



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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**To:** Chair Miadich, Commissioners Cardenas, Hatch, and Wilson

**From:** Galena West, Executive Director  
Lindsey Nakano, Legislative Counsel

**Subject:** Legislative Development

**Date:** September 4, 2020

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Staff Recommendations for 2021 Legislation: Staff is recommending that the Commission pursue legislation on the following topics, most of which were approved by the Commission at the December 19, 2019, Commission meeting.

*Approved by the Commission in December 2019:*

1. Give increased status and access to FPPC Special Investigators. POST has found that the Commission may pursue this legislation without further delay. Commission Special Investigators are at times tasked with collecting evidence in dangerous or volatile situations. Support from other peace officers is not always available. Additionally, this status will allow FPPC Special Investigators to carry official identification and credentials, and to have access to criminal databases, databases to locate witnesses and respondents, and information from other state agencies.
2. Authorize the FPPC to access tax records in SEI/conflicts cases. Currently, the FPPC cannot access tax records of respondents to fully investigate SEI and conflict of interest cases and must rely on records provided by officials, which may differ from those reported to tax agencies.
3. Authorize the FPPC to conduct audits of lobbyists. Section 90000(a) requires the Franchise Tax Board to conduct lobbyist audits but, due to staffing, budget, and other workload priorities, FTB has been unable to timely complete these audits. Authorizing the FPPC to conduct audits of lobbyists would transfer this workload to the FPPC's audit division.
4. Require disclosure of direct and indirect ownership of, and sources of income to, limited liability companies. There are significant challenges to determining the true source of contributions and expenditures in California elections made by LLCs because of the structure of those entities. Requiring disclosure of direct and indirect owners of, and sources of income to, LLCs that engage in election activity would improve transparency about the sources of money used in state and local elections.

Additionally, the adoption of a long-arm statute for FPPC administrative subpoenas would assist with enforcement.

5. Make substantive and cleanup amendments to the SEI provisions. This amendment package would include (1) requiring 87200 filers to file electronically, (2) capping the gift limit and eliminating the cost-of-living adjustment for gifts, and (3) making technical changes recommended by staff.
6. Expand the “one bank account” rule to noncandidate committees. Currently, only candidate committees are subject to the “one bank account” rule. Extending this rule to noncandidate committees, such as primarily formed ballot measure committees and general purpose recipient committees, would require that all contributions received by a noncandidate committee be deposited in a designated account and would require that all expenditures be drawn from that same account. Additionally, this bill would authorize a committee, and would require the Secretary of State, to redact the committee’s bank account number on a copy of the committee’s statement of organization filed with the local filing officer or the Secretary of State. These changes were proposed in Commission-sponsored Senate Bill 423 (Umberg), which was amended into a non-PRA bill after coming very close to passing before the pandemic this session.
7. Clarify whether the \$150 penalty in Section 84101.5 is the exclusive penalty for the failure by a committee to pay the annual \$50 registration fee. The statute is unclear as to whether the Commission is authorized to pursue additional penalties for that violation under the PRA. Additionally, authority to collect the penalty and the original fee would be transferred to the Franchise Tax Board.
8. Increase penalties for egregious personal use. The impact of the FPPC’s civil and administrative penalties fall disproportionately on the smaller offenses under the Act. In many instances, civil and administrative penalties have little behavioral impact on larger infractions. Therefore, the penalty limits in civil and administrative actions for egregious personal use of campaign funds should be increased.

*New – but consistent with prior Commissioner comments/etc.*

9. Remove gendered terminology from the PRA. Change terms such as “chairman,” “his” or “her,” etc.
10. Develop proposed legislative changes to improve transparency of political activity on digital media, including social media, pending recommendations from the Digital Transparency Task Force.