

Date of Hearing: January 10, 2024

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 1170 (Valencia) – As Amended March 23, 2023

SUBJECT: Political Reform Act of 1974: filing requirements.

SUMMARY: Requires public officials and candidates who file their original statements of economic interests (SEIs) with the Fair Political Practices Commission (FPPC), to file those SEIs using the FPPC's electronic filing system, as specified. Specifically, **this bill:**

- 1) Revises and recasts provisions of law relating to SEIs and requires the following public officers and, if applicable, candidates for election to the following offices, to file their original SEIs electronically with the FPPC using the FPPC's electronic filing system, instead of allowing filers to choose to file their SEIs on paper or electronically with the FPPC:
 - a) A statewide elected officer or candidate for statewide elective office.
 - b) A member of, or candidate for, the Legislature or State Board of Equalization.
 - c) A member of the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, and the California Coastal Commission.
 - d) A member of a state licensing or regulatory board, bureau, or commission.
 - e) A person appointed to another state board, commission, or similar multimember body of the state if the FPPC has been designated as the filing officer for SEIs in the body's conflict of interest code.
 - f) A person holding, or a candidate for, the office of district attorney, county counsel, county treasurer, or county board of supervisors.
 - g) A city manager or, if there is no city manager, the chief administrative officer.
 - h) A person holding, or a candidate for, the office of city council member, city treasurer, city attorney, or mayor.
 - i) A county or city planning commissioner.
 - j) A county chief administrative officer.
 - k) A judge, court commissioner, or candidate for judge.
 - l) A designated employee of the Legislature who has been directed to file directly with the FPPC by the house of the Legislature by which the designated employee is employed.
 - m) A designated employee of more than one joint powers insurance agency and who elects to file a multiagency statement pursuant to existing law.

- 2) Requires heads of local agencies, and members of local boards or commissions to file their original SEIs electronically with the FPPC if the FPPC is the code reviewing body for the local agency, board, or commission, and the FPPC elects to act as the filing officer.
- 3) Requires the FPPC to redact a filer's personal residential addresses and telephone numbers and the street name and building number of the filer's business address and any real property interests from SEIs that are made available on the internet. Provides that the Legislature finds that this provision is necessary in order to protect filers' privacy.
- 4) Allows reports, statements, and copies that are required to be filed under the Political Reform Act (PRA) and that are filed in paper format to be retained by the filing officer as an electronic copy, as specified. Removes an existing two-year waiting period before a filing officer is permitted to convert a report or statement or copy to microfilm or other space saving materials.
- 5) Makes other technical and conforming changes.

EXISTING LAW:

- 1) Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the PRA. (Government Code §§81000 et seq.)
- 2) Requires that candidates for, and current holders of, specified elected or appointed state and local offices and designated employees of state and local agencies file SEIs disclosing their financial interests, including investments, real property interests, and income. (Government Code §81009 et seq.)
- 3) Authorizes an agency to permit the electronic filing of an SEI, including amendments, in accordance with regulations adopted by the FPPC. (Government Code §87500.2)
- 4) Permits the FPPC to develop and operate an online system for filing SEIs required by existing law, as specified. (Government Code §87500.3) Permits the FPPC to make all the data filed through this online system available on the FPPC's internet website in an easily understood format that provides the greatest public access, and to provide assistance to those seeking public access to the information. (Government Code §87500.3(d)(1))
- 5) Requires the FPPC to redact private information, including, but not limited to, the signatures of filers, from the data that is made available on the internet. (Government Code §87500.3(d)(2))
- 6) Permits certain reports or statements or copies of those reports or statements that are filed pursuant to the PRA and that have been on file for at least two years to be retained by a filing officer as a copy on microfilm or other space-saving materials and, after the SOS certifies an online filing and disclosure system, as an electronic copy. (Government Code §81009(g))

FISCAL EFFECT: Unknown**COMMENTS:**

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

To increase transparency and efficiency, AB 1170 will amend the Political Reform Act of 1974 (Act) by requiring public officials and candidates to electronically file their Statements of Economic Interests (SEIs) – Form 700. Processing hard copy filings takes up valuable staff time and requires the FPPC to lease space sufficient to store the hard copies. According to the FPPC, it expends over 100 employee hours and \$10,000 annually on the processing of hardcopy SEIs. Universal e-filing would eliminate this burden and waste of public resources.

AB 1170 requires public officials and candidates for whom the FPPC is the filing officer, to file their SEI electronically with the FPPC. This change will free up FPPC staff resources and eliminate costs related to document storage. Additionally, this change makes it easier for public officials and candidates to comply with the law.

- 2) **Statements of Economic Interests and Previous Legislation:** As part of the PRA's comprehensive scheme to prevent conflicts of interest by state and local public officials, existing law identifies certain elected and other high-level state and local officials who must file SEIs (commonly referred to as a Form 700). Similarly, candidates for those positions must file SEIs. Other state and local public officials and employees are required to file SEIs if the position they hold is designated in an agency's conflict of interest code. A position is required to be designated in an agency's conflict of interest code when the position entails the making or participation in the making of governmental decisions that may foreseeably have a material financial effect on the decision maker's financial interests.

The information that must be disclosed on an SEI, and the location at which an SEI is filed, varies depending on the position held by the individual who is required to file an SEI. Although there are some exceptions, individuals who are required to file an SEI typically must file that document with the agency of which they are an elected official or by which they are employed. In some cases, original SEIs or copies thereof are filed with the FPPC. The requirement for public officials to file SEIs serves two purposes. First, the SEI provides necessary information to the public about an official's personal financial interests so there is assurance that officials are making decisions that do not enhance their personal finances. Second, the requirement to file an SEI serves as a reminder to the public official of potential conflicts of interests so the official can recuse themselves from making or participating in governmental decisions that are deemed conflicts.

Although there is no statutory requirement for the FPPC to post SEIs online, in 2010, the FPPC adopted a regulation requiring it to post the SEIs of all elected officers who, in their elected capacities, are required to file their SEIs with the FPPC. As a result, the FPPC now posts SEIs for all constitutional officers, legislators, judges, members of county boards of supervisors, mayors, and city councilmembers. Additionally, the FPPC has chosen to post the SEIs of FPPC Commissioners and legislative candidates. When a person holding one of these positions files an SEI on paper, the FPPC must manually scan the SEI and redact certain information (such as addresses and signatures) before the SEI can be posted on the FPPC website. (Although other local elected officials, including county sheriffs, auditors, and clerks are required to file SEIs, those officials' SEIs are filed locally rather than with the FPPC. Some localities post those officials' SEIs online.)

In 2013, the Legislature approved and then Governor Brown signed AB 409 (Quirk-Silva), Chapter 643, Statutes of 2013, which permitted the FPPC to develop and operate an online system for filing SEIs. While AB 409 permitted the FPPC to establish an electronic system for filing SEIs, it would be up to each individual filer to decide whether to use that system or to file an SEI on paper.

This bill requires public officials, candidates, and specified others, including Legislative staff, for whom the FPPC is the filing officer, to file their original SEIs electronically with the FPPC, instead of on paper. Additionally, this bill expands the information that must be redacted and requires the FPPC to redact a filer's personal residential address and telephone number, and the street name and building number of the filer's business address and any real property interests from any SEI that is made available on the internet.

- 3) **Arguments in Support:** The sponsor of this bill, the Fair Political Practices Commission (FPPC), writes:

Existing law under the PRA provides that the FPPC is the filing officer for statewide elected officers and candidates and other specified public officials. Generally, these public officials file Form 700 with their agency or another person or entity, who retain a copy of the statement and then forward the original statement to the Commission.

AB 1170 would instead require public officials for whom the Commission is the filing officer to file their Form 700s directly with the Commission using the Commission's electronic filing system.

Existing law also requires redactions of private information on the Form 700 that is made available on the FPPC's website, including the signature of the filer. AB 1170 would expand that required redaction to include, among other things, the personal residential address and telephone number of the filer.

- 4) **Previous Legislation:** AB 975 (Luz Rivas) of 2021, included similar provisions that would have required public officials and candidates for whom the FPPC is the filing officer to file their original SEIs electronically with the FPPC. However, AB 975 additionally prohibited the FPPC from making SEIs filed by certain nonelected officials available on the internet. This bill does not contain a similar prohibition. AB 975 was approved by this committee on 7-0 vote and passed the Assembly Floor on a 72-0 vote, but failed passage on the Senate Floor.
- 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

Fair Political Practices Commission (Sponsor)

California Association of Clerks and Election Officials

Opposition

None on file.

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