

Date of Hearing: April 15, 2021

ASSEMBLY COMMITTEE ON ELECTIONS
Marc Berman, Chair
AB 975 (Luz Rivas) – As Introduced February 18, 2021

SUBJECT: Political Reform Act of 1974: statement of economic interests and gifts.

SUMMARY: Requires public officials and candidates for whom the Fair Political Practices Commission (FPPC) is the filing officer to file their original statements of economic interests (SEIs) electronically with the FPPC, as specified. Extends the time that a gift of admission to an invitation-only event may be returned, reimbursed, or donated, as specified, and reduces the amount of time in which a lobbyist, lobbying firm, and lobbyist employer must provide a beneficiary of a gift certain information about that gift. Specifically, **this bill:**

- 1) Revises and recasts provisions of law relating to SEIs and requires the following public officers and, if applicable, candidates for election to the following offices, to file their original SEIs electronically with the FPPC using the FPPC's electronic filing system, instead of allowing them to choose to file their SEIs on paper or electronically with the FPPC. Provides that the FPPC is the filing officer.
 - a) A statewide elected officer.
 - b) A member of the Legislature or member of the State Board of Equalization.
 - c) A member of the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, and the California Coastal Commission.
 - d) A member of a state licensing or regulatory board, bureau, or commission.
 - e) Anyone appointed to another state board, commission, or similar multimember body.
 - f) An official who manages public investments for a state agency.
 - g) Anyone holding the office of chief administrative officer, district attorney, county counsel, county treasurer, county planning commissioner, and member of the board of supervisors.
 - h) A city manager or, if there is no city manager, the chief administrative officer, and anyone holding the office of city council member, city treasurer, city attorney, city planning commissioner, and mayor.
 - i) Other city or county official who manages public investments for the city or county.
 - j) A judge and a court commissioner.
 - k) A designated employee of each house of the Legislature.

- 1) A designated employee under contract to more than one joint powers insurance agency and who elects to file a multiagency statement pursuant to existing law.
- 2) Requires heads of local agencies, and members of local boards or commissions to file their original SEIs electronically with the FPPC if the FPPC is the code reviewing body for the local agency, board, or commission, and the FPPC elects to act as the filing officer.
- 3) Prohibits the FPPC from making SEIs filed by certain nonelected officials available on the internet, and requires the FPPC to redact personal addresses and telephone numbers of all filers from SEIs that are made available on the internet.
- 4) Extends the period of time in which a gift of admission to an invitation-only event may be returned, reimbursed, or donated from a deadline of 30 days after receipt of the gift to a deadline of 30 days after the calendar quarter in which the gift was received, and makes clarifying changes prescribing conditions for the donation, return, or reimbursement.
- 5) Reduces the amount of time that a lobbyist, lobbying firm, or lobbyist employer has to provide specified information to the beneficiary of a gift that was made by the lobbyist, firm, or employer, from 30 days to 15 days following the end of the calendar quarter in which the gift was provided.
- 6) Makes other technical and 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).
- 2) Requires that candidates for, and current holders of, specified elected or appointed state and local offices and designated employees of state and local agencies file SEIs disclosing their financial interests, including investments, real property interests, and income.
- 3) Authorizes an agency to permit the electronic filing of an SEI, including amendments, in accordance with regulations adopted by the FPPC.
- 4) Permits the FPPC to develop and operate an online system for filing SEIs required by existing law, as specified.
- 5) Permits the FPPC to make all the data filed on a system developed available on the FPPC's internet website in an easily understood format that provides the greatest public access, and to provide assistance to those seeking public access to the information.
- 6) Requires the FPPC to redact private information, including, but not limited to, the signatures of filers, from the data that is made available on the internet.
- 7) Defines a "gift," for the purposes of the PRA, to mean any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.

- 8) Provides that the term “gift” does not include gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation in accordance with existing law without being claimed as a charitable contribution for tax purposes.
- 9) Requires the following information to be provided when a lobbyist, lobbying firm, or lobbyist employer is required to report activity expenses pursuant to existing law:
 - a) The date and amount of each activity expense.
 - b) The full name and official position, if any, of the beneficiary of each expense, a description of the benefit, and the amount of benefit.
 - c) The full name of the payee of each expense if other than the beneficiary.
 - d) Any other information required by the commission consistent with the purposes and specified provisions of the PRA.
- 10) Requires each lobbyist, lobbying firm, and lobbyist employer filing a report pursuant to existing law who sends any written or printed invitation to an elected state officer, candidate for elective state office, legislative official, or agency official, to include on the invitation or on a letter attached to the invitation the following typed, printed, or handwritten statement that is at least as large and readable as 8-point Roman boldface type, in a color or print that contrasts with the background so as to be easily legible:

Attendance at this event by a public official will constitute acceptance of a reportable gift.
- 11) Provides that the notice specified above shall not be required to appear on any invitation wherein attendance at the event described in the invitation will not constitute acceptance of a reportable gift by an elected state officer, candidate for elective state office, legislative official, or agency official, pursuant to existing law.
- 12) Requires each lobbyist, lobbying firm, and lobbyist employer filing a report pursuant to existing law to provide each beneficiary of a gift listed within the report the following information within 30 days following the end of each calendar quarter in which the gift was provided, as specified:
 - a) The date and amount of each gift reportable by the beneficiary.
 - b) A description of the goods or services provided to the beneficiary.

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

COMMENTS:

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

Public trust in government is at a historic low point. Reversing this trend must be a priority as California emerges from the COVID-19 pandemic. Data shows that this lack of faith is due, in large part, to a perceived lack of transparency and efficiency in government. Making matters worse, increases in transparency often undermine efficiency, and vice versa.

However, finding a solution that addresses both issues is not impossible. In fact, the Legislature's adoption of the electronic filing of Statements of Economic Interests (Form 700) did just that.

But bolder action is now called for. AB 975 will increase transparency and efficiency but also ensures accuracy and the right to privacy.

2) **Statements of Economic Interests and Previous Legislation:** As part of the PRA's comprehensive scheme to prevent conflicts of interest by state and local public officials, existing law identifies certain elected and other high-level state and local officials who must file SEIs (commonly referred to as Form 700 filers). Similarly, candidates for those positions must file SEIs. Other state and local public officials and employees are required to file SEIs if the position they hold is designated in an agency's conflict of interest code. A position is required to be designated in an agency's conflict of interest code when the position entails the making or participation in the making of governmental decisions that may foreseeably have a material financial effect on the decision maker's financial interests.

The information that must be disclosed on an SEI, and the location at which an SEI is filed, varies depending on the position held by the individual who is required to file an SEI. Although there are some exceptions, individuals who are required to file an SEI typically must file that document with the agency of which they are an elected official or by which they are employed. In some cases, original SEIs or copies thereof are filed with the FPPC. The requirement for public officials to file SEIs serves two purposes. First, the SEI provides necessary information to the public about an official's personal financial interests so there is assurance that officials are making decisions that do not enhance their personal finances. Second, the requirement to file an SEI serves as a reminder to the public official of potential conflicts of interests so the official can recuse themselves from making or participating in governmental decisions that are deemed conflicts.

Although there is no statutory requirement for the FPPC to post SEIs online, in 2010, the FPPC adopted a regulation requiring it to post the SEIs of all elected officers who, in their elected capacities, are required to file their SEIs with the FPPC. As a result, the FPPC now posts SEIs for all constitutional officers, legislators, judges, members of county boards of supervisors, mayors, and city councilmembers. Additionally, the FPPC has chosen to post the SEIs of FPPC Commissioners and legislative candidates. When a person holding one of these positions files an SEI on paper, the FPPC must manually scan the SEI and redact certain information (such as addresses and signatures) before the SEI can be posted on the FPPC website.

In 2013, the Legislature approved and the Governor Brown signed AB 409 (Quirk-Silva), Chapter 643, Statutes of 2013, which permitted the FPPC to develop and operate an online system for filing SEIs. While AB 409 permitted the FPPC to establish an electronic system for filing SEIs, it would be up to each individual filer to decide whether to use that system or to file an SEI on paper.

This bill requires public officials, candidates, and specified others, including Legislative staff, for whom the FPPC is the filing officer, to file their original SEIs electronically with the FPPC, instead of on paper. Additionally, this bill prohibits the FPPC from making SEIs filed by certain nonelected officials available on the internet, and requires the FPPC to redact the personal addresses and telephone numbers of all filers from any SEI that is made available on the internet.

- 3) **Gifts and Reporting Times:** The PRA regulates the making of gifts to public officials. However, the act exempts from the definition of “gift,” among other things, a gift to an official that, within 30 days of receipt, is returned to the donor, reimbursed, or delivered to a charitable organization without being claimed as a deduction for tax purposes

Quarterly reports filed with the Secretary of State disclose receipts and payments in connection with lobbying activity. For example, as mentioned above, lobbyists, lobbying firms, and lobbyist employers are required to provide each beneficiary of a gift with the date and amount of each gift reportable by the beneficiary and a description of the goods or services provided to the beneficiary within 30 days following the end of the calendar quarter in which the gift was provided. According to the FPPC’s lobbyist manual, the following are the quarter reporting periods and deadlines:

| Reporting Period | Deadline |
|---------------------------------|-----------------|
| January, February, and March | April 30 |
| April, May, and June | July 31 |
| July, August, and September | October 31 |
| October, November, and December | January 31 |

According to the author’s office, in practice the timeframe for receiving an invitation–only reportable gift notice from a lobbyist and the timeframe to return, reimburse, or donate the reportable admission gift can be challenging to comply with and result in accidental violations. Moreover, extending the period for returning, reimbursing, or donating an invitation-only admission gift and reducing the time period for a lobbyist to send the reportable gift notice will increase transparency, decrease administrative time to track down reportable gift notifications, and ensure information is accurately disclosed and current law isn’t inadvertently violated.

- 4) **Technical Amendment:** The author has a technical amendment to fix a drafting error. The technical amendment is as follows:

On page 4, in line 26, delete “lobbyist firm” and insert “lobbying firm”

- 5) **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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