

Date of Hearing: April 6, 2022

ASSEMBLY COMMITTEE ON ELECTIONS  
Isaac G. Bryan, Chair  
AB 2172 (Cervantes) – As Amended March 24, 2022

**SUBJECT:** Political Reform Act of 1974: online and electronic filings.

**SUMMARY:** Eliminates the requirement for campaign and lobbying disclosure filings to be filed in paper format if those filings are filed electronically with the Secretary of State (SOS) and include a secure electronic signature, as specified. Specifically, **this bill:**

- 1) Provides that a report or statement required to be filed by the Political Reform Act (PRA) that is filed online or electronically with the SOS is the original report or statement for audit and other legal purposes if the report includes a secure electronic signature that is submitted under penalty of perjury and that complies with specified provisions of the Civil Code that govern electronic signatures.
- 2) Repeals requirements that reports or statements that are required to be filed with the SOS pursuant to the PRA, and that are filed online or electronically with the SOS, must be filed in a paper format in addition to the online or electronic filing.
- 3) Requires persons who file reports or statements required by the PRA online or electronically with the SOS to maintain a copy of the report for recordkeeping purposes.
- 4) Makes conforming and technical changes.

**EXISTING LAW:**

- 1) Requires the SOS, in consultation with the Fair Political Practices Commission (FPPC), to provide online and electronic filing processes for use by specified political committees, lobbyists, lobbying firms, and lobbyist employers pursuant to the PRA. This online reporting and disclosure system is commonly referred to as the Cal-Access system.
- 2) Requires specified entities that are required by the PRA to file reports or statements to file those reports or statements online or electronically with the SOS if certain conditions are met.
- 3) Permits any committee or person that is required by the PRA to file a report or statement with the SOS to file that report online or electronically, even if not required to do so.
- 4) Provides that once a person or entity is required by the PRA to file a report or statement online or electronically with the SOS, all subsequent reports from that person or entity that are required to be filed with the SOS must be filed online or electronically.
- 5) Requires the SOS to determine and publicly disclose when the Cal-Access system is operating effectively. Requires persons filing disclosure statements online or electronically to continue to file required disclosure statements and reports in paper format, except as specified, and specifies that the paper copy shall continue to be the official filing for audit

and other legal purposes until the SOS determines that the Cal-Access system is operating securely and effectively.

- 6) Requires the SOS, in consultation with the FPPC, to develop and certify for public use a *new* online filing system for statements and reports required by the PRA that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format. This new system is commonly referred to as the Cal-Access Replacement System (CARS).
- 7) Requires the SOS, before making CARS available for public use and in consultation with the FPPC, to test the system to ensure its functionality and then certify that the system meets the requirements of state law. Provides that upon this certification of the CARS system, disclosure reports that are filed online or electronically with the system are no longer required to be filed in a paper format, and that all original online and electronically filed statements and reports shall be the official version for audit and other legal purposes.
- 8) Requires CARS to be available for use no later than February 2021.
- 9) Provides, pursuant to the Civil Code, that if a law requires that a statement be signed under penalty of perjury as part of a transaction, the requirement is satisfied with respect to an electronic signature if an electronic record includes, in addition to the electronic signature, all of the information as to which the declaration pertains together with a declaration under penalty of perjury by the person who submits the electronic signature that the information is true and correct.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

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

Since the enactment of the Political Reform Act of 1974, statewide elected officials, elected members of specified entities, candidates for elected office, among others, are required to file periodic campaign statements and reports regarding campaign finances. Under existing law, campaign statements that are filed electronically are also required to be filed physically with the Secretary of State. In response to the ongoing COVID-19 pandemic, the volume of requests for online and electronic filing options has rapidly increased. AB 2172 aims to address this new influx of electronic requests by updating the Political Reform Act of 1974 to reflect the electronic realities of the 21st Century. The bill would eliminate the requirement of submitting a duplicate paper filing, so long as the electronic filings are signed with an electronic signature and meet other requirements.

- 2) **Political Reform Act and Cal-Access:** In 1974, California voters approved Proposition 9, also known as the PRA, which among other things, requires the disclosure of campaign contributions and expenditures and state lobbying activities. The requirements are intended to ensure that "[r]eceipts and expenditures in election campaigns [are] fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be

inhibited," and that "[t]he activities of lobbyists [are] regulated and their finances disclosed in order that improper influences will not be directed at public officials."

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.

When SB 49 was enacted, it required that disclosure reports and statements filed electronically pursuant to its provisions would continue to be filed in paper format, and that the paper form would be considered the official record for audit and legal purposes, until the SOS determined that the online disclosure system developed pursuant to that bill was operating securely and effectively. Once the SOS made that determination, SB 49 provided that filers who were required to file disclosure reports or statements online or electronically would no longer be required to file a paper copy of the filings, nor would they be required to file copies with local filing officers.

In March 2005, then-Secretary of State Kevin Shelley announced that lobbyists, lobbyist employers, and lobbying firms who filed their quarterly financial disclosure reports electronically through the Cal-Access system would no longer be required to file a paper copy of that same report. In making that announcement, Secretary Shelley indicated that he had "determined that the [Cal-Access] system is working as intended" as it related to lobbying entities, and thus that "qualified e-filers will no longer have to submit redundant paper filings." In the 25 years since legislation requiring the development of an online campaign disclosure system was enacted, however, the SOS has never made a public determination that the Cal-Access system *as a whole* is operating securely and effectively, nor has the SOS made a determination that the system was operating securely and effectively as it relates to other types of filings, aside from the March 2005 announcement. Subsequent legislation eliminated the requirement for paper copies to be filed for certain types of disclosure reports and statements, and for copies of reports and statements to be filed with local filing officers in certain circumstances, but entities that file disclosure reports online or electronically with the Cal-Access system continue to be required to file paper copies of certain types of reports and statements, and the paper copy of those filings remains the official copy for audit and other legal purposes.

- 3) **Cal-Access Replacement System:** Cal-Access is now 23 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 Cal-Access system, the Legislature has taken steps to replace that 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. As detailed above, this new system is commonly referred to as CARS.

SB 1349 required the SOS to make CARS available by February 1, 2019, but also allowed the SOS to extend that date to as late as December 31, 2019, after providing a report that explained the need for the extension and included a plan for completion. On June 21, 2018, then-Secretary of State Alex Padilla submitted a report indicating that his office had made a determination that it was in the best interests of the CARS project to extend the implementation date for that project to December 31, 2019, as permitted by SB 1349. According to that report, the project team believed that a February 1, 2019, implementation date would leave insufficient time for thorough testing of the new system, while limiting the ability to have stakeholder involvement in the implementation of the new system.

When SB 1349 was enacted, California's 2020 presidential primary election was scheduled to be held in June. SB 568 (Lara), Chapter 335, Statutes of 2017, however, moved the date of California's primary elections from June to March, beginning with the 2020 election. As a result of that change, a December 31, 2019, implementation date for the CARS project would have fallen just over 60 days before a major statewide election. Accordingly, due in part to concern that replacing the state's campaign disclosure system so close to a major statewide election could cause public confusion and inadvertent non-compliance with state law, SB 84 (Budget and Fiscal Review Committee), Chapter 30, Statutes of 2019, further extended the deadline for the completion of CARS from December 31, 2019, to February 2021.

In its April 2021 quarterly progress report to the Legislature, the SOS indicated that the first release of the CARS system was delivered on schedule on February 28, 2021, and that public access and system certification was scheduled for June 30, 2021. On June 11, 2021, however, Secretary of State Shirley N. Weber, Ph.D. issued the following statement on the CARS project: "To ensure that the CARS project can fully meet its statutory obligations, the scheduled June 30, 2021 roll out of the project will be postponed. Moving forward, the Secretary of State's office will assess the project's state of readiness so that on the date it goes live it will meet the expectations of the public, stakeholders and the regulated community."

According to the SOS, in July 2021, it partnered with the California Department of Technology to conduct an independent assessment of CARS to determine the system's readiness to launch and whether the system would meet the expectations of the public, stakeholders, and the regulated community. The SOS further indicated that the independent assessment report indicated CARS was not ready for a system launch, and that after reviewing the report findings, the SOS decided to evaluate the independent assessment report recommendations and begin the planning process for a CARS project restart. Although a new project timeline for CARS has not yet been established, a CARS project roadmap that was prepared as part of the independent assessment of the project recommends a schedule that includes 10 months for planning and acquisition, followed by 27 months for design-build and deployment of the new system. Since the planning and contracting process has not yet begun, such a schedule suggests that it is unlikely that the CARS system will be fully deployed before sometime in 2025 at the earliest.

Given the limitations of the existing Cal-Access system, it is unclear whether it is realistic to entirely eliminate paper filings of PRA reports and statements with the SOS prior to the roll-out of the CARS system. As an example, while original and amended lobbying registration

statements can be filed electronically with the SOS, the SOS nonetheless has continued to require those registration statements to be filed on paper. According to information from the SOS's website, even when lobbyist registration statements are filed electronically, the information from those statements that is displayed through the Cal-Access system must be updated manually—a process that is performed manually by SOS staff and is triggered by the filing of a paper registration document that corresponds to the electronic filing.

Notwithstanding the understandable desire to eliminate the need for paper copies of PRA reports and statements to be filed with the SOS, the Cal-Access system nonetheless relies on paper copies of certain types of filings to meet the disclosure requirements of the PRA, and it is unclear whether the 23-year-old system can be modified to eliminate that reliance on paper filings. Accordingly, the author and supporters of this bill should work with the SOS to identify situations where paper filings can be eliminated without harming the disclosure that the PRA is intended to provide.

- 4) **Paper Filings and Previous Legislation:** AB 895 (Quirk), Chapter 111, Statutes of 2017, eliminates the requirement for entities that file campaign statements online or by electronic means to file a copy of those statements in a paper format upon certification of the CARS system by the SOS. As introduced, AB 895 would have gone into effect on January 1, 2018, but the bill was amended to delay its operation at the request of then-Secretary of State Alex Padilla due to concerns that changing the system of filing before the launch of CARS “would be premature and could lead to delays in the launch date.”
- 5) **Technical Amendment:** Due to a drafting error, this bill could inadvertently delete the requirement for certain candidates and committees to file campaign disclosure reports with the SOS. To correct that drafting error, committee staff recommends the addition of the following language on page 3, line 33 of the bill after the period:

An officer, candidate, or committee described in this subdivision that is not required to file campaign statements by online or electronic means pursuant to Section 84605, and that does not file a statement by online or electronic means, shall file the original statement in paper format with the Secretary of State.

- 6) **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 Political Treasurers Association  
NetFile

### **Opposition**

None on file.

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