

Date of Hearing: April 15, 2015

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Sebastian Ridley-Thomas, Chair

AB 594 (Gordon) – As Amended April 7, 2015

**SUBJECT:** Political Reform Act of 1974: campaign statements.

**SUMMARY:** Eliminates certain campaign reporting requirements. Standardizes the dates by which preelection reports must be filed. Requires contributions and independent expenditures of \$1,000 or more that are received or made on election day to be reported within 24 hours.

Specifically, **this bill:**

- 1) Provides that a contribution or an independent expenditure of \$1,000 or more that is received or made on election day is a “late contribution” or a “late independent expenditure” that is required to be reported within 24 hours of having been received or made.
- 2) Eliminates supplemental preelection and supplemental independent expenditure reporting requirements.
- 3) Requires all preelection reports to be filed pursuant to the same schedule, instead of having a slightly different schedule for preelection reports that are filed in connection with statewide elections held in June and November of even-numbered years.
- 4) Eliminates the requirement for city general purpose committees to file preelection reports if they do not receive contributions of \$1,000 or more.
- 5) Makes corresponding and technical changes.

**EXISTING LAW:**

- 1) Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).
- 2) Provides that any person or combination of persons who directly or indirectly does any of the following is considered a “committee” for the purposes of the PRA:
  - a) Receives contributions of \$1,000 or more in a calendar year (these committees are commonly known as “recipient committees”);
  - b) Makes independent expenditures of \$1,000 or more in a calendar year (these committees are commonly known as “independent expenditure committees”); or,
  - c) Makes contributions totaling \$10,000 or more per year to or at the behest of candidates or committees (these committees are commonly known as “major donor committees”).
- 3) Requires candidates, political committees, and slate mail organizations to file specified periodic and activity-based campaign finance reports, including semiannual statements, pre-election statements, supplemental pre-election statements, and late contribution/independent

expenditure reports that include specified campaign finance information.

- 4) Defines "late contribution" as either of the following:
  - a) A contribution, including a loan, that totals \$1,000 or more in the aggregate and that is made to or received by a candidate, controlled committee, or committee primarily formed or existing primarily to support or oppose a candidate or measure within 90 days before the date of the election at which candidate or measure is to be voted on; or,
  - b) A contribution, including a loan, that totals \$1,000 or more in the aggregate and that is made to or received by a political party committee within 90 days before a state election.
- 5) Defines "late independent expenditure" as an independent expenditure that totals \$1,000 or more in the aggregate and that is made for or against a specific candidate or measure involved in an election within 90 days before the date of the election.
- 6) Requires a "late contribution" or a "late independent expenditure," as defined, to be publicly reported within 24 hours of the time that it is made or received, as specified.

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

**COMMENTS:**

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

I have long believed in the purposes of California's Political Reform Act and its goal of enabling a knowledgeable electorate. This includes helping voters become fully informed as they make decisions that will impact the governance of this state. For this reason, it is essential that there is a fair, efficient, and effective means of holding entities involved with campaigns accountable for violations of the law. AB 594 would streamline some of the campaign finance rules in the Political Reform Act to reduce redundancy and improve accountability. Overall, the bill would make small, but meaningful reforms to the Political Reform Act, while maintaining the highest ethical standards.

- 2) **Periodic and Activity Based Reports:** Under the PRA, there are two general types of reporting requirements. The first type of report is commonly referred to as a periodic report. Periodic reports must be filed according to a specified time schedule for all similarly-situated candidates and committees, regardless of the amount of campaign activity during the period of time covered by the report. These reports generally include all campaign activity (contributions, loans, expenditures, etc.) that occurred over a specified period of time. Semi-annual reports and preelection reports are two examples of periodic reports that are required under the PRA.

The second type of report that the PRA requires is an activity-based report. An activity-based report is triggered when a candidate or committee has campaign activity that meets or

exceeds a specific dollar threshold. Late contribution reports and late independent expenditure reports are examples of activity-based reports.

This bill seeks to eliminate two types of special activity-based reports in an effort to streamline the campaign reporting process. The reports that would be eliminated are supplemental preelection statements and supplemental independent expenditure reports. Due to modifications made to campaign limits and disclosure requirements after these reporting requirements were established, these special activity-based reporting requirements no longer serve their original purposes.

- a) **Supplemental Preelection Statements:** Existing law requires a recipient committee to file a supplemental preelection statement if it makes contributions of \$10,000 or more in connection with an election for which the committee otherwise would not be required to file preelection statements. This reporting requirement, which was created in 1985, was designed to ensure that a committee that is making significant contributions in an election is required to disclose its donors prior to the election. For example, if an individual made a \$50,000 contribution to a state general purpose committee a month before a legislative special election, and the state general purpose committee then used those funds to make a \$50,000 contribution to a candidate who was running in that special election, the supplemental preelection statement ensured that the state general purpose committee was required to disclose the \$50,000 contribution it received from the individual prior to the special election.

At the time the supplemental preelection statement requirements were put into law, there were no contribution limits for elections for state office. As a result, the requirement to file supplemental preelection statements was an important tool to ensure that the true source of significant campaign contributions to candidates was disclosed prior to the election. Since that time, however, Proposition 34 of 2000 imposed contribution limits for elections for state office, and many local jurisdictions have enacted local contribution limits. As a result, it has become relatively uncommon for committees to meet the \$10,000 threshold that requires filing a supplemental preelection statement.

- b) **Supplemental Independent Expenditure Reports:** Existing law requires a candidate or committee that makes independent expenditures of \$1,000 or more in a calendar year in connection with an election to file a supplemental independent expenditure report at the same times and in the same places as the committee would be required to file campaign statements if it were primarily formed to support or oppose the candidate or measure that it supported or opposed with the independent expenditure. This reporting requirement, which was created in 1985, was designed to ensure that a committee that is making significant independent expenditures in an election is required to disclose its donors prior to the election.

Since the requirement for supplemental independent expenditure reports was enacted into law, however, disclosure laws have been amended to require similar information to be reported within 24 hours whenever a committee makes independent expenditures of \$1,000 or more in the last 90 days before an election. Since it is rare for independent expenditures to be made more than 90 days before the election, supplemental

independent expenditure reports largely have become duplicative of other reports that are filed in a timelier manner.

- 3) **Preelection Reporting Changes:** Existing law requires specified elected officials, candidates, and committees to file two preelection campaign disclosure statements prior to elections in which those entities are participating. The preelection statements ensure that significant campaign contributions and expenditures are disclosed prior to the election. This bill makes minor changes to the timing of such preelection statements and to the entities that are required to file preelection statements. (This bill does not affect preelection reporting requirements in connection with elections for the boards of the Public Employees Retirement System and the Teachers' Retirement Board.)
- a) **Date Changes:** Under existing law, preelection reports are filed on a slightly different timeline for elections held on the first Tuesday after the first Monday in June or November of even-numbered years than for elections held at other times. The deadline for the first preelection report for an election held on the first Tuesday after the first Monday in June is always March 22, and the report is required to cover campaign activity through March 17. For elections held on the first Tuesday after the first Monday in November, the deadline for the first preelection report is always October 5, covering all activity through September 30. For elections held at other times, the deadline for the first preelection report is the 40th day before the election, covering all activity through the 45th day before the election. (The second preelection report is always due on the 12th day before the election, covering all activity through the 17th day before the election, regardless of when the election is held.)

This bill standardizes the schedule for filing preelection reports so that the first preelection report is always due by the 40th day before the election, covering all activity through the 45th day before the election, regardless of when the election is held. As a result, the first preelection report for elections on the first Tuesday after the first Monday in June of even-numbered years will be due between April 23-29 (depending on the exact date of the election) instead of on March 22, and the first preelection report for elections on the first Tuesday after the first Monday in November of even-numbered years will be due between September 23-29 (depending on the exact date of the election), instead of on September 30.

- b) **City General Purpose Committees:** This bill eliminates the requirement for city general purpose committees to file preelection reports in connection with an election if the committees are not recipient committees (that is, if they do not receive contributions of \$1,000 or more).

Generally, state and county general purpose committees are required to file preelection reports only if they are recipient committees. The preelection report is intended to ensure that a committee must report the donations that it receives prior to an election, if the committee is making contributions or independent expenditures in connection with that election. State and county general purpose committees that are *not* recipient committees—that is, committees that make independent expenditures or contributions, but that do not receive contributions—are not required to file preelection reports. Those

committees' preelection activities typically will be disclosed on other reports (including through late independent expenditure reports and late contribution reports). This bill extends the same policy to city general purpose committees.

- 4) **Previous Legislation:** SB 1442 (Lara) of 2014 would have required most state candidates and campaign committees to file quarterly campaign reports, instead of semi-annual campaign reports, would have eliminated requirements for committees to file certain activity-based reports (including supplemental preelection statements and supplemental independent expenditure reports), and would have required the development of a new Internet-based campaign finance reporting and disclosure system. SB 1442 was vetoed by Governor Brown, who stated in his veto message that it would be premature to adjust the campaign reporting schedules until a new campaign finance disclosure system was in place, and who argued that the Secretary of State's office should complete two existing information technology projects before beginning to replace the existing campaign finance disclosure system.
- 5) **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.

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