

Date of Hearing: June 21, 2023

ASSEMBLY COMMITTEE ON ELECTIONS
Isaac G. Bryan, Chair
SB 248 (Newman) – As Amended June 13, 2023

SENATE VOTE: 33-6

SUBJECT: Political Reform Act of 1974: disclosures: candidate experience.

SUMMARY: Requires any candidate for elective office to submit a candidate experience disclosure form to disclose their prior education, work, and military service history, as specified. Specifically, **this bill:**

- 1) Requires a statement of intention filed by an individual who intends to be a candidate for an elective office to include the candidate experience disclosure form described in subdivision 2) below. Permits the Fair Political Practices Commission (FPPC), at its discretion, to require the candidate experience disclosure to be included as part of the statement of intention or as an attachment to that statement.
- 2) Requires the FPPC on or before the January 1 following the certification of the new online filing and disclosure system (also referred to as the Cal-Access Replacement Project or CARS), to create a candidate experience disclosure form for candidates for elective office to disclose their prior education and work history, and history of military service, if any.
- 3) Requires a candidate for elective office, commencing the January 1 following the certification of CARS, to file the candidate experience disclosure form with the Secretary of State (SOS) before the candidate solicits or receives any contribution or loan. Requires a candidate for elective office to file a statement signed under the penalty of perjury that the information contained in the candidate experience disclosure is accurate to the best of the candidate's knowledge.
- 4) Requires the SOS to post on their internet website a copy of the completed candidate experience disclosure submitted by a candidate. Requires a completed candidate experience disclosure posted in accordance with this bill to be made available to the public for four years from the date of the election associated with the filing.
- 5) Provides that any candidate who states as true any matter in the candidate experience disclosure that the candidate knows to be false is guilty of a violation of the Political Reform Act (PRA). Provides, notwithstanding the otherwise applicable enforcement provisions of the PRA, that the Attorney General (AG) is responsible for investigating and enforcing violations of this bill by a candidate for statewide elective office, and the district attorney of the jurisdiction in which the candidate resides is responsible for investigating and enforcing violations of this bill by a candidate for any other elective office.
- 6) Provides that the failure to timely file the forms required by this bill shall be a separate violation. Provides that the exclusive penalty for a candidate who files after the deadline shall be the late filing fee provided in existing law. Requires a candidate who fails to file any

candidate experience disclosure to be subject to any applicable penalty under the PRA.

- 7) Provides it is the intent of the Legislature that a violation of the provisions of this bill will be considered grounds for disqualification from elective office. Provides that in addition to enforcement by the AG, the governing body authorized to remove an elective officer from an elective office may investigate violations of this bill and, having determined that the officer failed to file the candidate experience disclosure or made a false statement on the candidate experience disclosure form as a candidate, may consider that violation as grounds for the officer's removal.
- 8) Makes legislative findings that the integrity of candidates for elective office is a matter of statewide concern and is not a municipal affair, and therefore provides that the provisions of this bill apply to all cities, including charter cities.
- 9) Requires the provisions of this bill to become operative after the date the SOS certifies the new CARS online filing and disclosure system pursuant to existing law.

EXISTING LAW:

- 1) Creates the FPPC and makes it responsible for the impartial, effective administration and implementation of the PRA. (Government Code §§83100, 83111)
- 2) Requires an individual who intends to be a candidate for an elective state office, prior to the solicitation or receipt of any contribution or loan, to file with the SOS an original statement, signed under penalty of perjury, of intention to be a candidate for a specific office. Requires an individual who intends to be a candidate for any other elective office to file the statement of intention with the same filing officer and in the same location as the individual would file an original campaign statement in accordance with existing law. (Government Code §85200)
- 3) Defines the term "elective state office" to mean the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, SOS, Treasurer, Superintendent of Public Instruction, Member of the Legislature, member elected to the Board of Administration of the Public Employees' Retirement System, member elected to the Teachers' Retirement Board, and member of the State Board of Equalization. (Government Code §82024)
- 4) Requires the SOS, in consultation with the FPPC, to provide online and electronic filing processes for use by specified political committees, lobbyists, lobbying firms, and lobbyist employers pursuant to the PRA. This online reporting and disclosure system is commonly referred to as the Cal-Access system. (Government Code §84602(a)(1))
- 5) Requires the SOS, in consultation with the FPPC, to develop and certify a new online filing and disclosure system for public use that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format, as specified. This system is commonly referred to as CARS. (Government Code §84602(b)(1))
- 6) Makes violations of the PRA subject to administrative, civil, and criminal penalties. (Government Code §§83116, 91000-91005.5)

- 7) Provides that any person who files an original statement or report after a deadline imposed by the PRA is liable in the amount of \$10 per day after the deadline until the statement or report is filed, as specified, in addition to any other penalties or remedies established by the PRA. (Government Code §91013)

FISCAL EFFECT: According to the Senate Appropriations Committee:

- Costs to the FPPC would be minor and absorbable.
- The SOS would likely incur costs in the low hundreds of thousands of dollars annually (General Fund).
- Any costs to the Department of Justice have yet to be identified.

COMMENTS:

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

The ongoing drama around newly elected congressman and sociopathic prevaricator George Santos of New York should be a cautionary tale. As has been extensively covered by the press since his surprise triumph in the most recent round of midterm elections, over the course of his campaign Representative Santos lied about nearly every aspect of his personal and professional history.

With public trust in politics already at all-time lows, the DUPE Act will provide voters the assurance of appropriate and effective recourse, while allowing for the full exercise of candidates' First Amendment rights, if and when it turns out that a candidate has achieved election by running on demonstrably falsified credentials.

- 2) **Political Reform Act:** In general, the PRA requires local and state elected officers, candidates, and committees to file pre-election statements under specified circumstances and requires candidates to submit specified filings to declare their intent to run for elective office and make various disclosures relating to a campaign for elective office. For instance, candidates must file a Candidate Statement of Intention (also known as Form 501) for each election, including re-election to the same office. This form is required to be filed before a candidate solicits or receives any contributions or before making an expenditures from personal funds for the candidacy. Generally, candidates for state elective office file with the SOS and candidates for local office file with their local county office. The Form 501 is signed under penalty of perjury by the candidate.

This bill adds another disclosure form and requires a candidate for elective office to submit a candidate experience disclosure form to disclose their prior education, work, and military service history, as specified.

- 3) **Media Reports:** Multiple media outlets have reported that US Representative for New York's 3rd Congressional district George Santos is under several investigations and faces numerous allegations of criminal wrongdoing, including wire fraud, money laundering, theft of public funds, and making materially false statements to the House of Representatives,

among others. According to the author, SB 248, also known as the Disqualifying Unscrupulous and Pathological Electeds (or DUPE) Act, seeks to provide voters assurance of appropriate and effective recourse if and when it turns out that a candidate running for elective office in California has achieved election by running on falsified credentials.

- 4) **Other Jurisdictions:** Preliminary research shows that at least one jurisdiction has enacted a law that is similar to the provisions of this bill. According to media articles, earlier this year the Westchester County Board of Legislators approved a new law that requires a candidate for County Legislator and County Executive to complete a candidate disclosure form that provides biographical information, including the candidate's educational, military, and employment histories, requires the candidate to certify that the information contained in the form is true and correct, and requires the form to be open for public inspection. According to a press release from the Westchester County Board of Legislators, the inspiration for the legislation was born from the controversy surrounding US Congressman George Santos, who is under ethical review after revealing he misrepresented his educational and professional background.
- 5) **Enforcement:** As detailed above, violations of the PRA generally are subject to administrative, civil, and criminal penalties. Additionally, the PRA gives the FPPC the authority to seek injunctive relief to compel disclosure required by the PRA. This bill establishes additional penalties and enforcement procedures. Specifically, this bill provides the AG or district attorney is responsible for investigating candidates who make false statements on their candidate experience disclosure and bringing enforcement actions for those false statements. Additionally, this bill provides that it is the intent of the Legislature that a violation of the provisions of this bill will be considered grounds for disqualification from elective office, and that a governing body with the power to remove an elected officer from an office may investigate any violations and consider false statements or failure to file the candidate experience grounds for the officer's removal.
- 6) **Cal-Access Replacement Project:** In 1997, the Legislature passed and Governor Pete Wilson signed SB 49 (Karnette), Chapter 866, Statutes of 1997, which amended the PRA and established the Online Disclosure Act of 1997. SB 49 required the SOS, in consultation with the FPPC, to develop and implement, by the year 2000, an online filing and disclosure system for reports and statements required to be filed under the PRA, as specified. As a result, the SOS created and deployed a system called the California Automated Lobby Activity and Campaign Contribution and Expenditure Search System, commonly referred to as Cal-Access. Cal-Access is 23 years old, and the SOS reports that components of the system are no longer supported by their vendor. As a result, the system has periodically crashed and denied public access.

Given the limitations of the existing Cal-Access system, the Legislature has taken steps to replace that system. In 2016, the Legislature approved and the Governor signed SB 1349 (Hertzberg), Chapter 845, Statutes of 2016, which requires the SOS, in consultation with the FPPC, to develop and certify for public use a new online filing and disclosure system for statements and reports that provide public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format, as specified. The new system is intended to be data driven, rather than form-based, and is intended to permit future

compatibility with local campaign finance data. This system is commonly referred to as CARS.

7) **CARS Project Further Delayed:** According to the SOS, in July 2021, it partnered with the California Department of Technology to conduct an independent assessment of CARS and it was determined that CARS was not ready for a system launch. Consequently the SOS began planning for a CARS project restart. As a result, it is unlikely that the CARS system will be fully deployed until late 2026 at the earliest. Adding additional requirements to the new CARS system—as this bill proposes to do—could further delay the development of the system and possibly increase costs.

8) **Arguments in Support:** In support of a prior version of this bill, Indivisible CA 45 wrote:

When it comes to running for public office in California, we have seen that candidates can easily take advantage of the public’s trust and not fully disclose their full educational, military or work history. The sacred act of running for office requires transparency and honesty. And if not, there need to be consequences. At this time, the residents of a jurisdiction are left with no other option but an expensive and unwieldy recall process to right such wrongs.

SB 248 as amended would close this gaping hole in accountability by requiring that when a candidate files a declaration of candidacy the candidate will disclose their prior education and work history, and history of military service, if any. In addition, the filing would contain a statement, signed under penalty of perjury, that the information contained in the form is accurate to the best of the candidate’s knowledge.

The bill would establish penalties and enforcement procedures for these requirements, as specified. The bill would state that it is the intent of the Legislature that a violation of these provisions be considered grounds for disqualification from elective office, and that a governing body with the power to remove an elected officer from an office may consider violation of this chapter as grounds for such removal.

With public trust in politics already at all-time lows, SB 248 as amended will provide voters the assurance of appropriate and effective recourse in the event that a candidate wins an election based on credentials that later turn out to have been falsified.

9) **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

Indivisible CA 45

Opposition

None on file.

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