

Date of Hearing: April 5, 2017

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Evan Low, Chair

AB 895 (Quirk) – As Introduced February 16, 2017

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

SUMMARY: Eliminates the requirement for entities that file campaign statements online or by electronic means to file a copy of those statements in a paper format, pending a determination of the Secretary of State (SOS) that the state's online and electronic disclosure systems are operating effectively.

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) Requires all candidates and committees who are required to file campaign reports in connection with a state elective office or state measure to file those reports online or electronically if the cumulative amount of contributions received, expenditures made, loans made or received is \$25,000 or more, as specified.
- 3) Requires general purpose committees, including political party committees and small contributor committees, that cumulatively receive contributions or make expenditures of \$25,000 or more to support or oppose candidates for any elective state office or state measures, to file campaign reports online or electronically, as specified.
- 4) Requires lobbyists, lobbying firms, lobbyist employers, and other persons required to file periodic lobbying disclosure reports to file such reports online or electronically if the total amount of any category of reportable payments, expenses, contributions, gifts or other items is \$2,500 or more in a calendar quarter, as specified.
- 5) Allows any committee or person who is required to file a campaign report or lobbying disclosure report to file that report online or electronically, even if he or she is not required to do so.
- 6) Provides that once a person or entity is required to file a campaign report or lobbying disclosure report online or electronically, that person or entity shall file all subsequent reports online or electronically.
- 7) Requires the SOS to determine and publicly disclose when the online and electronic disclosure systems are operating effectively.
- 8) Requires a person or entity filing online or electronically to continue to file required disclosure statements and reports in paper format and provides that the paper copy shall continue to be the official filing for audit and other legal purposes, until the SOS determines the system is operating securely and effectively.

FISCAL EFFECT: Unknown

COMMENTS:

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

The Political Reform Act requires certain committees to file their campaign statements online or electronically with the Secretary of State. Those committees are also required to file paper copies of the same campaign statements with Secretary of State.

Most campaign filers have been filing both electronic and paper copies since 2000. Paper filing is inefficient. It is not only a waste of time, but paper and resources. Paperless campaign filings have already been in effect on the Federal, County and City level. Modernizing filing requirements is a necessary change that would simply update our current filing process.

AB 895 will eliminate the requirement that campaign filers who file online or by electronic means also file in paper format pending the determination by the Secretary of State.

2) **Online Disclosure and Free Electronic Filing:** SB 49 (Karnette), Chapter 866, Statutes of 1997, 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 a process whereby reports and statements required under the PRA could be filed online and viewed by the public. 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. SB 49 also required certain candidates, committees, slate mailer organizations, lobbyists, lobbyist employers, and lobbying firms to file campaign reports online.

3) **Status of Cal-Access and its Replacement:** Cal-Access is the SOS's online public disclosure system used by state candidates and political committees to submit required filings. The system is now 17 years old, and the SOS reports that components of the system are no longer supported by their vendor. As a result the system has crashed, gone offline, and denied public access, including during filing deadlines.

In September 2016, Governor Jerry Brown signed into law SB 1349 (Hertzberg), Chapter 845, Statutes of 2016, which directs the SOS, in consultation with the FPPC, to develop a modern campaign finance disclosure system that is more user-friendly, and will allow the public access to campaign information. The new online filing and disclosure system is expected to be available for use by February 2019.

4) **What is the Hurry and What Could Go Wrong?** The long awaited replacement to the Cal-Access system is expected to be made available for public use by February 2019. This bill proposes eliminating the requirement that paper copies be filed of disclosure statements that are filed online or by electronic means, before a new campaign finance disclosure system is certified and available to the public for use. Proponents argue that the requirement to file

both electronically and in the paper format is inefficient, a waste of time and of paper resources. Existing law provides that the determination of whether the online or electronic system is operating securely and effectively is to be made by the SOS and that until that determination is made, paper copies are required to be submitted and retained as the official filing for audit and other legal purposes.

The Cal-Access system has a history of problems. In November 2011, the system suffered a major malfunction and was unavailable for most of the month of December. Since that time, frequent concerns have been expressed regarding the effectiveness and reliability of the system. Although campaign committees are required by existing law to maintain records of any disclosure statements that they file online or electronically, it is unclear whether removing the paper filing requirement would create any obstacles should the current Cal-Access system fail to properly retain records of disclosure statements filed online or electronically.

- 5) **Arguments in Support:** In support of this bill, the California Political Treasurers Association writes, "AB 895 would make a simple change in law allowing campaign reports to be filed electronically and eliminate the paper filing requirements for those reports. This would streamline the filing process and make it more efficient, making those filings consistent with the way that lobbying reports are filed in the state. We view this as a measure to update our current filing process."
- 6) **Secretary of State's Proposed Amendments:** Secretary of State Alex Padilla, who has a support if amended position on this bill, writes:

Last year, I sponsored Senate Bill 1349 to modernize Cal-ACCESS, including the development of an online and electronic filing system by February 2019. The bill was signed into law by Governor Brown. Cal-ACCESS modernization is underway and my staff is working diligently to meet the 2019 deadline. The new Cal-ACCESS will have the ability to successfully implement the intent of AB 895. Changing our system of filing before the launch of the new Cal-ACCESS would be premature and could lead to delays in the launch date.

I am requesting that AB 895 be amended to include a delayed implementation that is tied to certification of the new Cal-ACCESS.

- 7) **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

California Political Treasurers Association (Sponsor)
NetFile
Secretary of State Alex Padilla (if amended)

Opposition

None on file.

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