

Date of Hearing: June 12, 2024

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
SB 1027 (Menjivar) – As Amended March 20, 2024

SENATE VOTE: 39-0

SUBJECT: Political Reform Act of 1974: disclosures.

SUMMARY: Provides for the redaction of a campaign committee's banking information from disclosure reports that are made available to the public. Specifically, **this bill:**

- 1) Requires the Secretary of State (SOS), before making a copy of a committee's statement of organization available to the public, to redact the committee's bank account number from that statement.
- 2) Permits a campaign committee to redact or omit the committee's bank account number from any copy of the committee's statement of organization that is filed with a local filing officer. Prohibits a local filing officer from requiring a committee to disclose the bank account number as a condition of accepting the filing.
- 3) Provides for the redaction of the names of persons who are authorized to obtain a campaign committee's bank records from any copy of the committee's statement of organization that is made publicly available, beginning the date on which the SOS certifies that a new campaign and lobbying disclosure system that meets the requirements of state law has been implemented, as follows:
 - a) Requires the SOS, before making a copy of a committee's statement of organization available to the public, to redact the names of persons who are authorized to obtain the committee's bank records from that statement.
 - b) Permits the campaign committee to redact or omit the names of persons who are authorized to obtain the committee's bank records from any copy of the committee's statement of organization that is filed with a local filing officer. Prohibits a local filing officer from requiring a committee to disclose those names as a condition of accepting the filing.
- 4) Declares that the provisions of this bill that limit access to specified information about campaign committees' banking information are necessary to protect filers' privacy and to prevent financial fraud.
- 5) Makes technical, corresponding, and conforming 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). (Government Code §§83100, 83111)

- 2) Provides that every report and statement filed pursuant to the PRA is a public record open for public inspection and reproduction, as specified. (Government Code §81008)
- 3) Requires a committee, as specified, to file a statement of organization with the SOS, and to file a copy of that statement with a local filing officer in certain circumstances. Requires the statement of organization to include specified information, including the names of persons who are authorized to obtain the committee's bank records from the financial institution where the campaign bank account is maintained, and the campaign's bank account number. (Government Code §§84101, 84102, 84103; 2 California Code of Regulations §18410)
- 4) Requires the SOS to make specified campaign finance disclosure information available online. Prohibits the SOS, when making that information available on the internet, from including any bank account number required to be disclosed. (Government Code §84602(a)(4))
- 5) Permits local jurisdictions to provide online and electronic filing and disclosure systems for use by local candidates, officeholders, and committees, as specified. Prohibits a local jurisdiction, when making data related to campaign finance disclosures available on the internet, from including any bank account number required to be disclosed by the filer. Requires the local filing officer to make a complete, unredacted copy of any disclosure statement, including any bank account numbers disclosed by the filer, available to any person upon request. (Government Code §84615)
- 6) Requires a local government agency that receives campaign finance disclosure filings in paper format to post copies of those filings on the agency's website within 72 hours of the applicable filing deadline. Requires the local filing officer to redact certain information from a filing, including any bank account number required to be disclosed by the filer, before posting the filing on the agency's website. (Government Code §84616)
- 7) Requires the SOS, in consultation with the FPPC, to develop and certify a new online filing and disclosure system for public use that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format, as specified. This system is commonly referred to as the Cal-Access Replacement System (CARS). Requires the SOS, before making this system available for public use, to test it to ensure its functionality, and then to certify that the system meets specified requirements of state law. (Government Code §84602(b))
- 8) Provides that the people of California have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny. Requires a statute, court rule, or other authority adopted after June 4, 2014, that limits the right of access, to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (California Constitution, Article I, §3)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

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

SB 1027 provides added protections to candidates and elected officials when filling their Statement of Organization (Form 410) with the [SOS]. This minor change in statute will mitigate the rising threat of identity theft that has become commonplace in the finance and banking industries. This bill will permit a candidate or elected official to omit the bank account numbers from the Form 410 when filing copies of these statements with local elections officials. SB 1027 will also require SOS to redact the bank account numbers from hard copies of their Statement of Organization when they are requested by the public. Election officials are currently not required to redact the bank account numbers from the hard copies of the Form 410 provided to the public. This has led to candidates and elected officials becoming easy targets for those who perpetuate identity theft schemes. Further, this bill will require the names of authorized users to be redacted from the Form 410, once [CARS] is updated and certified by the SOS. From someone who has had their committee accounts hacked multiple times as a candidate and an elected official, this legislation is needed to protect my colleagues from being victimized in the same way that I have.

2) **Political Reform Act Disclosure:** In the aftermath of the Watergate scandal, California was the first state to pass a comprehensive political reform package with the enactment of the PRA through the voters' approval of Proposition 9 at the June 1974 statewide primary election. One of the enumerated purposes of the PRA was that "[r]eceipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited."

When the PRA was originally enacted, members of the public who wished to view disclosure statements and reports generally had to visit a government office to view or obtain copies of those documents. In 1997, however, the Legislature passed and Governor Pete Wilson signed SB 49 (Karnette), Chapter 866, Statutes of 1997, which established the Online Disclosure Act of 1997. SB 49 required the SOS to implement 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. Subsequently-enacted legislation, which is described in more detail below, also provided for online disclosure of campaign information at the local level.

While SB 49 required *most* of the information that is included in disclosure reports and statements filed under the PRA to be posted online, it prohibited certain street address information contained in those reports from being posted online. Additionally, due to concerns that the posting of campaign bank account number information online could lead to misuse, the PRA was amended shortly after Cal-Access was deployed to prohibit bank account numbers from being included with the data made available on the Internet through Cal-Access. Legislation that provided for locally-filed campaign disclosure reports to be posted on the Internet similarly requires certain street address information and bank account

numbers to be excluded from the information that is posted on the Internet. However, while this information is not available on campaign disclosure reports that are *posted online* by public officials, state law requires unredacted copies of campaign disclosure reports that include this information to be made available to the public upon request.

- 3) **Campaign Committee Banking Information:** One campaign disclosure statement that is required to be filed under the PRA—a statement of organization, also known as the Form 410—must be filed with the SOS by any campaign committee that receives campaign contributions of \$2,000 or more in a calendar year. The PRA additionally requires a copy of that statement to be filed with a local filing officer in certain circumstances. The statement of organization serves to identify the committee’s purpose, contact information, and officers.

Among other information, a committee’s statement of organization must include the name of the financial institution where the committee’s campaign bank account is located and the committee’s bank account number. Additionally, the FPPC adopted regulations in 2022, with a delayed implementation date of January 1, 2024, that requires the statement of organization to contain the names of persons other than the committee’s treasurer who are authorized to obtain the committee’s bank records. This regulation was intended to help the FPPC and other government agencies obtain bank records of campaign committees for campaign audits and investigations when committee treasurers are unavailable or otherwise unable to provide those records.

When the FPPC was considering this regulation, various stakeholders including the California Political Attorneys Association (CPAA), which is one of the co-sponsors of this bill, expressed concern that the easy availability of the names of persons authorized to obtain committee bank records could increase the potential for fraudulent activity. In an October 2023 letter to the FPPC that requested a further delay in the implementation of this regulation, CPAA wrote:

As noted by the Association for Financial Professional’s (AFP) 2023 Payments Fraud and Control Survey Report, 65 percent of organizations were victims of payments fraud attacks or attempts in 2022. Instances of fraud via ACH credits and virtual cards increased by 6 percentage points each from prior years. For a nefarious actor to commit ACH fraud, they need a bank account and a routing number. Any additional information the potential fraudster can obtain, such as authorized signer information, only helps to make commission of the fraud easier. Committees are already required to provide bank account numbers on the Form 410 without appropriate protections in the law to require redaction. Routing numbers for all banks can be found online via a quick Google search. Adding additional, valuable information to the [Form] 410 before safeguards are put in place further jeopardizes the safety of funds located in campaign bank accounts.

While the FPPC has acknowledged that the public availability of campaign bank account information can increase the risk of fraud for those accounts, the FPPC rejected the request to further delay the implementation of the regulation. Accordingly, the requirement for campaign committees to include information on the statement of organization about people who are authorized to obtain the committee’s bank records went into effect on January 1 of

this year.

- 4) **Protection of Sensitive Banking Information:** As detailed above, campaign bank account numbers already are excluded from the data that is posted on the Internet through the Cal-Access system due to concerns about the potential misuse of that information. The Cal-Access system is now 25 years old, and the SOS reports that components of the system are no longer supported by their vendor. As a result, according to information from the FPPC and the SOS, the existing Cal-Access system cannot be modified to similarly redact the names of persons who are authorized to obtain a committee's bank records from a committee's statement of organization that is filed with the SOS. While the Legislature has taken steps to replace the Cal-Access system with a new disclosure system commonly referred to as CARS, the SOS does not expect to fully deploy CARS until late 2026 at the earliest.

The limitations of the Cal-Access system have created challenges for updating California's campaign disclosure laws. Accordingly, various previously-enacted amendments to the PRA have included provisions that specify that those amendments will not go into effect until after the SOS certifies that CARS is operational. This bill similarly provides that its provisions related to the redaction of the names of persons who are authorized to obtain a committee's bank records will become operative only once the CARS system has been deployed.

More immediately, this bill will further limit the public's access to information about committees' bank account numbers. While those numbers already are excluded from being posted online, this bill additionally requires the SOS to redact that information from campaign statements before making those statements available to the public. Given that a campaign committee's bank account number does not provide meaningful information to the public about a committee's campaign activities, the redaction of this information from copies of campaign reports that are made publicly available seems like a prudent step to help protect against fraud without undermining the purposes of the PRA.

- 5) **Arguments in Support:** The California Political Attorneys Association, one of the co-sponsors of this bill, writes in support:

Current law requires political committees...to include their banking institution and bank account number on their Statement of Organization (Form 410). Last year, the [FPPC] passed a regulation requiring the disclosure of individuals with certain authority over a political committee's bank account on the Form 410...While a Form 410 made available online has bank account information redacted, the names of individuals with banking authority cannot be redacted without legislative intervention. Furthermore, hard copies of the Form 410 made available to the public at filing officers' offices have neither the bank account nor individual information redacted. By making public a committee's bank account number, along with the names and addresses used by individuals with banking authority over the committee's finances, political committees and their agents are at risk of being victimized with identify theft and other fraud.

[SB] 1027 is critically important because it creates a common sense solution to

protect committees and individuals from financial crimes, while preserving access to the information potentially needed for investigations and enforcement.

- 6) **Previous Legislation:** SB 2108 (Karnette), Chapter 319, Statutes of 2000, prohibited the SOS from including bank account numbers in the information that is made available on the Internet through Cal-Access.

AB 2452 (Ammiano), Chapter 126, Statutes of 2012, permitted local government agencies to require elected officials, candidates, and campaign committees to file campaign disclosure reports online or electronically. AB 2452 prohibited any bank account number that was required to be disclosed from being posted on the Internet, but also required the local filing officer to make an unredacted version of the campaign reports available upon request.

AB 2151 (Gallagher), Chapter 214, Statutes of 2020, required a local governmental agency that receives campaign finance disclosure filings in paper format to post copies of those filings on its website within 72 hours of the filing deadline. Before posting copies of those filings online, AB 2151 additionally required the local filing officer to redact certain information from the filings, including any bank account number required to be disclosed by the filer.

- 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.
- 8) **Double-Referral:** This bill has been double-referred to the Assembly Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Political Attorneys Association (Co-Sponsor) (prior version)
Fair Political Practices Commission (Co-Sponsor) (prior version)
California Federation of Teachers, AFL-CIO

Opposition

None on file.

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