

Date of Hearing: June 21, 2023

ASSEMBLY COMMITTEE ON ELECTIONS

Isaac G. Bryan, Chair

SB 681 (Allen) – As Amended June 14, 2023

SENATE VOTE: 32-8

SUBJECT: Political Reform Act of 1974: amendments.

SUMMARY: Reduces, from 12 days to eight days, the amount of time that a bill amending the Political Reform Act (PRA) must be in print before it can be taken up for final passage, as specified, unless the previous form of the bill did not amend the PRA. Specifically, **this bill:**

- 1) Reduces, from 12 days prior to passage in each house to eight days prior to passage, the date by which a legislative bill that proposes to amend the PRA must be delivered to the Fair Political Practices Commission (FPPC) in its final form for distribution to the news media and to every person who requested the FPPC to send copies of such bills to that person. Maintains a requirement that the bill be delivered in its final form to the FPPC at least 12 days prior to passage in each house if the previous form of the bill did not amend the PRA.
- 2) Requires the Legislative Counsel, through a public legislative information system developed in accordance with existing law, to make available to the public the option to sign up to receive an email alert any time any of the following actions occur:
 - a) A new bill that would amend the PRA is introduced.
 - b) An existing bill that would amend the PRA is amended, referred to the floor or a committee, voted on, or is otherwise subject to an action triggering a notification by the information system.
 - c) An existing bill that would not amend the PRA is amended to include provisions that would amend the PRA.
- 3) Requires the email alerts described above to be sent in the shortest feasible time, but no later than 9 a.m. on the calendar day after the legislative action that is the subject of the alert. Requires all such email alerts to include the text “PRA Bill” in the email subject line.
- 4) Contains various findings and declarations about legislation that proposes to amend the PRA and developments in electronic communications since the enactment of the PRA that have made it possible to distribute information about such legislation to the public and the news media more promptly and efficiently.

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) Permits the electors to propose statutes and amendments to the Constitution, and to approve or reject them, through the initiative process. (California Constitution, Article II, §8) Permits

the Legislature to amend or repeal a statute that was enacted by an initiative through another statute that becomes effective only when approved by the electors, unless the initiative statute permits amendment or repeal without the electors' approval. (California Constitution, Article II, §10(c))

- 3) Permits the PRA to be amended or repealed only through one of the following procedures:
 - a) Amendments to the PRA that further its purposes may be enacted by statute that is passed by a two-thirds vote in each house and signed by the Governor, if at least 12 days prior to passage in each house the bill in its final form has been delivered to the FPPC for distribution, as specified; or,
 - b) The PRA may be amended or repealed by a statute that becomes effective only when approved by the electors. (Government Code §81012)
- 4) Requires the Legislative Counsel, with the advice of the Assembly Committee on Rules and the Senate Committee on Rules, to make specified information available to the public in electronic form, including the text of each bill in each current legislative session, the bill history and status of each such bill, and all bill analyses prepared by legislative committees in connection with each such bill. (Government Code §10248)

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

COMMENTS:

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

Important reforms to the PRA have been impeded by timing conflicts between end-of-session Legislative deadlines and the 12-day final form requirement. The legislative calendar currently makes it difficult for PRA reform bills to succeed at the end of the legislative session with Appropriations Committee suspense file hearings leaving little time for critical amendments. In some instances, the Committee may amend a PRA bill after the 12-day deadline has passed - making it impossible for the Legislature to vote on it. Extended periods for public review of these bills is vital to ensuring government accountability and transparency, however, the current timeline dates back to 1985 before the advent of the modern internet when physical copies of bills were distributed by mail.

Supported by good government groups, SB 681 shortens the length of time a bill must be in its final form before it is passed by the Legislature from 12 days to 8. It additionally requires email notification and tracking updates to Political Reform Act bills on the publicly available California Legislative Information website. This shortened timeline will allow additional time to negotiate important amendments at the end of the legislative session while still providing more time for public review and engagement than is required of other legislation.

- 2) **Amending Initiative Statutes and the Political Reform Act of 1974:** An initiative statute that is enacted into law by California voters generally can be amended or repealed only by another statute that becomes effective when approved by the electors, unless the initiative

provides otherwise. Initiative measures, however, often include provisions that allow the Legislature to amend those initiatives without voter approval, subject to certain conditions. (The term “initiative” refers exclusively to a proposed law that qualifies for the ballot through voter signatures. Other types of ballot measures – including measures that are placed on the ballot by the Legislature – are not considered “initiatives” under California law.)

For instance, in June 1974, California voters passed Proposition 9, an initiative measure that created the PRA and established the FPPC. The PRA codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. When it was enacted, the PRA provided two procedures by which it could be amended. First, the PRA can be amended or repealed through a statute that takes effect only when approved by the voters. Alternately, Proposition 9 allowed amendments without voter approval if (1) the amendments furthered the purposes of the initiative, (2) the bill amending the PRA was approved by a two-thirds vote of each house of the Legislature and was signed by the Governor, and (3) the bill in its final form was delivered to the FPPC for distribution to the news media and interested persons at least 40 days prior to passage in each house. (As detailed below, these rules have since been modified.) Notwithstanding these general rules governing amendments to the PRA, certain provisions of the PRA can be amended by the Legislature without restriction in order to add information to the state voter information guide.

Since its enactment in 1974, the PRA has been amended hundreds of times, and the vast majority of those amendments were enacted without voter approval. Of the more than 300 bills that have been chaptered that amended the PRA, only two were submitted to the voters for their consideration (one was approved by the voters, and the other was rejected). The remaining legislative amendments to the PRA were enacted without voter approval. (Voters have also approved four initiative measures that amended the PRA since its adoption.)

Because this bill proposes to amend the PRA without being submitted to voters, it must further the purposes of the initiative and it requires a two-thirds vote of each house of the Legislature.

- 3) **Previous Legislation:** As detailed above, when the PRA was enacted, it required any bill that proposed amending the PRA without being submitted to voters for their consideration to be delivered to the FPPC in its final form for distribution at least 40 days prior to final passage in each house. Since that time, the Legislature has twice enacted legislation reducing the number of days prior to final passage that such bills must be delivered to the FPPC for distribution. Specifically, AB 2607 (Keysor), Chapter 883, Statutes of 1976, reduced the period from 40 days to 20 days, and AB 869 (Lancaster), Chapter 1200, Statutes of 1985, further reduced the period to 12 days, among other provisions.
- 4) **12 Day Print Rule and the Legislative Calendar:** As noted by the author, the requirement that bills amending the PRA be in print in their final form for 12 days before final passage can create challenges in connection with longstanding legislative deadlines and practices. For example, the Appropriations Committees in the Assembly and Senate generally hold hearings for bills that have been placed on their suspense files twice a year—once shortly before the legislative deadline for bills to pass out of the house in which they were introduced, and again shortly before the scheduled adjournment of the Legislature for the year. Those suspense file hearings generally are held approximately two weeks before the relevant legislative deadline. In such situations, it is often the case that a bill that is amended coming

out of the relevant Appropriations Committee is not put into print as amended until there are fewer than 12 days remaining before the deadline. This can limit the ability of the Appropriations Committees to amend PRA bills to address concerns, and can otherwise prevent bills that amend the PRA from being amended at crucial times in the legislative process.

- 5) **Legislative Information Website:** As detailed above, existing law requires the Legislative Counsel to make specified legislative information available to the public in electronic form, including the text of bills, bill history and status, and bill analyses. Legislative Counsel complies with that requirement through a legislative information website maintained at <https://leginfo.legislature.ca.gov/>. In addition to allowing the public to search for legislation by bill number, keyword, author, and code section, the website also allows users to subscribe to receive email updates about the status of specific bills or about the status of bills that contain keywords specified by the user. This bill additionally would require that website to offer users the ability to sign up to receive email notifications about bills that amend the PRA. While it may be possible to receive notifications of most such legislation through the existing legislative information website by signing-up for notifications in connection with bills that contain the keywords “Political Reform Act,” such an approach likely would be less than perfect, as it would be both over-inclusive (i.e., it would include bills that do not amend the PRA but that include the text “Political Reform Act”) and under-inclusive (i.e., it would exclude bills that amend the PRA but that do not include the text “Political Reform Act,” if any).

- 6) **Arguments in Support:** In support this bill, the Fair Political Practices Commission writes:

Advances in technology and processes have increased the ease and efficiency of accessing legislative amendments, such that amendment language now becomes publicly available online typically hours after it crosses the desk. Existing law also requires the maintenance of a system that provides email alerts when bills are introduced or amended, creating a helpful tool for keeping up to date on legislative action.

It is of great public importance that bills that amend the Political Reform Act have a sufficient public review period before the Legislature may vote on the bill. SB 681 thoughtfully weighs this interest against the practical reality of tight deadlines that can occur during the legislative process.

- 7) **Arguments in Opposition:** In opposition to this bill, the California Federation of Teachers (CFT) writes:

CFT is comprised of 147 local unions chartered by the [American Federation of Teachers]. Our local union members elect representatives internally and ultimately our division leads and legislative committee. For matters related to the Political Reform Act we also further consult our legal team, who [can] often [take] days to respond to our inquires. Without having 12 days to review amendments to the Political Reform Act, we may not be able to formulate a position or amend a position in a timely matter.

While the goals of SB 681 are laudable, and we appreciate the amendments made to the bill, we would oppose a reduction of the days amendments to the Political Reform Act must be in print before the conclusion of a legislative session. We believe this time is important and necessary for our review of legislation that may impact our members and the [public] as a whole and for those [reasons] respectfully oppose the legislation.

REGISTERED SUPPORT / OPPOSITION:

Support

California Clean Money Campaign (Sponsor)
Fair Political Practices Commission

Opposition

California Federation of Teachers

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