

Date of Hearing: June 24, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

SB 1104 (Padilla) – As Amended: June 15, 2014

SENATE VOTE: 28-9

SUBJECT: Political Reform Act of 1974: campaign communication disclosure.

SUMMARY: Requires all campaign communications that support or oppose a candidate for state office or a statewide ballot measure to be submitted to the Secretary of State (SOS) and posted on his or her website. Specifically, this bill:

- 1) Requires a candidate for elective state office, a slate mailer organization, or a committee that authorizes an expenditure for a campaign contribution to file an electronic copy of the campaign communication with the SOS as follows:
 - a) For a campaign communication that is distributed by postal mail in the last 90 days prior to the election at which the candidate or measure that is the subject of the communication will appear on the ballot, the communication must be filed with the SOS not later than 72 hours after the first distribution of the communication;
 - b) For a campaign communication that is distributed in a manner other than by postal mail in the last 90 days prior to the election at which the candidate or measure that is the subject of the communication will appear on the ballot, the communication must be filed with the SOS not later than 24 hours after the first distribution of the communication; and,
 - c) For a campaign communication that is distributed at any other time, the communication must be filed with the SOS not later than five business days after the first distribution of the communication.
- 2) Requires the SOS to maintain an archive of all campaign communications that are filed pursuant to this bill, and to make the communications available for public inspection on the SOS's Internet website.
- 3) Defines "campaign communication," for the purposes of this bill, to mean an advertisement, mass mailing, or slate mailer that advocates support for or opposition to a candidate for elective state office or a statewide ballot measure.
- 4) Provides that the term "elective state office," for the purposes of this bill, does not include members of the Board of Administration of the Public Employees' Retirement System or of the Teachers' Retirement Board.
- 5) Provides that this bill shall become operative on January 1, 2017.

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) Regulates certain campaign communications, including mass mailings, slate mailers, print advertisements, and broadcast advertisements, by requiring those items to include specified information and disclosures.
- 3) Defines the following terms, for the purposes of the PRA:
 - a) "Advertisement," to mean any general or public advertisement which is authorized and paid for by a person or committee for the purpose of supporting or opposing a candidate for elective office or a ballot measure or ballot measures. Provides that the term "advertisement" does not include a communication from an organization (other than a political party) to its members, a campaign button smaller than 10 inches in diameter, a bumper sticker smaller than 60 square inches, or other advertisement as determined by regulations of the FPPC.
 - b) "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.
 - c) "Mass mailing" as over two hundred substantially similar pieces of mail.
 - d) "Slate mailer" as a mass mailing which supports or opposes a total of four or more candidates or ballot measures.

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

COMMENTS:

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

The Secretary of State serves as a general repository of historical state documents. The initial Political Reform Act required candidates to submit "a copy of every mass mailing in support of or in opposition to a state candidate or state measure...Such copies sent to the commission shall be public records." (Gov. § 84305). Since then, technology has advanced to facilitate electronic communications between the public and those running for office. Reinstating this requirement will serve to inform and engage voters, thus helping to restore public trust in elected officials.

Electronic disclosure of communications is consistent with the increasing acceptance of digital filings for public disclosure reports. The public is served in

that any interested individual will be able to access these documents on the Secretary of State's website. Providing the public with swift and easy access to candidate filings would promote the goal of an informed electorate.

It would also serve another important public policy purpose by allowing candidates and others subject to disclosure to monitor online their own submissions to the Secretary of State to confirm compliance with the law.

- 2) Local Jurisdictions and Other States: The cities of Berkeley, Los Angeles, Palmdale, and San Jose, and Marin County all require copies of certain campaign communications made in connection with local elections to be publicly disclosed. Other states that have a similar requirement include New York and New Jersey.
- 3) Campaign Communication Disclosure History: The PRA, as originally enacted via Proposition 9 of 1974, required that "...a copy of every mass mailing in support of or in opposition to a state candidate or state measure shall be sent to the [FPPC]. Such copies sent to the [FPPC] shall be public records."

According to Robert Stern, one of the architects of Proposition 9 and former General Counsel to the FPPC, this provision was inserted in the PRA because "it was hoped that it would reduce negative mailings since a copy would be on file with the FPPC." The FPPC sponsored the repeal of this requirement in the late 1970s because, according to Stern, "very few people were coming to the office to look at the mailings and the boxes were piling high in our storage room."

- 4) Political Reform Act of 1974: California voters passed an initiative, Proposition 9, in 1974 that created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders and lobbyists. That initiative is commonly known as the PRA. Amendments to the PRA 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

American Association of University Women—California (prior version)
California League of Conservation Voters
Edwin Lee, Mayor, City and County of San Francisco
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