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Assembly
California Legislature

ASSEMBLY COMMITTEE ON
ELECTIONS AND REDISTRICTING
PAUL FONG, CHAIR

AGENDA

1:30 P.M. – April 1, 2014
State Capitol, Room 444

BILLS HEARD IN SIGN-IN ORDER

Item	Bill No. & Author	Summary
1.	AB 1431 (Gonzalez)	School district and community college administrators: conflict of interest.
2.	AB 1440 (Campos)	Elections: district boundaries: public hearing.
3.	AB 1446 (Mullin)	Voter registration: personal information.
4.	AB 1589 (Frazier)	Military or overseas voters: electronic ballots.
5.	AB 1666 (Garcia)	Political Reform Act of 1974: campaign funds: bribery fines.
6.	AB 1673 (Garcia)	Political Reform Act of 1974: contributions.
7.	AB 1692 (Garcia)	Political Reform Act of 1974.
8.	AB 1716 (Garcia)	Political Reform Act of 1974: Postemployment activity restrictions.
9.	AB 1728 (Garcia)	Political Reform Act of 1974.
10.	AB 1768 (Fong)	Declaration of candidacy: residence address.
11.	~~AB 1836 (Jones)~~	~~Vote by mail ballots.~~ **PULLED BY AUTHOR**
12.	AB 2177 (Brown)	Early voting.

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13.	AB 2219 (Fong)	Initiative and referendum petitions: verification of signatures.
14.	AB 2273 (Ridley-Thomas)	Payment of election expenses.
15.	AB 2320 (Fong)	Political Reform Act of 1974: campaign funds.
16.	AB 2439 (Donnelly)	Secretary of State: initiative information.
17.	AB 2530 (Rodriguez)	Ballot processing.

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Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1431 (Gonzalez) – As Amended: March 19, 2014

SUBJECT: School district and community college administrators: conflict of interest.

SUMMARY: Prohibits a school or community college district administrator from soliciting campaign contributions for district board members and candidates for the district board, except as specified. Specifically, this bill:

1) Prohibits an administrator of a school district or of a community college district from knowingly soliciting, accepting, or receiving a political contribution from any person for the campaign of an elected official of the district employing the administrator, or for a candidate for that office, unless the person making the contribution is a member of the same school labor organization as the administrator.

2) Requires the Fair Political Practices Commission (FPPC) to enforce the provisions of this bill.

EXISTING LAW:

1) Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).

2) Prohibits a member of the FPPC, during his or her tenure, from participating in or contributing to an election campaign, or from seeking election to any other public office during his or her term of appointment.

3) Prohibits school district or community college district funds, services, supplies, or equipment from being used for the purpose of urging the support or defeat of any candidate, including, but not limited to, any candidate for election to the governing board of the district.

4) Prohibits a person who holds, or who is seeking election or appointment to, the governing board of a school district or community college district from using, or promising or threatening to use, the power of office to positively or adversely affect any person's compensation or position within the district based on the vote or political activities of that person.

5) Prohibits restrictions from being placed on the political activities of officers or employees of a school district or community college district, except as otherwise provided in specified provisions of state law or as necessary to meet requirements of federal law.

6) Prohibits an officer or employee of a local agency, other than a school district, from soliciting a political contribution from an officer or employee of that agency, except as specified.

FISCAL EFFECT: Unknown

COMMENTS:

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

> Assembly Bill 1431 seeks to prohibit administrators at school and community college districts from soliciting funds for the campaigns of candidates – including incumbents – for the board elections to govern the districts where they are employed. Most recently, administrators' practice of soliciting campaign funds for board members was held as the common thread in 3 major government corruption cases in San Diego County. This bill will reduce the real and perceived conflicts of interest that is created by this dynamic and has contributed to these major corruption scandals in California's school districts and community college districts.

2) Hatch Act: Enacted in response to allegations that federal government employees were using their positions to assist candidates for federal office in the late 1930s, the federal Hatch Act (5 U.S.C. §§ 7321-7326) generally restricts certain political activities of most civilian federal government employees. The nature of the political activities that are restricted under the Hatch Act vary, depending on the position held by an employee. Employees in intelligence and enforcement agencies, for instance, typically are subject to broader restrictions on political activities than other public employees. Individuals who violate the Hatch Act are subject to "removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000."

   One provision of the Hatch Act prohibits federal employees from soliciting, collecting, or receiving political contributions, except from other members of the same federal labor organization under certain conditions. The provisions of this bill are modeled after that portion of the Hatch Act.

   It should be noted, however, that the provisions of this bill that allow school administrators to solicit contributions from members of the same school labor organization as the administrator are more lenient than the related provision in the Hatch Act. While the Hatch Act does include an exception to permit federal employees to solicit contributions from members of the same federal labor organization, that exception applies only if the person being solicited is not a subordinate employee, and only if the solicitation is for a contribution to the labor organization's political action committee. This bill does not impose similar restrictions on contributions that are solicited by a school or community college district administrator from a member of the same labor organization as the administrator.

3) Constitutional Issues: It could be argued that this bill violates the United States and California Constitutions' guarantees to free speech and freedom of association. While the right to freedom of speech is not absolute, when a law burdens core political speech, the restrictions on speech generally must be "narrowly tailored to serve an overriding state interest," McIntyre v. Ohio Elections Commission (1995), 514 US 334.

As noted above, this bill is modeled after a provision of the Hatch Act which prohibits certain federal employees from soliciting, collecting, or receiving political contributions. The United States Supreme Court has upheld prior versions of the Hatch Act that restricted the political activities of federal employees even more broadly than the current version of the Hatch Act does. In Civil Service Commission v. Letter Carriers (1973), 413 U.S. 548, the Supreme Court upheld a provision of the Hatch Act that prohibited federal employees from taking "an active part in political management or in political campaigns." In upholding that provision, the court found that "plainly identifiable acts of political management and political campaigning on the part of federal employees may constitutionally be prohibited" by Congress in recognition of the governmental interests that are advanced by that policy. Among other interests, the court noted that placing restrictions on the political activities of federal employees helps the government to operate effectively and fairly, by protecting against enforcement and execution of the law in a manner that favors specific political parties or groups; ensures that elections "play their proper part in representative government," by preventing the government workforce from being used as a "powerful, invincible, and perhaps corrupt political machine"; and protects government employees from improper influences by making sure that employees are "free from pressure and from express or tacit invitation to vote in a certain way or perform political chores in order to curry favor with their superiors rather than to act out their own beliefs."

The restrictions placed on school and community college administrators under this bill are narrower than the Hatch Act restrictions that were upheld by the Supreme Court in Civil Service Commission v. Letter Carriers. This bill prohibits school and community college administrators from soliciting campaign contributions only for members of and candidates for the governing board of the district by which the administrator is employed, but does not restrict the ability of school and community college administrators to solicit contributions for candidates for other offices.

4) Definition of Administrator: This bill proposes to restrict the political activities of school district and community college district administrators, but it does not define the term "administrator" for the purposes of this bill. Furthermore, there does not appear to be a general definition in the Education Code of the term "administrator" in the context of school districts or community college districts. Without a definition of that term, it is unclear exactly which school officials would be affected by this bill. In light of that fact, the committee may wish to consider whether the term "administrator" should be defined for the purposes of this bill.

5) No Penalty Specified & Suggested Amendments: While this bill provides for the FPPC to enforce its provisions, the new restrictions created by this bill are not a part of the PRA. As a result, any violations of the restrictions imposed by this bill would not be subject to the penalties available for violations of the PRA. Furthermore, this bill does not specify any penalty or remedy for violations of the bill. In light of that fact, the scope of the FPPC's enforcement authority is unclear, and if the FPPC determined that a violation of the provisions of this bill had occurred, it is unclear whether the FPPC would be able to impose any penalty whatsoever against the violator.

If it is the author's intent that violations of the provisions of this bill would be subject to the penalties that currently apply for violations of the PRA, the committee and the author may

wish to consider amending this bill to move the restrictions on fundraising activities out of the Education Code, and place those restrictions into the PRA instead. With that amendment, a violation of the provisions of this bill would be subject to potential civil or administrative fines of up to $5,000 per violation or, in the case of knowing or willful violations of the provisions of the bill, to potential misdemeanor penalties and fines of up to $10,000 per violation.

6) School Administrator Candidates & Suggested Amendments: Existing law prohibits an employee of a school district from being sworn into office as a member of that school district's governing board unless that person first resigns as an employee. Similarly, an employee of a community college district must resign his or her position as an employee prior to being sworn into office as a member of the community college district's governing board. Nothing in state law, however, prohibits a school district administrator or a community college administrator from being a candidate for the governing board of the district by which they are employed.

   By prohibiting school and community college district administrators from soliciting campaign contributions for candidates for the district board, this bill appears to prohibit an administrator who is a candidate for the governing board of the district in which the administrator is employed from soliciting any contributions on his or her own behalf. The author's stated purpose for this bill—to reduce the potential for conflicts of interest that may exist when an administrator solicits contributions on behalf of a candidate or board member that will oversee the work of the administrator—do not appear to be served by restricting an administrator from soliciting campaign funds for his or her own candidacy. In light of that fact, the author and the committee may wish to consider an amendment to specify that the provisions of this bill shall not prohibit a school or community college administrator from soliciting campaign contributions for his or her own candidacy.

7) Arguments in Support: In support of this bill, the County of San Diego writes:

   > AB 1431…would prohibit school district and community college district administrators from soliciting funds for campaign or legal defense funds for an elected official of the district employing the administrator, or any candidate for an elected office of the district.
   >
   > This longstanding practice has become all too common and has resulted in scandals and criminal charges for some school districts within the San Diego County region. It allows administrators inappropriate influence over their own job security by assisting in campaign fundraising for their board members and allows current board members to pressure administrators into campaign fundraising. We want to ensure that elected officials are devoting their time and public resources to the public good, and we believe AB 1431 is a good step in that direction.

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 must further the purposes of the initiative and

require a two-thirds vote of both houses of the Legislature. Although this bill does not directly amend the PRA, it does so indirectly because it makes the FPPC responsible for enforcing the provisions of this bill. As a result, this bill requires a two-thirds vote for passage on the Assembly and Senate Floors.

9) Double-Referral: This bill has been double-referred to the Assembly Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

County of San Diego

Opposition

None on file.

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094

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Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1440 (Campos) – As Amended: March 25, 2014

SUBJECT: Elections: district boundaries: public hearing.

SUMMARY: Requires any political subdivision that is switching from an at-large method of election to a district-based method of election to hold at least two public hearings on the proposed district boundaries prior to adopting those boundaries. Requires the governing body of a district to hold at least one public hearing on proposed division boundaries prior to a hearing at which the board votes to adjust the boundaries. Specifically, this bill:

1) Defines the following terms, for the purposes of this bill:

   a) "At-large method of election" to mean any of the following methods of electing members to the governing body of a political subdivision:

      i) One in which the voters of the entire jurisdiction elect the members to the governing body;

      ii) One in which the candidates are required to reside within given areas of the jurisdiction and the voters of the entire jurisdiction elect the members to the governing body; or

      iii) One which combines at-large elections with district-based elections.

   b) "District-based election" to mean a method of electing members to the governing body of a political subdivision in which the candidate must reside within an election district that is a divisible part of the political subdivision and is elected only by voters residing within that election district.

   c) "Political subdivision" to mean a geographic area of representation created for the provision of government services, including, but not limited to, a city, a school district, a community college district, or other district organized pursuant to state law.

2) Requires a political subdivision, when switching from an at-large method of election to a district-based method of election, to hold at least two public hearings on the proposal to establish district boundaries prior to the public hearing at which those boundaries are adopted. Provides that this requirement applies to, but is not limited to, a proposal that is required due to a court-imposed change from an at-large method of election to a district-based method of election.

3) Requires the governing board of a district to hold at least one public hearing on any proposal to adjust the boundaries of a division prior to a public hearing at which the board votes to approve or defeat the proposal.

EXISTING LAW:

1) Requires the board of supervisors of a county to hold at least one public hearing on any proposal to adjust the boundaries of a supervisorial district prior to a public hearing at which the board votes to approve or defeat the proposal.

2) Requires the council of a city to hold at least one public hearing on any proposal to adjust the boundaries of a city council district prior to a public hearing at which the council votes to approve or defeat the proposal.

3) Requires counties, cities, and specified districts to adjust the boundaries of the governing boards' districts in the year following the decennial census. Requires the new boundaries to result in districts that are as equal in population as practicable.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

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

> AB 1440 protects the voting rights for people of color when new district lines are drawn for local elections such as city councils, school boards, and water districts. Specifically, when a jurisdiction switches from an at-large to a district system of elections, AB 1440 requires that there be at least two open and public hearings prior to adoption of the new district lines.
>
> The [California Voting Rights Act (CVRA)] has resulted in more than 140 jurisdictions across the state converting from at-large to district based elections in the last 12 years. This is a tremendous step for communities of color that have traditionally suffered the discriminatory effects of at-large elections.
>
> AB 1440 takes the next step in encouraging community involvement, representation and ownership of local elections. It empowers the groups and individuals who have had their voices silenced with the tools to make sure their interests and newly obtained advances will be protected. The requirement for the jurisdiction to hold public hearings prior to adoption of new district lines will safeguard against further discrimination and ensure their rights and perspective will be heard.

2) California Voting Rights Act: SB 976 (Polanco), Chapter 129, Statutes of 2002, enacted the CVRA to address racial block voting in at-large elections for local office in California. In areas where racial block voting occurs, an at-large method of election can dilute the voting rights of minority communities if the majority typically votes to support candidates that differ from the candidates who are preferred by minority communities. In such situations, breaking a jurisdiction up into districts can result in districts in which a minority community can elect the candidate of its choice or otherwise have the ability to influence the outcome of an election. Accordingly, the CVRA prohibits an at-large method of election from being imposed or applied in a political subdivision in a manner that impairs the ability of a

protected class of voters to elect the candidate of its choice or to influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of the protected class.

Prior to the enactment of the CVRA, concerns about racial block voting led to the consideration of a number of bills that sought to prohibit at-large voting in certain political subdivisions (for instance, AB 2 (Chacon), of the 1989-90 regular session; AB 1002 (Chacon), of the 1991-92 regular session; AB 2482 (Baca), of the 1993-94 regular session; and AB 172 (Firebaugh), of the 1999-2000 regular session all proposed to prohibit at-large elections in school districts that met certain criteria; additionally, AB 8 (Cardenas) and AB 1328 (Cardenas), both of the 1999-2000 regular session, sought to eliminate the at-large election system within the Los Angeles Community College District). None of these bills became law—in many cases the bills were vetoed, while in other cases, the bills failed to reach the Governor's desk. For those bills that were vetoed, the veto messages typically stated that the decision to create single-member districts was best made at the local level, and not by the state.

The CVRA followed these unsuccessful efforts; rather than prohibiting at-large elections in certain political subdivisions, the CVRA instead established a policy that an at-large method of election could not be imposed in situations where it could be demonstrated that such a policy had the effect of impairing the ability of a protected class of voters to elect a candidate of its choice or its ability to influence the outcome of an election. The CVRA specifically provided for a prevailing plaintiff party to have the ability to recover attorney's fees and litigation expenses to increase the likelihood that attorneys would be willing to bring challenges under the law.

The first case brought under the CVRA was filed in 2004, and the jurisdiction that was the target of that case—the City of Modesto—challenged the constitutionality of the law. Ultimately, the City of Modesto appealed that case all the way to the United States Supreme Court, which rejected the city's appeal in October 2007. The legal uncertainty surrounding the CVRA may have limited the impacts of that law in the first five years after its passage.

Since the case in Modesto was resolved, however, many local jurisdictions have converted or are in the process of converting from an at-large method of election to district-based elections due to the CVRA. Generally, local government bodies must receive voter approval to move from an at-large method of election to a district-based method of election for selecting governing board members, though the State Board of Education (SBE) and the Board of Governors (BOG) of the California Community Colleges have the authority to waive the voter-approval requirement for school districts and community college districts, respectively. In all, the SBE and the BOG have combined to grant nearly 120 requests for waivers from the voter-approval requirement for school districts and community college districts that have sought to move to district-based elections for board members due to concerns about potential liability under the CVRA.

There is no procedure in statute for cities and special districts to receive a waiver of the voter-approval requirement to move from at-large to district-based elections if those governmental bodies have concerns about liability under the CVRA, though in at least some cases, judges have approved settlements to CVRA lawsuits that allow the governing body to

transition from at-large to district-based elections without voter approval. According to information compiled by the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, at least a dozen other local jurisdictions statewide have transitioned to electing governing board members by districts as a result of settlements to lawsuits brought under the CVRA.

In all, approximately 130 local government bodies have transitioned from at-large to district-based elections since the enactment of the CVRA. While some jurisdictions did so in response to litigation or threats of litigation, other jurisdictions proactively changed election methods because they believed they could be susceptible to a legal challenge under the CVRA, and they wished to avoid the potential expense of litigation.

While existing law generally requires cities and counties to hold at least one public hearing on a proposal to adjust the boundaries of city council or county supervisorial districts prior to the hearing at which the council or board votes on the proposed adjustment, state law does not appear to require hearings on proposed district boundaries when a local governmental body transitions from at-large to district-based elections. Given the large number of jurisdictions that have been transitioning from at-large to district-based elections due to the CVRA, many local governmental bodies are in the process of developing proposed district boundaries without any requirement that public hearings be conducted to ensure public access and involvement in those decisions.

3) Districts & Redistricting After the Decennial Census: As noted above, counties, cities, and districts that elect governing board members using a district-based election system are required under existing law to adjust the boundaries of the governing boards' districts in the year following the decennial census. The purpose of adjusting the district lines is to ensure that all districts within a local government body have roughly equal populations. AB 186 (Hertzberg), Chapter 429, Statutes of 1999, required county boards of supervisors and city councils to hold a public hearing prior to a vote to adjust the boundaries of supervisorial or council districts. However, no such public hearing requirement applies to districts when they are considering proposals to adjust the boundaries of the governing board's divisions. This bill expands the requirements of AB 186 such that they apply to districts, in addition to cities and counties.

4) State Mandates: The last three state budgets have suspended various state mandates as a mechanism for cost savings. Among the mandates that were suspended were all existing elections-related mandates. All the existing elections-related mandates have been proposed for suspension again by the Governor in his budget for the 2014-15 fiscal year. This bill adds another elections-related mandate by requiring governing bodies of local governmental entities to conduct at least two public hearings prior to the meeting at which they adopt boundary lines following the transition from an at-large system of elections to a district-based system of elections, and by requiring districts to conduct at least one public hearing prior to voting to adjust the boundary lines of divisions within the district. The Committee may wish to consider whether it is desirable to create new election mandates when current elections-related mandates are suspended.

5) Technical Amendment: To clarify ambiguous language in this bill, committee staff recommends the following technical amendment on page 3, lines 21 to 24:

22001. The governing body of a district shall hold at least one public hearing on any proposal to adjust the boundaries of ~~the district~~ a division prior to a public hearing at which the governing body votes to approve or defeat the proposal.

6) Double-Referral: This bill has been double-referred to the Assembly Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:

Support

California Professional Firefighters

Opposition

None on file.

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094

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Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1446 (Mullin) – As Amended: March 25, 2014

SUBJECT: Voter registration: personal information.

SUMMARY: Updates the voter registration process to reflect the availability of online voter registration. Specifically, this bill:

1) Requires an individual or organization that distributes voter registration cards in accordance with current law, a person entrusted with an affidavit of registration from an elector in accordance with existing law, or an individual or organization that assists with the submission of an affidavit of registration electronically on the Secretary of State's (SOS) Internet Web site, to comply with both of the following:

   a) Prohibits the use of affidavit of registration information for any personal, private, or commercial purpose, including for any of the following:

      i) The harassment of a voter or member of the voter's household;

      ii) The advertising, solicitation, sale, or marketing of products or services to a voter or member of the voter's household; and,

      iii) Reproduction in print, broadcast visual or audio, or display on the Internet.

   b) Requires an individual or organization described above to employ reasonable security measures, including employing administrative and physical safeguards, and, for affidavit of registration information available in an electronic form, technical safeguards, to protect the voter registration information from unlawful disclosure and misuse.

2) Eliminates the requirement that every high school, California Community College (CCC), and California State University (CSU) campus provide voter registration forms that are consistent with the number of students enrolled at each school who are of voting age or will be of voting age by the end of the year.

3) Deletes the requirement that every CCC and CSU campus that operates an automated class registration system must permit students, during class registration, to elect to receive a voter registration form that is preprinted with personal information relevant to voter registration, as specified, and instead requires the school to permit students, during class registration, to apply to register to vote online by submitting an affidavit of voter registration electronically on the SOS's Internet Web site.

4) Requires the SOS to report to the Legislature, as specified, how many electronic affidavits of voter registration were submitted by students via the process described above.

5) Deletes Legislative intent language that every high school and college student receive a voter registration card with his or her diploma and instead provides that it is the intent of the Legislature that every eligible high school and college student receive a meaningful opportunity to apply to register to vote. Provides that a meaningful opportunity to apply to register to vote may include providing hyperlinks to, and the Internet Web site of, the SOS's electronic voter registration system in notices sent by electronic mail to students and placed on the Internet Web site of the high school, college, or university.

6) Repeals provisions of law that allow a county elections official to provide affidavits of registration and voter registration cards on its Internet Web site, as specified and instead prohibits an affidavit of registration from being submitted electronically on a county's Internet Web site. Permits a county to provide a hyperlink on the county's Internet Web site to the SOS's electronic voter registration system.

7) Requires an individual or organization that distributes voter registration cards, as designed in accordance with current law, to obtain the voter registration cards from the county elections official or the SOS. Requires the individual or organization to comply with all applicable regulations established by the SOS when distributing the cards.

8) Requires a person, company, or other organization that agrees to pay money or other valuable consideration to a person to assist another person to register to vote by assisting with the submission of an affidavit of registration electronically on the SOS's Internet Website to comply with certain conditions that currently apply to individuals who receive compensation to assist others to register to vote using a paper voter registration form.

9) Expands and updates existing crimes related to voter registration to include assisting with the submission of an affidavit of registration electronically on the SOS's Internet Web site.

10) Makes other conforming and corresponding changes.

EXISTING LAW:

1) Provides that a person who is qualified to register to vote and who has a valid California driver's license or state identification card may submit an affidavit of voter registration electronically on the SOS's Internet Web site.

2) Requires the SOS, in consultation with county elections officials, to design and make an affidavit of registration available on the SOS's Internet Web site, as specified.

3) Permits a citizen or an organization to distribute voter registration cards anywhere in the applicable county, as specified.

4) Establishes penalties for fraudulent activity related to voter registration.

5) Requires a person, company, or other organization that agrees to pay money or other valuable consideration to a person to assist another person to register to vote to comply with certain conditions, as specified.

6) Requires an affiant's driver's license number, identification card number, social security number, and the signature contained on an affidavit of registration or voter registration card to be confidential and not be disclosed by an individual or organization that distributes voter registration cards.

7) Requires every CCC and CSU campus that operates an automated class registration system, as specified, to permit students, during class registration, to elect to receive a voter registration form that is preprinted with personal information relevant to voter registration.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

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

> Since the introduction of California's online voter registration application in September of 2012, more than a million Californians have used the application to register to vote. The online application provides a cost-effective, accurate, secure, and convenient way to apply to register to vote. However, voter registration is not always conducted privately or on devices owned by the applicant. For example, advocacy organizations, political parties, campaigns, non-partisan civic groups, and other entities, which are an important part of voter registration outreach, often assist applicants with registration. With the advent of online voter registration, many of these organizations may want to use computers or mobile devices, including smart phones, tablets or laptops, to help register voters.
>
> California has laws and regulations for voter registration drives that ensure the privacy of voters' personal information, outlaw the discrimination or intimidation of voters, and facilitate fraud investigations. However, existing law is specific to the use of paper voter registration cards and does not clearly apply to online registration.
>
> AB 1446 updates the Elections Code by applying many of these same duties and responsibilities to online registration drives. In addition, the bill takes into account the unique nature of internet-based registration by applying reasonable limits and safeguards to protect voter privacy and prevent the unlawful use of voter registration information.
>
> AB 1446 also updates the Student Voter Registration Act to reflect the availability of online voter registration. For many years, the Secretary of State has partnered with the University of California, California State University, and Community Colleges, as well as with all California high schools, to give students access to voter registration. Under current law, students registering for college classes online are given an opportunity to register to vote. However, those systems were not directly linked to the online voter registration system. This bill updates the Student Voter Registration Act to allow for the continued use of paper voter registration cards while including the increased efficiency, accuracy, and convenience of online voter registration.

AB 1446 protects the personal information of those who, with the assistance of a third party, register to vote online; and it updates the Student Voter Registration Act to better integrate online voter registration.

2) Online Voter Registration: SB 397 (Yee), Chapter 561, Statutes of 2011, authorized the SOS, in conjunction with the California Department of Motor Vehicles (DMV), to implement online voter registration prior to the completion of a new statewide voter registration database. According to the SOS's office, in the first 12 months after the launch of the online voter registration application on September 19, 2012, more than 911,145 Californians registered for the first time or updated their voter record using the online system. Additionally, aside from making registering to vote easier, it has also saved California money in printing and mailing costs and made the process more efficient for county elections officials.

   According to the author's statement, due to the increased usage of the online voter registration system, many third parties, such as advocacy organizations, political parties, campaigns, non-partisan civic groups, and other entities may desire to conduct voter registration drives using computers or mobile devices, such as smart phones, tablets, or laptops, to register voters using the online voter registration system. However, current law is tailored more to paper voter registration cards and does not clearly apply to online voter registration. This bill updates the voter registration process to reflect the availability of online voter registration and ensures that the duties, responsibilities, and safeguards in current law that apply to paper based voter registration drives, as specified, are applied to individuals and organizations conducting voter registration using the online registration system. Additionally, this bill expands the scope of existing voting registration crimes to apply to those conducting voter registration drives using online voter registration, as specified.

3) Student Voter Registration Act of 2003: AB 593 (Ridley-Thomas), Chapter 819, Statutes of 2003, created the Student Voter Registration Act of 2003 which, among other things, requires the SOS to provide every high school, CCC, CSU, and University of California (UC) campus with voter registration forms and information describing eligibility requirements and instructions on how to return the completed form. SB 854 (Ridley-Thomas), Chapter 481, Statutes of 2007, amended the law to require every CCC and CSU that operates an automated class registration system to permit students, during the class registration process, to receive a voter registration application that is preprinted with personal information relevant to voter registration, as specified. Under the law, the UC is encouraged to comply with this provision.

   As mentioned above, in September 2012, the SOS launched California's online voter registration application system allowing people to electronically submit their entire voter registration application, including their signature on file with the DMV, via a secure infrastructure developed by the SOS.

   The Student Voter Registration Act also requires the SOS to provide every high school, CCC, CSU, and UC campus with voter registration forms. Specifically, current law requires the SOS to send voter registration cards to each school consistent with the number of students enrolled at each school that are of voting age or will be of voting age by the end of the year. However, according to the SOS's 2009 annual report to the Legislature,

automatically mailing to each high school and college campus based solely on the number of 17- and 18-year-old students enrolled, was not cost effective. Consequently, since 2009, given the cost of the program, and feedback from many schools that they did not need additional voter registration applications, the SOS's office has been proactively contacting all schools to ask how many, if any, voter registration applications the campuses would like to receive. This bill updates this practice and deletes provisions of the Student Voter Registration Act that specifically requires the SOS to send every high school, CCC, and CSU voter registration forms that are consistent with the number of students enrolled at each school who are of voting age or will be of voting age by the end of the year. Additionally, this bill updates the Act to reflect the advent of online voter registration and deletes provisions of law that permit students, during the class registration, to elect to receive a voter registration form that is preprinted with personal information relevant to voter registration and instead permits students, during class registration, to apply to register to vote online by submitting an affidavit of voter registration electronically on the SOS's Internet Web site.

4) Previous Legislation: SB 44 (Yee), Chapter 277, Statutes of 2013, required each Internet Web site maintained by the state to include a hyperlink on the site's homepage to the online voter registration page of the Internet Web site of the SOS.

   SB 397 (Yee), Chapter 561, Statutes of 2011, authorized the SOS, in conjunction with the DMV, to implement online voter registration prior to the completion of a new statewide voter registration database.

   AB 1357 (Swanson), Chapter 192, Statutes of 2011, required the SOS, in consultation with county election officials, to design and make an affidavit of registration available on the SOS's Internet Web site, among other provisions.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Debra Bowen (sponsor)
Rock the Vote

Opposition

None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094

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Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1589 (Frazier) – As Introduced: February 3, 2014

SUBJECT: Military or overseas voters: electronic ballots.

SUMMARY: Deletes provisions of law that require a military or overseas voter's electronic mail address to expire no later than December 31 of the year following the calendar year of the application and instead requires an elections official to provide for electronic delivery of a ballot to a military or overseas voter who makes a standing request for all elections conducted in the jurisdiction in which he or she is eligible to vote.

EXISTING LAW:

1) Requires each elections official to have a system available which allows a military or overseas voter to electronically request and receive a vote by mail (VBM) application, an unvoted ballot, and other information.

2) Requires elections officials to request an electronic mail address from each military or overseas voter who registers, as specified. Permits a military or overseas voter who provides an email address to request that his or her application for a ballot be considered a standing request for electronic delivery of a ballot for all elections held through December 31 of the year following the calendar year of the date of the application or another shorter period as specified by the voter.

3) Requires elections officials to send VBM ballots by means of transmission (mail, facsimile, or electronic transmission) requested by a qualified military or overseas voter.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

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

> Members of the military and other U.S. citizens living overseas are allowed to receive their voter information and blank, unvoted ballots by mail, fax, or email. For voters who request their ballot by mail or by fax, that request is considered to be a standing request for each election until such time that the voter changes their preference or does not vote in a certain number of regularly scheduled statewide elections.
>
> However, voters who request their ballot be emailed to them are treated differently because under state law, a voter's request to receive a ballot by email is only good for two years. Only military and overseas voters who request their ballot by email are subject to this "expiration" of their ballot delivery address.

For some members of the U.S. military serving overseas, an email address may be their most effective method of contact with an elections official. If state law continues to require that the email addresses of overseas soldiers must be renewed every two years, it is likely that some of the people who put their lives on the line for democracy will be disenfranchised when their email address expires. No other address provided for ballot delivery automatically expires unless that expiration is specifically requested by the voter.

AB 1589 removes the "email expiration" language from state law, allowing a request for ballot delivery to stand for as long as the military or overseas voter is eligible for email delivery of their ballot. It simply makes no sense to disenfranchise the brave men and women serving our country overseas with a rule that makes it more difficult for them to receive and cast their ballots in a timely fashion.

2) Background: In 2012, the Legislature passed and the Governor signed AB 1805 (Huffman), Chapter 744, Statutes of 2012, which was a uniform law that established new voting procedures for military and overseas voters and was written in a way that it could be applicable in multiple states that have different election procedures. AB 1805 was an effort to address the lack of uniformity between states regarding the ability of overseas and military voters to vote in state and local elections, which complicates efforts to more fully enfranchise those voters. However, applying a uniform law across states can be complicated and unintended consequences can occur. This bill seeks to address such a situation and address a uniform provision of law that could unintentionally result in the disenfranchisement of military or overseas voters.

   This bill eliminates a provision of law that requires a military and overseas voter to renew his or her request to receive voter information and a blank, unvoted ballot by email every two years. Under existing law, a military or overseas voter that requests his or her ballot be transmitted via mail or facsimile is not subject to the same requirements. As a result, if a military or overseas voter requests that his or her ballot be received via mail or facsimile, that request is considered to be a standing request for each election until such time that the voter changes their preference or does not vote in a certain number of regularly scheduled statewide elections, as specified. Prior to the passage of AB 1805 state law did not require an expiration date to apply to requests to receive a VBM ballot via electronic transmission. This bill, which eliminates the requirement for a military or overseas voter to renew their request to receive a VBM ballot via email every two years, will ensure all requests from military and overseas voters to receive VBM ballots are treated the same.

3) Arguments in Support: The sponsor of this bill, Secretary of State Debra Bowen, writes:

   Californians in the military or living overseas are eligible to vote when they are serving or living out of the country. Many military and overseas voters, especially those who are serving in combat, do not have a stable physical address where they can receive their ballots. Due to the challenges these voters face in receiving mail in a timely fashion, California law allows them to receive their voter information and unvoted ballot by mail, fax, or electronic mail (email).

   However, voters who request their ballot be emailed to them are treated differently than

other voters because under state law, a voter's request to receive a ballot by email is good for only two years. Only military and overseas voters who request their ballot by email are subject to this "expiration" of their ballot delivery address. There is no reason California should risk disenfranchising an overseas member by treating him or her differently than other voters.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Debra Bowen (sponsor)

Opposition

None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094

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Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1666 (Garcia) – As Introduced: February 12, 2014

SUBJECT: Political Reform Act of 1974: campaign funds: bribery fines.

SUMMARY: Increases existing restitution fines for the crime of bribery and prohibits the use of campaign funds to pay for such fines. Specifically, this bill:

1) Increases the restitution fines for any member of the Legislature or any member of the legislative body of a city, county, city and county, school district, or other special district who asks for or receives a bribe, as specified, in exchange for influence over his or her official action as follows:

   a) Doubles restitution fines, in cases where no bribe has been actually received, from a minimum of two thousand dollars ($2,000), and a maximum of ten thousand dollars ($10,000), to instead a minimum of four thousand dollars ($4,000), and maximum of twenty thousand dollars ($20,000); and,

   b) Doubles restitution fines, in cases in which a bribe was actually received, from a minimum of the actual amount of the bribe received or two thousand dollars ($2,000), whichever is greater, and a maximum of double the amount of any bribe received or ten thousand dollars ($10,000), or whichever is greater, to instead a minimum amount of the bribe received or four thousand dollars ($4,000), whichever is greater, and a maximum of not more than double the amount of any bribe received or twenty thousand dollars ($20,000), whichever is greater.

2) Requires the Fair Political Practices Commission (FPPC) to adjust the fine amounts specified above in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Requires the fine amounts to be rounded to the nearest ten dollars ($10).

3) Prohibits campaign funds from being used to pay a restitution fine as described above.

EXISTING LAW:

1) Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).

2) Prohibits the use of campaign funds for an expenditure that confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure unless the expenditure is directly related to a political, legislative, or governmental purpose.

3) Prohibits the use of campaign funds to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

4) Provides that any person who knowingly or willfully violates the PRA is guilty of a misdemeanor.

5) Provides that every Member of either house of the Legislature, or any member of the legislative body of a city, county, city and county, school district, or other special district, who asks, receives, or agrees to receive, any bribe, upon any understanding that his or her official vote, opinion, judgment, or action shall be influenced thereby, or shall give, in any particular manner, or upon any particular side of any question or matter upon which he or she may be required to act in his or her official capacity, or gives, or offers or promises to give, any official vote in consideration that another Member of the Legislature, or another member of the legislative body of a city, county, city and county, school district, or other special district shall give this vote either upon the same or another question, is punishable by imprisonment in the state prison for two, three, or four years and, in cases in which no bribe has been actually received, by a restitution fine of not less than two thousand dollars ($2,000) or not more than ten thousand dollars ($10,000) or, in cases in which a bribe was actually received, by a restitution fine of at least the actual amount of the bribe received or two thousand dollars ($2,000), whichever is greater, or any larger amount of not more than double the amount of any bribe received or ten thousand dollars ($10,000), whichever is greater. Requires the court, in imposing a fine under this section, to consider the defendant's ability to pay the fine.

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

COMMENTS:

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

> AB 1666 strengthens penalties associated with bribes by increasing the fines imposed and by ensuring those convicted must pay penalties out of personal funds, not out of accounts meant for running for office.

2) Bribery Fines: In 2001, the Governor signed and the Legislature passed SB 923 (McPherson), Chapter 282, Statutes of 2001, which increased the fines for specified bribery offenses involving public officials. According to the author's background material provided to the committee, these fine thresholds have not been adjusted since they were implemented in 2001. This bill doubles the fines in a case where no bribe has actually been received from a fine of not less than four thousand dollars ($4,000), instead of two thousand dollars ($2,000), to not more than twenty thousand dollars ($20,000), instead of ten thousand dollars ($10,000). In addition, the bill makes corresponding changes in the case where the defendant actually received a bribe, and doubles the minimum fine amount from the greater of the amount of the bribe received or two thousand dollars ($2,000) to four thousand dollars ($4,000), as specified, and doubles the maximum fine from the greater of double the amount of the bribe received or ten thousand dollars ($10,000) to twenty thousand dollars ($20,000), as specified.

   Furthermore, the author contends that if a member of the Legislature is convicted of one of the bribe scenarios described above, nothing in current law prohibits use of campaign funds to pay a restitution fine. In other words, restitution fines imposed from a bribery offense

could be paid out of the officeholder's campaign funds, instead of their personal funds. This bill strengthens the penalties associated with bribery offenses and prohibits campaign funds from being used to pay a restitution fine as described above.

3) Fair Political Practices Commission: The FPPC is responsible for enforcing state laws governing political campaigns, fundraising, lobbying, and conflicts of interest for elected officials. Under existing law, the FPPC is required to adjust contribution and voluntary expenditure limits within the PRA in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index.

   This bill adds a new duty to the FPPC by requiring it to adjust fine amounts specified in the Penal Code for bribery offenses involving public officials. The FPPC does not, however, have jurisdiction over bribery crimes, nor does it have any authority with respect to any violations of the Penal Code. The committee may wish to consider whether it is prudent to require the FPPC to adjust fines for crimes it has no authority to enforce.

   Additionally, this bill provides for the fines for bribery convictions to be adjusted for any changes in inflation, but does not similarly provide for automatic adjustments for fines imposed for convictions of other crimes. If it is a desirable policy to adjust fines to reflect inflation, then it is unclear why that policy should not be in place for all fine amounts. The committee may wish to consider amending the bill to remove the requirement for fines to be adjusted.

4) Related Legislation: AB 1692 (Garcia), which is also being heard in this committee today, limits the use of campaign funds and legal defense funds to pay fines and penalties that are imposed for an improper personal use of campaign funds, as specified.

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 proposition and require a two-thirds vote of each house of the Legislature.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Debra Bowen

Opposition

None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094

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Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1673 (Garcia) – As Amended: March 10, 2014

SUBJECT: Political Reform Act of 1974: contributions.

SUMMARY: Provides that a payment made by an occupant of a home who is a lobbyist, lobbying firm, or lobbyist employer for costs related to a meeting or fundraising event held in the occupant's home is considered a "contribution" under the Political Reform Act (PRA), regardless of the costs for the meeting or fundraising event. Specifically, this bill exempts events held in the home of a lobbyist, lobbying firm, or lobbyist employer from a provision of law that provides that a payment made by an occupant of a home for costs related to any meeting or fundraising event held in the occupant's home is not considered a contribution if the costs for the meeting or fundraising event are five hundred dollars ($500) or less.

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) Provides that an elected state officer or candidate for elected state office may not accept a contribution from a lobbyist, and a lobbyist may not make a contribution to an elected state officer or candidate for elected state office, if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.

3) Defines "contribution," for the purposes of the PRA, to mean a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes, as specified. Provides that a payment is made for political purposes if it is for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure, or is received by or made at the behest of a candidate.

4) Provides that a "contribution" does not include payments made by an occupant of a home or office for costs related to any meeting or fundraising event in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars ($500) or less.

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

COMMENTS:

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

> AB 1673 will ban lobbyists hosting home fundraisers and eliminate the dual standard that allows lobbyists to host at their homes, non-reportable private affair fundraisers for lawmakers, valued under $500, while at the same time limiting direct gifts to lawmakers to only $10 per month.

2) Hosted Fundraisers: The PRA, among other things, requires candidates and committees to disclose contributions made and received and expenditures made in connection with campaign activities. The term "contribution" is defined as any payment for political purposes for which full and adequate consideration is not provided to the donor.

When individuals or entities make payments in connection with holding a fundraiser for a candidate, such payments ordinarily are considered contributions to the candidate. However, current law allows for some exceptions. For example, payments made by the occupant of a home or office for costs related to any meeting or fundraising event in the occupant's home or office are not considered contributions under the PRA if the costs for the meeting or fundraising event are five hundred dollars ($500) or less.

Although existing law prohibits lobbyists from making contributions to elected state officers or candidates for elected state office if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer, the exception to the definition of the term "contribution" for the purposes of hosted fundraising events does not exclude events hosted by lobbyists. As a result, a lobbyist could hold a fundraiser at his or her home and the cost would not be considered a contribution, as long as the total cost of such an event did not exceed five hundred dollars ($500). If other parties donate money or goods in connection with the event, their payments must also be counted to determine if five hundred dollars ($500) has been spent in connection with the fundraiser. This includes goods or services provided by the candidate or any other person attending the event. If the cost of the event exceeds five hundred dollars ($500), all payments are counted as contributions.

3) Recent Events: In February of this year, the FPPC approved a settlement in a case in which a registered lobbyist hosted campaign fundraisers for state elective officers and candidates at his house where he provided items such as beverages, flower arrangements, and cigars. The FPPC investigated and determined that the total cost of the fundraisers hosted by the lobbyist at his home, including the value the items provided by the lobbyist, exceeded five hundred dollars ($500). As a result, the items provided by the lobbyist during the fundraisers constituted non-monetary contributions to the campaign committees of the elective officers and candidates who benefitted from the fundraisers – all violations of the PRA. As a result, the FPPC levied one of the largest penalties against a lobbyist and issued warning letters to the elected officers and candidates who benefitted from the fundraisers.

4) Does this Solve the Problem? While this bill does exclude a lobbyist, lobbying firm, or lobbyist employer from the exception in current law that provides that payments made by the occupant of a home to host a fundraiser in his or her home are not contributions as long as the total of the event is five hundred dollars ($500) or less, this bill still permits a lobbyist,

lobbying firm, or lobbyist employer to host a fundraising event at an office and be included in the current exemption as long as the total cost of the event is five hundred dollars ($500) or less. To truly crack down on these non-reportable private affairs, the committee may wish to consider amending the bill to also prevent a lobbyist, lobbying firm, or lobbyist employer from hosting a fundraising event at an office and still be included in the current exemption.

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 proposition and require a two-thirds vote of each house of the Legislature.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094

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Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1692 (Garcia) – As Introduced: February 13, 2014

SUBJECT: Political Reform Act of 1974.

SUMMARY: Limits the use of campaign funds and legal defense funds to pay fines and penalties that are imposed for an improper personal use of campaign funds. Specifically, this bill:

1) Prohibits an expenditure of campaign funds of more than $200 to pay a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that was found to be improper because the expenditure resulted in either of the following:

   a) A personal benefit to the candidate or officer, and the expenditure was not reasonably related to a political, legislative, or governmental purpose; or,

   b) A substantial personal benefit to the candidate or officer, and the expenditure was not directly related to a political, legislative, or governmental purpose.

2) Codifies a regulatory definition of the term "attorney's fees and other related legal costs" for the purposes of provisions of existing law that specify the permissible uses of funds raised into a legal defense fund, and makes that definition applicable to provisions of state law that restrict the use of surplus campaign funds and that limit the circumstances under which campaign funds may be used to pay fines, penalties, judgments, or settlements.

   a) Defines the terms "attorney's fees and other related legal costs" and "attorney's fees and other costs," for the purposes of various provisions of the Political Reform Act (PRA), to include only the following:

      i) Attorney's fees and other legal costs related to the defense of a candidate or officer; and,

      ii) Administrative costs directly related to compliance with the requirements of the PRA.

   b) Provides that the terms "attorney's fees and other related legal costs" and "attorney's fees and other costs," for the purposes of various provisions of the PRA, do not include expenses for fundraising, media or political consulting fees, mass mailing or other advertising, or except as expressly authorized, a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by a candidate or officer.

3) 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) Prohibits campaign funds from being used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

   a) Parking citations issued in the performance of an activity that was directly related to a political, legislative, or governmental purpose; or,

   b) Any other action for which payment of attorney's fees from contributions is permitted pursuant to the PRA.

3) Requires campaign expenditures to be reasonably related to a political, legislative, or governmental purpose. Requires campaign expenditures that confer a substantial personal benefit on an individual with the authority to approve the expenditure of campaign funds to be directly related to a political, legislative, or governmental purpose. Provides that the term "substantial personal benefit" for these purposes means an expenditure that results in a direct personal benefit of more than $200.

4) Permits candidates and elected officials to establish a legal defense fund to defray attorney's fees and other related legal costs incurred in the defense of the candidate or elective officer who is subject to one or more civil, criminal, or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. Provides that funds deposited into a legal defense fund may be used only to defray those attorney's fees and other related legal costs.

5) Provides that campaign funds that are raised on or after January 1, 1989 by a candidate and that remain in the campaign account at the time the candidate leaves elective office, or at the end of the postelection reporting period following the defeat of the candidate, are considered surplus campaign funds. Restricts the purposes for which surplus campaign funds can be used, but permits such funds to be used for payment of attorney's fees for litigation which arises directly out of a candidate's or elected official's activities, duties, or status as a candidate or elected officer.

6) Provides that expenditures of campaign funds for attorney's fees and other costs in connection with administrative, civil, or criminal litigation are not directly related to a political, legislative, or governmental purpose except where the litigation is directly related to activities of a committee that are consistent with its primary objectives or arises directly out of a committee's activities or out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer.

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

COMMENTS:

1) Purpose of the Bill: According to the author, "To prevent campaign funds from being used to pay for fines that result from the violation of campaign fund laws (i.e. making expenditures intended for private purposes), AB 1692 prohibits the use of campaign funds to pay for the associated fines, penalties, judgments and settlements."

2) Personal Use of Campaign Funds: Existing law generally prohibits campaign funds from being used for personal expenses, and instead requires campaign expenditures to be reasonably related to a political, legislative, or governmental purpose. When a campaign expenditure results in a personal benefit of more than $200 to an individual who had the authority to approve the expenditure, the expenditure must be *directly* related to a political, legislative, or governmental purpose. These provisions are intended to ensure that campaign funds are not used as a method of personally enriching candidates and officers of political committees.

3) Use of Campaign Funds to Pay Fines & Penalties and Possible Amendment: As noted above, the PRA generally allows campaign funds to be used to pay or reimburse fines and penalties only if the action is one for which the use of campaign funds to pay attorney's fees would be permissible. The use of campaign funds to pay attorney's fees is permissible only when those attorney's fees arise directly out of an election campaign, the electoral process, or the performance of an official's governmental activities. These provisions are a natural extension of the "personal use" provisions of the PRA—if litigation against a candidate or elected official is unrelated to that person's duties or activities as a candidate or official, then the expenditure of campaign funds for attorney's fees (or to pay any fines or penalties that result from the litigation) would not be reasonably or directly related to a political, governmental, or legislative purpose, but instead would serve to defray the personal legal expenses of the candidate or official.

   Arguably, the concept behind this bill is similar. When a determination is made in an enforcement action that a candidate or other person has received an impermissible personal benefit from a campaign expenditure, a necessary part of that determination is an assessment that the expenditure in question was not related to a political, legislative, or governmental purpose as required by law. To permit campaign funds to be used to pay a fine or penalty in such a situation would seem to be inconsistent with the policy that campaign expenditures must be related to a political, legislative, or governmental purpose, since the underlying expenditure that led to the fine or penalty being imposed was deemed not to be related to a political, legislative, or governmental purpose.

   However, this bill does allow up to $200 of a fine that is levied as a result of the improper personal use of campaign funds to be paid for with campaign funds. If there is a concern that individuals receive an improper personal benefit when they use campaign funds to pay fines that are imposed for the personal use of campaign funds, it is unclear why individuals should be allowed to pay the first $200 of such a fine with campaign funds. The author and the committee may wish to consider an amendment that prohibits the use of campaign funds of any amount to pay a fine that is levied due to the improper personal use of campaign funds.

4) Regulatory Definition of "Attorney's Fees": As noted above, existing law permits candidates and elected officials to establish a legal defense fund to defray attorney's fees and other related legal costs under certain situations. The FPPC has adopted a regulation to define the term "attorney's fees and other related legal costs" for the purpose of expenditures from legal defense funds. This bill codifies the definition in the FPPC regulation.

   Additionally, this bill adopts the FPPC's regulatory definition of "attorney's fees" for the purposes of other provisions of the PRA that allow surplus campaign funds and non-legal defense campaign funds to be used for attorney's fees.

5) Related Legislation: AB 2692 (Fong), which is pending in this committee, requires a person who is found in an administrative proceeding to have improperly used campaign funds for personal purposes, to pay the value of the personal benefit received to the general fund, in addition to any other fine or penalty imposed as a result of the proceeding.

   AB 1666 (Garcia), which is also being heard in this committee today, prohibits the use of campaign funds to pay restitution fines that are imposed when a public official is convicted of bribery, as specified.

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

None on file.

Opposition

None on file.

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094

Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1716 (Garcia) – As Introduced: February 13, 2014

SUBJECT: Political Reform Act of 1974: Postemployment activity restrictions.

SUMMARY: Makes former local administrative officials subject to the permanent ban on "switching sides" in a governmental proceeding that currently applies to state administrative officials. Specifically, this bill:

1) Prohibits a former local administrative official, after the termination of his or her employment or term of office, from doing either of the following for compensation:

   a) Acting as an agent or attorney for, or otherwise representing, any person other than the former official's agency, before a court, local government agency, state administrative agency, or officer or employee of those courts or agencies, by making an appearance or an oral or written communication with the intent to influence a judicial, quasi-judicial, or other proceeding, if both of the following apply:

      i) The former local administrative official's agency is a party or has a direct and substantial interest; and,

      ii) The proceeding is one in which the former local administrative official participated; or,

   b) Aiding, advising, counseling, or assisting in representing any other person, except the local government agency, in any proceeding in which the official would be prohibited from appearing as detailed above.

2) Provides that the prohibitions outlined above do not apply to the following:

   a) To prevent a former official from making or providing a statement based on the official's own special knowledge in the area that is the subject of the statement, provided that no compensation is received other than that regularly provided by law or regulation for witnesses;

   b) To communications made solely for the purpose of furnishing information by a former official if the court or agency to which the communication is directed makes the following findings in writing:

      i) The former official has outstanding and otherwise unavailable qualifications;

      ii) The former official is acting with respect to a matter that requires such qualifications; and,

iii) The public interest is served by the participation of the former official; or,

c) With respect to appearances or communications in a proceeding in which the court or agency has issued a final order, decree, decision, or judgment but has retained jurisdiction if the local government agency that formerly employed the official gives consent by making both of the following determinations:

i) At least five years has elapsed since the termination of the former official's employment or term of office; and,

ii) The public interest will not be harmed.

3) Provides that the restrictions of this bill do not apply to any person who left government service before the effective date of this bill.

4) Defines "local administrative official," for the purposes of this bill, to mean every member, officer, employee, or consultant of a local government agency who as a part of his or her official responsibilities engages in any judicial, quasi-judicial, or other proceeding in other than a purely clerical, secretarial, or ministerial capacity.

EXISTING LAW:

1) Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).

2) Prohibits former state administrative officials from being compensated to work on proceedings that they participated in while working for the state. This "switching sides" ban prohibits appearances and communications to represent any other person, as well as aiding, advising, counseling, consulting, or assisting in representing any other person, for compensation, before any state administrative agency in a proceeding involving specific parties (such as a lawsuit, a hearing before an administrative law judge, or a state contract) if the official previously participated in the proceeding.

3) Permits a court or agency to exclude any person found to have violated the "switching sides" ban, as detailed above, from any further participation in the proceeding, as specified.

4) Makes violations of the PRA subject to administrative, civil, and criminal penalties.

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

COMMENTS:

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

> Pursuant to Government Code sections 87401 and 87402, State administrative officials are prohibited from providing aid, advice, or consultation in any judicial

or quasi-judicial proceedings where the State of California is a party, after they have left state service.

Essentially, state officials are subject to a lifetime ban from 'switching sides' or being compensated for appearances, or helping others in making such appearances for entities that are engaged in [adversarial] proceedings with the state [entity] of which they were previous[ly] [employed] –eliminating the possibility of being able to profit from [privileged] information they may have acquired during their previous employment with the State of California.

AB 1716 amends existing law to also ban local administrative officials from switching sides where their former agency was a party to the proceeding in which the official was involved.

2) "Revolving Door" Restrictions: Existing law restricts the post-governmental activities of certain former public officials. These restrictions are commonly known as a "revolving door ban." There are two main types of revolving door restrictions in the PRA that may apply to former public officials.

A one-year ban prohibits certain officials, for one year after leaving public service, from representing any other person by appearing before or communicating with, for compensation, their former agency in an attempt to influence agency decisions that involve the making of general rules (such as regulations or legislation), or to influence certain proceedings involving a permit, license, contract, or transaction involving the sale or purchase of property or goods. Members of the Legislature, members of state boards and commissions with decision-making authority, local elected officials, and individuals who manage public investments are examples of people who are subject to the one-year ban. (A related, but slightly different, one-year ban applies to former air pollution control district and air quality management district members.) When originally adopted, this one-year ban applied primarily to former state employees, but subsequent legislation (see "Previous Legislation," below) also made the one-year ban applicable to specified former local officials.

The second main type of revolving door restriction permanently prohibits former state administrative officials from being paid to work on proceedings that they participated in while working for the state. The ban prohibits appearances and communications to represent any other person, as well as aiding, advising, counseling, consulting or assisting in representing any other person, for compensation, before any state administrative agency in a proceeding involving specific parties (such as a lawsuit, a hearing before an administrative law judge, or a state contract) if the official previously participated in the proceeding. This permanent ban on "switching sides" does not apply to local officials, though some local jurisdictions have adopted similar rules. This bill would make that permanent ban applicable to local jurisdictions.

3) Is There a Problem? There is nothing in existing law to prohibit a city or county from adopting prohibitions on switching sides in a proceeding that are similar to those that currently apply to state officials. In fact, at least two cities, Los Angeles and San Francisco, have adopted prohibitions on switching sides in a proceeding that are similar to those proposed by this bill, while other local jurisdictions have adopted policies that limit the

ability of former local officials to switch sides in a proceeding, but in ways that differ from the ban proposed by this bill.

The author contends that a single, statewide policy against switching sides is appropriate in order to ensure that former local officials cannot use insider information that they obtained from working on a project for their government employer in a way that harms the public interest or otherwise unfairly advantage a third party. Notwithstanding those concerns, the author has not provided any information to indicate that the absence of a prohibition against "switching sides" has resulted in inappropriate behavior at the local level. Furthermore, this bill would make the FPPC responsible for enforcement of another revolving door prohibition for local governmental entities, potentially straining the FPPC's resources. Given this, it is unclear whether it is desirable to adopt a single approach at the state level to prohibit the switching of sides in local governmental proceedings.

4) Previous Legislation: SB 8 (Soto), Chapter 680, Statutes of 2005, prohibits a local elected official from lobbying the local government agency of which that official was a member for a period of one year after leaving office.

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.

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094

Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1728 (Garcia) – As Introduced: February 14, 2014

SUBJECT: Political Reform Act of 1974.

SUMMARY: Makes all officials who are elected to local water boards subject to existing provisions of state law limiting contributions to officials from entities with business before the agency involving a license, permit, or other entitlement for use. Specifically, this bill:

1) Provides that local government agencies that are formed pursuant to the Water Code are subject to the following provisions of the Levine Act of 1982 (Act), even if the members of the agency are directly elected by the voters:

   a) A prohibition against accepting, soliciting or directing a contribution of more than $250 from a party or participant with a matter pending before the agency involving a license, permit, or other entitlement for use during the time the matter is pending before the agency and for three months following the date a final decision is rendered in the matter.

   b) A requirement to disclose on the record of a proceeding the receipt of any contribution of more than $250 from a party to or participant in the proceeding in the 12 previous months if the proceeding involves a license, permit, or other entitlement for use.

   c) A prohibition against making, participating in making, or attempting to influence the decision in any proceeding involving a license, permit, or other entitlement for use if the officer received a contribution of more than $250 from a party or participant in the proceeding in the 12 months before the proceeding and the officer did not return that contribution within 30 days of knowing, or the time the officer should have known, of the contribution and the proceeding.

2) Provides that for the purposes of proceedings before a local government agency formed pursuant to the Water Code, the term "license, permit, or other entitlement for use" includes all contracts except those that are competitively bid.

3) Specifies that a person who is paid to act on another person's behalf in a proceeding that is otherwise covered by the Act, triggers the restrictions of the Act.

EXISTING LAW:

1) Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).

2) Prohibits any officer of an agency, as defined, from accepting, soliciting or directing a contribution of more than $250 from a party or participant with a matter pending before the agency involving a license, permit, or other entitlement for use during the time the matter is pending before the agency and for three months following the date a final decision is

rendered in the matter.

3) Requires any officer of an agency, as defined, who received a contribution of more than $250 from a party or participant with a matter pending before the agency involving a license, permit, or other entitlement for use in the 12 months before the proceeding, to disclose the contribution on the record of the proceeding.

4) Prohibits any officer of an agency, as defined, who received a contribution of more than $250 from a party or participant with a matter pending before the agency involving a license, permit, or other entitlement for use in the 12 months before the proceeding from making, participating in making, or attempting to influence the decision in the proceeding. Allows an officer to participate in the proceeding if the officer returns the contribution within 30 days of knowing, or the time the officer should have known, of the contribution and the proceeding.

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

COMMENTS:

1) Purpose of the Bill: According to the author, "AB 1728 requires members of local water boards excuse themselves from decisions when contributors are involved. AB 1728 includes officials of local government agencies formed pursuant to the provisions of the Water Code and applies to proceedings to award licenses or permits for use."

2) Levine Act of 1982: The Act, named after its author Assemblymember Mel Levine, restricts campaign contributions made to officers of most state and local agencies by parties to a proceeding pending before those agencies. Enacted in 1982, the Act was a response to reports that members of a state agency sought to raise money from individuals and entities that had permit requests pending before the agency. The Act is unique among the provisions of the PRA in that it is the only area in which a campaign contribution can be the basis for a disqualifying conflict of interest. The PRA otherwise does not treat campaign contributions as a potential basis for conflicts of interest.

   The Act is narrowly drafted to apply only to decisions made by agencies with membership that is not directly elected by voters, and only to proceedings involving licenses, permits, or other entitlements for use. Proceedings of a more general nature and with broader applicability are not covered by the Act.

   The Act generally does not apply to the judicial branch, local governmental bodies whose members are elected directly by the voters, members of the Legislature and the Board of Equalization, or constitutional officers. However, when an officer who is otherwise exempted serves as a voting member of an agency that is subject to the Act, then the contribution restrictions of the Act do apply to that officer. For example, someone elected to a county board of supervisors is not subject to the Act simply for sitting on the board of supervisors; but, if that official also sits on a regional transit agency, which is subject to the Act, then the officer would be required to comply with the contribution restrictions that apply to all other members of the regional transit agency.

Because the Act does not apply to local governmental bodies whose members are elected directly by the voters, the Act applies to some special districts, but not others.

3) Water Districts: According to information from the 2010 report, "What's So Special About Special Districts? (Fourth Edition)," prepared by the Senate Committee on Local Government, there are more than 700 different water districts of various types in California. In most cases, the governing boards of these water districts are elected, and as a result are not subject to the provisions of the Act. There are at least some water districts, however, that are governed by appointed boards of directors, or by boards of directors that are a combination of elected and appointed members. Those districts are subject to the Act under existing law.

   This bill makes all districts that are formed pursuant to the Water Code subject to the Act, regardless of whether the district is governed by an elected board or an appointed board. As a result, this bill would significantly increase the number of governmental entities that are subject to the restrictions in the Act.

4) Is There a Problem? In background material provided by the author in support of the need for this bill, the author argues that the expansion of the Act to include proceedings before water boards that are governed by elected members is appropriate in light of the state's drought and the development of a water bond proposal that may include funding for a number of water projects throughout the state. The author argues that this bill is a "modest expansion" of the Act that is needed to prevent corruption and the appearance thereof in decision making by elected water boards around the state.

   As noted above, however, the Act is unique in that it is the only area of the PRA where campaign contributions can create a conflict of interest that require an official to recuse himself or herself from participating in a governmental action. That restriction was narrowly tailored to address a situation where members of a state agency actively solicited campaign contributions from lists of individuals who had applications for licenses and permits pending before the agency. In arguing for the need for the restrictions imposed by this bill, the author has provided a news article referencing a case in which the Central Basin Municipal Water District (District) awarded a contract to a nonprofit organization, when the President of that organization and his family members had made campaign contributions to four of the five board members. The members of the District are directly elected by voters, so it is not subject to the restrictions of the Act. If the District had been subject to the Act, however, it is unclear based on the information included in the article whether or not the provisions of the Act would have been triggered with respect to the contract that was awarded to the nonprofit organization. The committee has not been made aware of other situations where elected members of water districts have engaged in the types of behavior that led to the adoption of the Act in 1982. It is unclear whether the expansion of the Act in the manner that is proposed by this bill is appropriately tailored to address the author's concerns.

5) Technical Issue: One provision of this bill appears to specify that a person who is paid to act on another person's behalf in a proceeding that is otherwise covered by the Act, triggers the restrictions of the Act. However, the Act and related regulations that have been adopted by the FPPC already provide that the restrictions in the Act apply when an agent of a person supports or opposes a decision on behalf of that person. As a result, the effect of the language on page 5, lines 3 to 8 of this bill, is unclear. In light of that fact, committee staff

recommends that those provisions be deleted from this bill.

6) Previous Legislation: AB 1241 (Norby) of 2011 would have exempted officials who are directly elected to an agency from the Act for agencies that are governed by a board that contains both elected and appointed members. AB 1241 was approved by the Assembly on a 65-6 vote, but failed passage on the Senate Floor on a 19-20 vote.

   AB 2164 (Norby) of 2010 was substantially similar to AB 1241. AB 2164 was approved by the Assembly on a 60-2 vote, but was held in the Senate Committee on Elections, Reapportionment, and Constitutional Amendments.

7) 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.

8) Double-Referral: After this bill was referred to this committee by the Assembly Rules Committee, the Assembly Rules Committee instructed that this bill should be referred to the Assembly Local Government Committee upon approval by this committee. Accordingly, any motion to approve this bill should provide for the bill to be re-referred to the Assembly Local Government Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094

Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1768 (Fong) – As Introduced: February 14, 2014

SUBJECT: Declaration of candidacy: residence address.

SUMMARY: Exempts a candidate for any office whose voter registration information is confidential from the requirement to state a residence address on a declaration of candidacy, as specified. Specifically, this bill:

1) Provides that a candidate for any office whose voter registration information is confidential shall not be required to state his or her residence address on the declaration of candidacy.

2) Provides that if a candidate does not state his or her residence address on the declaration of candidacy, the elections official shall verify whether the candidate's address is within the appropriate political subdivision and add the notation "verified" where appropriate on the declaration.

EXISTING LAW:

1) Requires a candidate for public office to file a declaration of candidacy that contains, among other things, the residence address of the candidate.

2) Provides that a candidate for judicial office is not required to state his or her residence address on a declaration of candidacy.

3) Requires an elections official to verify whether a candidate's residence address is within the appropriate political subdivision and add a specified notation on the declaration of candidacy if the candidate does not state his or her residence address on the declaration.

4) Establishes procedures to make a voter's registration information confidential, including a voter's residence address.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

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

> This measure allows candidates with confidential voter registration records to omit their residence addresses from the declaration of candidacy for their safety, similar to a provision of law that already applies to candidates for judicial office. In order to ensure that a candidate meets all necessary residency requirements for the office that he or she is seeking, AB 1768 requires the elections official to verify the residence address of the candidate before processing the declaration of candidacy.

2) Who Does This Apply To? Existing law provides that a candidate for judicial office is not required to state his or her residential address on the declaration of candidacy. When a judicial candidate does not state his or her residential address on the declaration of candidacy, the elections official is required to verify whether his or her address is within the appropriate political subdivision and add the notation of "verified" if appropriate.

   This measure seeks to add any candidate whose voter registration information is deemed "confidential," as specified in current law, to the list of individuals who may choose to not include their residential address when completing their declaration of candidacy. Additionally this measure clarifies that once the appropriate political subdivision is "verified" this notation will be added by the elections official to the declaration of candidacy.

3) What is Confidential Voter Registration: Existing law permits any person who is filing a new affidavit of registration or reregistration with the county elections official to have the information relating to his or her residence address, telephone number and e-mail address appearing on the affidavit, or any list or roster or index prepared therefrom, declared confidential upon order of a superior court issued upon a showing of good cause that a life-threatening circumstance exists to the voter or member of the voter's household.

   Existing law also allows Safe at Home program participants to have their voter registration information kept confidential. The Safe at Home program, created by SB 489 (Alpert), Chapter 1005, Statutes of 1998, allows victims of domestic violence or stalking to apply to the Secretary of State (SOS) to request an alternate address to be used in public records. The purpose of that program is to "enable state and local agencies to respond to requests for public records without disclosing the changed name or location of a victim of domestic violence or stalking." The SOS provides a substitute, publicly accessible address for these victims while protecting their actual residences or locations. In 2002, the Safe at Home program was expanded to include persons working or volunteering in the reproductive health care field. [AB 797 (Shelley), Chapter 380, Statutes of 2002.]

   Finally, subject to certain conditions, public safety officers can have their residence address, telephone number, and e-mail address, as it appears on their affidavit of voter registration, made confidential by completing and submitting an application to the county elections official and signing a statement under penalty of perjury that a life-threatening circumstance exists to the officer or a member of the officer's family.

   Under these programs, any individual granted confidentiality is considered a vote by mail voter for all subsequent elections or until the county elections official is notified otherwise. Confidential voters are required to provide a valid mailing address to be used in place of the residence address for election, scholarly, or political research, and government purposes. The elections official, in producing any list, roster, or index may, at his or her choice, use the valid mailing address or the word "confidential" or some similar designation in place of the residence address.

4) Argument in Support: The California State Sheriffs' Association writes in support:

> Existing law requires a candidate for public office to file a declaration of candidacy that contains among other things, the residence address of the candidate, but excludes a candidate for judicial office from the requirement that the candidate include his or her residence address.
>
> Judges and judicial candidates are worthy of this protection and we agree it should be expanded to other deserving persons, including public safety officers. AB 1768 extends this protection to persons whose voter registration information is confidential pursuant to current law, which includes public safety officers under specified conditions.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Sheriffs' Association

Opposition

None on file.

Analysis Prepared by: Lori Barber / E. & R. / (916) 319-2094

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Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1836 (Jones) – As Amended: March 11, 2014

This bill has been pulled from the agenda at the request of the author.

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Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2177 (Brown) – As Amended: March 25, 2014

SUBJECT: Early voting.

SUMMARY: Requires county elections officials to offer early voting for at least six hours on a Saturday and a Sunday before each statewide election. Specifically, this bill:

1) Defines "early voting," for the purposes of this bill, to mean casting a vote by mail (VBM) ballot in person at the office of the elections official or another location designated by the elections official either before or on the day of the election.

2) Requires each county elections official to offer early voting for not less than six hours on at least one Saturday and one Sunday prior to every statewide election pursuant to the following:

   a) Requires early voting to be offered on at least one Saturday and one Sunday on or after the date the elections official first delivers ballots to VBM voters for the statewide election;

   b) Requires every early voting location to be accessible and to comply with disability access requirements under federal and state law; and,

   c) Permits the elections official to determine the hours of operation for each early voting location, provided that each location is open for a minimum of six hours on each Saturday or Sunday that the location is open.

3) Provides that the requirement to offer early voting prior to every statewide election does not apply to an election that is conducted wholly by mail or to a precinct in which each voter is furnished a VBM ballot.

4) Permits county elections officials to offer early voting at elections that are not statewide elections based on voter demand, subject to the same restrictions outlined above that apply to early voting locations at statewide elections.

5) Requires the Secretary of State (SOS) to provide guidance to local elections officials in accomplishing the following:

   a) Establishing one or more locations for early voting, which may include the office of the local elections official;

   b) Notifying voters of the early voting location or locations; and,

c) Ensuring that the early voting location or locations and the procedures used therein comply with disability access requirements under federal and state law.

6) Declares the intent of the Legislature in enacting this bill to make voting more convenient and accessible in order to increase voter turnout at elections.

EXISTING LAW:

1) Permits any voter to cast a VBM ballot in person at the office of the elections official beginning on the 29th day prior to an election, until the close of polls on election day. Provides, for the purposes of this provision, that the office of the elections official may include satellite locations. Requires advance public notice to be provided of any such satellite location not later than 14 days prior to voting at the satellite location, except as specified.

2) Permits, but does not require, elections officials to allow voters to cast VBM ballots prior to an election at their offices or satellite locations on weekends or at times beyond regular office hours.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

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

> In order to a have a thriving democracy all citizens must exercise their right to vote. As a result, it is imperative that government makes the act of voting as accessible as possible. Early voting is voting that is takes place (usually on the weekend) before election day. Voting on the weekend will give another alternative to people who work and have difficulty finding the time to vote on Tuesdays. AB 2177 would require an election official on at least one Saturday and Sunday before Election Day to allow voters to vote in person at an easily accessible designated location. Increasing participation will only help to strengthen our democracy.

2) Early Voting Under Existing Law: Although existing state law does not use the term "early voting," any California voter can receive and cast a VBM ballot in the office of the elections official beginning 29 days prior to election day and ending at the close of the polls on election day. Additionally, elections officials are permitted, but not required, to offer early voting at "satellite locations" of the office of the elections official, and may offer voting at their offices or such "satellite locations" on weekends or at times beyond regular office hours.

   In fact, according to information from a survey of county elections officials conducted by the Los Angeles County Registrar of Voters and other information gathered by committee staff, it appears that at least 28 counties, representing 89% of registered voters in California, offered early voting for at least one weekend day prior to the November 2012 presidential general election. At least eleven counties, representing more than 56% of registered voters in California, provided weekend voting opportunities that would have complied with the

requirements of this bill. The following table details the weekend early voting opportunities that were provided in connection with the November 2012 presidential general election:

County	Weekend Early Voting Opportunity at November 2012 election
Alameda	Sat. 11/3 & Sun. 11/4: 9-5 at elections official's office
Butte	Sat. 11/3: 8-5 at elections official's office
Contra Costa	Sat. 11/3: 9-3 at elections official's office
Fresno	Sat. 11/3: 9-3 at elections official's office
Inyo	Sat. 11/3 & Sun. 11/4: 8-? at elections official's office (closing time not specified on survey)
Kern	Sat. 11/3: 8-2 at elections official's office
Los Angeles	Sat. 10/27, Sun. 10/28, Sat. 11/3, & Sun. 11/4: 8-4 at elections official's office
Madera	Sat. 11/3: 8-5 at the elections official's office
Marin	Sat. 11/3 & Sun. 11/4: 9-1 at elections official's office
Monterey	Sat. 10/27, Sat. 11/3, & Sun. 11/4: 8-5 at elections official's office
Napa	Sat. 11/3 & Sun. 11/4: 8:30-4:30 at 5 different satellite locations
Nevada	Sat. 11/3: 9-4 at elections official's office
Orange	Sat. 10/27, Sat. 11/3, & Sun. 11/4: 8-5 at elections official's office
Placer	Sat. 10/27, Sun. 10/28, Sat. 11/3, & Sun. 11/4: 9-4 at elections official's office
Riverside	Sat. 10/27 & Sun. 10/28: 10-5 at elections official's office and 3 other satellite locations
Sacramento	Sat. 11/3: 9-2 at elections official's office
San Bernardino	Sat. 11/3: 8-5 at the elections official's office and 1 satellite location
San Diego	Sat. 11/3: 8-5 at the elections official's office
San Francisco	Sat. 10/27, Sun. 10/28, Sat 11/3, & Sun. 11/4: 10-4 at elections official's office
San Luis Obispo	Sat. 11/3 & Sun. 11/4: 9-1 at elections official's office
San Mateo	Sat. 10/27 & Sat. 11/3: 10-3 at elections official's offices (2 locations)
Santa Barbara	Sat. 11/3: 8-5 at elections official's offices (3 locations)
Santa Clara	Sat. 10/27, Sun. 10/28, Sat 11/3, & Sun. 11/4: 9-3 at elections official's office
Santa Cruz	Sat. 11/3 & Sun. 11/4: 9-5 at elections official's office and 1 satellite location
Solano	Sat. 11/3: 8-5 at elections official's office
Sonoma	Sat. 10/27, Sat. 11/3, & Sun. 11/4: 8-5 at elections official's office
Tehama	Sat. 11/3: 9-3 at elections official's office
Tulare	Sat. 11/3: 8-5 at elections official's office

3) Other States: According to the National Conference of State Legislatures, 33 states (including California) and the District of Columbia permit any qualified voter to cast a ballot in person during a designated period prior to election day with no excuse or justification required. At least 12 of the 33 early voting states require that early vote centers be open on at least one Saturday or Sunday during the early voting period, while others (including California) give local officials the authority to determine the hours for early voting.

4) Presidential Commission on Election Administration: On March 28, 2013, President Obama issued Executive Order 13639, which established the Presidential Commission on Election Administration (Commission), and instructed the Commission to "identify best practices and otherwise make recommendations to promote the efficient administration of elections in order to ensure that all eligible voters have the opportunity to cast their ballots without undue delay, and to improve the experience of voters facing other obstacles in casting their ballots, such as members of the military, overseas voters, voters with disabilities, and voters with limited English proficiency." The Commission was co-chaired by Bob Bauer, the general counsel to the President's reelection campaign in 2012, and by Ben Ginsberg, who served as national counsel to Governor Mitt Romney's Presidential campaign in 2012. The Commission held six months of public hearings, and met with state and local elections officials, academic experts, and many organizations involved in voting and election administration. The Commission issued its final report in January of this year, in which it made more than a dozen unanimous recommendations for ways in which American elections could be improved.

   One of the recommendations made by the Commission was that states should expand opportunities to vote before election day. The Commission's report did not endorse any specific manner in which early voting should be provided, and instead noted that different states likely would prefer different methods and time periods for early voting. The Commission's report did not discuss or make any specific recommendations about offering early voting opportunities on weekends.

5) Arguments in Support: The sponsor of this bill, Service Employees International Union, Local 1000, writes in support:

> Expanding early voting will allow voters who may have busy schedules due to work or other reasons more opportunities to vote. Statistics in states that allow expanded early voting in person show that over the past three election cycles voter turnout is much higher. In the State of Nevada which not only allows widespread early voting but promotes it had a turnout of 70% in the last three voting cycles. This was true in nearly every state that allowed widespread early voting. California's turnout in the last three cycles all of which were highly competitive averaged 54%.
>
> Recently California had a number of special legislative elections with turnouts averaging less than 12%. Promoting, expanding early voting and allowing weekend voting will increase turnout.

6) Arguments in Opposition: In opposition to this bill, the Rural County Representatives of California (RCRC) writes:

> While RCRC is very sympathetic to implementing early-voting opportunities, putting many of these options into place can be challenging in rural, low-population counties. AB 2177 would require an elections official, on at least one Saturday, on or after the date the elections official first delivers ballots to vote-by-mail voters, to allow voters to cast their absentee ballots in person at a designated official polling place. In many rural counties with minimal election staff this

would be problematic. Many rural county elections officials use the Saturdays in the 29 days before the election to work on other election-related activities. It is typical for officials to use one weekend to perform state-mandated testing and the other for vote-by-mail processing. Many of these activities must be done on the weekends in order to comply with state and federal election deadlines.

In addition, we are concerned about the elections mandates associated with AB 2177. By requiring local elections officials to perform additional duties, this bill would impose a state-mandated local program. We are concerned about recent elections reimbursement mandates being suspended in recent state budgets. We remain concerned about implementing elections-related laws that voters come to expect, and in subsequent years, state funding is eliminated.

7) State Mandates: The last three state budgets have suspended various state mandates as a mechanism for cost savings. Among the mandates that were suspended were all existing elections-related mandates. All the existing elections-related mandates have been proposed for suspension again by the Governor in his budget for the 2014-15 fiscal year.

   This bill adds another elections-related mandate by requiring county elections officials to offer early voting for at least six hours on a Saturday and on a Sunday prior to each statewide election. As noted above, many counties already offer early voting on the weekend prior to statewide elections. By requiring counties to offer early voting opportunities on the weekend, the state could be required to reimburse all counties—including those that are already offering early voting opportunities on the weekend—for the costs associated with those early voting opportunities. The Committee may wish to consider whether it is desirable to create new election mandates when current elections-related mandates are suspended.

8) Previous Legislation: This bill is similar to SB 637 (Yee) of the 2013-14 Legislative Session. SB 637 was held on the Senate Appropriations Committee's suspense file, and died when it failed to pass out of the Senate by January 31 of this year, in accordance with to Article IV, Section 10 (c) of the California Constitution.

REGISTERED SUPPORT / OPPOSITION:

Support

Service Employees International Union, Local 1000 (sponsor)
American Association of University Women – California
American Federation of State, County and Municipal Employees, AFL-CIO
California School Employees Association, AFL-CIO
Service Employees International Union, California State Council

Opposition

Rural County Representatives of California

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094

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Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2219 (Fong) – As Introduced: February 20, 2014

SUBJECT: Initiative and referendum petitions: verification of signatures.

SUMMARY: Allows county elections officials to discontinue verifying signatures on a petition once an initiative or referendum has qualified for the ballot, as specified. Specifically, this bill:

1) Requires an elections official or registrar of voters, when conducting a full check of all signatures filed for a statewide initiative or referendum petition, to submit one or more reports to the Secretary of State (SOS) showing the number of signatures of qualified voters that have been verified as of the date. Requires the SOS to determine the number of reports required to be submitted and the manner of their submission.

2) Requires the SOS to maintain a list indicating the number of verified signatures of qualified voters who have signed the petition based on the most recent reports submitted. Provides that if the SOS determines, prior to each county completing the examination of each signature filed, that based on the list the petition is signed by the requisite number of voters needed to declare the petition sufficient, the SOS must immediately notify the elections official or registrar of voters of every county or city and county in the state of this fact.

3) Permits an elections official or registrar of voters, immediately after receipt of the notification described above, to suspend signature verification until receipt of a certificate from the SOS showing that the petition has been signed by the requisite number of qualified voters pursuant to current law, or until otherwise instructed by the SOS.

4) Provides that if an elections official determines, prior to completing the examination of each signature filed for a county initiative or referendum, that the petition is signed by the requisite number of qualified voters to declare the petition sufficient, the election official may terminate the verification of the remaining unverified signatures.

5) Makes corresponding changes.

EXISTING LAW:

1) Requires county elections officials, once all petitions for a statewide initiative and referendum are submitted, to determine the total number of signatures affixed to the petition and transmit this information to the SOS.

2) Requires the SOS to immediately notify the elections official if the total number of signatures filed with the elections official is 100 percent or more of the number of qualified voters needed to declare the petition sufficient.

3) Requires the elections official, after receipt of the notification from the SOS, to determine the number of qualified voters who have signed the petition. Permits the elections official, if more than 500 names have been signed on sections of the petition filed, to use a random

sample technique to verify the signatures, as specified.

4) Requires an elections official, upon completion of the examination, to attach to the petition a certificate showing the result of the examination and immediately transmit the certificate to the SOS. Provides that if the random sample shows that the number of valid signatures is within 95 to 110 percent of the number of qualified voters needed to find the petition sufficient, the SOS must order the examination and verification of each signature filed with the elections official.

5) Requires county elections officials, once all petitions for a county initiative are submitted, to determine the total number of signatures affixed to the petition. Requires the elections official, if the number of signatures equals or is in excess of the minimum number of signatures required, to examine the petitions, and from the records of registration ascertain whether or not the petition is signed by the requisite number of voters.

6) Permits an elections official, if more than 500 signatures are submitted, to use a random sample technique for verification of the signatures. Requires the random sample to include an examination of at least 500, or three percent of the signatures, whichever is greater.

7) Requires an elections official, if the statistical sampling shows that the number of valid signatures is within 95 to 110 percent of the number of qualified voters needed to find the petition sufficient, to examine and verify each signature filed.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

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

> In general, in order to qualify for the ballot, state law requires an initiative or referendum to be signed by a specified number of registered voters. Once the requisite number of signatures has been collected on the petition, they must be filed with the appropriate county elections official. Once submitted, current law requires elections officials to examine the petition and determine if the raw number of signatures submitted equals or exceeds the number of signatures required. If it is determined a sufficient number of signatures has been submitted, current law requires county elections officials to examine the petition, and from records of registration, verify the signatures to ascertain whether the petition is signed by the requisite number of voters.
>
> Under existing law, county elections officials are required to continue to examine and verify petition signatures even after the number has exceeded the required amount of signatures to qualify the measure for the ballot.
>
> This bill permits county elections officials to discontinue verifying signatures on a petition once an initiative measure has qualified for the ballot, as specified. AB 2219 has the potential to decrease the cost and staff time spent on continuing to verify signatures that will have no impact on the petition's disposition.

Specifically, AB 2219 allows a county elections official to suspend signature verification on initiative or referendum petitions once it has been determined by the Secretary of State that the measure has the requisite number of valid signatures to qualify the measure for the ballot. Additionally, this bill permits the county elections official to end signature verification on a petition for a county measure if it is determined by the elections official that the petition has the requisite number of signatures to qualify the measure for the ballot.

2) Background: In order to qualify for the ballot, current law requires a statewide initiative and referendum to be signed by a specified number of registered voters. Specifically, Article II, Section 8(b) of the California Constitution requires a statewide initiative statute or referendum to be signed by registered voters equal to at least five percent of the total votes cast for Governor at the last gubernatorial election. According to the SOS's office, the total number of signatures required is 504,760.

Once the requisite number of signatures has been collected, they must be filed with the appropriate county elections officials. After the filing of the petitions, county elections officials must determine the total number of signatures on the petitions submitted and report the total to the SOS. If the raw count of signatures submitted equals 100 percent or more of the total number of signatures needed to qualify the initiative measure, the SOS notifies the county elections official to verify the signatures using a random sample verification technique. If the result of the random sample indicates that the number of valid signatures represents between 95 to 110 percent of the required number of signatures to qualify the measure for the ballot, the SOS is required to direct the county elections official to verify *every* signature on the petition.

This bill revises the signature verification process for statewide initiatives and referendums and makes it more efficient and transparent. Specifically, this bill requires the elections official, when conducting a full check of all signatures filed, to submit one or more reports to the SOS showing the number of signatures of qualified voters that have been verified as of that date. Additionally, this bill requires the SOS to maintain a list indicating the number of verified signatures of qualified voters who have signed the petition. If the SOS determines that the measure has qualified prior to each county completing the examination of each signature filed, then counties are able to stop the verification of signatures.

In addition, this bill makes changes to the signature verification process in place for county measures. Specifically, this bill permits a county elections official to terminate verification of the remaining unverified signatures if the elections official determines, prior to completing the examination of each signature filed, that the petition is signed by the requisite number of qualified voters to declare the petition sufficient.

This bill has the potential to reduce costs and administrative burdens by allowing county elections officials to discontinue verifying signatures that will have no impact on the petition's disposition.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Clerks and Election Officials (sponsor)

Opposition

None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094

Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2273 (Ridley-Thomas) – As Introduced: February 21, 2014

SUBJECT: Payment of election expenses.

SUMMARY: Requires the state to pay for all expenses authorized and necessarily incurred in the preparation for and conduct of special elections proclaimed by the Governor to fill a vacancy. Specifically, this bill:

1) Provides that the state shall pay the costs of a special election to fill a vacancy in the office of the State Senate or Assembly, or to fill a vacancy in the office of the United States Senator or Representative.

2) Provides that when an election to fill such a vacancy is consolidated with any other election, only those additional expenses directly related to the election to fill the vacancy shall be paid for by the state.

3) Provides that this bill applies to any special election held on or after January 1, 2013.

EXISTING LAW provides that all expenses authorized and necessarily incurred in the preparation for and conduct of elections are to be paid from the county treasuries, except that when an election is called by the governing body of a city the expenses shall be paid from the treasury of the city.

FISCAL EFFECT: Unknown

COMMENTS:

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

> The Los Angeles County Registrar-Recorder/County Clerk administers numerous special vacancy elections a year at the cost of the County. In 2013 alone, the County spent an estimated $12 million to prepare for and conduct nine special vacancy elections. From 2007 through 2011, the County ran 11 special elections at a total cost of $16.7 million. This legislation is crucial to recovering the costs to conduct special elections, which left unreimbursed, defer funds from other crucial County services.

2) Vacancy Elections: From 1993 through 2007, the state reimbursed counties for the costs of special elections to fill vacancies in the State Senate, Assembly and United States Senator or Representative. However the provision of state law that required the state to reimburse counties for the costs of conducting special vacancy elections expired January 1, 2008.

   According to records provided by the Secretary of State, since 2008 there have been 41 special elections conducted to fill vacancies in the State Senate, Assembly and United States Senator or Representatives.

Since 2008, counties have been forced to redirect important resources budgeted for critical community services to cover the unanticipated costs of conducting mandated special elections.

3) Arguments in Support: The Los Angeles County Board of Supervisors, who are the sponsors of the bill, write in support:

> Current law requires the Governor to call a special election to fill a vacancy in the State Assembly, the State Senate, or in the United States Congress. Subsequent to the gubernatorial proclamation, the affected county or counties are required to hold the election in the timeframe prescribed by law. Counties are not reimbursed for the costs to conduct these special elections. In 2013, Los Angeles County held eight special elections to fill vacancies in the State Assembly and the State Senate at an estimated cost of $11.2 million.
>
> AB 2273 would allow counties to seek State reimbursement for the costs of a special election, held on or after January 1, 2013, to fill a vacancy in the State Assembly, the State Senate or the United States Congress. If the special election is consolidated with a statewide general election, the State would reimburse the county only for the incremental costs of the special election measures.

4) Related Legislation: SB 942 (Vidak) would reimburse counties for special election expenses incurred between January 1, 2008 and December 31, 2014, and SB 963 (Torres) is identical to this bill. Both bills are pending in Senate Appropriations Committee.

5) Previous Legislation: SB 519 (Emmerson) of 2013, and SB 106 (Blakeslee) of 2011, were substantially similar to this bill. Both were held on the Senate Appropriations Committee's suspense file. SB 141 (Price) of 2011 and SB 994 (Price) of 2010 would have required all expenses authorized and necessarily incurred in the preparation and conduct of vacancy elections proclaimed by the Governor to be paid by the state. Both bills were held on the suspense file in the Senate Appropriations Committee. AB 496 (Davis) of 2010, which was identical to SB 994 (Price), was held in Senate Appropriations Committee. AB 1769 (Tran) of 2010, which was similar to this bill, was held in Assembly Appropriations Committee.

   AB 37 (Johnson), Chapter 39, Statutes of 1993, originally enacted the reimbursement provisions that this bill seeks to restore. The purpose of AB 37 was to provide relief to counties who could not afford the costs associated with special elections. AB 37 was enacted in response to an increasing number of special elections to fill vacancies in the wake of the enactment of term limits. AB 37 contained a sunset date of January 1, 1996.

   AB 1709 (McPherson), Chapter 1102, Statutes of 1996, extended the sunset date on AB 37 from January 1, 1996 to January 1, 2000. AB 547 (Longville), Chapter 790, Statutes of 1999, further extended the sunset date to January 1, 2005 and AB 183 (Longville) of 2001 would have removed the sunset date altogether, but it was vetoed by Governor Davis. AB 783 (Jones), Chapter 714, Statutes of 2005, reinstated the reimbursement provision enacted by AB 37 and extended the sunset date from January 1, 2005 to January 1, 2006. AB 1799 (McCarthy), Chapter 727, Statutes of 2006, extended the sunset date from January 1, 2006

until January 1, 2007. AB 119 (Price), Chapter 487, Statutes of 2007, restored the reimbursement provision to apply to any special election held on or after January 1, 2007 and before January 1, 2008.

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles County Board of Supervisors (Sponsor)
California State Association of Counties
County of San Bernardino
County of San Diego
Rural County Representatives of California (if amended)
Sacramento County Board of Supervisors
Urban Counties Caucus

Opposition

None on file.

Analysis Prepared by: Lori Barber / E. & R. / (916) 319-2094

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Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2320 (Fong) – As Introduced: February 21, 2014

SUBJECT: Political Reform Act of 1974: campaign funds.

SUMMARY: Prohibits a spouse or domestic partner of an elected officer or a candidate for elective office from receiving, in exchange for services rendered, compensation from campaign funds held by a controlled committee of the elected officer or candidate for elective office.

EXISTING LAW:

1) Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).

2) Prohibits a spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation from campaign funds held by a controlled committee of the elected officer or candidate for elective office for services rendered in connection with fundraising for the benefit of the elected officer or candidate for elective office.

3) Prohibits the use of campaign funds for an expenditure that confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure unless the expenditure is directly related to a political, legislative, or governmental purpose.

4) Prohibits the use of campaign funds to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

5) Provides that any person who knowingly or willfully violates the PRA is guilty of a misdemeanor.

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

COMMENTS:

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

> The Political Reform Act (PRA), among other provisions, places restrictions on the use of campaign funds for state and local candidates and elected officers. For example, the PRA prohibits the use of campaign funds for gifts or personal purposes unless they are directly related to a political, legislative, or governmental purpose. Furthermore, the PRA prohibits campaign funds from being used to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

In 2009, the Legislature passed and the Governor signed SB 739 (Strickland), which prohibits a spouse or domestic partner of an elected officer or a candidate from receiving compensation from campaign funds for services rendered in connection with fundraising for the benefit of the elected officer or candidate.

Despite these restrictions, ethnical concerns may continue to arise, because existing law allows a candidate or officeholder to pay a spouse for services other than fundraising services that are rendered to, and paid by, the campaign. Under such circumstances, a candidate or officeholder can personally benefit financially from contributions received by his or her campaign.

AB 2320 improves transparency and strengthens campaign integrity by prohibiting a candidate or officeholder from paying his or her spouse or domestic partner from campaign funds for providing services to the campaign.

2) Background: Candidates and officeholders both within and outside of California often find themselves the subject of scrutiny and controversy for paying a spouse or other family member for professional services rendered to, and paid by, their campaign committees.

Consequently, in 2009 the Legislature passed and the Governor signed SB 739 (Strickland), Chapter 360, Statutes of 2009, which prohibits a spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation from campaign funds held by a controlled committee of the elected officer or candidate for services rendered in connection with fundraising for the benefit of the officeholder or candidate.

However, as mentioned above in the author's statement, ethical concerns continue to come up because existing law allows a candidate or officeholder to pay a spouse for services other than fundraising services that are rendered to, and paid by, the campaign. Under California's community property laws, any income earned by a married person while living with his or her spouse generally is considered to be community property, which is jointly held by both spouses. As a result, when a candidate pays his or her spouse for professional services rendered to the candidate's campaign committee, the campaign committee's payment indirectly becomes the candidate's personal property. These arrangements are controversial because they allow candidates to personally benefit from the contributions that their campaigns seek and accept. Under such circumstances, a candidate or officeholder can personally benefit financially from contributions received by his or her campaign.

In fact, California law already recognizes that ethical concerns may arise when a candidate can personally benefit financially from contributions received by his or her campaign. For that reason, the PRA prohibits campaign funds from being used to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes. Along the same lines, the PRA limits the amount of money that a candidate may loan to his or her own campaign. Those limits were put into place due to concerns that money raised by a candidate subsequent to an election to repay that candidate's personal loan to his or her campaign committee would go into the candidate's own pocket, indirectly resulting in campaign contributions becoming a candidate's personal funds.

This bill expands on the prohibitions already in current law by eliminating provisions of law that allow the spouse or domestic partner of an officeholder or candidate to receive compensation from campaign funds for services rendered for purposes other than fundraising for the benefit of the elected officer or candidate.

3) 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.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094

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Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2439 (Donnelly) – As Introduced: February 21, 2014

SUBJECT: Secretary of State: initiative information.

SUMMARY: Requires the Secretary of State (SOS) to post on his or her Internet Web site and include in any SOS publication describing the initiative process, including the Statewide Initiative Guide pamphlet, information describing that the following services are available to the proponents of a proposed measure:

1) The Legislative Counsel's cooperation in preparing an initiative measure, as specified by current law; and,

2) The SOS's review of prepared initiatives prior to circulation, pursuant to current law.

EXISTING LAW:

1) Requires the SOS, upon request of the proponents of an initiative measure which is to be submitted to the voters, to review the provisions of the initiative measure after it is prepared prior to its circulation. Requires the SOS, in conducting the review, to analyze and comment on the provisions of the measure with respect to form and language clarity and request and obtain a statement of fiscal impact from the Legislative Analyst. Provides that the review performed shall be for the purpose of suggestion only and shall not have any binding effect on the proponents of the initiative measure.

2) Requires the SOS to prepare and make available a pamphlet describing the procedures and requirements for preparing and circulating a statewide initiative measure and for filing sections of the petition, and describing the procedure used in determining and verifying the number of qualified voters who have signed the petition.

3) Requires the Legislative Counsel to cooperate with the proponents of an initiative measure in its preparation when requested in writing by 25 or more electors proposing the measure when, in the judgment of the Legislative Counsel, there is reasonable probability that the measure will be submitted to the voters of the State under the laws relating to the submission of initiatives.

FISCAL EFFECT: Unknown

COMMENTS:

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

> The initiative process was created as a progressive reform to break the stranglehold of entrenched economic and political interests on California's political system. The initiative has given the People a means of direct control over their government and has allowed them to enact many important reforms over the past century. The right of

initiative is reserved by the People under our constitution, and has been described by the courts as one of the most precious rights of our democratic process.

Although the initiative system provides a valuable means for citizens to influence public policy, some critics have claimed that initiative measures sometimes contain drafting errors which could create legal ambiguities if adopted by the voters.

Fortunately, California law already provides two avenues for optional drafting assistance to initiative proponents. The first method is through the Legislative Counsel, who can assist in writing the measure before it receives an initiative title, and the second is through the Secretary of State, who must provide a review of a measure's form and language clarity prior to circulation.

While assistance from the Legislative Counsel requires a petition signed by 25 voters and a determination that there is a reasonable probability the measure will be submitted to the voters, assistance from the Secretary is available upon request. However, only a few initiative proponents have ever requested assistance from the Secretary, in part because so few have been aware of its availability. For example, while the Secretary's "Statewide Initiative Guide" notes the assistance offered by the Legislative Counsel, it makes no mention of the assistance available from her own office. This is clearly a missed opportunity to improve the initiative process for the benefit of all Californians.

Therefore, AB 2439 will ensure that the Secretary of State publicizes the availability of all assistance offered to initiative proponents under existing law, by placing notices in the Statewide Initiative Guide, on her Internet website, and on any other materials that describe the initiative process. This initiative reform proposal was recommended by the non-partisan Center for Governmental Studies.

2) Current Assistance: As mentioned above, current law requires the SOS to prepare a Statewide Initiative Guide which provides an overview of the procedures and requirements for preparing and circulating initiatives, for filing sections of the petition, and describing the procedure of verifying signatures on the petition. However, the guide is for general information only and does not have the force and effect of law, regulation, or rule.

Step one of the SOS's Statewide Initiative Guide states that the "first step in the process of qualifying an initiative measure is to write the text of the proposed law. The initiative measure's proponent(s) may obtain assistance from the Office of the Legislative Counsel in drafting the language of the proposed law. Proponent(s) must obtain the signatures of 25 or more electors on a request for a draft of the proposed law; proponent(s) must then present the idea for the law to the Legislative Counsel. If the Legislative Counsel determines that there is a reasonable probability the initiative measure will eventually be submitted to the voters, the Legislative Counsel will draft the proposed law. Proponent(s) may also seek the assistance of their own private counsel to help draft the text of the proposed law, or they may choose to write the text themselves." The SOS's guide also lists the contact information for the Office of the Legislative Counsel.

The requirement for the Legislative Counsel to assist proponents in the drafting the language of a proposed initiative measure became law in 1945 through the passage of SB 1138 (Fletcher & Burns), Chapter 111, Statutes of 1945. According to the Legislative Counsel's

Office, it is difficult to quantify how often this request for service has been utilized; however, it is not uncommon for the Legislative Counsel to receive requests for drafting assistance. However, in practice, the requests tend to come from initiative proponents with more limited financial resources. Initiative proponents with greater financial resources tend to use private counsel or legal firms that specialize in certain issue areas, such as the Political Reform Act, when drafting the text of a proposed initiative.

In 1975, the Legislature passed and the Governor signed AB 1142 (Hayden), Chapter 955, Statutes of 1975, which required the SOS, upon the request of the proponents of an initiative measure which is intended to be submitted to the voters of the state, to review the provisions of the initiative measure after its preparation and before its circulation. The review consists of analyzing and commenting on the provisions of the measure with respect to form and language clarity and obtaining a statement of fiscal impact from the Legislative Analyst. Additionally, current law provides that the review would be for the purpose of suggestion only, having no binding effect on the proponents of the initiative measure. According to the SOS's office, since its implementation into law, only a handful of proponents have requested this service.

3) Center for Governmental Studies: The author's statement above references that this bill originated from a proposal by the Center for Governmental Studies. In 2008, the Center for Governmental Studies released a report entitled "Democracy by Initiative: Shaping California's Fourth Branch of Government." The report provides a variety of recommended reforms to the initiative process. One of those recommendations provided by the report seeks to address problems that arise with poorly drafted initiatives. According to the report, poorly drafted initiatives can result in a variety of unpleasant scenarios. For example, ambiguous or imprecise terminology can result in implementation problems, drafting omissions and oversights can result in unintended consequences and interpretation, excessive length can overwhelm voters with too many issues, complicated wording can promote voter confusion and constitutional deficiencies can frustrate voters and cause proponents to start the enactment process all over again.

   The report provides a number of recommendations to reform the initiative process. This bill includes one of those recommendations – publicize drafting assistance availability through the Legislative Counsel and the SOS's offices. According to the report, even if a small number of proponents took advantage of this assistance, it would improve the quality of statutory and constitutional language put in place by intiatives. The report does concede that "[m]any initiative proponents view official review and criticism of their proposals as a major inconvenience and one that can sometimes be usurped for political purposes." Additionally, the report states that "[e]ven supporters of an optional drafting assistance program concede that review procedures may be open to political opportunism... Moreover, it is difficult to prod the authors of legislation into seeking the opinions of others if they are not required to do so."

4) Technical and Clarifying Amendment: According to the author's office, the intent of the bill is to better publicize that initiative proponents may garner assistance in drafting the text of an initiative measure from the SOS. Specifically, it is the author's intent to require the SOS to publicize this service in the SOS's Statewide Initiative Guide. The bill can be interpreted to require the SOS to publicize this assistance in more than just the Initiative Guide. As a result, the committee staff recommends amending the bill to better reflect the author's intent

as follows:

On page 2, in lines 4 -5, strike: *include and in any publication of the Secretary of State describing the initiative process, including*, and insert: *and include in.*

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094

Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2530 (Rodriguez) – As Introduced: February 21, 2014

SUBJECT: Ballot processing.

SUMMARY: Requires an elections official, if using signature verification technology when comparing the signatures on a vote by mail (VBM) ballot identification envelope, to not reject a ballot when the verification technology determines that the signatures do not compare unless he or she visually examines the signatures and verifies that the signatures do not compare.

EXISTING LAW:

1) Permits a county elections official, upon receipt of a VBM ballot, mail ballot precinct ballot, or provisional ballot, to compare the signature on the identification envelope with one of the following to determine whether the signatures compare:

   a) The signature appearing on the voter's affidavit of registration or any previous affidavit of registration of the voter; or,

   b) The signature appearing on a form issued by an elections official that contains the voter's signature, that is part of the voter's registration record, and that the elections official has determined compares with the signature on the voter's affidavit of registration or any previous affidavit of registration of the voter, as specified.

2) Permits an elections official to make the determination of whether a signature on a VBM ballot, mail ballot precinct ballot, or provisional ballot, compares with the signatures on file for that voter by reviewing a series of signatures appearing on official forms in the voter's registration record that have been determined to compare, that demonstrate the progression of the voter's signature, and that make evident that the signature on the identification envelope is that of the voter.

3) Provides that if the ballot is rejected because the signatures do not compare, the envelope shall not be opened and the ballot shall not be counted. Requires the cause of the rejection to be written on the face of the identification envelope.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

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

   California voters are increasingly choosing to vote by mail. During the November 2012 statewide election, for the first time ever in a general election, a majority of California voters chose to cast vote-by-mail ballots. Current law requires a voter's signature on a provisional or mail ballot envelope to compare with a signature found in the voter's registration record. To accommodate provisional ballots and the growing number of vote-

by-mail ballots, many elections officials use signature comparison software to verify signatures. When software cannot verify that a signature compares, the existing practice is that the election official visually examines the signatures to determine if the ballot will be counted. However, this practice is not required by law.

Signatures often vary over time and human eyes may identify a natural progression among the signatures in the voter's record. A computer may fail to recognize that progression. It is also possible that the county may have a poor quality signature image – either on file or scanned from the ballot envelope – that requires human eyes rather than comparison by software.

AB 2530 codifies existing best practices in the use of signature verification technology that both allow California elections officials to use automated systems and also ensure no voter's ballot is rejected without a human review of the signatures.

2) Signature Verification Process: Current law requires a county elections official, upon receiving a VBM ballot, mail ballot precinct ballot, or provisional ballot, to compare the signature on the identification envelope with the signature appearing in the voter's registration record, as specified. If the signatures compare, existing law requires the county elections official to deposit the ballot, still in the identification envelope, in a ballot container in his or her office. Due to an increase in VBM and provisional ballots, and to make the verification process more efficient, many county elections officials use signature verification technology to compare and verify signatures on ballot identification envelopes.

   Historically, the main reasons why a ballot is rejected for a signature mismatch is because the signature is unreadable, missing or has changed and is out of date. As mentioned above in the author's statement, computer signature verification technology is not infallible and unfortunately there are circumstances that may lead the verification software to incorrectly determine that a signature on an identification envelope does not compare to the signature on the voter's registration record. For example, the location of the voter's signature on the envelope, a problem with the digital image of the signature, or an outdated signature, all may lead verification software to incorrectly determine that the signatures do not match. Consequently, as mentioned above, it is the existing practice of county elections officials to visually compare signatures that signature verification technology finds do not compare before rejecting a voted ballot. However, this practice is not required by law. This bill codifies this procedure.

3) Previous Legislation: AB 1135 (Mullin), Chapter 271, Statutes of 2013, expanded the list of documents a county elections official may use to compare to the signature on a VBM ballot identification envelope.

REGISTERED SUPPORT / OPPOSITION:

Support	Opposition
Secretary of State Debra Bowen (sponsor)	None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094