

Date of Hearing: June 10, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

SB 1441 (Lara, et al.) – As Amended: April 3, 2014

SENATE VOTE: 33-0

SUBJECT: Political Reform Act of 1974: contributions.

SUMMARY: Provides that specified payments made by lobbyists and lobbying firms are considered "contributions" under the Political Reform Act (PRA). Specifically, this bill:

- 1) Provides that a payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at the home of the lobbyist, including the value of the use of the home as a fundraising event venue, is a contribution for the purposes of the PRA regardless of the amount of the payment. Provides that a payment described above is attributable to the lobbyist for purposes of the prohibition against a lobbyist making a contribution to an elected state officer or candidate for elected state office.
- 2) Provides that a payment made by a lobbying firm for costs related to a fundraising event held at the office of the lobbying firm, including the value of the use of the office as a fundraising event venue, is a contribution for the purposes of the PRA regardless of the amount of the payment.

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: According to the Senate Appropriations Committee, minor, absorbable enforcement costs to the FPPC from the General Fund.

COMMENTS:

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

This bill is a part of a package of bills that are aimed at strengthening the relationship between the citizens of California and their state government – the California Accountability in Public Service Act (CAPS Act). Recent events have raised significant questions about the transparency and accountability of rules and political practices in state government. In an effort to tighten state law, we are authoring SB 1441 which bans fundraisers from being held at the home of a lobbyist or at a lobbying firm. This will delete ambiguity and ensure that lobbyists are not providing illegal contributions to state elected officials.

Currently, the Political Reform Act provides for a \$500 home hospitality exception for fundraisers, where the first \$500 does not count as a contribution. This exception does not specifically exclude lobbyists. At the same time lobbyists are prohibited entirely from giving any campaign contributions to elected officials. The value of all goods provided, regardless of source, counts towards the \$500 threshold. Once the threshold is met the value of all goods count as campaign contributions. This leads to a situation where it is virtually impossible to have a fundraiser in a lobbyist's home or office without having an illegal contribution.

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 \$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 \$500. If other parties donate money or goods in connection with the event, their payments must also be counted to determine if \$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 \$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 \$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) Related Legislation: AB 1673 (Garcia), which is pending in the Senate Elections & Constitutional Amendments Committee, provides that a payment made by an occupant of a home or an office who is a lobbyist, lobbying firm, or lobbyist employer for costs related to a meeting or fundraising event held in the occupant’s home or office is considered a contribution under the PRA, regardless of the costs for the meeting or fundraising event. AB 1673 passed out of this committee on 6-0 vote.

- 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

California Common Cause

Opposition

None on file.

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