

Date of Hearing: June 24, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

SB 1103 (Padilla) – As Amended: June 17, 2014

SENATE VOTE: 34-1

SUBJECT: Political Reform Act of 1974: candidacy for elective state office.

SUMMARY: Prohibits an elected state officer or a candidate for elected state office from having more than two campaign contribution accounts open for receiving contributions in connection with elective state office, or from opening a campaign contribution account to run for elective state office at an election that is more than four years in the future. Specifically, this bill:

- 1) Provides that if an individual has previously filed a statement of intention to be a candidate for an elective state office, and that individual subsequently files a statement of intention to be a candidate for a different elective state office to be voted on at the same election, the filing of the second statement of intention shall constitute a revocation of the previously filed statement of intention. Provides that the individual shall not thereafter solicit or receive a contribution or a loan for the elective state office for which he or she previously filed a statement of intention to be a candidate.
- 2) Prohibits an individual from filing, and prohibits the Secretary of State from accepting, either of the following:
  - a) A statement of intention to be a candidate for the office of Member of the Assembly at an election other than the next two elections at which the office will appear on the ballot; or,
  - b) A statement of intention to be a candidate for an elective state office other than the office of Member of the Assembly at an election other than the next election at which that elective state office will appear on the ballot.
- 3) Prohibits an elected state officer or candidate for elective state office from having more than two campaign contribution accounts open simultaneously for purposes of receiving contributions in connection with elective state offices.
- 4) Contains an urgency clause, allowing this bill to take effect immediately upon enactment.

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) Requires an individual to file a statement of intention to become a candidate for an elective office, signed under penalty of perjury, prior to soliciting or receiving a contribution or loan.

- 3) Requires an individual, upon filing a statement of intention to become a candidate for an elective office, to establish one campaign contribution account at an office of a financial institution located in the state. Requires all contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee, to be deposited into the account. Requires all campaign expenditures to be made from the account, except as specified.
- 4) Prohibits an individual from filing for more than one office at the same election.

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

COMMENTS:

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

There is a need to build and restore government trust in the election process. The belief that money buys influence from elected legislators has led to laws that attempt to diminish the influence of money. Currently, the PRA limits campaign contributions to \$4,100 per person for candidates or office holders that are running for California State Senate and Assembly. Candidates running for statewide constitutional offices have contribution limits of \$6,800 per person, with the exception of the Governor who has a limit of \$26,000. Despite the contribution limits, an individual who decides to open two candidate-controlled committees can cumulatively generate more money than what is legally permitted and undermine the effectiveness of existing campaign contribution limits.

Currently, it is legal to declare an intention to run for more than one office at a time. By simply expressing the intent to run for multiple offices an official may open multiple campaign committees. These multiple campaign committees can potentially be used to cumulatively raise funds far in excess of the established campaign contribution limits.

Finally, according to the FPPC, "more than \$60 million has been raised for races held one, three, even five years in the future with many candidates raising money into multiple committees for different offices at the same time."

The FPPC goes on to say that "while this practice is perfectly legal, it can often be difficult to ascertain the total amount raised or spent by a given candidate because of their ability to maintain multiple committees."

- 2) Statements of Intention vs. Nomination Papers: A statement of intention to be a candidate for an elective office serves as a notice of an individual's intent to raise campaign contributions toward seeking a particular office. Nomination papers, including declarations of candidacy, are filed with elections officials in order for the individual's name to appear on the ballot as an actual candidate for the office.

3) Contribution Limits: The author contends that permitting individuals to raise campaign contributions for multiple elective state offices at the same time could allow that individual to circumvent the applicable contribution limits in place for the individual offices. Currently, the limits for campaign contributions to candidates for elective state office are as follows:

- To a candidate for elective state office other than a candidate for statewide elective office, no person may contribute more than \$4,100 per election and no small contributor committee may contribute more than \$8,200 per election;
- To a candidate for elective statewide office other than a candidate for Governor, no person may contribute more than \$6,800 per election and no small contributor committee may contribute more than \$13,600 per election;
- To a candidate for Governor, no person or small contributor committee may contribute more than \$27,200 per election.

Notwithstanding the author's concern about the potential for candidates to circumvent the contribution limits, the PRA and regulations adopted by the FPPC already contain provisions to protect against such circumvention. When a person files a statement of intention to be a candidate, the PRA requires that statement to be filed under penalty of perjury. As a result, any person who filed a statement of intention for an office that the person had no intention of seeking could be charged with perjury. Once a candidate files a statement of intention, and raises money into a committee associated with that statement of intention, expenditures from that committee must be related to the campaign for the office that the candidate stated an intention to seek. Furthermore, any transfers of funds between two committees for the same candidate are subject to rules that require those funds to be attributed to individual contributors at the time the funds are transferred, thereby protecting against the circumvention of contribution limits. As a result, the extent to which campaign contribution limits can be circumvented through the use of multiple candidate committees under existing law is unclear.

4) Automatic Revocation of Statements of Intention: Because existing law does not provide for the automatic revocation of statements of intention to be a candidate, neither the PRA nor regulations developed by the FPPC include a procedure or a timeline for a candidate to close the committee that is associated with the statement of intention that was revoked. It is unclear, for instance, how long a candidate would have to dispense with funds that were raised by that committee.

For example, if a candidate intended to run for the Board of Equalization (BOE), and raised money under the contribution limits in place for that office (currently \$6,800 per election), but subsequently decided to run for the state Senate instead, that candidate may not be able to transfer all funds from the BOE account into the new Senate account, since the contribution limits for state Senate are lower (currently \$4,100 per election) than for BOE. A candidate in such a position would be required to dispense with any funds in the BOE account that are unable to be transferred, including potentially refunding portions of certain contributions, but the rules that would control such a process are unclear. Unless this bill is amended to establish these procedures and timelines, it would be incumbent upon the FPPC to address

these issues via regulation or advice.

- 5) Limit of Two Campaign Contribution Accounts: One provision of this bill prohibits a candidate from having more than two campaign contribution accounts open simultaneously for purposes of receiving contributions in connection with elective state offices. A small number of candidates currently have more than two campaign accounts open for the purposes of receiving contributions in connection with elective state offices. Presumably, those candidates would be required to close campaign accounts prior to the effective date of this bill. In most cases where a candidate has more than two accounts open, one or more of the open accounts are for elections that have already occurred, and where the candidate has not yet terminated the committee for that previously-held election.
- 6) Special Elections and Suggested Amendments: By prohibiting individuals from filing a statement of intention to be a candidate for an elective state office at an election other than the next election at which that elective state office will appear on the ballot (or, in the case of a candidate for Assembly, for an election other than the next two elections at which the office will appear on the ballot), this bill could prevent candidates from being able to raise money for a regularly scheduled election that occurs at or around the same time as a special election held to fill a vacancy in the same seat.

For example, if a vacancy occurred in a seat in the State Senate in November of the year prior to the final year of the term of office, a special election would be held to fill that vacancy for the remainder of the term. The special primary election to fill that seat could be held in the following January or February, with the special runoff election (if necessary) held in March or April. The primary election for the next full term of office for that seat would then be on the ballot in June, with the general election in November. Under the provisions of this bill, a candidate who filed a statement of intention to be a candidate in the special vacancy election would be unable to file a statement of intention to be a candidate for the full term of office at the election held just months later. In fact, it is possible that the deadline to file as a candidate for the full term of office could pass before a candidate was legally able to file a statement of intention to be a candidate at that election.

To address these concerns, committee staff recommends the following amendments to this bill:

On page 3, line 6, after "two", insert:

regularly scheduled

On page 3, line 10, after "next", insert:

regularly scheduled

- 7) Urgency Clause and Suggested Amendment: As noted above, this bill contains an urgency clause, and would go into effect immediately upon enactment. As noted above, however, the enactment of this bill could require a number of candidates to close campaign committees. Furthermore, given the deadlines for the Governor to act on bills that are approved by the Legislature this year, it is possible that this bill could be signed into law as little as five

weeks before the November election. Changing campaign finance rules so close to the date of a statewide election could create confusion, and could hamper the implementation and enforcement of the law.

To address these concerns, committee staff recommends that this bill be amended to remove the urgency clause.

- 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, 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

California League of Conservation Voters (prior version)  
League of Women Voters of California (prior version)  
MapLight (prior version)

Opposition

None on file.

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