



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Commissioner Hatch, Chair, Law & Policy Committee, Chair Miadich

From: Dave Bainbridge, General Counsel; Jay Wierenga, Communications Director

Subject: Legislative Report – May 2019

Date: May 31, 2019

Commission-sponsored Legislation

Since the Commission's May meeting, four sponsored bills progressed through the legislative process. AB 902 (codifying regulation), AB 903 (minor and clarifying clean up) and AB 909 (treasurer acknowledgement) were passed by the Assembly and sent to the Senate. SB 423 (one campaign account) passed the Senate and was sent to the Assembly. AB 946 (Omnibus clean up) was sent to the Senate inactive file at the request of Senator Umberg. Senate Bill 71 is waiting for third reading set for Thursday, May 30, 2019.

Pending Legislation

The Commission is current tracking 17 bills proposed to amend the Political Reform Act or Government Code 1090. The Commission has adopted active positions on 8 bills. Staff is proposing actions on 6 bills.

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

Current Bill Status

1. [AB 201](#) (Cervantes): Campaign disclosure: mass text messages.

Recommendation: *Support if amended*

Status: Senate Rules Committee

Fiscal Impact: Minor and absorbable

Amended: May 6, 2019

Last Action: Read first time in Senate, referred to Senate Rules Committee (05/23/19)

Summary:

This bill would require a candidate or committee to disclose the name of the candidate or committee in certain text message advertisements and provide a hyperlink in the text message to an internet website containing more information about the candidate or committee, as specified. If including this text message disclosure would be impracticable or severely interfere with the candidate or committee's ability to convey the intended message, the bill would instead permit the inclusion of a specified identification number in the text message. The bill would prescribe certain requirements for the color and size of the text in the text message and the disclosures on the internet website.

Staff Comments:

Assembly Member Cervantes previously agreed to amend AB 201 in response to recommendations from the Assembly Elections Committee analysis including defining the term “mass distribution technology.” However, Commission staff has not had an opportunity to review those amendments. The author has indicated it is not her intent to capture technologies such as Toskr’s “Relay” service.

Update:

Commission staff continues to believe that amendments may be needed to ensure disclaimer requirements for services like “Relay” do not fall out of the Political Reform Act. Commission staff continues to work with the sponsoring Member’s staff on acceptable language and will present any recommended proposal to the Commission for approval. Dave and Karen are working with Member’s staff.

2. [AB 864](#) (Mullin): Amendments to DISCLOSE Act

FPPC Position: *Support*

Fiscal Estimate: No costs to the Commission

Status: Senate Elections and CA Committee

Amended: April 11, 2019

Last Action: Approved in Assembly, referred to Senate Elections and Constitutional Amendments Committee (05/16/19). Hearing in Committee 06/04/19)

Summary:

The bill makes various substantive and non-substantive changes to the DISCLOSE Act:

1. The bill would exempt from the definition of “mass electronic mailing” communications that were solicited by recipients.
2. Within the exemption of advertisement for an electronic media communication, the bill would require a customer who has opted in to receive communications from a provider of goods or services to provide express approval to receive political messages from that provider of goods or services in order for the communication to be an exempt.
3. Clarifies disclosure requirements for large print advertisements larger than those designed to be individually distributed.
4. Further defines “online platform disclosed advertisements” and other clarifying amendments to AB 2188 (2018) Social Media DISCLOSE Act.
5. Corrects conflict from AB 249 related to electronic media advertisements and the applicable disclosures for political party committee and candidates committees who pay for independent expenditures or advertisement supporting or opposing a ballot measure.
6. Other non-substantive conforming, clarifying, and cross-reference corrections in the Act.

Staff Comments:

In April, Assemblymember Mullin amended AB 864 to remove all substantive policy changes. The remaining clarifying provisions, developed and recommended by FPPC staff, remain.

Update:

In response to Assemblymember Mullins' amendments, the Commission voted at its May meeting to change its "support if amended" position to a "support" position. A "support" letter was sent to Assemblymember Mullin following the Commission meeting.

3. [SB 300](#) (Umberg): Political Reform Act; Ballot Measures

FPPC Position: *Support*

Status: Assembly desk awaiting second reading

Amended: March 20, 2019

Last Action: Approved in Senate 37-0, referred to, read first time, held at Assembly desk (05/13/19)

Summary:

The Political Reform Act of 1974 prohibits a foreign government or a foreign principal, as defined, from making any contribution, expenditure, or independent expenditure in connection with the qualification or support of, or opposition to, a state or local ballot measure. The act prohibits a person or committee from soliciting or accepting a contribution from a foreign government or foreign principal for the same purposes. The Act makes a violation of these prohibitions a misdemeanor, punishable by a fine equal to the amount contributed or expended.

This bill would expand these prohibitions to include contributions, expenditures, or independent expenditures in connection with the qualification or support, or opposition to, a state or local candidate. The act would change the fine to an amount up to the greater of \$10,000 or 3 times the amount contributed or expended.

Staff Comments:

In 2016, the Commission supported nearly identical legislation ([AB 2250 – Ridley-Thomas](#)) to address the potential gap in the Political Reform Act related to foreign contributions to state and local candidates. The Federal Election Campaign Act generally prohibits foreign nationals from directly or indirectly donating or spending money in connection with *any* U.S. election. This federal law, insofar as it relates to local elections, was recently upheld by the 9th Circuit Federal Court of Appeals in [USA v. Ravneet Singh](#) (F.3d) (May 16, 2019). SB 300 may provide a backstop to this important policy in the event that the Supreme Court overturns the ruling.

Update:

At the May Commission meeting, the Commission adopted the FPPC staff's "support" recommendation. A "support" letter was subsequently sent to Senator Thomas Umberg, the author of the bill.

4. [SB 423](#) (Umberg): Committee Bank Accounts

FPPC Position: *Sponsor*

Status: Assembly desk awaiting second reading

Amended: April 9, 2019

Last Action: Approved in Senate 38-0, read first time in Assembly, held at desk (05/20/19)

Summary:

This bill would expand the bank account requirement to include all recipient committees, as defined in [subdivision \(a\) of §82013](#). This would mean all contributions (§82015) received by the committee would have to be deposited in the designated account, and all expenditures (§82025) made by the committee would have to be drawn from the designated account. This bill would also permit a committee to redact its bank account number on the copy of the committee's statement of organization filed with local filing officers. The bill permits the Secretary of State to redact bank account numbers on statement of organization disclosed in any form.

Staff Comments:

Following constructive conversations with interested persons, staff presented substantive amendments to SB 423 at the May Commission meeting to (1) clarify that political party committees and general purpose committees may create additional campaign contribution accounts consistent with Section 85303 and (2) also to codify substantial portions of Regulation 18534 dealing with "restricted" and "all purpose" accounts.

Update:

At the May Commission meeting, the Commission continued its sponsorship of the bill.

Bills with Active Positions (#5-13)

5. [AB 220](#) (Bonta): Campaign funds: childcare costs.

FPPC Position: *Support if Amended*

Status: Senate Rules Committee

Introduced: January 16, 2019

Last Action: Assembly approved 64-0, referred to Senate Rules Committee (05/29/19).

Summary:

The Political Reform Act prohibits the use of campaign funds to pay for professional services not directly related to a political, legislative, or governmental purpose. The Commission has previously advised that expenses incurred by a candidate in providing a baby-sitter for his or her children are reasonably related to a political purpose, but not directly related. (*Mahoney* Advice Letter, No. A-94-285.) As such, we advised that campaign fund expenditures on baby-sitting services are permissible if there is no substantial benefit to the candidate. In other words, if each baby-sitting payment is less than \$200 per event, the campaign fund expenditure is permissible.

This bill would authorize the use of campaign funds to pay for child care expenses resulting from a candidate or officeholder engaging in campaign activities or performing official duties.

Staff Comments:

Commission staff had productive discussions with Assemblymember Bonta's office in an attempt to clarify permissible childcare-related expenses and when an expense would "result from" campaign or official duties. Amendments, however, were not made in the Assembly prior

to the bill moving to the Senate. Bonta's closing floor speech promised amendments to be added in the Senate to alleviate FPPC concerns regarding 'official duties'. Staff will look to engage in discussions in the Senate to amend the bill.

6. [AB 322](#) (Gallagher): Electronic filing

FPPC Position: *Support if Amended*

Status: Assembly Appropriates suspense file

Fiscal Impact: Minor and absorbable to the Commission

Introduced: March 20, 2019

Last Action: In committee, hearing postponed by committee

and re-refer to committee. Read second time, amended, and re-referred to Com. on E. & C.A.

Summary:

Would require a local government agency to post on its internet website a copy of any specified statement, report, or other document filed with that agency in paper format. This bill would require that the statement, report, or other document be made available for four years from the date of the election associated with the filing. By imposing a new duty on local government agencies, this bill would impose a state-mandated local program.

Staff Comments:

The Commission's position and recommended amendments were communicated to Assembly Member Gallagher's office. To date, we have not heard any feedback from Mr. Gallagher's office about this specific bill. The bill is currently in the Asm. Appropriation Committee suspense file due to substantial state-mandated local costs.

Update:

None

7. [AB 902](#) (Levine): Codify Commission Regulation.

FPPC Position: *Sponsor*

Status: Senate Elections and CA Committee, hearing set for (06/04/19) in Senate Elections and CA

Amended: April 1, 2019

Last Action: Assembly approved referred to Senate Elections and CA (05)08/19)

Summary:

The Political Reform Act authorizes the Commission to adopt, amend, or rescind regulations to carry out the purposes and provisions of the Act and to govern the procedures of the Commission. Long-standing and generally accepted regulations become essential to proper administration of the Political Reform Act. There are several regulations the Commission staff has identified as being long-standing, non-controversial, and essential to complying the Act.

8. [AB 903](#) (Levine): Minor and Clarifying Amendments to Political Reform Act.

FPPC Position: *Sponsor*

Status: Senate Elections Committee – Hearing June 4, 2019

Amended: April 1, 2019

Last Action: Assembly approved, referred to Senate Elections Committee; hearing set for Senate Elections Committee (06/04/19)

Summary:

This bill would clarify that communications paid for with public moneys by a state or local government agency, under certain conditions, are considered expenditures, as specified, and not included in the exception described above. Clarify the language in Section 84200.5 to eliminate confusing language leading to multiple potential interpretations. Clarify the disclosure of income from a gift or business entity include the street address of each source or entity.

Update:

None

9. [AB 909](#) (Gallagher): Treasurer Signature

FPPC Position: *Sponsor*

Status: Senate Elections and CA Committee

Amended: May 28, 2019

Last Action: From Committee Chair with Author's amendments: Amend and re-refer to committee. Read second time, amended and re-referred to committee (05/28/19)

Summary:

This bill requires a treasurer or assistant treasurer identified on the Statement of Organization to sign a separate statement acknowledging that the person must comply with duties imposed by the Act and regulations and that violation of those duties could result in criminal, civil, or administrative penalties. Requires the Statement of Acknowledgment be filed with the Secretary of State at the same time as the Statement of Organization or an amendment identifying a new treasurer or assistant treasurer.

On May 23, in response to comments from FPPC and the Secretary of State, Assemblymember Gallagher proposed an amendment to the bill that would clarify that the failure to sign the acknowledgement would not be a distinct violation of the PRA, but that the statement of organization would nonetheless be incomplete until signed. The proposed amendment also changes the operative date of the measure to the date that the Secretary of State certifies the Cal-Access on-line filing system (currently contemplated as February 2021).

Staff Comments:

The recent proposed amendments appear to address the concern raised by Richard Rios of CPAA at the May Commission meeting.

Update:

Staff recommends continued sponsorship of the bill (as amended) and will continue to monitor.

10. [AB 946](#) (Assembly Elections Committee): Omnibus Non-substantive

FPPC Position: *Sponsor*

Status: Inactive file, Senate

Last Action: Ordered to inactive file at the request of Senator Umberg (05/13/19)

Summary:

This bill is the Commission's housekeeping bill repealing expired provisions of the Act no longer applicable or antiquated.

Update:

None

11. [AB 1043](#) (Irwin): Use of Campaign Funds; cybersecurity

FPPC Position: *Support*

Status: Senate Elections and CA Committee

Introduced: February 22, 2019

Last Action: Assembly approved, referred to Elections and CA Committee (05/22/19)

Summary:

The Political Reform Act generally prohibits the use of campaign funds for payment or reimbursement for the lease of real property or for the purchase, lease, or refurbishment of any appliance or equipment if the lessee or sub lessor is, or the legal title resides in, a specified individual, such as a candidate, elected officer, or a member of the candidate or officer's immediate family. Notwithstanding that prohibition, existing law authorizes the use of campaign funds to pay or reimburse the state for the costs of installing and monitoring an electronic security system in a candidate or elected officer's home or office.

This bill would authorize the expenditure of campaign funds to pay for, or reimburse the state for, the installation and monitoring of hardware, software, and services related to the cybersecurity of the electronic devices of a candidate, elected officer, or campaign worker. The bill would require a candidate or elected officer to report any expenditure of campaign funds for these purposes to the Fair Political Practices Commission in the candidate or elected officer's campaign statements.

Update:

Bill was passed by Assembly on consent. Staff will continue to monitor in the Senate.

12. [SB 71](#) (Leyva): Campaign expenditure limitations: harassment and discrimination

FPPC Position: *Sponsor*

Status: Assembly desk (05/30/19)

Fiscal Estimate: Minor and absorbable

Introduced: January 9, 2019

Last Action: Senate approved 35-0, sent to Assembly desk (05/30/19)

Summary:

The Political Reform Act of 1974 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, as specified.

This bill would prohibit the expenditure of funds in a campaign committee account or legal defense fund account to pay or reimburse a candidate or elected officer for attorney's fees or other legal costs in connection with claims of unlawful practices made pursuant to California Fair Employment and Housing Act. This would include expenses for filing a claim, defending a claim, and payment of a penalty or settlement related to a claim.

At the March 2018 meeting, the Commission rescinded the [Mendoza Advice Letter A-18-009](#). The letter concluded then-Senator Tony Mendoza may establish a legal defense fund to defray attorney's fees related to a claim of wrongful termination, proceedings related to Senate Resolution 69 (2018), and a subsequent civil proceeding should one be filed. The letter had also stated Mr. Mendoza may use campaign and legal defense funds to defend himself from claims of sexual harassment that arose directly out of his activities, duties, or status as a candidate or elected officer.

Update:

Commission approved motion in May meeting to request author to reverse the position, in lieu of that to recommend a bond function, to improve nexus language, and to clarify settlements. However, the Commission voted to continue its sponsorship. Staff provided summary of motion to author's staff. The bill passed the Senate on a 35-0 vote.

13. [SB 401](#) (Bates): Candidate Controlled Ballot Measure Committee; contribution limits

FPPC Position: *Oppose unless Amended*

Status: Senate Elections Committee; hearing set for April 23, 2019

Introduced: February 20, 2019

Last Action: Set for hearing in Senate Elections Committee (03/29/19)

Summary:

The Political Reform Act imposes a contribution limit of \$4,700 on contributions made to, and received by, candidates for elective state offices that are not statewide elective offices. The Act does not limit the amount of contributions that a person may make to a committee that is primarily formed to support or oppose one or more ballot measures. The act prohibits a candidate for elective state office or a committee controlled by that candidate from contributing to another candidate for elective state office in excess of the contribution limit for elective state offices.

This bill would prohibit a person from contributing to a primarily formed candidate controlled ballot measure committee more than the contribution limit imposed on candidates for elective state offices. The bill would prohibit a candidate for any elective office, or the candidate's

controlled committees, from making a contribution to another candidate for elective office or a committee controlled by a candidate that is primarily formed to support or oppose one or more ballot measures in excess of the contribution limit established for candidates for elective state office. This bill would prohibit a committee controlled by a candidate for elective office that is primarily formed to support or oppose one or more ballot measures from expending campaign funds to make a contribution or other transfer of campaign funds to a committee for a purpose other than supporting or opposing a ballot measure that the controlled committee was primarily formed to support or oppose.

Staff Comments:

Staff communicated the Commission's opposition to SB 401 and provided technical assistance to Senator Bates' office. Stopped being tracked by legislative director.

Update:

None

Political Reform Act Bills (#14-19)

14. [AB 571](#) (Mullin): Contribution Limits.

Status: Senate Desk, Assembly passed (05/29/19)

Fiscal Estimate: \$920,023 first year, \$878,023 ongoing.

Amended: April 2, 2019

Last Action: Assembly passed, on to Senate desk, vote 57-13 (05/20/19)

Summary:

The Act contains contribution limits and other restrictions related to contribution limits for state office and statewide offices. The Act specifies nothing in the law prevents the Legislature or local agency from adopting additional requirements, and nothing nullifies contribution limitations or prohibitions in local jurisdictions. All ordinances or other provisions adopted by local governments must be filed with the Commission.

The bill would establish a state-mandated contribution limit on city and county jurisdictions, which the Commission would be required to regulate and enforce. The state-mandated contribution limit is equal to the limits of state legislative candidates and would be adjusted for cost-of-living. Jurisdictions that adopt their own limit or have already established a limit would not be subject to the state limit established by this bill. This bill will become operative January 1, 2021.

Staff Comments

To adequately implement and enforce a statewide default contribution limit, the Commission would need to add 2 Political Reform Consultants II, 2 Senior Commission Counsel, 1 Special Investigator, and 1 Program Specialist II.

Update:

AB 571 passed the Assembly on a 55-13 vote.

15. [AB 626](#) (Quirk-Silva): Conflicts of Interest; Government Code 1090

Status: inactive file

Fiscal Impact: Minor and absorbable

Amended: May 13, 2019

Last Action: Placed on inactive file by author (05/30/19)

Summary:

Existing law prohibits members of the Legislature, and state, county, district, judicial district, and city officers or employees, from being financially interested in a contract, as specified, made by them in their official capacity or by any body or board of which they are members, subject to specified exceptions. Existing law prohibits an officer or employee from being deemed to have an interest in a contract if the person's interest is one of certain types.

This bill prohibits an officer or employee from being deemed interested in a contract, as described above, if the interest is that of an engineer, geologist, architect, land surveyor, or planner, performing specified services on a project, including preliminary design and preconstruction services, when proposing to perform services on a subsequent portion or phase of the project.

Staff Comments:

Staff has provided technical assistance to the sponsors of AB 626, the American Council of Engineering Companies.

Update:

None

16. [AB 1217](#) (Mullin): DISCLOSE Act – Issue and Electioneering Ads

Position: Support if amended

Status: Senate Desk, passed Assembly 55-4 (05/29/19)

Amended: April 29, 2019

Last Action: Assembly approved 55-4, to Senate Desk (05/29/19)

Summary:

The Political Reform Act requires specified disclosures in advertisements regarding the source of the advertisement. The Act defines “advertisement” for these purposes to mean a general or public communication that is authorized and paid for by a committee for the purpose of supporting or opposing a candidate or candidates for elective office or a ballot measure or ballot measures. The Act also requires certain advertisements paid for by certain committees to disclose the names of the top contributors, which is defined for these purposes to mean the persons from whom the committee paying for an advertisement has received its three highest cumulative contributions of \$50,000 or more.

This bill does the following:

1. Amends the definition of “contribution” to include when a “payment is made for political purposes” as specified, including an electioneering communication.
2. Amends the definition of “expenditure” to include an electioneering communication.
3. Adds the definition of “lobbying-available donation” to mean 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 if full and adequate consideration is received or if it is clear from the circumstances the payment is not made for lobbying purposes. Describes what is and is not a “lobbying-available donation.”
4. Amends the definition of “advertisement” to include “electioneering communication,” “issue advocacy advertisement,” “major advertiser,” and “top funders.” The bill further defines the respective terms. Also, defines “nondonor funds,” “small donor funds,” and “lobbying donor.”
5. Would adopt disclaimer requirements of “major advertisers” and “top funders” of an issue advocacy advertisement totaling \$50,000 or more in a calendar year and require disclosure of three highest lobbying-available donations of \$10,000 or more, as specified.

Staff Comments

Assembly Bill 1217 would adopt disclaimer requirements for advertisements defined as “electioneering” and “issue advertisements.” This ambitious bill suffers from structural deficiencies that would make interpretation, administration, and enforcement difficult. Some of the deficiencies include:

1. The provisions of these non-campaign related communications are being added to the Chapter and Article of the Act previously exclusive to campaign advertisements. Inserting unrelated, non-campaign terms and requirements into the campaign advertising sections will severely complicate portions of the Act already filled with complexity.
2. Enforcing the provisions of this bill would require resource-heavy investigations of issue and electioneering ads because there would be no corresponding disclosures filed with filing officers showing contributions and expenditures.
3. Establishes pre-election timing thresholds (60 days before a general or special election, 30 days before a primary election) that are substantively different than current electioneering requirements under Section 85310 (within 45 days of any election).
4. There are no disclosure requirements for

In addition to potential policy and structural issues, Commission staff believes this bill could lead to litigation.

Update:

At its May meeting, the Commission adopted a “support if amended” position on a 3-1 vote. A letter reflecting the Commission’s position was sent to Assemblymember Mullin. The bill has now moved to the Senate, and staff will continue to engage in discussions to amend the bill to comport with the Commission’s position.

17. [AB 1245](#) (Low): Contribution prohibition; business entities

Status: not tracked

Amended: April 9, 2019

Last Action: Amended, referred to Asm. Elections Committee; set for hearing (04/11/19)

Summary:

This bill would prohibit a business entity from contributing to a candidate for state elective office and for candidate for state elective office from accepting a contribution from a business entity.

Staff Comments

This bill consists of two sentences, yet proposes a policy that would require significant regulations and interpretation by the Commission. At the time of this writing, the author has not produced a fact sheet describing his intent, so many questions remain regarding the scope and effect this policy could have if enacted.

Update:

None

18. [AB 1574](#) (Mullin): Lobbying Reports; Monthly Filing

Status: Assembly Appropriations Committee suspense file

Fiscal Impact: \$252,741 first year, \$238,741 ongoing

Amended: April 11, 2019

Last Action: Sent to Assembly Appropriations Committee suspense file (04/24/19)

Summary:

The Political Reform Act requires lobbyists employed by a lobbyist employer or a lobbying firm to provide a periodic report of the lobbyist’s activity expenses and contributions to the employer or firm within 2 weeks following the end of each quarter. The act requires lobbying firms, lobbyist employers, and persons who make payments to influence legislative or administrative action of \$5,000 or more in value in any calendar quarter to file with the Secretary of State, during the month after the end of each calendar quarter of a biennial legislative session, reports regarding lobbying expenditures made during the calendar quarter.

This bill would instead require lobbying reports to be filed monthly. This bill will become operate January 1, 2021.

Staff Comments:

To adequately implement AB 1574, the Commission would need two additional Political Reform Consultants II.

Update:
None

19. [AB 1752](#) (Kalra): Committee registration fee; penalty

Position: Support if amended

Status: Senate Elections and CA Committee

Amended: March 21, 2019

Last Action: Assembly passed, referred to Senate Elections and CA Committee (05/22/19)

Summary:

This bill prohibits the Commission from administering any other penalty for violation of the \$50 committee registration fee outside of the \$150 penalty in statute.

Staff Comments:

In December 2018, the Commission authorized staff to communicate to the Secretary of State and the Legislature the need to clarify the penalties applied to the annual registration fee for committees. Assemblymember Kalra introduced AB 1752 to make the \$150 penalty the exclusive remedy. The bill, as currently drafted, would impose intangible costs on the Enforcement Division in its collection of these \$150 penalties.

Update:

At the May Commission meeting, the Commission voted to continue its “support if amended” position and instructed staff to engage in discussions to pursue an amendment that would transfer the collection authority of the penalty over to the FTB. Failing that, the Commission instructed staff to seek an amendment that would cause the committee’s registration to be automatically terminated after 90 days of non-compliance. The bill passed the Assembly on consent. Staff will continue to seek amendments in the Senate.

Bills Unlikely to Progress Further in 2019 (#20-22)

20. [AB 225](#) (Brough): Campaign funds: childcare costs.

FPPC Position: *Support if Amended*

Status: Assembly Elections Committee

Introduced: January 16, 2019

Last Action: Referred to Assembly Elections Committee (02/04/19)

Summary:

The Political Reform Act prohibits the use of campaign funds to pay for professional services not directly related to a political, legislative, or governmental purpose. The Commission has previously advised that expenses incurred by a candidate in providing a baby-sitter for his or her children are reasonably related to a political purpose, but not directly related. (*Mahoney Advice Letter, No. A-94-285.*) As such, we advised that campaign fund expenditures on baby-sitting

services are permissible if there is no substantial benefit to the candidate. In other words, if each baby-sitting payment is less than \$200 per event, the campaign fund expenditure is permissible.

This bill would provide that campaign funds may be used to pay for child care provided for a candidate's dependent child if the costs are incurred as a direct result of campaign activity.

Staff Comments:

Assembly Member Brough has signed on as a co-author to Assembly Members Bonta's AB 220.

21. [AB 359](#) (Melendez): Revolving door prohibition; Members of the Legislature

Status: Assembly Elections Committee

Introduced: February 4, 2019

Last Action: Heard in Asm. Elections Committee; held without recommendation (04/10/19)

Summary:

The Political Reform Act of 1974 prohibits a Member of the Legislature, for a period of one year after leaving office, from acting as a compensated agent or attorney for, or otherwise representing, any other person by making appearances before, or communications with, the Legislature or its committees, Members, or officers or employees, if the appearance or communication is made for the purpose of influencing legislative action. If the Member resigns from office, this prohibition applies from the effective date of the resignation until one year after the adjournment sine die of the session in which the resignation occurred.

This bill would extend the time periods for these prohibitions for a Member of the Legislature to 5 years.

22. [AB 1141](#) (Melendez): Misuse of public funds

Status: Asm. Elections Committee

Amended: March 26, 2019

Last Action: Set for first hearing; hearing cancelled at the request of the author

Summary:

This bill would amend the Political Reform Act of 1974 to prohibit any elected state or local officer, including any state or local appointee, employee, consultant, or agency, from using or permitting others to use public resources for a campaign activity. The bill would authorize the FPPC to impose an administrative or civil penalty against a person for a misuse of public resources for campaign activity, not to exceed \$1,000 for each day on which a violation occurs, plus 3 times the value of the unlawful use of public resources.

Staff Comments

Assembly Member Melendez has signed on as a joint author to AB 1306 (Garcia).

23. [AB 1306](#) (Garcia): Misuse of public funds

Recommendation: *Support*

Status: Assembly Appropriations Committee, on suspense

Fiscal Impact: \$657,201 first year, \$629,102 ongoing.

Amended: March 18, 2019

Last Action: Approved in Asm. Elections Committee; referred to Asm. Appropriations Committee (04/10/19)

Summary:

This bill would amend the Political Reform Act of 1974 to prohibit any elected state or local officer, including any state or local appointee, employee, or consultant, from using or permitting others to use public resources for a campaign activity. The bill would authorize the FPPC to impose an administrative or civil penalty against a person for a misuse of public resources for campaign activity, not to exceed \$1,000 for each day on which a violation occurs, plus three times the value of the unlawful use of public resources.

Staff Comments:

This measure did not move and is over for this session.

Assembly Member Garcia authored AB 1306 in response to the Commission's request sent in February 2019.

Commission staff has provided technical assistance to Assembly Member Garcia's office, including background information, answered technical questions, and appeared before the Asm. Elections Committee at the invitation of the Assembly Member to answer any technical questions.

The Asm. Elections Committee raised three issues with the current version of AB 1306:

- 1 Whether the Commission should be able to levy treble damages through its administrative process.
- 2 Whether there is sufficient clarity in the law as to what is and is not permissible content for public agencies to communicate.
- 3 Are there other alternatives to addressing insufficient enforcement other than duplicating statutes in another body of law?

AB 1306 would require the Commission to increase staff in Legal Division and Enforcement Division: two Senior Commission Counsel, one Commission Counsel, and one Special Investigator.