

Date of Hearing: April 23, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 552 (Fong) – As Introduced: February 20, 2013

SUBJECT: Political Reform Act of 1974: collection of fines.

SUMMARY: Permits the Fair Political Practices Commission (FPPC) to apply to the clerk of the court for a judgment to collect penalties imposed by an FPPC enforcement order.

Specifically, this bill:

- 1) Provides that if the time for judicial review of a final FPPC order or decision has lapsed, or if all means of judicial review of the order or decision have been exhausted, the FPPC may apply to the clerk of the court for a judgment to collect the penalties imposed by the order or decision, or the order as modified in accordance with a decision on judicial review.
- 2) Requires the application to the clerk of the court to include a certified copy of the order or decision, or the order as modified in accordance with a decision on judicial review, and proof of service of the order or decision. Provides that the application constitutes a sufficient showing to warrant issuance of the judgment to collect the penalties. Requires the clerk of the court to enter the judgment immediately.
- 3) Provides that an application to the clerk of the court for a judgment to collect penalties imposed by an FPPC enforcement order shall be made to the clerk of the superior court in the county where the monetary penalties, fees, or civil penalties were imposed by the FPPC.
- 4) Provides that a judgment entered pursuant to this bill has the same force and effect as a judgment in civil action.
- 5) Provides the FPPC may bring an application under the provisions of this bill only within four years after the date on which the monetary penalty, fee, or civil penalty was imposed.
- 6) Provides that the remedy provided in this bill is in addition to those available under existing law.

EXISTING LAW:

- 1) Provides that the civil prosecutor is primarily responsible for enforcement of the civil penalties and remedies of the Political Reform Act (PRA). Provides that the FPPC is the civil prosecutor with respect to the state or any state agency, except itself.
- 2) Allows the FPPC to impose monetary penalties administratively for violations of the PRA.
- 3) Authorizes the FPPC to bring a civil action and obtain a judgment in superior court for the purpose of collecting any unpaid monetary penalties, fees, or civil penalties imposed for a violation of the PRA.

FISCAL EFFECT: Unknown

COMMENTS:

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

Under existing law, in order to collect the unpaid monetary penalties it has imposed, the FPPC must file a civil action in the superior court to obtain the necessary judgment. The FPPC must do so even if the party against whom the penalty was levied chose not to seek judicial review of the FPPC's decision, or even where all means of judicial review have been exhausted.

AB 552 updates and streamlines the FPPC's unpaid collection procedures by allowing it to receive a judgment to collect penalties without filing a formal lawsuit in the superior court. AB 552 is modeled after procedures already available to other state agencies.

AB 552 has the potential to decrease staff time spent pursuing collection cases and may result in faster collection of outstanding penalties.

2) Unpaid Penalties: The FPPC is responsible for enforcing state laws governing political campaigns, fundraising, lobbying, and conflicts of interest for elected officials. Under existing law, when the FPPC determines that there is probable cause to believe that the PRA has been violated, it may hold a hearing to determine whether a violation has occurred. If the FPPC determines that a violation has occurred, it may issue an order requiring the violator to cease and desist violation of the PRA, to file any statements, reports, or other documents or information required by the PRA, or to pay a monetary penalty of up to \$5,000 per violation of the PRA. Any such order by the FPPC is subject to judicial review.

Under existing law, in order to collect any unpaid monetary penalties it has imposed, the FPPC must file a civil action in the superior court. The FPPC must do so even if the party against whom the penalty was levied chose not to seek judicial review of the FPPC's decision, or even where all means of judicial review have been exhausted.

This bill creates an expedited procedure for the FPPC to collect unpaid penalties in any situation where the time for judicial review of the FPPC's decision has lapsed, or where all means of judicial review of the FPPC's decision have been exhausted. Instead of bringing a civil action with the court to collect the unpaid penalties, the FPPC would be permitted to apply to the clerk of the court for a judgment enforcing the FPPC's decision.

The procedure established by this bill for the collection of unpaid penalties is similar to a procedure that currently exists for a number of government agencies, including the Department of Conservation (pursuant to Section 14591.5 of the Public Resources Code) and the Department of Forestry and Fire Protection (pursuant to Section 4601.3 of the Public Resources Code).

3) Previous Legislation: AB 2801 (Saldaña) of 2006, was substantially similar to this bill. AB 2801 failed passage in the Senate Elections, Reapportionment, and Constitutional

Amendments Committee.

- 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. Amendments to the PRA by the Legislature must further the purposes of the proposition and require a two-thirds vote of each house of the Legislature, or the Legislature may propose amendments to the proposition that do not further the purposes of the PRA by a majority vote, but such amendments must be approved by the voters to take effect.

REGISTERED SUPPORT / OPPOSITION:

Support

Fair Political Practices Commission (Sponsor)
California Common Cause

Opposition

None on file.

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