

Date of Hearing: June 19, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

SB 1553 (Lowenthal) – As Amended: April 9, 2012

SENATE VOTE: 37-0

SUBJECT: Political Reform Act of 1974: campaign statements: electronic filing.

SUMMARY: Establishes a pilot project whereby the City of Long Beach may permit the electronic filing of campaign disclosure statements. Specifically, this bill:

- 1) Establishes a pilot program, commencing on or after January 1, 2013 and ending by January 31, 2015, that permits the City of Long Beach to permit any person who files a campaign disclosure statement with the city clerk to file that statement online or electronically. Provides that the pilot program shall include all reporting periods commencing January 1, 2013, and ending on December 31, 2014. Requires any system for online or electronic filing of campaign disclosure documents used as part of the pilot program to comply with the following:
 - a) Requires the online or electronic filing system to accept a filing only in the standardized record format developed by the Secretary of State (SOS) pursuant to a provision of existing law, and that is compatible with the SOS's system for online or electronic filing.
 - b) Requires the online or electronic filing system to ensure the integrity of the data transmitted and to include safeguards against efforts to tamper with, manipulate, alter, or subvert the data.
 - c) Provides that the date of filing for a statement, report, or other document that is filed online or electronically shall be the day that it is received by the city clerk.
 - d) Requires the city clerk to make all the data filed available on the Internet in an easily understood format that provides the greatest public access. Requires the data to be made available free of charge as soon as possible after receipt. Prohibits the data made available on the Internet from containing the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed by the filer.
 - e) Requires the online or electronic filing system to include a procedure for filers to comply with the requirements that they sign statements and reports under penalty of perjury.
 - f) Requires the city clerk to enable filers to submit filings free of charge.
 - g) Requires the city clerk to maintain a secured, official version of each online or electronic statement, report, or other document filed pursuant to this bill online for a period of 10 years commencing from the date filed. Provides that the secured, official version of each online statement, report, or other document shall serve as the official version of that

report for purpose of audits and any other legal purpose.

- h) Provides that, notwithstanding any other provision of law, any statement, report, or other document filed online or electronically pursuant to this bill shall not be required to be filed with the city clerk in paper format.
- 2) Requires the City of Long Beach, if it chooses to participate in the pilot program created pursuant to this bill, to submit a report on the pilot program to the Fair Political Practices Commission (FPPC) by July 1, 2015. Requires the report to include all of the following:
 - a) A listing and estimate of associated operational efficiencies and related savings;
 - b) A listing and estimate of associated costs from implementing and operating the pilot program;
 - c) A listing of safety, security, or privacy issues encountered and an explanation of the manner in which those issues were addressed;
 - d) Available information relating to feedback from electronic filing participants; and,
 - e) Any other relevant information on the pilot program.
 - 3) Requires the FPPC to transmit any report received pursuant to this bill, as well as any comments on the report, to the Legislative Analyst's Office (LAO) by August 15, 2015. Requires the LAO to provide a report to the Legislature evaluating the pilot program by February 1, 2016.
 - 4) Permits the FPPC, in consultation with the LAO, to develop additional criteria for the report to be submitted by the City of Long Beach pursuant to this bill.

EXISTING LAW:

- 1) Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).
- 2) Requires the SOS, in consultation with the FPPC, to develop online and electronic filing processes for use by persons and entities that are required to file campaign disclosure reports and lobbying disclosure reports with the SOS's office. Required the SOS, not later than July 1, 1999, to develop a nonproprietary standardized record format or formats for the transmission of data required to be filed online or electronically with the SOS under the PRA.
- 3) Required the SOS, not later than December 31, 2002, to develop at least one means or method whereby filers subject to the online or electronic disclosure requirements of the PRA are able to submit required filings free of charge.
- 4) Requires certain elected officials, candidates, committees, slate mailer organizations, lobbyists, lobbying firms, lobbyist employers, and other persons required to file periodic lobbying disclosure reports, to file campaign and lobbying disclosure reports online or

electronically with the SOS.

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:

The Political Reform Act of 1974 requires elected officials, candidates for elective office and campaign committees to file campaign statements reporting contributions and expenditures for specified reporting periods.

The Long Beach City Attorney's office has opined that this option cannot be implemented without State Legislative approval. The Political Reform Act of 1974 precludes the City from acting to adopt, by municipal ordinance, a submittal standard different than the traditional paper option, despite the City's charter city status.

Paper reports can be confusing at times. Candidates may inadvertently miss a particular field of information or misinterpret the information required. Further, paper reports must be transported from the location at which they were prepared, to the City Clerks Offices.

In contrast, electronic filing minimizes the opportunities for error on the part of the candidate, as the program provided by the City Clerk's office can prevent a form from being submitted by highlighting fields of information that still need to be addressed before the candidate is allowed to click "submit." This ensures the form is completely filled out, and can promote local candidate compliance with requirements of State Law.

SB 1553 is the correct and prudent solution to doing more with less and for promoting compliance with the Political Reform Act and the Long Beach Municipal Code.

The City of Long Beach believes that its experience with electronic filing of... Form 700s demonstrates a highly successful track record of launching innovative business processes; and we believe that this experience warrants consideration for adoption of a pilot electronic filing campaign finance reporting program that someday can be authorized throughout the State of California.

2) Existing Online and Electronic Disclosure: SB 49 (Karnette), Chapter 866, Statutes of 1997, the Online Disclosure Act, required the SOS to develop a process whereby reports and statements required to be filed with the SOS under the PRA could be filed online and viewed by the public. SB 49 also required certain candidates, committees, slate mailer organizations, lobbyists, lobbyist employers, and lobbying firms to file disclosure reports online. Since that time, subsequent legislation has gradually expanded the circumstances under which campaign and lobbying reports are required to be filed online or electronically. Most recently, the Legislature approved and Governor Schwarzenegger signed AB 1181 (Huber),

Chapter 18, Statutes of 2010, which lowered the monetary thresholds that trigger mandatory online or electronic filing of reports required to be filed with the SOS under the PRA.

While the Online Disclosure Act and subsequent amendments have made information about certain candidates and committees widely available on the Internet, the information that is available through the SOS's website generally does not include information about local candidates or about committees that make contributions and expenditures exclusively or primarily in local campaigns. That's because the requirements of the Online Disclosure Act generally were limited to candidates, committees, and other entities that were required to file disclosure reports with the SOS. Campaign disclosure reports filed in connection with local candidates or ballot measures generally must be filed with local clerks or elections officials.

Many local clerks and elections officials have implemented their own online or electronic disclosure systems. In some cases, the local jurisdictions require certain candidates and committees to file disclosure reports online or electronically pursuant to a local campaign ordinance. Even in circumstances where local candidates and committees are required to file reports online or electronically, however, the PRA still generally requires paper copies of those reports to be filed with the local clerk or elections official. As a result, even in circumstances where local jurisdictions have taken steps to make campaign disclosure reports more broadly available by moving to an electronic reporting system, the local jurisdictions still must maintain paper versions of those reports.

- 3) Statements of Economic Interests Electronic Filing Pilot Project: As part of the PRA's comprehensive scheme to prevent conflicts of interest by state and local public officials, certain public officials are required to file statements of economic interests (SEIs). AB 2607 (Davis), Chapter 498, Statutes of 2008, and subsequent legislation established a pilot project which permitted certain jurisdictions to permit the electronic filing of an SEI in accordance with regulations adopted by the FPPC. That pilot project began in 2009 and is scheduled to end in December 2012. Participants in the pilot project were required to submit a report to the FPPC in 2011, and in turn the FPPC was required to forward the reports to the LAO along with comments that the FPPC had on those reports or the pilot project. Based on that information, the LAO submitted a report to the Legislature evaluating the pilot project in January of this year. According to the LAO report, the participating government entities indicated that the paper-based filing process was time-consuming and required significant amounts of staff time to review the SEIs, work with the filers to correct errors and maintain the paper file systems. However, after implementing the electronic filing system, participating entities found that electronic filing resulted in operational efficiencies through reduced personnel due to the significant reduction in the number of errors in the filers' SEIs and other operational costs. Additionally, it was reported to the LAO that none of government entities reported any security issues with the electronic filing systems and found that most of the public officials and employees who filed using the electronic filing system considered it to be a useful and an easy process.

Although the process for filing campaign reports is not identical to the process for filing SEIs, the author and the sponsor of this bill nonetheless argue that the pilot project demonstrates that moving from a paper-based filing process for campaign reports to an electronic-based process can significantly reduce costs to local governments.

- 4) Filing Confirmation and Suggested Amendment: Under the SEI pilot project that is described above, any person who files an SEI online or electronically receives a confirmation that the filing was received, along with the date and time that the filing was received and a method by which the filer may view and print the data received by the filing officer. A paper copy of the SEI and of the confirmation creates a rebuttable presumption that the filer filed his or her SEI on time. These provisions were included in the pilot project due to a concern that if a person submitted his or her SEI electronically, and that SEI was not received by the agency or if information was lost after being received by the agency, the filer could face penalties for failure to file due to no fault of the filer, and would have no way of proving that the SEI was filed in a timely manner.

The committee may wish to consider including similar provisions in this bill, thereby providing that any entity that files campaign disclosure reports online or electronically pursuant to this bill will be provided with a confirmation that the filing was received, and that the confirmation generated by the electronic filing system indicating that the entity timely filed the report would create a rebuttable presumption that the report was timely filed.

- 5) Access to Redacted Information and Suggested Amendment: Under existing law, certain information that is included in campaign reports is not included on the version of campaign reports that are made available on the Internet through the website of the SOS. Specifically, subdivision (d) of Section 84602 of the Government Code provides that street addresses and bank account numbers that are required to be disclosed on campaign reports will not appear on the versions of those reports that are available on the Internet. This redacted information remains available to individuals who view paper copies of reports at the office of the SOS or at the office of the local filing official, or who order an electronic copy of the campaign disclosure database from the SOS.

This bill similarly requires street address and bank account information to be excluded from the versions of reports that appear on the Internet. However, this bill also provides that any report filed online or electronically pursuant to this bill is not required to be filed with the Long Beach city clerk in paper format. Because paper copies would not be available for public inspection by individuals who wished to view the information that is redacted from the online versions of the reports, the committee may wish to consider amending this bill to require the City of Long Beach to make the complete, unredacted version of campaign reports filed electronically available to any member of the public upon request.

- 6) Period for Retention of Campaign Reports and Suggested Amendments: This bill requires the Long Beach city clerk to maintain all data filed pursuant to this bill for a period of 10 years, commencing from the date that the report is filed. This retention policy differs somewhat from the policy for the retention of data from reports that are filed online or electronically with the SOS. In the case of reports filed online or electronically with the SOS, existing law requires the data from those reports to be maintained online for a period of 10 years, and then archived in a secure format after that period of time. The committee may wish to consider amending this bill to establish a data retention policy for reports filed pursuant to this bill that is similar to the data retention policy that applies to reports filed with the SOS. Additionally, the committee may wish to consider amending this bill to require the data from reports to be maintained online for a period of not less than 10 years, in order to make it clear that the City of Long Beach can maintain data online for a longer period of time

if it so desires.

- 7) Related Legislation: AB 2452 (Ammiano), which is pending in the Senate Committee on Elections and Constitutional Amendments, permits local government agencies to require elected officials, candidates, and campaign committees to file campaign disclosure reports online or electronically, subject to certain conditions. AB 2452 was approved by this committee by a 7-0 vote and was approved on the Assembly Floor by a 77-0 vote.
- 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

City of Long Beach
Fair Political Practices Commission

Opposition

None on file.

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