



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

**From:** Lindsey Nakano, Legislative Counsel

**Subject:** Legislative Update – April 2021

**Date:** April 5, 2021; Updated April 13, 2021 (updates highlighted)

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### Report Contents

- General update
- FPPC priority legislation
  - FPPC staff will request that the Commission adopt a “support” position for AB 1590, the Assembly Elections Committee bill that includes the Commission’s committee annual fee penalty collection proposal. The Commission’s Law and Policy Committee voted to recommend that the Commission adopt a “support” position.
- Other Commission-related bills
  - Staff on AB 319 (Valladares), a bill that would prohibit foreign contributions in connection with state or local candidates, has asked whether the Commission will support AB 319. The Commission’s Law and Policy Committee voted to recommend that the Commission adopt a “support” position.
  - Staff on SB 459 (Allen), a bill relating to lobbying reports and advertisements, has asked whether the Commission would support SB 459 if monthly reporting, instead of the current quarterly reporting, is added to the bill for all lobbying firms and lobbyist employers in the 3<sup>rd</sup> calendar quarter. The Commission’s Law and Policy Committee requested additional information about this bill and did not recommend a position during its April meeting.

### General Update

As of the date of this report, staff has secured authors for five legislative proposals previously approved by the Commission as priority legislation for 2021.

Staff is continuing to reach out to and work with Members of the Legislature and interested parties on other priority proposals, and to express the Commission’s preference for bipartisan support on bills for which the Commission has adopted a “support” or “sponsor” position.

## **FPPC Priority Legislation**

### **AB 236 (Berman) – Campaign disclosure: limited liability companies.**

Status: **Set for hearing in the Assembly Committee on Elections on 4/15/21**

Coauthor: Assembly Member Kalra

### **SB 686 (Glazer) – Campaign disclosure: limited liability companies.**

Status: Heard in the Senate Committee on Elections and Constitutional Amendments on 4/12/21; **Passed out of committee (4-1)**

Summary: Both AB 236 and SB 686 would require an LLC, if it qualifies as a committee or committee sponsor, to file a statement of members with the Secretary of State. Both bills would require the statement of members to include certain information about the LLC, including a list of all persons who have a membership interest in the LLC of at least 10% or who made a cumulative capital contribution of at least \$1,000 to the LLC after it qualified as a committee or sponsor of a committee, or within the 2 calendar years before it qualified. The bills would also codify Regulation 18421.10 on reporting contributions from LLCs, and the portion of Regulation 18402.2 relating to disclosure of an LLC's responsible officer on committee statements and reports.

FPPC Position: Sponsor

### **AB 378 (Bauer-Kahan) – Gendered language cleanup.**

Status: Heard in the Assembly Committee on the Judiciary 3/23/21; Passed on consent (11-0)

Coauthors: Assembly Members Aguiar-Curry, Boerner Horvath, Burke, Calderon, Carrillo, Cristina Garcia, Petrie-Norris, Quirk-Silva, Reyes, Blanca Rubio, and Wicks; Senators Durazo, Eggman, Gonzalez, Limón, Skinner, and Wiener.

Summary: AB 378 would remove gendered language from certain portions of the Government Code, including from the Political Reform Act.

FPPC Position: Support

### **AB 1367 (Low) – Campaign funds: campaign bank accounts and egregious personal use of campaign funds.**

Status: Set for hearing in the Assembly Committee on Elections on 4/15/21

Summary: AB 1367 would (1) require recipient committees to maintain a single bank account into which all contributions must be deposited, and from which all expenditures must be made, and (2) would increase penalties for egregious personal use of campaign funds to three times the amount of the unlawful expenditure.

FPPC Position: Sponsor

**Staff Note: Per the author's office, the bill will be amended to remove the one bank account provisions, and to retain only the increased penalties for egregious personal use of campaign funds. There were some questions and concerns from stakeholders, and if**

staff is able to resolve those concerns, the one bank account provisions may be added back into the bill at a later time.

**AB 1590 (Committee on Elections (Assembly Members Berman (Chair), Bennett, Low, Mullin, and Blanca Rubio) – PRA omnibus bill.**

Status: Introduced (3/18/21); Referred to the Assembly Committee on Elections (3/25/21)

Summary: AB 1590 transfers the responsibility for collecting the \$150 penalty for failure to the annual \$50 committee fee from the FPPC to the Secretary of State. Under existing law, the SOS is responsible for collecting the original \$50 fee, and referrals for nonpayment are sent to the FPPC. AB 1590 also makes other nonsubstantive changes to the PRA.

Staff Note: The portion of AB 1590 relating to the annual committee fee is a priority Commission proposal and was included in this bill at the request of FPPC staff. Staff recommends that the Commission adopt a “support” position. The Commission’s Law and Policy Committee voted to recommend that the Commission adopt a “support” position.

**Remaining FPPC proposals that do not have authors:**

- Proposals relating to enforcement:
  - o FPPC Special Investigator Authority
  - o Tax Record Inspection Authority
- Proposals relating to increasing transparency:
  - o Lobbyist Audits and Reports
- Proposals for modernization, efficiency, and consistency:
  - o Statement of Economic Interest E-filing and Gift Cap
  - o Behested Payment Report E-filing

**Other Commission-Related Bills**

**Updates**

- AB 40 (Lorena Gonzalez) was amended on 4/6/21, relating to slate mailer disclosures.
- AB 871 (Kiley) was amended on 4/8/21, relating to contribution prohibitions for electrical and gas corporations.
- AB 1379 (Eduardo Garcia) was amended on 4/12/21, relating to targeted political advertising.
- AB 1524 (O’Donnell), previously a nonsubstantive intent bill relating to conflicts of interest, was amended on 3/25/21, relating to elected officials.
- SB 459 (Allen) was amended on 4/12/21, relating to lobbyist reports and advertisements.

## **Status and Summaries**

### **AB 20 (Lee and Kalra) – Contribution prohibitions: business entities.**

Status: Amended and Re-referred to the Assembly Committee on Elections (3/2/21)

Coauthors: Assembly Member McCarty; Senator Allen

Summary: AB 20, titled the “Corporate-Free Elections Act,” would prohibit a candidate for elective office from receiving a contribution from a business entity, and would prohibit a business entity from accepting those contributions.

### **AB 40 (Lorena Gonzalez) – Slate mailer disclosures.**

Status: Amended (4/6/21); Set for hearing in the Assembly Committee on Elections on 4/15/21

Summary: AB 40 would require slate mailers, if the slate mailer organization appears to be affiliated with or represent any organization, group, or class of individuals, as defined, to include additional disclosures, including the number of members the slate mailer organization or committee represents from that organization, group, or class, based on specified criteria, and to include the total amount paid by each candidate and ballot measure to appear on the slate mailer. The bill would additionally delete a requirement relating to the maximum font size of an asterisk required when a candidate or ballot measure has paid to appear on the slate mailer.

### **AB 227 (Davies)– Contribution prohibitions: Governor’s appointees.**

Status: Set for hearing in the Assembly Committee on Elections on 4/15/21

Summary: AB 227 would prohibit a Governor’s appointee, a person residing in the appointee’s household, or another person at the request or demand of the appointee or a person residing in their household, during the term of the appointment and for one year after the term expires, from making a monetary contribution to the Governor’s campaign, or to a committee organized to benefit the Governor’s campaign. The bill would additionally require a prospective Governor’s appointee, if they or a member of their household made a contribution to the Governor’s campaign or committee within one year prior to the appointment, to, upon notice of the intended appointment, immediately disclose the contribution, and would prohibit the appointment unless the Governor or the committee refunds the contribution.

**AB 319 (Valladares) – Campaign contributions: foreign contribution prohibitions.**

Status: **Set for hearing in the Assembly Committee on Elections on 4/15/21**

Summary: AB 319 would prohibit a foreign government or principal from making contributions, expenditures, or independent expenditures in connection with the election of a candidate to state or local office, and would prohibit a person or a committee from soliciting or accepting those contributions. Existing law currently prohibits these foreign contributions and expenditures if they are made in connection with state or local ballot measures.

Staff Note: **Asm. Valladares’s staff has asked whether the Commission will support AB 319. The Commission’s Law and Policy Committee voted to recommend that the Commission adopt a “support” position.**

**AB 871 (Kiley) – Contribution prohibitions: investor-owned utilities.**

Status: **Set for hearing in the Assembly Committee on Elections on 4/15/21**

Summary: The bill would prohibit an **electrical or gas corporation, as defined**, from making a contribution to a candidate for elective state office and would prohibit the acceptance of that contribution.

**AB 975 (Luz Rivas) – SEI electronic filing and gift rules.**

Status: **Set for hearing in the Assembly Committee on Elections on 4/15/21**

Summary: The bill would revise and recast provisions relating to statements of economic interests, including by requiring certain public officials to file those statements using the Commission’s electronic filing system. The bill would also extend the time that a gift of admission to an invitation-only event may be returned, reimbursed, or donated from 30 days from receipt of the gift to 30 days from the end of the calendar quarter in which the gift was received, and would codify existing regulations relating to returning, reimbursing, or donating gifts. The bill would reduce the amount of time in which lobbyists, lobbying firms, and lobbyist employers must provide a beneficiary of a gift certain information about that gift from 30 days to 15 days following the end of each calendar quarter in which the gift was provided.

**AB 1379 (Eduardo Garcia) – Online platform disclosures.**

Status: **Amended and Re-referred to the Assembly Committee on Elections (4/12/21)**

Summary: AB 1379, as it relates to the PRA, would require an online platform to maintain and make available for online public inspection a description of the audience requested by the committee and the types of personal information, as defined, used by the online platform to target the advertisement, including use by the online platform of characteristics such as age, gender, race, or other protected classifications under law. The bill would require a specified officer of the online platform to personally certify, under penalty of perjury, that to their knowledge the online platform has correctly disclosed all activity under this law.

The bill would additionally require an online platform that meets a specified visitor or user threshold and that targets political advertising to make available an application programming interface or other technical capability to enable qualified third parties to conduct independent analysis of bias and unlawful discriminatory impact of that targeted advertising.

~~The bill would also make changes unrelated to the PRA in the Business and Professions Code, the Code of Civil Procedure, and the Elections Code.~~

**AB 1524 (O'Donnell) – Elected officials.**

Status: Amended and Re-referred to the Assembly Committee on Elections (3/25/21)

Summary: AB 1524, would prohibit an elected official from taking employment with or otherwise receiving compensation from any entity for the purpose of influencing the outcome of an election of a member of the elected body of which that elected official is a member. The bill would exempt the use of an elected official's campaign funds authorized under specified provisions of the PRA.

**SB 78 (Nielsen) – Paid campaign or political consultants.**

Status: Set for hearing on 3/15/21; hearing cancelled at the request of the author (3/11/21)

Summary: SB 78 would prohibit a lobbyist from serving as a paid campaign or political consultant to an elected state officer. The bill would also prohibit a paid campaign or political consultant to any elected state officer from directly communicating on behalf of a client with any elected state officer, any employee of an elective state office, or any state agency for the purpose of influencing legislative or administrative action.

Staff Note: The author's office has indicated that this bill is on hold and will likely become a two-year bill.

**SB 305 (Jones) – Effective date of electronic filing requirements.**

Status: Placed on the Senate Appropriations Committee suspense file (3/22/21)

Summary: SB 305 would change the effective date of certain provisions requiring electronic filing of specified statements and reports under the Act from the date that the Secretary of State certifies the CAL-ACCESS replacement system to the effective date of the bill, which, as an urgency bill, would take effect immediately. The bill would apply to the statements of organization filed by recipient committees and slate mailer organizations, and the statements, reports, and other documents of committees and other persons not currently required to file electronically. The bill would also require the registration statements of lobbying firms, lobbyist employers, and lobbying coalitions to be filed only electronically, instead of both electronically and in paper form.

**SB 459 (Allen) – Lobbying transparency.**

Status: Amended and Re-referred to the Senate Committee on Elections and Constitutional Amendments (4/12/21)

Summary: SB 459 would require lobbyists, lobbying firms, and lobbyist employers to include information in their periodic reports that identifies each bill or administrative action subject to lobbying activity, and the respective position advocated for, during that period. This bill would require a lobbying firm or lobbyist employer to file a monthly report for any calendar month in which the total amount of payments subject to reporting exceeds \$15,000, and would require a lobbying firm or lobbyist employer to file monthly reports for 12 months following any calendar quarter in which the total amount of payments subject to reporting exceeds \$45,000. The bill would require certain persons to file specified reports following a calendar quarter in which that person incurs cumulative costs equal to or exceeding \$5,000 for issue lobbying advertisements, as defined.

Staff Note: The author's office has asked whether the Commission would support the bill if the bill was amended to additionally require all lobbying firms and lobbyist employers to report monthly, instead of quarterly, in the 3<sup>rd</sup> calendar quarter. 3<sup>rd</sup> quarter reporting is one element from the Commission's priority proposal relating to lobbyist audits and reports. The Commission's Law and Policy Committee requested additional information about this bill and did not recommend a position during its April meeting.

**SB 752 (Allen) – Campaign advertisements.**

Status: Amended (3/10/21); Re-referred to the Senate Committee on Elections and Constitutional Amendments (3/18/21)

Summary: SB 752 would make several changes to the disclosure requirements for political advertisements, including changes to the required form, content, and presentation of the disclosures depending on the medium in which the advertisement appears. The bill would revise the minimum contribution thresholds for the "top contributor" advertisement disclosure. The bill would also make changes in the Elections Code relating to initiative, referendum, and recall petitions.