

Date of Hearing: April 5, 2017

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Evan Low, Chair

AB 1458 (Friedman) – As Introduced February 17, 2017

SUBJECT: Political Reform Act of 1974: Secretary of State: online filing and disclosure system.

SUMMARY: Requires a candidate for elective office to include and conspicuously place on the homepage of any campaign Internet Web site of the candidate a hyperlink to the Secretary of State's (SOS) Cal-Access Internet Web site page that displays the candidate's campaign finance information.

EXISTING LAW:

- 1) Requires, pursuant to the Political Reform Act of 1974 (PRA) that elected officials, candidates for state elective office, and committees formed primarily to support or oppose a candidate for public office or a ballot measure, file periodic campaign statements, as specified.
- 2) Requires campaign statements to contain prescribed information related to campaign contributions and expenditures, as specified.
- 3) Requires the SOS, in consultation with the Fair Political Practice Commission (FPPC), to develop and certify for public use a new online filing and disclosure system for statements and reports that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format, as specified.

FISCAL EFFECT: Unknown. State-mandated local program; contains crimes and infractions disclaimer.

COMMENTS:

- 1) **Purpose of the Bill:** According to the Author:

Transparency is always a good thing, especially during campaign season. California has been recognized as a leader in campaign finance disclosure requirements and transparency. The state's role as a leader hinges on two main components – the requirements in place for candidates and contributors to disclose contributions, and an accessible system for the public to easily view the data. As voters increasingly turn to online sources for information on candidates and the entities funding their campaigns, and as the state modernizes its online disclosure system, the California Automated Lobby Activity and Campaign Contribution and Expenditure Search System (Cal-Access), maintaining and improving transparency and accessibility of data is essential. AB 1458 requires all candidates to include on their campaign website a link to the California Secretary of State's campaign finance report website – giving voters a clear view of the individuals and organizations funding their campaign.

- 2) **Political Reform Act and Cal-Access:** In 1974, California voters approved Proposition 9, also known as the PRA, which among other things, requires the disclosure of campaign contributions and expenditures and state lobbying activities. The requirements are intended to ensure that "Receipts and expenditures in election campaigns [are] fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited," and that "The activities of lobbyists [are] regulated and their finances disclosed in order that improper influences will not be directed at public officials."

In 1997, the Legislature passed and Governor Pete Wilson signed SB 49 (Karnette), Chapter 866, Statutes of 1997, which amended the PRA and established the Online Disclosure Act of 1997. SB 49 required the SOS, in consultation with the FPPC, to develop and implement, by the year 2000, an online filing and disclosure system for reports and statements required to be filed under the PRA, as specified. As a result, the SOS created and deployed a system called the California Automated Lobby Activity and Campaign Contribution and Expenditure Search System, commonly referred to as Cal-Access.

To interpret and enforce the requirements of the PRA, the FPPC was established. The FPPC has primary responsibility for the impartial administration, implementation and enforcement of the PRA. The FPPC works closely with the SOS, which is the primary filing office for the state campaign and lobbying disclosure documents required under the PRA. The SOS and the FPPC also work closely with the Franchise Tax Board, which is responsible for carrying out mandatory and random audits of filers and the disclosure data filed with the SOS.

- 3) **Previous Legislation and Cal-Access Status:** As mentioned above, Cal-Access is a database and filing system the SOS has used to make lobbying and campaign finance information available online at no cost to users. According to the SOS, the Cal-Access system is fueled by a complex array of computer applications written in 14 different programming languages including hardware, firmware, and software – some no longer supported by their vendor – that are beyond their useful age. As a result, the Cal-Access system has denied public access, gone offline, and put strain on SOS staff resources. In November 2011, the Cal-Access system went down, and the system was unavailable for most of the month of December.

Although the system has remained online since the cause of the failure was addressed, frequent concerns have been expressed by users and other observers regarding the current state and usefulness of Cal-Access. In an effort to modernize the Cal-Access system, last year the Legislature passed and the Governor signed SB 1349 (Hertzberg), Chapter 845, Statutes of 2016, which requires the SOS, in consultation with the FPPC, to develop and certify for public use a new online filing and disclosure system for statements and reports that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format, as specified.

The SOS has already started the process to replace the Cal-Access system. In compliance with the provisions of SB 1349, earlier this year the SOS held two public meetings to gather public input about the functionality and features a new system should include.

- 3) **Suggested Amendments:** The PRA generally requires elected officials, candidates for state elective office, and committees formed primarily to support or oppose a candidate for public office or a ballot measure to file periodic campaign statements. Additionally, the PRA

requires campaign statements to contain prescribed information related to campaign contributions and expenditures, as specified. This bill requires a candidate for elective office to include and conspicuously place on the homepage of any campaign Internet Web site of the candidate a hyperlink to the SOS's Cal-Access Internet web site page that displays the candidate's campaign finance information. The practical effect of this bill would require *all* candidates for elective office – local and state –to display a hyperlink to the Cal-Access webpage on the home page of the candidate's campaign web site. Because only candidates for *state* elective office file campaign contribution and expenditure filings with the SOS, committee staff recommends amending the bill to apply only to candidates for state elective office.

Additionally, this bill requires the hyperlink to be displayed on the homepage of any of the candidate's Internet web sites. This language is broad and could be interpreted to include the homepage of a candidate's social media Internet web site, such as Facebook, Twitter, Instagram and SnapChat. According to the author's office, it's the author's intent to apply the provisions of this bill only to the candidate's main campaign web site homepage and not to include social media homepages. Consequently, the committee staff recommends amending the bill to clarify that the provisions of this bill only apply to the candidate's campaign Internet web site homepage and not social media web pages.

- 4) **Political Reform Act of 1974:** California voters passed an initiative, Proposition 9, in 1974 that created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders and lobbyists. That initiative is commonly known as the PRA. Amendments to the PRA that are not submitted to the voters, such as those contained in this bill, must further the purposes of the initiative and require a two-thirds vote of both houses of the Legislature.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094