

Date of Hearing: April 17, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 2162 (Portantino) – As Introduced: February 23, 2012

SUBJECT: Political Reform Act of 1974: economic interest disclosure.

SUMMARY: Revises the dollar thresholds that are used to report the value of investments, real property interests, and income, when a public official files a Statement of Economic Interest (SEI). Specifically, this bill:

- 1) Requires specified public officials or candidates, when required to report an investment or interest in real property on an SEI, to disclose the fair market value of the investment or interest in real property by selecting one of the following thresholds:
  - a) At least two thousand dollars (\$2,000) but not greater than twenty-five thousand dollars (\$25,000);
  - b) More than twenty-five thousand dollars (\$25,000) but not greater than one hundred thousand dollars (\$100,000);
  - c) More than one hundred thousand dollars (\$100,000) but not greater than two hundred fifty thousand dollars (\$250,000);
  - d) More than two hundred fifty thousand dollars (\$250,000) but not greater than five hundred thousand dollars (\$500,000);
  - e) More than five hundred thousand dollars (\$500,000) but not greater than one million dollars (\$1,000,000);
  - f) More than one million dollars (\$1,000,000) but not greater than five million dollars (\$5,000,000);
  - g) More than five million dollars (\$5,000,000) but not greater than ten million dollars (\$10,000,000); or,
  - h) More than ten million dollars (\$10,000,000).
- 2) Requires specified public officials or candidates, when required to report a source of income or loan on an SEI, to disclose the aggregate value of income from the source, or in the case of a loan, the highest amount owed to the source, by selecting one of the following thresholds:
  - a) At least five hundred dollars (\$500) but not greater than one thousand dollars (\$1,000);
  - b) More than one thousand dollars (\$1,000) but not greater than ten thousand dollars (\$10,000);

- c) More than ten thousand dollars (\$10,000) but not greater than twenty-five thousand dollars (\$25,000);
- d) More than twenty-five thousand dollars (\$25,000) but not greater than one hundred thousand dollars (\$100,000);
- e) More than one hundred thousand dollars (\$100,000) but not greater than two hundred fifty thousand dollars (\$250,000);
- f) More than two hundred fifty thousand dollars (\$250,000) but not greater than five hundred thousand dollars (\$500,000);
- g) More than five hundred thousand dollars (\$500,000) but not greater than one million dollars (\$1,000,000);
- h) More than one million dollars (\$1,000,000) but not greater than five million dollars (\$5,000,000);
- i) More than five million dollars (\$5,000,000) but not greater than ten million dollars (\$10,000,000); or,
- j) More than ten million dollars (\$10,000,000).

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 that candidates for, and current holders of, specified elected or appointed state and local offices and designated employees of state and local agencies file SEIs disclosing their financial interests, including investments, real property interests, and income. Requires filers to file the SEIs annually and at other periods of time, such as when assuming or leaving office.
- 3) Requires the filers stated above, when required to report an investment or interest in real property on an SEI, to disclose the fair market value of the investment or real property interest by selecting one of the following thresholds:
  - a) Equals or exceeds two thousand dollars (\$2,000) but does not exceed ten thousand dollars (\$10,000);
  - b) Exceeds ten thousand dollars (\$10,000) but does not exceed one hundred thousand dollars (\$100,000);
  - c) Exceeds one hundred thousand dollars (\$100,000) but does not exceed one million dollars (\$1,000,000); or

- d) Exceeds one million dollars (\$1,000,000).
- 4) Requires the filers stated above, when required to report a source of income or a loan on an SEI, to disclose the aggregate value of income from the source, or in the case of a loan, the highest amount owed to the source, by selecting one of the following thresholds:
- a) At least five hundred dollars (\$500) but not greater than one thousand dollars (\$1,000);
  - b) More than one thousand dollars (\$1,000) but not greater than ten thousand dollars (\$10,000);
  - c) More than ten thousand dollars (\$10,000) but not greater than one hundred thousand dollars (\$100,000); or,
  - d) More than one hundred thousand dollars (\$100,000).

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

COMMENTS:

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

The Political Reform Act of 1974 requires persons holding specified public offices to file disclosures of investments, real property interests, and income within specified periods of assuming or leaving office, and annually while holding the office. The Act requires the disclosure to include a statement indicating, within a specified value range, the fair market value of investments or interests in real property and the aggregate value of income received from a source.

AB 2162 will revise the dollar amounts associated with these ranges to provide for 8 total ranges of fair market value of investments and real property interest and 10 total ranges of aggregate value of income.

- 2) Statements of Economic Interests: As part of the PRA's comprehensive scheme to prevent conflicts of interest by state and local public officials, existing law identifies certain elected and other high-level state and local officials who must file SEIs. Similarly, candidates for those positions must file SEIs. Other state and local public officials and employees are required to file SEIs if the position they hold is designated in an agency's conflict of interest code. A position is designated in an agency's conflict of interest code when the position entails the making or participation in the making of governmental decisions that may foreseeably have a material financial effect on the decision maker's financial interests. While the exact number of people that are required to file SEIs is unknown, the FPPC has estimated that the number exceeds 200,000 officials and employees statewide.

The information that must be disclosed on an SEI, and the location at which an SEI is filed, varies depending on the position held by the individual who is required to file an SEI. Although there are some exceptions, individuals who are required to file an SEI typically

must file that document with the agency of which they are an elected official or by which they are employed.

- 3) Does This Bill Provide Transparency? One of the original purposes of the PRA was to ensure that public officials disclose income and assets that could be affected by official actions and disqualify themselves from participating in decisions when they have conflicts of interest. In the background material provided by the author's office, the author argues that, due to inflation and economic changes, the current thresholds are not adequately serving the purposes for which the PRA was passed and therefore need to be changed. If a public official or a candidate reports that he or she receives income of over \$1,000,000 from one source, isn't that sufficient information to determine whether there could be a possible conflict of interest regarding related public policy issues? If this bill becomes law, would increasing the threshold to illustrate income of more than \$5,000,000 help to illustrate whether there is a potential conflict of interest or rather simply illustrate the person's wealth? On the other hand, if a public official or candidate's net worth exceeds tens or hundreds of millions of dollars, disclosure of that information may seem reasonable. The committee may wish to consider whether the increased specificity proposed by this bill will succeed in identifying potential conflicts of interest or will the bill simply result in more burdensome reporting.
- 4) Previous Legislation: AB 1391 (Leno) of 2006, would have revised the dollar thresholds for the aggregate value of income from each source that filers would be required to report on their SEIs, among other provisions. AB 1391 died on the Senate inactive file.

AB 2432 (Montanez) of 2006, which was substantially similar, would have revised the dollar thresholds for the aggregate value of income from each source that filers would be required to report on their SEIs. AB 2432 was not heard in this committee.

- 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 initiative and require a two-thirds vote of both houses of the Legislature.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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