

Date of Hearing: April 6, 2022

ASSEMBLY COMMITTEE ON ELECTIONS  
Isaac G. Bryan, Chair  
AB 2528 (Bigelow) – As Introduced February 17, 2022

**SUBJECT:** Political Reform Act of 1974: campaign statements.

**SUMMARY:** Requires all local elected officers to file campaign disclosure statements and reports with the Secretary of State (SOS). Specifically, **this bill:**

- 1) Requires elected officers who are required pursuant to the Political Reform Act (PRA) to file campaign disclosure statements, reports, or other documents with a local filing officer, but not with the SOS, to file those documents online or electronically with the SOS in addition to filing the documents with their local filing officer. Requires all such filings to be available for public access through the current online filing and disclosure system (also known as Cal-Access), or through a new online filing and disclosure system when that system is certified (also known as Cal-Access Replacement System or CARS).
- 2) Makes corresponding changes.

**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 the SOS, in consultation with the 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.
- 3) 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.
- 4) Requires campaign statements to contain prescribed information related to campaign contributions and expenditures of the filing entities, as specified.
- 5) 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.
- 6) 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.
- 7) 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.

- 8) 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 CARS.
- 9) Requires CARS to be available for use no later than February 2021.
- 10) Permits local jurisdictions to provide online and electronic filing and disclosure systems for use by local candidates, officeholders, and committees, as specified.
- 11) Requires the SOS to post hyperlinks on its internet website to any local government agency website that contains publicly disclosed campaign finance information.
- 12) 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.

**FISCAL EFFECT:** Unknown. State-mandated local program; contains a crimes and infractions disclaimer.

**COMMENTS:**

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

This bill promotes good governance by creating greater levels of transparency for all elected officials by providing a single location to retrieve campaign statements. The more transparency there is in government, the more informed the public can be. As a result this bill promotes better democratic functioning and should be supported.

- 2) **Political Reform Act, Campaign Filings, and Previous Legislation:** 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. Last session, in an effort to increase transparency and public access, the Legislature approved and Governor Newsom signed AB 2151 (Gallagher), Chapter 214, Statutes of 2020, which 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.

This bill requires all local elected officials that are required to file their campaign disclosure statements, reports, and other documents with their local filing officer, to additionally file those documents electronically with the SOS. According to the author, this will ensure all campaign disclosure statements for local elected officials are filed and publicly available at the same place.

This bill, however, only applies to local elected officials and would not apply to local candidates or many other local committees. For example, under this bill an incumbent county supervisor who is running for reelection would be required to file their campaign disclosure statements and reports with their local filing officer, such as their county registrar of voters and, under the provisions of this bill, would also be required to file those documents electronically with the SOS. The incumbent's opponents, however, would not be required to file with the SOS and would continue to file their campaign disclosure documents only with their local filing officer.

- 3) **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 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 existing 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. This 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. 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.

- 4) **CARS Delayed Further:** 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, the Secretary of State Shirley N. Weber 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.

- 5) **Local Campaign Disclosure Filings and CARS:** According to the SOS website, the SOS's Political Reform Division completed a Local Filings Alternatives Analysis in 2017 to examine the feasibility of including local filings in CARS. It was determined that including local filings would involve coordinating 58 counties and 482 cities which would be a significant challenge in both development and deployment that would stretch the state's financial resources and technological capacity. Consequently, it was decided the implementation of CARS would not include local filings at that time.

As mentioned above, the SOS is in the pre-planning process for a CARS project restart. This delay could provide the opportunity for the SOS to reevaluate whether to include local filings into the project. According to the SOS, while it is feasible for CARS to accommodate these new filings, it would not be without impact to CARS project's timelines and cost. Any changes to the system's proposed design could cause delays. It may be more feasible to delay the operative date of the bill until one year after CARS becomes the filing system of record.

This would prevent delays to the development of the new CARS filing system and allow for a clear launch of this new requirement in the modern system.

- 6) **Local Campaign Disclosure Filings and Cal-Access:** The provisions of this bill which require all local elected officers to file campaign disclosure statements and reports with the SOS would go into effect before CARS is complete. As mentioned above, the SOS is in the process of replacing the Cal-Access system because it is over two decades old and encounters problems. Furthermore, according to information from the SOS, the Cal-Access system is not user friendly and does not offer detailed instructions for how to file. Consequently, it may be confusing for new filers who are unfamiliar with the system. In practice, most state filers use a third-party filing system to submit their data to Cal-Access. Local elected officers who are required to file with the SOS under this bill could also utilize this option, however it will add costs and may not be a good solution for all filers who are impacted by this bill.

Moreover, according to the SOS, while it is possible for the Cal-Access filing system to accept some of the filings subject to this bill, it is unable to accept all because not all of the filings subject to this bill can be submitted electronically.

Considering these factors, the committee may wish to consider whether it's reasonable to impose additional burdens (accepting filings from a large number of local officials) on the current campaign disclosure system, and to instead delay the implementation of this bill until after the new filing system is operational.

- 7) **Related Legislation:** AB 2172 (Cervantes), which is also being heard in this committee today, would eliminate the requirement for campaign and lobbying disclosure filings to be filed in paper format if those filings are filed electronically with the SOS and include a secure electronic signature, as specified.
- 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**

None on file.

##### **Opposition**

None on file.

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