or governmental purpose. The Act defines “substantial personal benefit” to mean an expenditure of campaign funds that results in a direct personal benefit with a value of more than \$200 to a candidate, an elected officer, or an individual with authority to approve the expenditure of campaign funds held by a committee. The Act authorizes the Commission to issue an order imposing various administrative remedies if the Commission determines that a violation of the act has occurred, including a monetary penalty of up to \$5,000 per violation payable to the General Fund.

Proposed Law

This bill would provide that if the Commission determines in an administrative action that an expenditure has been made that confers a substantial personal benefit but is not directly related to a political, legislative, or governmental purpose, in violation of the Act, the individual who received the substantial personal benefit shall pay to the state General Fund, in addition to any administrative penalty imposed by the Commission, an amount equal to the substantial personal benefit that he or she received.

**Status: Assembly Elections and Redistricting.**  
**Fiscal Impact: None yet completed.**

**Commission Sponsored Bills**

**SB 27 (Correa)**

Existing Law

The Act provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures. Regulations previously adopted by the Commission require nonprofit organizations to disclose the sources of funds behind their campaign 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.

The Act also requires a candidate or a committee that receives contributions of \$5,000 or more from any person to inform the contributor within two weeks that he or she may be subject to the Act’s reporting requirements as a major donor.

Proposed Law

This bill would require multipurpose organizations that meet specified criteria to comply with the registration and campaign reporting requirements of the Act, including disclosure of information relating to the organization's donors. The bill would create a definition for the term multipurpose organization under the Act and a multipurpose organization would qualify as a recipient committee and have to disclose its donors if:

- (1) It is a federal or out of state political action committee that makes contributions or expenditures on California candidates or measures of \$1,000 or more.
- (2) It solicits and receives contributions from donors for the purpose of making contributions or expenditures on California candidates or measures.
- (3) It makes contributions or expenditures of \$50,000 or more in a 12 month period or makes contributions or expenditures of \$100,000 in a four-year period. Such a multipurpose organization that makes contributions or expenditures from nondonor funds (investment income, earned income, sale of assets, etc.) would not be required to disclose donors.

A donor identified and reported by a multipurpose organization as a source of funds that is also a multipurpose organization that receives contributions would be required to disclose its donors as well. Also, a donor who has specified that their donation shall not be used to make contributions or expenditures would not be required to be disclosed.

In addition to the existing major donor notice requirements, this bill would require that a candidate or committee notify a contributor within one week of making a contribution of \$10,000 or more during the late contribution reporting period that they are subject to the Act's reporting requirements. The bill would also require the notifications to reference the reporting requirements for multipurpose organizations.

This bill would also require ballot measure committees and candidate committees that raise \$1,000,000 or more for an election 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.

The amendments proposed by this bill will result in more timely and accurate disclosure of the identity of the actual source of funds being spent on California elections, rather than just the name of a multipurpose organization which often provides little, and sometimes misleading, information about the interest behind the expenditure. This bill would increase accountability for those who attempt to avoid disclosure of their identities by channeling funds used to influence California elections through other committees or nonprofits.

The most recent substantive amendments to this bill create direct, bright-line reporting requirements for multipurpose organizations whose primary activity is not making contributions or expenditures, but who ultimately do so with donor funds. As amended, this bill no longer contains the presumptions in the previous version or the so-called "first bite of the apple"

exception of current law, but sets contribution and expenditure thresholds that trigger the duty to report the source of funds used. The goal is still to increase disclosure by these organizations through more clear requirements.

The Supreme Court has repeatedly held that the identity of the source of funds spent on elections provides valuable information to voters, and staff believes that timely pre-election disclosure of such information increases its value to voters when it matters most.

Amendments are pending that would allow nonprofits that have not yet taken a “first bite of the apple” in California prior to the bill’s enactment date of July 1, 2014, to not disclose donors who gave to the nonprofit before July 1, 2014 unless the donors gave in response to a message or solicitation indicating the multipurpose organization’s intent to make a contribution or expenditure or a donor knew or requested that their donation be used by the multipurpose organization to support or oppose a candidate or ballot measure in California.

**Status: Failed in Senate on concurrence, amendments pending.**

**Commission Adopted Position: Sponsor.**

**Fiscal Impact: Minor and absorbable. (\$10,000)**

### **AB 914 (Gordon)**

#### Existing Law

The Act provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures by nonprofit organizations, and imposes other reporting and recordkeeping requirements on campaign committees. Regulations previously adopted by the Commission require nonprofit organizations such as charities (501(c)(3)) and social welfare organizations (501(c)(4)) to disclose the sources of funds behind their campaign 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 campaign 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, in California.

#### Proposed Law

This bill would require nonprofit organizations that make campaign contributions, expenditures or independent expenditures in California to file an annual report with the Commission, disclosing the total percentage of their funds that were used to make contributions, expenditures and independent expenditures during each fiscal year the entity spends at least \$50,000 on such activities. If the total amount spent on such activities exceeds 10 percent of the entity’s total expenses during the fiscal year, the entity would be required to disclose information related to each contribution, expenditure and independent expenditure, including the amount, date, name and address of the recipient, and a description of the purpose for the contribution, expenditure or independent expenditure. The names of each donor to the nonprofit organization of \$10,000 or



more would also have to be disclosed, unless the organization makes all of its campaign expenditures from a separate account used for political expenditures. If all campaign contributions, expenditures and independent expenditures are made from a separate account, only donors whose funds were deposited into the separate account would be required to be disclosed. The bill would allow exemptions from disclosing the identities of donors in limited circumstances.

Staff believes this bill would provide the public with much needed disclosure that in some cases can be nonexistent. Since the Supreme Court decided *Citizens United* in 2010, there has been an unprecedented amount of campaign activity conducted by nonprofit organizations. Many of these organizations receive large sums of money from individuals and corporations and, under Federal law, are not required to disclose their donors. In the last election, a nonprofit organization contributed a large sum of money, which it apparently obtained from a number of other nonprofit organizations, to a committee in California prior to the election for use on ballot measure campaigns. Only the nonprofit in California was disclosed as the source of the funds. The FPPC brought legal action against them seeking to obtain the true source of the funds. This occurred just a few days before the election. This legislation would simply require nonprofits to know who their donors are and to disclose who is actually funding their campaign activities. This basic disclosure also would provide the public and other government agencies with valuable information regarding the amount of campaign activity conducted by the nonprofit in relation to its activities as a whole.

**Status: Senate Inactive File.**

**Commission Adopted Position: Sponsor.**

**Fiscal Impact: Minor and absorbable.**

### Commission Supported Bills

#### SB 2 (Lieu and Yee)

##### Existing Law

The Act provides for the comprehensive regulation of campaign financing by requiring the reporting of campaign contributions and expenditures, and imposing other reporting and recordkeeping requirements on campaign committees.

The Act also regulates advertisements, which are defined as any general or public advertisement that is authorized and paid for by a person or committee for the purpose of supporting or opposing a candidate for elective office or a ballot measure. The Act places certain disclosure requirements on advertisements for or against any ballot measure, including that the advertisement disclose up to two persons who have made cumulative contributions of \$50,000 or more. The Act places more specific disclosure requirements on broadcast or mass mailing advertisements that are paid for by independent expenditures that support or oppose a candidate or ballot measure. In addition to other penalties imposed by the Act, a fine of up to triple the amount of the cost of an advertisement can be imposed on a person who violates the disclosure requirements for advertisements.

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. Slate mailers must contain other specified information in specified formatting. The Act requires that each candidate and each ballot measure proponent that has paid to appear in the slate mailer be designated by an asterisk.

#### Proposed Law

This bill would require that television, video, or audio broadcast advertisements that are authorized by a candidate include a specified disclosure statement made by the candidate. The bill would increase the maximum penalty for a violation of the advertisement provisions to six times the amount of the costs of the advertisement. The bill would also increase fine ceilings for other violations of the Act.

This bill would require that a candidate or ballot measure appearing in a slate mailer as a result of a payment made by a third party be designated by an “@” and would require the notice to voters included on a slate mailer be revised to describe this new requirement.

This bill would require that a slate mailer that is produced in a language other than English provide the required notice to voters in that same language. The bill would require that a slate mailer provide the notice in both English and another language if a substantial portion of a slate mailer is produced in the other language.

This bill would reduce the amount of time within which a ballot measure committee must reference itself as a committee for or against a numbered proposition to within ten days of the designation of the numerical order of propositions by the Secretary of State.

Previously, staff recommended the Commission support this bill if the audit provisions were amended in a way that did not conflict with audit language in AB 800 because the bill’s other provisions further the purposes of the Act by requiring that candidates make disclosure statements on their own advertisements and increasing disclosure on slate mailers by informing voters when a third party has paid for a candidate or ballot measure to appear on a slate mailer. Staff recommended the Commission support this bill if amended, and the bill has been amended to reflect staff’s concerns. The Commission adopted staff’s recommendation at its June 2013 meeting.

**Status: Assembly Floor.**

**Staff Recommended Position: Support.**

**Fiscal Impact: Minor and absorbable.**

## **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

This bill would change the font size for slate mailer name, street address, city, and disclaimer from 8pt. to 10 pt. These items would be required to be written in black ink against a solid white background. 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.

Staff believes that this bill will provide greater disclosure to the public by making important information about the identity of the organization sending the mailer and whether a candidate or ballot measure has paid to appear in the mailer more noticeable and readable for the recipients.

**Status: Assembly Elections and Redistricting.**

**Staff Recommended Position: Support.**

**Fiscal Impact: Minor and absorbable.**

## **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 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.

Regulations previously adopted by the Commission require nonprofit organizations to disclose the sources of funds behind their campaign 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.

The Act currently defines the term “candidate” as including an officeholder who is the subject of a recall election. A candidate retains that status until the status is terminated. Candidate status requires individuals to continue to file campaign reports and provide disclosure to the public on

campaign activities for both their main committee and other committees with which they may be involved. Candidates are prohibited from controlling committees that make independent expenditures and are prohibited from making contributions to committees that make independent expenditures to support or oppose other candidates. By regulation, the Commission has said that a candidate retains his or her status as a candidate until he or she leaves office.

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.

### Proposed Law

In its current form, 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 authorize the Commission to adopt regulations establishing reporting thresholds for disclosure of contributions and expenditures for a committee primarily formed to support or oppose a statewide ballot measure to a minimum of \$500 and a maximum of \$2,500.

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 six months prior to the election. Such donors would have to be identified and reported by the organization in accordance with existing reporting regulations.

This bill would revise the definition of “candidate” to include any officeholder, regardless of whether he or she is the subject of a recall election, and provides that a candidate retains that status until the time that he or she leaves office and the status is terminated. This change will make clear that officeholders who terminate their campaign committees will continue to retain their status as a candidate until they actually leave office, so that while they remain in office they are prohibited from controlling committees that make independent expenditures and prohibited from making contributions to committees that make independent expenditures to support or oppose other candidates.

Staff is currently working with the author of this bill and the author of SB 27 to harmonize the provisions relating to disclosure by multi-purpose organizations to ensure consistency.

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 is authorized to seek an injunction to prevent a violation of the Act or compel compliance with the Act.

**Status: Senate Elections & Constitutional Amendments.**  
**Commission Adopted Position: Support.**  
**Fiscal Impact: Minor and absorbable.**

### **AB 800 (Gordon)**

#### Existing Law

The Act prohibits an agent or independent contractor from making an expenditure of \$500 or more, other than overhead or normal operating expenses, on behalf of or for the benefit of any candidate or committee unless it is reported by the candidate or committee as if the expenditure were made directly by the candidate or committee. The Act requires an agent or independent contractor to make known to the candidate or committee all information subject to this reporting requirement, but does not specifically require the same for a subagent or subcontractor.

“Surplus campaign funds” are defined in the Act as funds that are under the control of a former candidate or former elected officer 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. The purposes for which surplus campaign funds may be used are restricted.

The Act requires the Franchise Tax Board (the “FTB”), to periodically prepare reports regarding its audit and investigations under the Act and send them to the Commission, the Secretary of State and the Attorney General. These audit reports must be completed within one year.

The Act generally prohibits the commencement of an audit or investigation of a candidate, controlled committee, or committee primarily supporting or opposing a candidate or a measure in connection with a report or statement required by specified provisions of the Act until after the last date for filing the first report or statement following the general, the runoff, or a special election for the office for which the candidate ran, or following the election at which the measure was adopted or defeated.

#### Proposed Law

This bill would require a subcontractor who provides goods or services to or for the benefit of a candidate or committee to make known to the agent or independent contractor all of the information subject to the reporting requirements of the Act and would require this information be disclosed by a subagent or independent contractor to the agent, independent contractor, candidate, or committee no later than three working days prior to the time the campaign statement reporting the expenditure is required to be filed. Late contributions or late

independent expenditures must be reported to the candidate or committee within 24 hours of the time it is made.

This bill would increase the time at which campaign funds become surplus by 90 days following either the officer leaving elective office or the end of the postelection reporting period following the defeat of the candidate, whichever occurs last.

This bill would extend one-year deadline for the FTB to complete audit reports for audits conducted on a random basis to two years, and would allow the Commission and the FTB (at the direction of the Commission), to audit any record required to be maintained under the Act in order to ensure compliance with the Act prior to an election, even if the record or report is one that has not yet been filed. The one-year deadline has proven counter-productive as it forces the FTB to work on minor audits and not have the discretion to adjust their workload to more rapidly work on major issues.

Finally, the bill would authorize the Commission to seek injunctive relief in a superior court to compel disclosure consistent with the Act and require a court grant expedited review of an action filed pursuant to this provision.

This bill has been amended to include an urgency clause so that its provisions would become operative on July 1, 2014.

**Status: Signed by the Governor.**

**Commission Adopted Position: Support.**

**Fiscal Impact: Minor and absorbable.**

### **Other Bills Introduced in 2013**

#### **SB 52 (Leno and Hill)**

##### Existing Law

The Act regulates advertisements, which are defined as any general or public advertisement that is authorized and paid for by a person or committee for the purpose of supporting or opposing a candidate for elective office or a ballot measure. The Act places certain disclosure requirements on advertisements for or against any ballot measure, including that the advertisement disclose up to two persons who have made cumulative contributions of \$50,000 or more. The Act places more specific disclosure requirements on broadcast or mass mailing advertisements that are paid for by independent expenditures that support or oppose a candidate or ballot measure. In addition to other penalties imposed by the Act, a fine of up to triple the amount of the cost of an advertisement can be imposed on a person who violates the disclosure requirements for advertisements.

The Act requires a person who makes a payment or promise of payment totaling \$50,000 or more for a communication that identifies, but does not advocate the election or defeat of, a candidate for elective state office, and that is disseminated within 45 days of an election, to file an online or electronic disclosure report with the Secretary of State within 48 hours.

Proposed Law

This bill would define “Advertisement” to include electioneering communications and issue advocacy advertisements.

The bill would define “issue advocacy advertisement” as an advertisement that clearly refers to and reflects a view on the subject matter, description, or name of a pending legislative action, administrative action, or one or more ballot measures and does any of the following:

- (1) Can only be interpreted as an appeal for the recipient of the advertisement to take action by contacting an employee or elected official of the state government or any local government or encouraging others to contact those persons.
- (2) Refers to a pending legislative action and is disseminated, broadcast, or otherwise communicated within 60 days of the end of the legislative session.
- (3) Refers to one or more ballot measures and is disseminated, broadcast, or otherwise communicated within the 120 days of the election concerning that measure or measures.

The bill would impose new disclosure statement requirements for:

- (1) Radio advertisements and prerecorded telephonic messages – these advertisements would be required to have a disclosure at the end of the advertisement that states the committee’s name and the three largest contributors for the advertisement that have met or exceeded a disclosure threshold of \$10,000 or more for statewide candidates or measurers or \$2,000 or more for local candidates or measures unless they are already identified in the advertisement.
- (2) Television or video advertisements – these advertisements would be required to have a disclosure at the beginning of the advertisement on a solid black background that covers the entire bottom one-third of the display for a minimum of six seconds listing the three largest contributors who have met or exceeded a disclosure threshold of \$10,000 or more for statewide candidates or measurers or \$2,000 or more for local candidates or measures along with a website address to the committee’s Internet Disclosure Website and committee name.
- (3) Print advertisements other than slate mailers – these advertisements would be required to have a disclosure area on the largest page of the mass mailing or print advertisement that has a solid white background with black writing in a box that discloses the top three funders of the ad that have met or exceeded a disclosure threshold of \$10,000 or more for statewide candidates or measurers or \$2,000 or more for local candidates or measures. If the advertisement is four inches tall or less, only the top two contributors must be disclosed and if the advertisement is three inches tall or less, only the top funder would be required to be disclosed on the advertisement. A link to an Internet Disclosure Website and the committee’s name would also be required.

The bill will require committees that have received contributions meeting or exceeding the disclosure threshold of \$10,000 or more for statewide candidates or measurers or \$2,000 or more for local candidates or measures to maintain an Internet Disclosure Website that lists the

Committees top 10 donors, and that also have a link to a page with all of the committees donors who have met or exceeded the disclosure thresholds.

The bill would provide authority to the Commission to promulgate regulations to require disclosures on all forms of political advertisements including electronic media advertisements and billboards.

The bill would require a person who makes a payment or promise of payment of \$10,000 or more for a communication that identifies but does not expressly advocate the election or defeat of a candidate for elective state office that is disseminated between 120 days before the primary or special election and the date of the general or run-off election to file an online or electronic report with the Secretary of State within 48 hours.

Further amendments to this bill are expected.

**Status: Assembly Elections & Redistricting.**  
**Fiscal Impact: \$363,000.**

### **AB 510 (Ammiano)**

#### Existing Law

The Act currently requires a committee that makes an expenditure of \$5,000 or more to an individual for his or her appearance in an advertisement to support or oppose the qualification, passage, or defeat of a ballot measure to file a report within ten days, and to include a statement in the advertisement that notifies viewers that the individual was paid to appear in the advertisement.

#### Proposed Law

This bill would require the same reporting and disclosure when a committee makes an expenditure of any amount to an individual that appears in the advertisement if the advertisements state that the individual is a practitioner or a member of a profession having expertise or specialized knowledge relating to the subject of the measure.

**Status: Senate Elections and Constitutional Amendments**  
**Fiscal Impact: Minor and absorbable.**