



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

To: Chair Miadich, Commissioners Cardenas, Hatch, Hayward, and Wilson
From: Phillip Ung, Director, Legislative and External Affairs
Subject: Legislation Report – February 2020
Date: February 10, 2020

Commission-sponsored Legislation

Senate Bill 423 (Umberg), related to committee bank accounts and bank account information, will remain in the Assembly Elections Committee as Commission staff continues to work on resolving the concerns expressed by the regulated community.

Legislative Development 2020

The Commission's legislative proposals have seen significant progress in January. Legislative authors have committed to the following policy proposals:

1. Clarifying the use of public funds in campaigns, expanding FPPC authority in these matters, and personal liability for use of public funds in campaigns,
2. Increasing disclosure requirements for limited liability companies, and
3. Increasing penalties for unlawful personal use of campaign funds.

Commission staff continues to work closely with the Legislature to secure additional authors.

General Update

January 31 was the last day for each house to pass bills introduced in that house in the odd-numbered year. As a result of this constitutional deadline, AB 322 (Gallagher), AB 626 (Quirk-Silva), and AB 1574 (Mullin) are considered dead bills. There are three "active" Political Reform Act bills remaining. The deadline to introduce bills is February 21, 2020.

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

Sponsored Bills (#1)

1. SB 423 (Umberg): Committee Bank Accounts

FPPC Position: *Sponsor*

Status: Assembly Elections Committee

Amended: April 9, 2019

Last Action: Set for hearing; hearing cancelled at the request of the author (6/24/19)

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. Currently, only candidate committees are subject to the “one bank account” rule. All non-candidate committees (e.g. primarily formed ballot measure committee, general purpose committee) have not been included in the “one bank account” rule. 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:

Commission staff believes the issues raised by the regulated community may be resolved early in the 2020 Session.

Active Bills (#2-3)

2. AB 1217 (Mullin): DISCLOSE Act – Issue and Electioneering Ads

FPPC Position: *Support if Amended*

Fiscal Estimate: \$1,026,259 for first year and \$977,259 for ongoing

Status: Assembly Appropriations Committee – Suspense File

Amended: April 29, 2019

Last Action: Referred to Assembly Appropriations Committee Suspense File (05/08/19)

Summary:

This bill does the following:

1. Amends the definition of “advertisement” in the PRA to include “electioneering communication,” “issue advocacy advertisement,” and “major advertiser.” The bill designates “top contributors” established under the Disclose Act as “top funders.” Also, defines “nondonor funds,” “small donor funds,” and “lobbying donor.”
2. Adds definition of “lobbying-available donation” to mean payment, forgiveness of a loan, 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 clearly not made for lobbying purposes). Describes what is and is not a “lobbying-available donation.”
3. Would adopt disclaimer requirements of “major advertisers” and “top funders” of an issue advocacy ad 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 ads 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 ads. 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 disclosing “lobbying-available donations” and payments for communicating.
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).

In addition to potential policy and structural issues, FPPC staff believes this bill could lead to legal challenges over its constitutionality.

In August 2019, Assembly Member Mullin decided to make AB 1217 a two-year bill in order to work with the FPPC and other stakeholders on address ongoing issues with the bill. There have been no follow-up stakeholder meetings since August 2019.

3. **SB 300 (Umberg): Political Reform Act; Foreign Contributions**

FPPC Position: *Support*

Status: Assembly Elections Committee

Amended: March 20, 2019

Last Action: Referred to the Assembly Elections Committee. No hearing set. (5/30/19)

Summary:

This bill would expand prohibitions against foreign influence in campaigns 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 FPPC supported near-identical legislation (AB 2250 – Ridley-Thomas) to address a potential gap in the PRA related to foreign contributions to state and local candidates. Federal law generally prohibits foreign nationals from spending money in *any* U.S. election. The federal law is one of the issues before the U.S. Supreme Court in United States v. Ravneet Singh. SB 300 may provide a backstop in California if the Court rules against the federal government.

Dead Bills (#4-6)

4. **AB 322 (Gallagher): Electronic filing**

FPPC Position: *Support if Amended*

Last Action: Approved by Assembly Appropriations Committee; referred to Assembly Floor (01/23/20)

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 within 72 hours of receiving the statement, report, or other document. 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:

AB 322 was amended and approved by the Assembly Appropriations Committee. The amendments extend the posting deadline from 48 hours after receiving the report to 72 hours after the report is received. The committee's amendments came after the eligible date for Political Reform Act bills to be heard by January 31. This bill died as a result of missing the procedural deadline. Assembly Member Gallagher plans to reintroduce this legislation again in 2020.

5. AB 626 (Quirk-Silva): Conflicts of Interest; Government Code 1090

Last Action: Ordered to the Inactive File by the author (5/30/19)

Summary:

This bill would prohibit 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.

6. AB 1574 (Mullin): Lobbying Reports; Monthly Filing

Last Action: Referred to Asm. Appropriations Committee Suspense File (04/24/19)

Summary:

This bill would require lobbying reports to be filed monthly instead of quarterly. This bill would become operable January 1, 2021.

Staff Comments:

Assembly Member Mullin has expressed interest in revisiting this policy proposal in 2020.