



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

To: Chair Remke, Commissioners Audero, Cardenas, Hatch, and Hayward
From: Phillip Ung, Director, Legislative and External Affairs
Subject: Legislative Update – May 2018
Date: May 7, 2018

Staff is currently tracking six active bills that would amend the Political Reform Act, a reduction from nine bills in April. Two bills were defeated in policy committee and one bill was amended to no longer affect the Political Reform Act. Staff recommends the Commission take a position on SB 1239 (Hertzberg).

At the request of Commissioner Brian Hatch, staff has added information to the Legislative Update: 1) sponsor information, 2) hyperlinks for each bill, and 3) a section tracking the status of the Budget Bill.

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

Staff Recommendation (#1)

1. [SB 1239](#) (Hertzberg): Campaign disclosure: online filing system

FPPC Position: *None currently*

Sponsor: Secretary of State Alex Padilla

Status: Senate Floor – Third Reading

Fiscal Estimate: No costs to the Commission, potential minor cost savings.

Last Amended: April 24, 2018

Last Action: Referred by Senate Appropriations Committee to the Senate Floor

Staff Recommendation: *Support*

Summary:

The Political Reform Act of 1974 generally requires elected officials, candidates for elective office, and committees formed primarily to support or oppose a candidate for public office or a ballot measure, along with other entities, to file periodic campaign statements and certain reports concerning campaign finances and related matters. The act generally provides for the filing of campaign statements and reports by various means, including personal delivery, guaranteed overnight delivery, facsimile transmission, and online transmission. The act requires the Secretary of State, in consultation with the Fair Political Practices Commission, to develop online and electronic filing processes for persons and entities that are required to file statements and reports with the Secretary of State's office. The act requires certain persons and entities to file online or electronically with the Secretary of State if their political contributions,

expenditures, or loans reach specified monetary thresholds. The Act requires each committee that is required to file a statement of organization to pay the Secretary of State a fee of \$50 by January 15 of each year until the committee is terminated. The Act subjects a committee that fails to pay the fee on time to a penalty equal to three times the amount of the fee.

This bill would generally recast certain provisions governing the processing of campaign reports and statements to provide for the filing, verification, delivery, amendment, retention, and inspection of those documents online or electronically, as prescribed. The bill would repeal the above-mentioned monetary thresholds, thereby making the online and electronic filing requirements applicable to all specified filers. The bill would also repeal various obsolete or extraneous provisions of the act, and would make conforming and other technical, nonsubstantive changes. The bill would change the deadline for payment of the annual fee to April 30 of each year. The bill also makes other technical, non-substantive changes.

Staff comments:

SB 1239 is a follow up bill to [SB 1349 \(2016\)](#), legislation that requires the Secretary of State, in consultation with the FPPC, to develop and certify a new online filing and disclosure system for campaigns and lobbying entities. SB 1239 makes various amendments to the Act to pave the way for the Secretary of State to replace the current Cal-Access system with one that is data-driven and paperless. SB 1239 also reassigns, from the FPPC to the Secretary of State, the responsibility of posting top 10 donors for state ballot measures and independent expenditures that raise \$1,000,000 or more. The Commission supported SB 1349 in 2016.

Staff is recommending that the Commission support SB 1239 because it furthers the important work the Secretary of State is doing to modernize the Political Reform Act's online filing and disclosure system to improve compliance with the Act and public access to campaign and lobbying information.

Active Political Reform Bills (#2-6)

2. [AB 664 \(Steinorth\): Campaign fund expenditures; fair market value](#)

FPPC Position: *None currently*

Status: Senate Elections Committee

Fiscal Estimate: Minor and absorbable

Last Amended: January 11, 2018

Last Action: Referred to the Senate Elections and Constitutional Amendment Committee
(04/19/18)

Summary:

Existing law prohibits the spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation from campaign funds controlled by the elected officer or candidate.

Under the *Harden* (A-90-498) and *Tierney* (A-04-094) Advice Letters, the Commission staff has advised that the compensation from campaign funds must be fair market value or a gift may

result, so long as the duties performed by a non-spouse relative are directly related to a political, legislative, or governmental purpose.

This bill would prohibit compensation above fair market value to a parent, grandparent, sibling, child, or grandchild of an elected officer or a candidate or elective office from a controlled committee of the elected officer or candidate for elective office. The bill would additionally prohibit compensation above fair market value to any business majority-owned or controlled by any spouse, domestic partners, or above named relatives. The bill further states that nothing in the bill authorizes a controlled committee to pay campaign funds in excess of fair market value in exchange for goods, services, facilities, or anything of value, to any person or vendor.

3. [AB 2155](#) (Mullin): Campaign disclosure

FPPC Position: *None currently*

Sponsor: California Clean Money Campaign

Status: Assembly Appropriations Committee

Fiscal Estimate: None requested

Last Amended: April 30, 2018

Last Action: Approved in Assembly Elections Committee. Amended and referred to Assembly Appropriations Committee (04/30/18)

Summary:

The Act requires advertisements, as defined, to disclose, among other things, the advertisement's funding source, including independent expenditures, and the names of the top contributors to the committee paying for the advertisement. The Act further requires that an advertisement supporting or opposing a candidate that is paid for by an independent expenditure include a statement that it was not authorized by a candidate or a committee controlled by a candidate. The Act further permits the Commission to adopt, amend, or rescind rules and regulations to carry out the purposes of the title.

This bill would exempt two additional types of communications from the Act's definition of advertisement. This bill would limit the Commission's regulatory authority for determining what types of communications are not advertisements. The bill prohibits the Commission from adopting regulations to change or insert quantity thresholds, as specified. The bill makes various formatting amendments required for television, video, print, and electronic media advertisements paid for by a committee not controlled by a political party or is not a candidate controlled committee established for an elective office of the controlling candidate.

Staff Comments:

Staff has concerns about the provisions in AB 2155 that would limit or prohibit certain types of regulations the Commission is currently authorized to adopt. Section 83112 grants the Commission broad authority to adopt, amend, or rescind rules and regulations to carry out the purposes of the Act. As proposed in Section 84501(a)(2)(H), the bill would limit the Commission's broad authority as it relates to defining what type of communications are considered advertisements. Additionally, the same section and paragraph prohibits the Commission from adopting regulations that would change or insert quantity thresholds

throughout Chapter 4 of the Act. The Commission may wish to discuss if such amendments further the purposes of the Act.

4. [AB 2188](#) (Mullin): Campaign disclosure

FPPC Position: *None currently*

Sponsor: California Clean Money Campaign

Status: Assembly Appropriations Committee

Fiscal Estimate: None requested

Last Amended: April 5, 2018

Last Action: Referred to Assembly Appropriations Committee (04/25/18)

Summary:

Among other things, the Act requires an electronic media advertisement, other than an Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, to include the text “Who funded this ad?” and a hyperlink to an Internet Web site containing specified disclosures. However, the act requires that an advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, only include specified disclosures in a contrasting color and in no less than 8 point font on the committee’s profile, landing page, or similar location, and not on each individual post, comment, or other similar communication.

This bill would require the disclosures on the committee’s profile, landing page, or similar location to be on the cover or header photo of the committee’s profile, landing page, or similar location and in no less than 10 point font. The bill would require the disclosures to be fully visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media.

This bill would require an online platform, as defined, to display a hyperlink with the text “Who funded this ad?” on an advertisement paid for by a committee. The bill would require an online platform to maintain and make available a complete record of any request to purchase an advertisement on the online platform made by a committee that purchased \$500 or more in advertisements on the online platform during the preceding 12 months. The bill would require an online platform to display a prominent button, tab, or hyperlink near the top of a profile, landing page, or similar location of the committee that links to a page clearly showing the records of any request made by the committee to purchase an advertisement on the online platform. The bill would make a person who intentionally violates these provisions for the purpose of avoiding disclosure liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

This bill would require an electronic media advertisement, other than a mass electronic mailing, that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, to include a specified disclosure regarding who paid for the advertisement.

Staff Comments:

At the time of this writing, the author and sponsor were negotiating substantive amendments to the bill. Staff believes the bill may be significantly amended later this month.

5. [AB 2689](#) (Gray): Gift and contribution prohibition; Governor's appointments

FPPC Position: *None currently*

Status: Assembly Appropriations Committee

Last Amended: April 17, 2018

Fiscal Estimate: Minor and absorbable

Last Action: Approved in Assembly Appropriations Committee and referred to Assembly Floor Consent File (05/02/18)

Summary:

The Political Reform Act establishes limits on gifts that a person or group can give to a candidate or state elective officer and limits how much a candidate or state elective officer can accept in a calendar year. The Act also establishes limits on contributions that a person or group can contribute to a candidate for state elective office and limits how much a candidate for state elective office can accept per election.

This bill would prohibit a person appointed by the Governor to an office subject to Senate or Assembly confirmation from making to a Senator or Assembly Member or a controlled committee of the Senator or Assembly Member, a gift or contribution during the period between the appointment or reappointment by the Governor and confirmation by the Senate. The bill would also apply this prohibition to candidates for the Senate or Assembly, as specified.

6. [AB 2880](#) (Harper): Political Reform Act; local enforcement

FPPC Position: *None currently*

Sponsor: California Common Cause

Status: Assembly Appropriations Committee

Fiscal Estimate:

Last Amended: April 17, 2018

Last Action: Approved by Assembly Local Government Committee and referred to Assembly Appropriations Committee (04/26/18)

Summary:

Existing law authorizes the Fair Political Practices 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, as specified. Existing law also authorizes the Fair Political Practices Commission to enter such agreements with the City Council of the City of Stockton and the City Council of the City of Sacramento, respectively.

This bill would repeal those provisions and would instead generally authorize the governing body of a local government agency to contract with the Commission for the administration, implementation, and enforcement of a local campaign finance or government ethics law. The

authorization is limited to jurisdictions with a population of less than 3,000,000. This bill would also clarify that any agreement with one of the cities enumerated above that was in effect on December 31, 2018, is deemed to comply with this provision. The authorization will sunset January 1, 2026. The Commission would be required to produce a report to the Legislature regarding the performance of any agreements on or before January 1, 2025.

Budget Bills (#7-8)

7. [AB 1806](#) (Ting): Budget Act of 2018

Status: Assembly Budget Committee

Last Action: Introduced and referred to the Assembly Budget Committee.

Summary:

The State Budget must be passed by the Legislature by June 15. This bill is the current legislative vehicle for the main Budget Bill in the Assembly.

8. [SB 839](#) (Mitchell): Budget Act of 2018

Status: Senate Budget and Fiscal Review Committee

Last Action: Introduced and referred to the Senate Budget Committee.

Summary:

The State Budget must be passed by the Legislature by June 15. This bill is the current legislative vehicle for the main Budget Bill in the Senate.

Miscellaneous Bills (#9)

9. [AB 2055](#) (Levine): Legislative ethics training; lobbyist certification; sexual harassment

FPPC Position: *None currently*

Status: Assembly Appropriations Committee

Fiscal Estimate: None requested

Last Amended: April 30, 2018

Last Action: Approved in Assembly Judiciary Committee with amendments. Amended.

Referred to Assembly Appropriations Committee. (04/30/18)

Summary:

Existing law requires the legislative ethics committees of each house of the Legislature to conduct at least semiannually an orientation course on the relevant ethical issues and law related to lobbying.

This bill would require that orientation course to include information on each house of the Legislature's policies against harassment, including sexual harassment, in connection with lobbying activities..

Staff Comments:

AB 2055 was substantially amended on April 30 to no longer affect the Political Reform Act. The bill will not be included in future legislative reports.

Spot Bills (#10)

10. SB 1454 (Newman): Political Reform Act

FPPC Position: *None currently*

Status: Senate Rules Committee

Fiscal Estimate: Minor and absorbable

Last Amended: January 11, 2018

Summary:

This bill would make a technical, nonsubstantive change to these provisions. It is a spot bill for more substantive legislation to be determined.

Dead Bills (#11-12)

11. AB 2051 (Choi): Candidate's statement

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Last Amended: April 18, 2018

Last Action: Failed passage in Assembly Elections Committee (04/25/18)

Summary:

Existing law authorizes each candidate for nonpartisan elective office in any local agency, including any city, county, city and county, or district, to prepare a candidate's statement on an appropriate form provided by the elections official. Existing law permits the statement to be withdrawn, but prohibits the statement from being changed, during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period. Existing law requires the elections official to send to each voter a county voter information guide that contains the written statements of each candidate.

This bill would permit the statement for each candidate for nonpartisan elective office in a local agency, and the statement for each candidate for statewide elective office or for state Senate and Assembly who accepts the voluntary expenditure limits, to be changed during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period. The bill would also make technical, nonsubstantive changes.

12. [AB 2882](#) (Harper): Earmarking exception; membership organizations

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Last Action: Failed passage in Assembly Elections Committee (04/25/18)

Summary:

Existing law prohibits a person from making a contribution to a committee or candidate that is earmarked unless the contribution is disclosed in compliance with the requirements for contributions made by an intermediary. Dues, assessments, fees, and similar payments made to a membership organization or its sponsored committee in an amount less than \$500 per calendar year from a single source for the purpose of making contributions or expenditures are not considered earmarked.

This bill would reduce this exception for payments to a membership organization or its sponsored committee to \$100.