

Date of Hearing: March 13, 2019

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 322 (Gallagher) – As Introduced January 30, 2019

**SUBJECT:** Political Reform Act of 1974: online filing and disclosure system.

**SUMMARY:** Requires a local governmental agency that receives campaign finance disclosure filings in paper format to post copies of the paper filings, within 48 hours of the filing deadline, on its internet website, as specified. Specifically, **this bill:**

- 1) Requires a local government agency, within 48 hours of each applicable filing deadline, to post on its internet website a copy of any statement, report, or other document required to be filed pursuant to the campaign finance disclosure provisions of the Political Reform Act of 1974 (PRA), if the document is filed with that agency in paper format. Provides that providing a link on the agency's internet website to the statement, report, or other document satisfies these provisions.
- 2) Provides that if the final day of the 48-hour period is a Saturday, Sunday, or holiday, that the period is extended to the next day that is not a Saturday, Sunday, or holiday.
- 3) Permits the local filing officer to redact the copy to the extent otherwise permitted by law.
- 4) Requires a statement, report, or other document posted pursuant to these provisions to be made available for four years from the date of the election associated with the filing.

**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) Requires state and local elected officials, candidates for state and local elective office, and committees formed primarily to support or oppose a candidate for public office or a ballot measure, among other entities, to file periodic campaign statements, as specified.
- 3) Requires campaign statements to contain prescribed information related to campaign contributions and expenditures of the filing entities, as specified.
- 4) Requires the Secretary of State (SOS), in consultation with the FPPC, to develop and certify for public use a new online filing and disclosure system for statements and reports that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format, as specified.
- 5) Permits local jurisdictions to provide online and electronic filing and disclosure systems for use by local candidates, officeholders, and committees, as specified.
- 6) Requires the SOS to post hyperlinks on its internet website to any local government agency website that contains publicly disclosed campaign finance information.

**FISCAL EFFECT:** Unknown. State-mandated local program; contains reimbursement direction.

**COMMENTS:**

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

The public can easily access campaign finance documents online for candidates running for State or Federal office. Why should local government elections be any different?

Some local governments have chosen to make campaign finance documents accessible on the Internet via direct upload or software systems. However, many local agencies only make these documents available for in-person review, at the local elections office building, during normal business hours Mon-Fri.

Twenty years ago, this legislation would have placed a major burden on local governments. But technological advancements have made the process of scanning and uploading documents online a much simpler and easy to maintain process.

2) **Political Reform Act and Campaign Finance Filings:** In general, the PRA requires local and state candidates and committees to file campaign statements by specified deadlines disclosing contributions received and expenditures made. These documents are public documents, meant to be available to the public as one of the purposes of the PRA is that “receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.”

Generally, candidates and committees involved in state elections (constitutional officers, Senate, Assembly, statewide ballot measures) file with the SOS, while those involved in county, city or special district elections file with the local elections or clerk’s office. On the state level, candidates and committees who raise or spend \$25,000 or more are required to file electronically with the SOS, as specified. Local candidates and committees, however, are not subject to the same rules. While current law permits a local government to require disclosure reports to be filed online or electronically for an elected officer, candidate or committee that raises or spends more than \$1,000, many local government agencies do not have this requirement or do not have electronic filing available. Consequently, many local campaign finance reports are filed only in paper format and are available for review through a public records request or in-person at the local city or county clerk’s office or elections official’s office.

Advocates argue that an overwhelming amount of local filings are only filed in paper format and consequently, are time consuming to track down and challenging to search through. The author states while many local agencies have chosen to make local campaign documents accessible on the internet via direct upload and software systems, the current system does not allow for the greatest public access and transparency. In an effort to increase transparency, this bill would require a local governmental agency that receives campaign finance disclosure filings in paper format to post copies of those paper filings, within 48 hours of the filing deadline, on its internet website, as specified.

- 3) **Secretary of State and Local Campaign Filing Systems and Public Websites:** In an effort to increase transparency for local campaign filings, last session the Legislature approved and the Governor signed SB 358 (Stern), Chapter 624, Statutes 2017, which required the SOS to display the hyperlinks for all local jurisdictions that provide any means to publicly view campaign reports on their websites. According to the SOS's internet website, each of the local governments listed has an online filing system and a public website for viewing reports. Cities and counties not listed on the SOS's internet website may still have filing requirements but do not provide online access to the filings. The SOS currently has 32 counties and 160 city hyperlinks available on its internet website.
- 4) **California Municipal Democracy Index 2016:** According to the California Municipal Democracy Index 2016, published by California Common Cause, in the majority of cities (445 cities, 92%), candidates file only paper versions of their campaign finance reports. Additionally, the report states that 24 cities (5%) require online filing of campaign finance reports, which are posted online generally in a searchable format, and 13 cities give candidates the option between filing campaign reports online or in paper format. Moreover, the report states that 116 cities (24%) scan and publish online non-searchable copies of paper reports they receive.
- 5) **Cal-Access Replacement Project:** In 1997, the Legislature passed and Governor Pete Wilson signed SB 49 (Karnette), Chapter 866, Statutes of 1997, which amended the PRA and established the Online Disclosure Act of 1997. SB 49 required the SOS, in consultation with the FPPC, to develop and implement, by the year 2000, an online filing and disclosure system for reports and statements required to be filed under the PRA, as specified. As a result, the SOS created and deployed a system called the California Automated Lobby Activity and Campaign Contribution and Expenditure Search System, commonly referred to as Cal-Access. Cal-Access, however, is over 19 years old, and the SOS reports that components of the system are no longer supported by their vendor. As a result the system has periodically crashed and denied public access.

Given the limitations of the existing Cal-Access system, the Legislature has taken steps to replace that system. In 2012, the Legislature enacted SB 1001 (Yee), Chapter 506, Statutes of 2012, which imposed a \$50 annual fee on political committees that are required to file disclosure reports pursuant to the PRA and increased the fee on lobbying firms and lobbyist employers from \$25 to \$50 per year per lobbyist. The revenue generated by the bill is deposited into the Political Disclosure, Accountability, Transparency, and Access Fund, and is available to be used to update or replace the Cal-Access system.

In 2016, the Legislature approved and the Governor signed SB 1349 (Hertzberg), Chapter 845, Statutes of 2016, which requires the SOS, in consultation with the FPPC, to develop and certify for public use a new online filing and disclosure system for statements and reports that provide public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format, as specified. The new system is intended to be data driven, rather than form-based, and is intended to permit future compatibility with local campaign finance data.

SB 1349 required the SOS to make the new filing and disclosure system available by February of this year but also allowed the SOS to extend that date to as late as December of this year after consulting with this committee and the Senate Committee on Elections and

Constitutional Amendments, and providing a report to the committees that explains the need for the extension and includes a plan for completion.

On June 21, 2018, Secretary of State Alex Padilla submitted a letter and report to this committee indicating that his office had made a determination that it is in the best interests of the Cal-Access replacement system project to extend the implementation date for that project to December, as permitted by SB 1349. According to the report, the project team believes that a February implementation date would leave insufficient time for thorough testing of the new system, while limiting the ability to have stakeholder involvement in the implementation of the new system.

- 6) **Redacting Information and Suggested Amendment:** As mentioned above, existing law permits local jurisdictions to provide online and electronic filing and disclosure systems for use by local candidates, officeholders, and committees. These local filing systems are required to follow certain requirements and standards, such as making all the data filed available on the internet in an easily understood format that provides the greatest public access and making the data available free of charge and as soon as possible after receipt. In addition, existing law 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.

This bill permits, but does not require, the local filing officer to redact information, in accordance with existing law, from the copy posted online. Existing online disclosure policies, however, require certain information to be redacted from filings that are posted on the internet. Consistent with that policy, should this bill require that relevant information be redacted? In the absence of a requirement that this information be redacted, there will be inconsistency between local government agencies. In light of this fact, the committee may wish to consider an amendment to *require* the local filing officer, before posting the filings online, to redact 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.

- 7) **Arguments in Support:** In support, the California News Publishers Association writes:

The public deserves to know who is contributing to candidates at the local level. Knowing who is contributing to a campaign helps voters better judge whether a candidate will act in the voter's best interest. Requiring voters and journalists to be physically present at a county or city office during business hours to view local campaign finance records is an unnecessary hurdle that interferes with the public's right to know. By making local campaign finance records easier to access, AB 322 will take an important step towards transparency.

- 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**

Butte County  
California Common Cause  
California News Publishers Association  
MapLight  
Joe Patterson, Mayor, City of Rocklin  
Chuck Reynolds, Mayor, City of Oroville

**Opposition**

None on file.

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