

Date of Hearing: March 26, 2025

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 359 (Ramos) – As Introduced January 30, 2025

SUBJECT: Fair Political Practices Commission.

SUMMARY: Removes the January 1, 2026 sunset date from a provision of law that authorizes the Fair Political Practices Commission (FPPC) to contract with a local government agency, upon mutual agreement, to administer, implement, and enforce the agency's local campaign finance or government ethics laws. Specifically, **this bill:**

- 1) Deletes the January 1, 2026, sunset date from a provision of law that authorizes the FPPC, upon a mutual agreement between the FPPC and local government agencies, to have primary responsibility for the impartial, effective administration, implementation, and enforcement of local campaign finance reform or government ethics laws, as specified.
- 2) Permits the FPPC to conduct audits as part of an agreement to administer, implement, and enforce a local agency's campaign finance ordinance or government ethics law.
- 3) Repeals obsolete provisions of law that required the FPPC to report to the Legislature on or before January 1, 2025, regarding the performance of any agreement entered into by the FPPC to administer, implement, and enforce a local agency's campaign finance ordinance or government ethics law.
- 4) Makes conforming changes.

EXISTING LAW:

- 1) Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA). (Government Code §§81000 et seq.)
- 2) Requires a local government agency that adopts or amends a local campaign finance ordinance to file a copy of the ordinance with the FPPC. (Government Code §85702.5)
- 3) Prohibits a local government agency from enacting a campaign finance ordinance that imposes campaign reporting requirements that are additional to or different from those set forth in the PRA for elections held in its jurisdiction unless the additional or different requirements apply only to the candidates seeking election in that jurisdiction, their controlled committees or committees formed or existing primarily to support or oppose their candidacies, and to committees formed or existing primarily to support or oppose a candidate or to support or oppose the qualification or passage of a local ballot measure which is being voted on only in that jurisdiction, and to city or county general purpose committees active only in that city or county, respectively. (Government Code §85703)
- 4) Prohibits a person, effective January 1, 2021, from making to a candidate for elective county or city office, and prohibits a candidate for elective county or city office from accepting from a person, a contribution totaling more than the limit on contributions to candidates for state Senate and Assembly from persons other than small contributor committees and political

party committees, as adjusted by the FPPC, as specified. (Government Code §85301(d)) Permits a county or city, by ordinance or resolution, to impose a limit on contributions to a candidate for elective county or city office which prevails over the limit otherwise imposed by state law, and provides that the FPPC is not responsible for administration or enforcement of such a limit. (Government Code §85702.5)

- 5) Authorizes the FPPC, until January 1, 2026, to administer and enforce a local campaign finance ordinance or government ethics law upon mutual agreement between the FPPC and a local agency with a population of less than 3 million people, as specified. Requires the FPPC, if an agreement is entered into, to report to the Legislature regarding the performance of the agreement on or before January 1, 2025, as specified. (Government Code §83123.6) Provides that any agreement in effect on December 31, 2018 for the enforcement of a local campaign finance or government ethics law that was entered into between the FPPC and the City of Stockton or the City of Sacramento remains valid under this general authorization for the FPPC to contract with local agencies. (Government Code §83123.6 (g))
- 6) Authorizes the FPPC, upon mutual agreement between the FPPC and the San Bernardino County Board of Supervisors, to have primary responsibility for the impartial, effective administration, implementation, and enforcement of a local San Bernardino County campaign finance reform ordinance. (Government Code §83123.5)

FISCAL EFFECT: Unknown

COMMENTS:

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

The Fair Political Practice[s] Commission, since its inception in 1974, has provided Californians with transparency about their government and ensured public officials remain fair and unbiased stewards of their state. However, the Commission's work has not only made an impact at the state level, but at the local level as well. It has been responsible for enforcing local campaign finance and ethics law for many local governments throughout the state, including in my home district of San Bernardino County. Soon this service will no longer be available to local agencies unless the State removes the sunset date that is set to expire next year. We cannot allow their work to be interrupted. It is crucial that local governments are allowed to continue contracting with the Commission for their services in ensuring their local campaign finance and ethics law are followed and that constituents continue experiencing the same level of governmental transparency they have come to expect.

- 2) **Local Campaign Finance Contribution Limits:** Under existing law, local government agencies generally have a significant amount of latitude to develop local campaign finance ordinances that apply to elections in those agencies' jurisdictions. Any jurisdiction that adopts or amends a local campaign finance ordinance is required to file a copy of that ordinance with the FPPC, and the FPPC posts those ordinances on its website.

The campaign ordinances adopted by local governments in California vary significantly in terms of their scope. In some cases, the ordinances include campaign contribution limits, reporting and disclosure requirements that supplement the requirements of the PRA, temporal

restrictions on when campaign funds may be raised, and voluntary public financing of local campaigns, among other provisions. A local jurisdiction may enact a campaign ordinance that provides for additional or different campaign requirements for candidates and committees active exclusively in its jurisdiction as long as the provisions are stricter than those imposed by the PRA.

In accordance with AB 571 (Mullin), Chapter 556, Statutes of 2019, beginning January 1, 2021, if a city or county has not already enacted a contribution limit, the limit on contributions from individuals to candidates for Senate and Assembly will apply by default to city and county candidates. Additionally, AB 571 permits a county or city to establish its own contribution limits, which prevail over the default limits. If a city or county imposes contribution limits, the FPPC is not responsible for the administration or enforcement of those limits. Cities or counties with existing contribution limits or that adopt their own limits are not subject to the state limit and may impose their own penalties for violations. While the FPPC may neither interpret nor comment on the viability, enforceability, or constitutionality of a local ordinance, the FPPC is not constrained from identifying those provisions that may conflict with or impede a person's compliance with the PRA.

- 3) **San Bernardino County, the City of Stockton, and the City of Sacramento:** In 2012, AB 2146 (Cook), Chapter 169, Statutes of 2012, permitted San Bernardino County and the FPPC to enter into an agreement that provides for the FPPC to enforce the County's local campaign finance reform ordinance, until January 1, 2018. Prior to this, the FPPC did not enforce any local campaign finance ordinances. According to previous analyses, the County of San Bernardino, which had been the subject of several high-profile corruption cases, was in the process of developing a campaign finance ordinance. Rather than appoint an ethics commission, which could present financial as well as conflict of interest challenges, the County proposed to contract with the FPPC to enforce their local campaign finance ordinance. Moreover, the County determined that it was in the best interest of the County to retain the services of the FPPC to provide for the enforcement and interpretation of San Bernardino County's local campaign finance ordinance as the FPPC has special skills, knowledge, experience, and expertise in the area of enforcement and interpretation of campaign laws necessary to effectively advise, assist, litigate, and otherwise represent the County on such matters. As a result, the FPPC and San Bernardino County entered into a mutual agreement, from January 1, 2013 through December 31, 2014, for the FPPC to provide the County campaign enforcement and interpretation services for the impartial, effective administration, implementation, and enforcement of the San Bernardino's campaign finance reform ordinance. Subsequently, San Bernardino County and the FPPC entered into another two-year mutual agreement covering the period from January 1, 2015 through December 31, 2016, and a two-year agreement covering the period from January 1, 2017 through December 31, 2018.

As required by law, the FPPC submitted a report to the Legislature regarding this agreement with San Bernardino County on March 24, 2016. According to the report, the agreement resulted in substantial savings when compared to the cost of other public ethics commissions and aided in enforcement proceedings by removing any semblance of conflict of interest. The report concluded by stating that the partnership between the FPPC and the San Bernardino County has been successful and both the FPPC and San Bernardino County supported removing the January 1, 2018 sunset date from the statute. Consequently, AB 2558

(Steinorth), Chapter 202, Statutes of 2016, removed the sunset date and made the law permanent. According to the FPPC, the contract with San Bernardino County has ended.

Subsequently, AB 1083 (Eggman), Chapter 186, Statutes of 2015, authorized the City of Stockton and the FPPC to enter into an agreement that provides for the FPPC to enforce a local campaign finance ordinance passed by the City Council of the City of Stockton, as specified. According to the FPPC, no agreement with the City of Stockton ever occurred. Additionally, SB 267 (Pan), Chapter 622, Statutes of 2017, authorized similar agreements between the City of Sacramento and the FPPC. According to the FPPC, the City of Sacramento and the FPPC entered into an agreement covering the period of March 1, 2018 – December 31, 2019. The agreement was not renewed and the City of Sacramento created its own City of Sacramento Ethics Commission.

- 4) **Expansion of the Law and Previous Legislation:** In 2018, the Legislature approved and the Governor signed AB 2880 (Harper), Chapter 394, Statutes of 2018, which expanded previous authorization bills and authorized the FPPC to administer and enforce a local campaign finance ordinance *or* government ethics law upon mutual agreement between the FPPC and a local agency with a population of less than three million people, as specified. As a result of AB 2880, any local jurisdiction that wants to establish campaign contribution limits but that does not want to create its own mechanism for enforcement of those limits has the option of contracting with the FPPC (subject to the agreement of the FPPC) for that purpose. AB 2880 included a January 1, 2026 sunset date.

Prior to AB 2880 becoming law, the FPPC did not have the authority to enforce local campaign finance without special authorization legislation. According to previous analyses, legislative intent for expanding the law was to allow “local governments...the ability to bring in a cost-effective, experienced, independent, and impartial entity to investigate possible local campaign finance or government ethics violations and bring appropriate administrative action against these violators.”

Previous analyses, however, also pointed out that AB 2880 was significantly broader than previous authorization bills, as it allows the FPPC to enter into an agreement with a local government agency to enforce a local government ethics law and an expansion of the law could add complexity to the FPPC’s workload which could negatively impact the ongoing enforcement of the PRA.

- 5) **FPPC Performance Reports:** In accordance with existing law, last December the FPPC submitted a report outlining the work completed under contracts with two local government agencies – the City of San Bernardino and the City of Sacramento. (Note that the FPPC’s contract with the *City* of San Bernardino is separate from the FPPC’s contract to administer and enforce a campaign finance ordinance for San Bernardino *County*, which is described above in comment #3 of this committee analysis.)

According to the report, the City of San Bernardino retained the services of the FPPC to provide for the enforcement and interpretation of the laws under the provisions of the City’s campaign finance regulations governing the City’s offices. In accordance with that, the FPPC conducts a review of data included in campaign disclosure forms and statements and detects potential violations by analyzing all contracts, licenses, permits, or other entitlements. Six enforcement cases were opened, resulting in two Warning Letters, two No Action Closure

Letters, and two active cases with the Enforcement Division. Additionally, the FPPC maintains a dedicated webpage for the City of San Bernardino with 10 campaign audits in progress, one completed audit and has twice provided informal advice. The initial contract duration was January 1, 2021 – December 31, 2022. The contract was subsequently renewed and the agreement remains active. The City has reported they are satisfied with the contract and feel that it meets the City’s needs.

Under the contract with the City of Sacramento, the FPPC completed 10 audits per the contract and closed eight enforcement cases, resulting in four Warning Letters, three No Action Closure Letters, and one stipulated settlement. The FPPC twice provided informal advice, maintained a dedicated webpage for the City of Sacramento, and provided two overviews to the City of Sacramento Ethics Commission. The contract duration was March 1, 2008 – December 31, 2019. The agreement between the City of Sacramento and the FPPC has concluded and was not renewed. The City of Sacramento created its own City of Sacramento Ethics Commission. The City reports that it was unsatisfied with the contract. The FPPC attributes this to a misunderstanding of expectations on both sides, and the FPPC has since improved its procedures and practices.

The report concludes that although the FPPC and the City of Sacramento did not find success in contracting together, the FPPC learned from that initial contract to communicate clear expectations, which has resulted in a successful relationship with the City of San Bernardino, which both parties wish to continue. The FPPC staff believes this program has been a success and recommends that the Legislature consider deleting or extending the sunset provision.

Accordingly, this bill removes the January 1, 2026 sunset date, thereby making the law permanent. Additionally, because the FPPC submitted the required performance report to the Legislature before January 1, 2025, this reporting requirement is obsolete. Thus this bill repeals the reporting requirement.

Absent legislation that either extends or removes the sunset date, the City of San Bernardino will be unable to continue contracting with the FPPC. The committee, however, may wish to consider whether the two contracts with the FPPC, one which was not renewed, demonstrates a high demand for local agencies to contract with the FPPC for their services. The committee may wish to consider whether this warrants extending the sunset provision, instead of removing it and making the law permanent.

6) **Arguments in Support:** In support of this bill, the California Special Districts Association writes:

Current law, the Political Reform Act of 1974, allows the Fair Political Practices Commission (FPPC), upon mutual agreement between the FPPC and the governing body of a local government agency, to assume primary responsibility for the administration, implementation, and enforcement of a local campaign finance or government ethics law passed by the local government agency. AB [359] would further authorize the FPPC to conduct audits under the auspices of the local campaign finance or government ethics law. In this way, the FPPC’s ability to investigate and pursue matters involving campaign financing and ethics would be increased, strengthening its ability to obtain relevant facts and information and resolve these investigations.

- 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

Fair Political Practices Commission (sponsor)
California Special Districts Association
City of San Bernardino
League of Women Voters

Opposition

None on file.

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