

Date of Hearing: May 13, 2020

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 2151 (Gallagher & Gonzalez) – As Introduced February 10, 2020

SUBJECT: Political Reform Act of 1974: online filing and disclosure system.

SUMMARY: Requires a local governmental agency that receives campaign finance disclosure filings in paper format to post copies of the paper filings on its internet website within 72 hours of the filing deadline, as specified. Specifically, **this bill:**

- 1) Requires a local government agency, within 72 hours of each applicable filing deadline, to post on its internet website a copy of any statement, report, or other document required to be filed pursuant to the campaign finance disclosure provisions of the Political Reform Act of 1974 (PRA), if the document is filed with that agency in paper format.
- 2) Provides that if the final day of the 72-hour period is a Saturday, Sunday, or holiday, the deadline for posting copies of paper filings is extended to the next day that is not a Saturday, Sunday, or holiday.
- 3) Requires the local filing officer, before posting, to redact the street name and building number of the persons or entity representatives listed on any statement, report, or document, or any bank account number required to be disclosed by the filer.
- 4) Specifies that a local government agency that provides a link on the agency's internet website to copies of statements, reports, and other documents that are filed in paper format satisfies the requirements of this bill.
- 5) Requires a statement, report, or other document posted pursuant to the provisions of this bill to be made available for four years from the date of the election associated with the filing.

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) Requires state and local elected officials, candidates for state and local elective office, and committees formed primarily to support or oppose a candidate for public office or a ballot measure, among other entities, to file periodic campaign statements, as specified.
- 3) Requires campaign statements to contain prescribed information related to campaign contributions and expenditures of the filing entities, as specified.
- 4) Requires the Secretary of State (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.

- 5) Permits local jurisdictions to provide online and electronic filing and disclosure systems for use by local candidates, officeholders, and committees, as specified.
- 6) Requires the SOS to post hyperlinks on its internet website to any local government agency website that contains publicly disclosed campaign finance information.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

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

The public can easily access campaign finance documents online for candidates running for State or Federal office. Why should local government elections be any different?

- 2) **Political Reform Act and Campaign Finance Filings:** In general, the PRA requires local and state candidates and committees to file campaign statements by specified deadlines disclosing contributions received and expenditures made. These documents are public documents, meant to be available to the public as one of the purposes of the PRA is that “receipts 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.”

Generally, candidates and committees involved in state elections (constitutional officers, Senate, Assembly, statewide ballot measures) file with the SOS, while those involved in county, city, or special district elections file with the local elections or clerk’s office. On the state level, candidates and committees who raise or spend \$25,000 or more are required to file electronically with the SOS, as specified. Local candidates and committees, however, are not subject to the same rules. While current law permits a local government to require disclosure reports to be filed online or electronically for an elected officer, candidate or committee that raises or spends more than \$1,000, many local government agencies do not have this requirement or do not have electronic filing available. Consequently, many local campaign finance reports are filed only in paper format and are available for review through a public records request or in-person at the local city or county clerk’s office or elections official’s office.

Advocates argue that an overwhelming amount of local filings are only filed in paper format and consequently, are time consuming to track down and challenging to search through. The author states while many local agencies have chosen to make local campaign documents accessible on the internet via direct upload and software systems, the current system does not allow for the greatest public access and transparency. In an effort to increase transparency, this bill would require a local governmental agency that receives campaign finance disclosure filings in paper format to post copies of those paper filings, within 72 hours of the filing deadline, on its internet website, as specified.

- 3) **Secretary of State and Local Campaign Filing Systems and Public Websites:** In an effort to increase transparency for local campaign filings, last session the Legislature approved and Governor Brown signed SB 358 (Stern), Chapter 624, Statutes 2017, which required the SOS

to display hyperlinks for all local jurisdictions that provide any means to publicly view campaign reports on their websites. According to the SOS's internet website, each of the local governments listed has an online filing system and a public website for viewing reports. Cities and counties not listed on the SOS's internet website may still have filing requirements but do not provide online access to the filings. The SOS currently has approximately 32 counties and 160 city hyperlinks available on its internet website.

- 4) **California Municipal Democracy Index 2016:** According to the California Municipal Democracy Index 2016, published by California Common Cause, in the majority of cities (445 cities, 92%), candidates file only paper versions of their campaign finance reports. Additionally, the report states that 24 cities (5%) require online filing of campaign finance reports, which are posted online generally in a searchable format, and 13 cities give candidates the option between filing campaign reports online or in paper format. Moreover, the report states that 116 cities (24%) scan and publish online non-searchable copies of paper reports they receive.
- 5) **Cal-Access Replacement Project:** In 1997, the Legislature passed and Governor Pete Wilson signed SB 49 (Karnette), Chapter 866, Statutes of 1997, which 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, by the year 2000, 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. Cal-Access, however, is over 20 years old, and the SOS reports that components of the system are no longer supported by their vendor. As a result, the system has periodically crashed and denied public access.

Given the limitations of the existing Cal-Access system, the Legislature has taken steps to replace that system. In 2012, the Legislature enacted SB 1001 (Yee), Chapter 506, Statutes of 2012, which imposed a \$50 annual fee on political committees that are required to file disclosure reports pursuant to the PRA and increased the fee on lobbying firms and lobbyist employers from \$25 to \$50 per year per lobbyist. The revenue generated by the bill is deposited into the Political Disclosure, Accountability, Transparency, and Access Fund, and is available to be used to update or replace the Cal-Access system.

In 2016, the Legislature approved and the Governor signed SB 1349 (Hertzberg), Chapter 845, Statutes of 2016, which requires the SOS, in consultation with the FPPC, to develop and certify for public use a new online filing and disclosure system for statements and reports that provide public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format, as specified. The new system is intended to be data driven, rather than form-based, and is intended to permit future compatibility with local campaign finance data.

SB 1349 initially required the SOS to make the new filing and disclosure system available no later than December 31, 2019. That deadline, however, was established by the Legislature when the state's 2020 primary election was scheduled for June. After the 2020 primary election was moved to March through the enactment of SB 568 (Lara), Chapter 335, Statutes of 2017, the deadline for making this new disclosure system available fell during a key campaign disclosure filing period for the primary election. Due in part to concerns that

implementing and certifying the new system during that period could cause significant public confusion, inadvertent non-compliance, and insufficient time for filers to understand the new system, the Legislature passed and the Governor signed SB 84 (Committee on Budget and Fiscal Review), Chapter 30, Statutes of 2019, which delayed the implementation deadline for the new filing and disclosure system to February 2021.

6) **Arguments in Support:** In support of this bill, California Clean Money Campaign writes:

Under current law, candidates for municipal office must file their campaign finance reports with their city's city clerk. Candidates for other local offices must file their reports with the county registrar in the county that the contest is located in. While some jurisdictions post this information online, the vast majority don't. Common Cause research has found that, as of 2016, 68% of cities do not post such disclosures online. Similarly, a 2016 Los Angeles Times article found that, in 52% of counties, this information is available in paper format alone.

In the twenty-first century, all campaign finance documents should be posted online. The transparency of our campaign finance system requires it. It is not realistic to expect Californians to take time off during the workday to go to their clerk's or registrar's office to see and copy these records. Moreover, paper records can be archived or misplaced, making it hard to get this information in a timely manner.

7) **Previous Legislation:** AB 322 (Gallagher) of 2019, which was substantially similar to this bill, would have required a local governmental agency that receives campaign finance disclosure filings in paper format to post copies of the paper filings on its internet website within 72 hours of the filing deadline, beginning in 2022. AB 322 was approved by this committee on a 7-0 vote and by the Assembly Appropriations Committee on an 18-0 vote, but was not taken up on the Assembly Floor prior to the relevant deadline due to procedural issues.

8) **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 Clean Money Campaign
League of Women Voters of California
MapLight

Opposition

None on file.

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