

Date of Hearing: September 12, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 409 (Quirk-Silva) – As Amended: August 29, 2013

CONCURRENCE IN SENATE AMENDMENTS

ASSEMBLY: (May 28, 2013) SENATE: 37-0 (September 11, 2013)  

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(vote not relevant)

SUBJECT: Political Reform Act of 1974: statements of economic interests: online filing.

SUMMARY: Permits the Fair Political Practices Commission (FPPC) to develop and operate an online system for filing statements of economic interests (SEIs).

The Senate amendments delete the Assembly version of this bill, and instead:

- 1) Permit the FPPC to develop and operate an online system for filing SEIs as required by the Political Reform Act (PRA).
- 2) Require the FPPC, if it develops an online system for filing SEIs pursuant to this bill, to do all of the following:
  - a) Include the following features in any system it develops:
    - i) A method by which a filer can electronically file his or her SEI free of charge;
    - ii) Security safeguards, including firewalls, data encryption, secure authentication, and necessary hardware and software and industry best practices to ensure the security and integrity of the information contained in each SEI; and,
    - iii) The ability to issue a confirmation to a person who files his or her SEI using the system, including a notification of the date and time that the SEI was received by the FPPC and method for the filer to view and print the information received.
  - b) Conduct public hearings on the implementation of the system, maintain ongoing coordination among affected state and local agencies as necessary, and develop training and assistance programs for filing officers and the filer;
  - c) Specify the categories of persons that are permitted to file their SEIs using that system, and, with respect to any category of filer that it permits to file SEIs using that system, assume the duties of the filing officer for each filer within that category of filers upon authorization of the designated filing officer. With respect to any filing officer from which the FPPC assumes the duties of that officer, requires the filing officer to provide the FPPC with the name and contact information for each filer in the officer's jurisdiction, and provides that the duties assumed by the FPPC include the following:

- i) Notifying the filer of his or her filing obligation;
  - ii) Receiving the filer's SEI;
  - iii) Ensuring compliance with filing requirements in the event the filer fails to file in a timely manner or is required to amend his or her SEI; and,
  - iv) Distributing to filing officers copies of the completed SEI of a person who is required to file more than one SEI for each period, and who, despite being authorized to file the SEI with the FPPC electronically, elects to file the SEI with the FPPC using a paper form.
- 3) Require the FPPC to notify a filing officer who may be affected by a determination by the FPPC to authorize a category of filers to file SEIs electronically no later than six months before the implementation of that determination, in order to allow adequate preparation for implementation.
  - 4) Provide that a paper copy of an SEI filed electronically and the confirmation that is retained by the filer, that shows that the filer timely filed his or her SEI, creates a rebuttable presumption that the SEI was filed on time.
  - 5) Permit the FPPC to make the data filed using the online system for filing of SEIs available on its Web site, and require the FPPC to provide assistance to those seeking public access to the information. Require the FPPC to redact private information from the data that is made available on the Internet, as specified.
  - 6) Provide that a person who is required to file more than one SEI for each reporting period and who files his or her SEI with the FPPC electronically is not required to file an SEI with any other person or agency.
  - 7) Permit the FPPC, after it makes an initial determination regarding which categories of persons are permitted to file SEIs electronically through the online system, to revise the determination at any time, as specified.
  - 8) Add an urgency clause, allowing this bill to take effect immediately upon enactment.

EXISTING LAW:

- 1) Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the 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.

AS PASSED BY THE ASSEMBLY, this bill required the California State University Board of Trustees and the California Community Colleges Board of Governors to convene a task force to evaluate and report to the Governor and the Legislature how best to serve the transitional needs of postsecondary student veterans, as specified, and encouraged the University of California Regents to participate in the task force.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

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

Currently state law requires all state legislators, judges, Fair Political Practices Commissioners, county boards of supervisors, mayors, and city councilmembers to file a Statement of Economic Interest (SEI) which is filed with the Fair Political Practices Commission (FPPC) by filling out Form 700. The intent for this filing is to create transparency of economic interest that public officials and other filers may have to ensure decision making is not made to enhance their own personal finances.

On May 30th, 2013 the FPPC released a Request for Information (RFI) in regards to Form 700s electronic filing. The document gives explicit details to the needs for the FPPC to advance with current technology and how it would create effective and sufficient transparency to the general public....

In recent years the FPPC has moved towards an online approach of the availability of Form 700s. One proactive approach that they have taken is scanning Form 700s and placing the forms on the internet for the public to access. In 2011 the FPPC had changed its policy for California judges to have the ability to file electronically which now provides Form 700 information in a digitized electronic user friendly form for this demographic of filers....Such proactive steps to move to electronic filing aligns with a goal of the FPPC [to] lessen the amount of paper that is used for filings. Lastly, the FPPC has stated on several occasions that electronic filing would increase the amount of transparency available to the public as it is the duty of the FPPC to provide transparency to the general public.

It is suggested in the RFI report that moving from paper filing to electronic filing will be cost saving to the FPPC and other local agencies that file and store Form 700s. It is stated that agencies will save on personnel cost due to an expected decrease in Form 700 request[s], manual processing, and paper cost.

2) Statements of Economic Interests: 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. 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 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 him or herself from making or participating in governmental decisions that are deemed conflicts.

While the exact number of people that are required to file SEIs is unknown, the FPPC has estimated that 500,000 SEIs could be filed by officials and employees throughout the state each year. No central repository of SEI filings currently exists, and with just a fraction of the forms filed electronically, a searchable tool to illuminate activities on a statewide level is nearly impossible.

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. Prior to posting these SEIs on the FPPC website, the forms have to be manually scanned, and certain information (such as addresses and signatures) has to be manually redacted from the forms. According to the FPPC, this is labor intensive and costly.

With interest in government transparency increasing, the number of requests by the public to view SEI filings continues to escalate each year. The FPPC is mandated to provide access to SEIs no later than the second business day after receiving the forms. When the FPPC receives a request for SEIs, staff must manually retrieve the forms from their file room, make copies, and either provide hard copies or email the copies to the requestor.

By permitting the FPPC to establish an electronic system for filing SEIs, the FPPC anticipates that this bill could provide significant cost savings to the state by eliminating the staff time currently spent processing and filing SEIs, providing public access to paper filings, and manually scanning and redacting information from SEIs that will be posted on the FPPC's Web site. Additionally, the FPPC anticipates that an electronic filing system would significantly reduce inadvertent errors on SEIs, which would reduce the need to send correspondence to attempt to correct those inadvertent errors.

While this bill permits 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 permits the FPPC to make the information that is filed using the electronic system available on its Web site, but does not require it to do so.

- 3) Previous Legislation: AB 2062 (Davis), Chapter 500, Statutes of 2012, authorizes local agencies to develop systems for the electronic filing of SEIs, in accordance with regulations adopted by the FPPC.
- 4) 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. Most amendments to the PRA that are not submitted to the voters, including those contained in this bill, must further the purposes of the initiative and require a two-thirds vote of both houses of the Legislature.
- 5) Prior Version: The prior version of this bill, which was approved by the Assembly, would have established a task force to determine how best to serve the transitional needs of postsecondary student veterans. Those provisions were removed from this bill in the Senate, and the current contents were added. As a result, this bill has been re-referred to this committee pursuant to Assembly Rule 77.2.

REGISTERED SUPPORT / OPPOSITION:

Support

Fair Political Practices Commission (sponsor)  
City Clerks Association of California

Opposition

None on file.

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