



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

To: Commissioner Hatch, Chair, Law & Policy Committee
From: Phillip Ung, Director, Legislative and External Affairs
Subject: Legislative Update
Date: March 5, 2019

Commission-sponsored Legislation

Senate Bill 71 (Leyva) is set to be heard in Senate Elections Committee on March 19. The remaining five FPPC-sponsored bills have not been scheduled for committee hearings.

Pending Legislation

Staff is currently tracking 22 bills directly related to the Political Reform Act. Seven of the bills are considered spot bills. The Commission currently maintains active positions on eight bills. The next legislative deadline is April 26, the last day for policy committees to meet and report bills to fiscal committees.

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

Bills with Active Positions (#1-8)

1. [AB 220](#) (Bonta): 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 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:

Since the February meeting, FPPC staff has communicated the Commission's position to the author's office and has started the process of developing amendments to clarify and further define terms for the use of funds for child care.

2. [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:

Since the February meeting, FPPC staff has communicated the Commission's position to the author's office and has started the process of developing amendments to clarify and further define terms for the use of funds for child care.

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

FPPC Position: *Sponsor*

Status: Introduced, awaiting referral to committee

Introduced: February 20, 2019

Last Action: Introduced.

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.

This bill does the following:

1. Codify [Regulation 18116](#) to clarify that, where the filing deadline for filing statements or reports falls on a Saturday, Sunday, or official state holiday, the filing deadline shall be

extended to the next regular business day with the exception of specified reported filed immediately before an election.

2. Codify [Regulation 18117](#) that failure by a filing officer or filing official to comply with a duty or to provide notice of a filing or disclosure obligations does not affect a person's duty to file statements and reports disclosing information required by the Act.
3. Clarify in statute that "candidate" includes an elected officeholder from [Regulation 18404](#), recasts Section 82007 to improve readability.
4. Repeals Section 85311, recasts its provisions in newly added Section 82015.5, and integrates [Regulation 18215.1](#) to clarify the same aggregation definition applies for limits and reporting purposes for state and local committees.
5. Codify [Regulation 18616.4](#) to extend filing requirements of lobbyist employers to lobbying coalitions and define lobbying coalition in the Act.
6. Codify [Regulation 18229](#) to include registered domestic partners recognized under state law in the definition of "spouse."
7. Codify [Regulation 18426.1](#) permitting recipient committees to designate an assistant treasurer, who may sign and verify campaign statements on behalf of the committee under certain circumstances.
8. Repeals and recasts Section 84105, integrating [Regulation 18427.1](#) to add detail that major donor notice is required to be sent when a committee receives contributions totaling \$5,000 in a calendar year; recasts to improve readability.
9. Codify [Regulation 18729](#) to specify what information must be provided whenever an official must disclose a leasehold interest.
10. Clarify Section 87313 that a person who makes a gift is the source of the gift, unless acting as an intermediary; recasts section to improve readability. ([Regulation 18945](#))
11. Add new Section 89503.5 from [Regulation 18941](#) to clarify in statute when an official "receives" or "accepts" a gift.
12. Codify [Regulation 18996](#), repeal and recast Section 90002, to restore statutory notice to filers regarding what is subject to audit that was inadvertently deleted in prior legislation.

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

FPPC Position: *Sponsor*

Status: Introduced, awaiting referral to committee

Introduced: February 20, 2019

Last Action: Introduced.

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.

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

FPPC Position: *Sponsor*

Status: Introduced, awaiting referral to committee

Introduced: February 20, 2019

Last Action: Introduced.

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.

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

FPPC Position: *Sponsor*

Status: Introduced, awaiting referral to committee

Introduced: February 20, 2019

Last Action: Introduced.

Summary:

This bill does the following:

1. Repeal §81016. This section was an implementing section of Proposition 9 in 1974 directing the Department of Finance to sufficient funds available to the Secretary of State to implement the title. Also, it sets the operative date of Proposition 9. This section is obsolete and no longer essential.
2. Repeal §82009. This section defines “civil service employee,” a term defined in other parts of the California Code. It is extraneous and the Commission may refer to other California codes for a definition.

3. Repeal §83123. The Commission no longer has a division of local enforcement to enforce provisions relating to local government agencies. The Commission has long ago consolidated into a single Enforcement Division with the authority to enforce the Act's provisions locally, as applicable. This section is obsolete and no longer essential.
4. Repeal §83123.5, subdivision (f). The Commission has successfully completed this requirement to report on the performance of the County of San Bernardino agreement. This subdivision is no longer applicable and extraneous.
5. Repeal §84200.6. This section is extraneous and only repeats filing requirements for committees. Committees must comply with the filing requirements regardless of Section 84200.6 provisions.
6. Repeal §84202, subdivision (b); other conforming amendments. This subdivision is extraneous because subdivision (b) cross-references Section 84202.5, which was repealed in 2016 (Stats. 2015, Ch. 364).
7. Repeal §84252, subdivision (b). This subdivision is extraneous because subdivision (b) cross-references Section 84203.5, which was repealed in 2016 (Stats. 2015, Ch. 364).
8. Amend §84305, subdivision (e), paragraph (2). The amendment repeals a cross-reference to Section 84217, which was repealed in 2018 legislation (Stats. 2018, Ch. 662).
9. Amend §84602, subdivision (a), paragraph (1)(A)-(B) and paragraphs (10)-(11). There are obsolete date references in these paragraphs that are no longer essential.
10. Amend §87500.2, subdivision (c), paragraph (1); subdivision (h). The pilot program referred to in this section no longer exists. Striking out obsolete references. An electronic filing system used by cities and counties still must receive approval and certification from the Commission.

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

FPPC Position: *Sponsor*

Status: Senate Elections and Constitutional Amendment Committee

Fiscal Estimate: Minor and absorbable

Introduced: January 9, 2019

Last Action: Set for Committee Hearing – March 19 (2/20/19)

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.

Staff Comments:

The rescission of the *Mendoza Advice Letter* has left a gap in the Commission's policy of whether the payments or reimbursements are permitted for claims related to violations of the Fair Employment and Housing Act. This gap can be filled through the passage of this proposed bill that will expressly prohibit such payments and reimbursements.

8. [SB 423](#) (Umberg): Separate Bank Accounts for Recipient Committee

FPPC Position: *Sponsor*

Status: Introduced, awaiting referral to committee

Introduced: February 20, 2019

Last Action: Introduced.

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.

Political Reform Act Bills (#9-15)

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

Status: Assembly Elections Committee

Introduced: February 11, 2019

Last Action: Set for Committee hearing – March 13

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.

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

Status: Assembly Elections Committee

Introduced: February 4, 2019

Last Action: Referred to Assembly Elections Committee (02/11/19).

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.

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

Status: Introduced, awaiting referral to committee

Introduced: February 20, 2019

Last Action: Introduced.

Summary:

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

1. Removes the exemption for mailings paid for by independent expenditures and require all committees to provide the same disclosures on mass mailings and mass electronic mailings. The bill would exempt from the definition of “mass electronic mailing” communications that were solicited by recipients.

2. Removes the exemption for telephone calls paid for by independent expenditures and require all committees to provide the same disclosures on these telephone calls.
3. Reduces the threshold number of telephone calls from 500 to 200 and would require for pre-recorded telephone calls that the required disclosures be read at the beginning of the call in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the call.
4. 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.
5. Clarifies disclosure requirements for large print advertisements larger than those designed to be individually distributed.
6. Further defines “online platform disclosed advertisements” and other clarifying amendments to AB 2188 (2018) Social Media DISCLOSE Act.
7. Requires the Commission to provide a website where any person may report potential violations of the disclosure requirements of the DISCLOSE Act, upload picture, audio, or video of an advertisement, and permit a complainant to indicate if they wish for their contact information to be public or only for the purposes of the Commission contacting them.
8. Permits the Commission to seek penalties for three times the cost of the advertisement for avoiding disclosure if the following conditions are met:
 - a. Commission notifies respondent of the possible violation within three business days by email or certified mail.
 - b. Five or more business days have passed since respondent received certified mail and the possible violation is not remedies within those five days.

Staff Comments:

Staff provided suggestions to AB 864 to ensure “clean-up” provisions were included to clarify and correct DISCLOSE Act provisions. In addition to FPPC staff suggestions, the author has included other substantive policy changes to the bill that did not originate from the Commission.

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

Status: Introduced, awaiting referral to committee

Introduced: February 22, 2019

Last Action: Introduced.

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.

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

Status: Introduced, awaiting referral to committee

Introduced: February 21, 2019

Last Action: Introduced.

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.

4. Amends the definition of “advertisement” to include “electioneering communication,” “issue advocacy advertisement” and “major advertiser.” The bill further defines the respective terms.
5. Would adopt disclaimer requirements of “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.
6. Defines “nondonor funds,” “small donor funds,” and “lobbying donor,” as specified.

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

Status: Introduced, awaiting referral to committee

Introduced: February 22, 2019

Last Action: Introduced.

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.

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

Status: Senate Elections Committee

Introduced: February 20, 2019

Last Action: Referred to Senate Elections Committee (02/28/19).

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 making a contribution 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.

Spot Bills (#16-22)

16. AB 201 (Cervantes): Campaign disclosure: mass text messages.

Status: Introduced, awaiting referral to committee

Introduced: January 14, 2019

Last Action: Introduced.

Summary:

The bill is currently a "spot bill" that declares the intent of the Legislature to enact legislation establishing disclosure requirements for campaign-related mass text messages that include the name or image of a candidate for elective office or refer to a ballot measure.

Staff Comments:

Commission staff has provided technical assistance to Assembly Member Cervantes' office regarding text message disclaimers and current law.

17. AB 571 (Mullin): Contribution Limits.

Status: Introduced, awaiting referral to committee

Introduced: February 14, 2019

Last Action: Introduced.

Summary:

The Political Reform Act of 1974 prohibits a person, other than a small contributor committee or political party committee, as defined, from making to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office other than a candidate for statewide elective office from accepting from a person, a contribution totaling more than \$3,000 per election. A candidate for elective state office or committee controlled by that candidate is also prohibited from making a contribution to another candidate for elective state office in excess of this limit. This bill would make a technical, nonsubstantive change to the latter provision.

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

Status: Introduced, awaiting referral to committee

Introduced: February 19, 2019

Last Action: Introduced.

Summary:

Current 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. Current law excepts certain remote interests of officers from this prohibition, subject to disclosure and a specified procedure. This bill would make nonsubstantive changes to these provisions relating to remote interests described above.

Staff Comments:

Commission staff is scheduled to meet with interest group and lobbying firm about substantive contents of AB 626. Staff will have additional updates prior to Commission's March meeting.

19. [AB 1141](#) (Melendez): Committees

Status: Introduced, awaiting referral to committee

Introduced: February 22, 2019

Last Action: Introduced.

Summary:

The Political Reform Act of 1974 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, as defined. This bill would make technical, nonsubstantive changes to the definition of "committee" for these purposes.

20. [AB 1306](#) (Garcia): Lobbying Registration

Status: Introduced, awaiting referral to committee

Introduced: February 25, 2019

Last Action: Introduced.

Summary:

The Political Reform Act of 1974 requires lobbying firms and specified lobbyist employers to register with the Secretary of State, unless specified exceptions apply. Individual lobbyists must submit a lobbyist certification as part of this registration. Certain lobbyist employers are not required to register with the Secretary of State, but must file statements pursuant to the act. An existing regulation adopted by the Commission additionally requires lobbyist employers who are not required to register with the Secretary of State to complete a written authorization for a lobbying firm to engage in activities on its behalf, which must be filed with the lobbying firms registration, and maintain records and file quarterly reports. The act requires the Fair Political Practices Commission to enforce its provisions. This bill would express the intent of the

Legislature to enact legislation directing the Fair Political Practices Commission to establish and apply eligibility criteria for lobbyists.

Staff Comments:

Assembly Member Garcia's office has indicated their intent to use AB 1306 to amend the Act to authorize the Commission to enforce the misuse of public funds in campaigns.

21. [AB 1666](#) (Reyes): Conflicts of Interest

Status: Introduced, awaiting referral to committee

Introduced: February 25, 2019

Last Action: Introduced

Summary:

The Political Reform Act of 1974 prohibits a public official at any level of state or local government from making, participating in making, or in any way attempting to use the official's position to influence a governmental decision in which the official has a financial interest. Existing law specifies conditions under which a public official has a financial interest in a governmental decision. This bill would make a technical, nonsubstantive change to that provision.

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

Status: Introduced, awaiting referral to committee

Introduced: February 28, 2019

Last Action: Introduced.

Summary:

The Political Reform Act of 1974 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, including ballot measure committees. This bill would make technical, nonsubstantive changes to the definition of "measure" for these purposes.