

Date of Hearing: March 27, 2019

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 946 (Committee on Elections and Redistricting) – As Introduced February 20, 2019

**SUBJECT:** Political Reform Act of 1974.

**SUMMARY:** Makes various minor and technical changes to the Political Reform Act (PRA). Specifically, **this bill:**

- 1) Repeals various outdated operative dates and reporting requirements contained in the PRA.
- 2) Repeals and updates various obsolete and unnecessary cross-references contained in the PRA.
- 3) Repeals the definition of the term “civil service employee,” as that term is defined for the purposes of the PRA.
- 4) Repeals a requirement for the Fair Political Practices Commission (FPPC) to establish a division of local enforcement to administer and enforce provisions of the PRA that relate to local government agencies.
- 5) Repeals obsolete provisions of law relative to an expired pilot project that permitted specified local government agencies to permit statements of economic interests (SEIs) to be filed electronically.

**EXISTING LAW:**

- 1) Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the PRA.
- 2) Provides for specified provisions of the PRA to take effect immediately upon passage, and requires the Director of Finance to make sufficient funds available to the Secretary of State (SOS), as specified, to implement those provisions. Provides for the remainder of the PRA to go into effect on January 7, 1975.
- 3) Defines the term “civil service employee,” for the purposes of the PRA.
- 4) Requires the FPPC to establish a division of local enforcement to administer, interpret, and enforce the provisions of the PRA relating to local government agencies.
- 5) Permits the FPPC and San Bernardino County (San Bernardino) to enter into an agreement to have the FPPC enforce a local campaign finance ordinance on behalf of San Bernardino. Requires the FPPC, if an agreement is entered into pursuant to this provision, to submit a report to the Legislature regarding the performance of that agreement on or before January 1, 2017, as specified.

- 6) Requires the SOS to do all of the following in connection with the development of a system that permits the online and electronic filing of campaign and lobbying disclosure reports:
  - a) Not later than December 31, 2002, develop a means or method whereby filers who are required to use that system to file reports online or electronically may submit those filings free of charge.
  - b) Not later than July 1, 1999, develop and make public a nonproprietary standardized record format or formats for the transmission of data using that system.
  - c) Report to the Legislature periodically on the implementation and development of that system, as specified, and with recommendations for revising filing and disclosure requirements so as to promote greater reliance on electronic and online submissions.
- 7) Requires an agency that intends to permit the electronic filing of statements of economic interests (SEIs) to have its electronic filing system approved and certified by the FPPC. Requires an agency that submits its system to the FPPC for approval and certification to pay the FPPC a fee of \$1,000 to cover the FPPC's costs. Exempts the Counties of Los Angeles, Orange, Santa Clara, Ventura, and the City of Long Beach from paying the fee. Permits a city or county that developed a system for the electronic filing of SEIs pursuant to a specified pilot program to continue using their systems without receiving approval from the FPPC until such time that the FPPC adopts regulations governing the approval and certification of systems for the electronic filing of SEIs.

**FISCAL EFFECT:** None. This bill is keyed non-fiscal by the Legislative Counsel.

**COMMENTS:**

- 1) **Purpose of the Bill:** This is one of the Assembly Elections & Redistricting Committee's annual omnibus bills, containing various minor and technical changes to the PRA. This bill includes changes requested by the FPPC and technical changes identified by the Office of the Legislative Counsel.
- 2) **Outdated Operative Dates and Reporting Requirements:** Section 81016 of the Government Code was included in the PRA when it was adopted by the voters as Proposition 9 in June 1974. That section was an implementing provision of the PRA to ensure that sufficient funds were available to implement the measure, and to specify the effective date of the measure. Because the PRA has been fully implemented, this section is obsolete and no longer necessary. Accordingly, this bill repeals Section 81016 of the Government Code. The FPPC requested this change, which is in Section 1 of the bill.

Section 83123.5 of the Government Code permits the FPPC and San Bernardino to enter into an agreement to have the FPPC enforce a local campaign finance ordinance on behalf of San Bernardino. This provision of law originally was enacted as a pilot project, so the enacting legislation included a sunset date and a reporting requirement. Since that time, the required report was submitted to the Legislature, and subsequent legislation removed the sunset date and made this section of law permanent. Subdivision (f) of Section 83123.5, however, still includes the requirement that a report be submitted to the Legislature by January 1, 2017.

Because that report has been submitted to the Legislature, subdivision (f) of Section 83123.5 is obsolete. Accordingly, this bill repeals that language. The FPPC requested this change, which is in Section 4 of the bill.

Section 84602 of the Government Code includes various obsolete operative dates and reporting requirements. All the reports required by that section have been submitted. This bill repeals those obsolete operative dates and reporting requirements. The FPPC requested these changes, which are in Section 9 of the bill. This bill additionally makes other technical changes to Section 84602 that were identified by the Office of the Legislative Counsel.

- 3) **Obsolete and Unnecessary Cross-References:** Section 84200.6 of the Government Code includes cross references to two different types of special campaign statements and reports that candidates and committees may be required to file pursuant to existing law. The cross-referenced provisions of law impose the requirements that candidates and committees file those reports, so the repetition of those reporting requirements in Section 84200.6 is unnecessary. Accordingly, this bill repeals Section 84200.6. The FPPC requested this change, which is in Section 5 of the bill.

Subdivision (b) of Section 84202.7 of the Government Code cross-references a reporting requirement that was repealed by AB 594 (Gordon), Chapter 364, Statutes of 2015. As a result, the provisions of subdivision (b) are now obsolete. Accordingly, this bill repeals subdivision (b) of Section 84202.7, and makes conforming changes to the rest of that code section. The FPPC requested these changes, which are in Section 6 of the bill.

Subdivision (b) of Section 84252 of the Government Code cross-references a reporting requirement that was repealed by AB 594 (Gordon), Chapter 364, Statutes of 2015. As a result, the provisions of subdivision (b) are now obsolete. Accordingly, this bill repeals subdivision (b) of Section 84252, and makes a conforming change to that code section. The FPPC requested these changes, which are in Section 7 of the bill.

Section 84305 of the Government Code includes a cross-reference to a provision of the PRA that was repealed through the passage of SB 1239 (Hertzberg), Chapter 662, Statutes of 2018. This bill updates that cross-reference accordingly. The FPPC requested this change, which is in Section 8 of the bill.

- 4) **Unnecessary Definition:** Section 82009 of the Government Code defines the term “civil service employee,” for the purposes of the PRA. That term, however, is not used in the PRA, so having a definition of the term that is specific to the PRA is unnecessary. Accordingly, this bill repeals Section 82009 of the Government Code. The FPPC requested this change, which is in Section 2 of the bill.
- 5) **Division of Local Enforcement:** Section 83123 of the Government Code requires the FPPC to establish a division of local enforcement to administer and enforce provisions of the PRA that relate to local government agencies. The FPPC long ago consolidated into a single enforcement division with the authority to enforce the provisions of the PRA relating to local government agencies, so this section is obsolete and no longer necessary. Accordingly, this

bill repeals Section 83123 of the Government Code. The FPPC requested this change, which is in Section 3 of the bill.

- 6) **Electronic Filing of SEIs:** Section 87500.2 of the Government Code permits government agencies to allow the electronic filing of SEIs. Jurisdictions that wish to take advantage of this provision of law are required to have their electronic filing systems reviewed and approved by the FPPC, and are required to pay an application fee to the FPPC when submitting their system for approval.

Prior to the enactment of Section 87500.2, a separate provision of law had allowed specified local government agencies to permit the electronic filing of SEIs as part of a pilot project. In recognition of that pilot project, Section 87500.2 permitted the participating jurisdictions to continue to use the electronic filing systems that they developed as part of the pilot project until the FPPC could establish its application and review process. Additionally, Section 87500.2 waived the requirement for those jurisdictions to pay the application fee when having their electronic filing systems reviewed by the FPPC. All the local agencies that participated in the pilot project have since had their electronic filing systems reviewed and approved by the FPPC. The provisions of Section 87500.2 that refer to the previously conducted pilot project are now obsolete. Accordingly, this bill repeals those provisions. The FPPC requested these changes, which are in Section 10 of the bill. This bill additionally makes other technical changes to Section 87500.2 that were identified by the Office of the Legislative Counsel.

- 7) **Related Legislation:** AB 902 (Levine), which is also being heard in this committee today, codifies various regulations that have been adopted by the FPPC.

AB 903 (Levine), which is also being heard in this committee today, makes various minor and clarifying changes to the PRA.

AB 909 (Gallagher), which is also being heard in this committee today, requires a treasurer or assistant treasurer of a campaign committee to sign a statement acknowledging that the person must comply with duties imposed by the PRA and regulations adopted by the FPPC, and that a failure to do so could result in criminal, civil, or administrative penalties.

- 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**

Fair Political Practices Commission (sponsor)

**Opposition**

None on file.

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