

Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 1673 (Garcia) – As Amended: March 10, 2014

SUBJECT: Political Reform Act of 1974: contributions.

SUMMARY: Provides that a payment made by an occupant of a home who is a lobbyist, lobbying firm, or lobbyist employer for costs related to a meeting or fundraising event held in the occupant's home is considered a "contribution" under the Political Reform Act (PRA), regardless of the costs for the meeting or fundraising event. Specifically, this bill exempts events held in the home of a lobbyist, lobbying firm, or lobbyist employer from a provision of law that provides that a payment made by an occupant of a home for costs related to any meeting or fundraising event held in the occupant's home is not considered a contribution if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

EXISTING LAW:

- 1) Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the PRA.
- 2) Provides that an elected state officer or candidate for elected state office may not accept a contribution from a lobbyist, and a lobbyist may not make a contribution to an elected state officer or candidate for elected state office, if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.
- 3) Defines "contribution," for the purposes of the PRA, 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 to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes, as specified. Provides that a payment is made for political purposes if it is for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure, or is received by or made at the behest of a candidate.
- 4) Provides that a "contribution" does not include payments made by an occupant of a home or office for costs related to any meeting or fundraising event in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

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

COMMENTS:

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

AB 1673 will ban lobbyists hosting home fundraisers and eliminate the dual standard that allows lobbyists to host at their homes, non-reportable private affair fundraisers for lawmakers, valued under \$500, while at the same time limiting direct gifts to lawmakers to only \$10 per month.

- 2) Hosted Fundraisers: The PRA, among other things, requires candidates and committees to disclose contributions made and received and expenditures made in connection with campaign activities. The term "contribution" is defined as any payment for political purposes for which full and adequate consideration is not provided to the donor.

When individuals or entities make payments in connection with holding a fundraiser for a candidate, such payments ordinarily are considered contributions to the candidate. However, current law allows for some exceptions. For example, payments made by the occupant of a home or office for costs related to any meeting or fundraising event in the occupant's home or office are not considered contributions under the PRA if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

Although existing law prohibits lobbyists from making contributions to elected state officers or candidates for elected state office if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer, the exception to the definition of the term "contribution" for the purposes of hosted fundraising events does not exclude events hosted by lobbyists. As a result, a lobbyist could hold a fundraiser at his or her home and the cost would not be considered a contribution, as long as the total cost of such an event did not exceed five hundred dollars (\$500). If other parties donate money or goods in connection with the event, their payments must also be counted to determine if five hundred dollars (\$500) has been spent in connection with the fundraiser. This includes goods or services provided by the candidate or any other person attending the event. If the cost of the event exceeds five hundred dollars (\$500), all payments are counted as contributions.

- 3) Recent Events: In February of this year, the FPPC approved a settlement in a case in which a registered lobbyist hosted campaign fundraisers for state elective officers and candidates at his house where he provided items such as beverages, flower arrangements, and cigars. The FPPC investigated and determined that the total cost of the fundraisers hosted by the lobbyist at his home, including the value the items provided by the lobbyist, exceeded five hundred dollars (\$500). As a result, the items provided by the lobbyist during the fundraisers constituted non-monetary contributions to the campaign committees of the elective officers and candidates who benefitted from the fundraisers – all violations of the PRA. As a result, the FPPC levied one of the largest penalties against a lobbyist and issued warning letters to the elected officers and candidates who benefitted from the fundraisers.
- 4) Does this Solve the Problem? While this bill does exclude a lobbyist, lobbying firm, or lobbyist employer from the exception in current law that provides that payments made by the occupant of a home to host a fundraiser in his or her home are not contributions as long as the total of the event is five hundred dollars (\$500) or less, this bill still permits a lobbyist,

lobbying firm, or lobbyist employer to host a fundraising event at an office and be included in the current exemption as long as the total cost of the event is five hundred dollars (\$500) or less. To truly crack down on these non-reportable private affairs, the committee may wish to consider amending the bill to also prevent a lobbyist, lobbying firm, or lobbyist employer from hosting a fundraising event at an office and still be included in the current exemption.

- 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 proposition and require a two-thirds vote of each house of the Legislature.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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