

Date of Hearing: July 12, 2017

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

SB 24 (Portantino) – As Introduced December 5, 2016

SENATE VOTE: 40-0

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

SUMMARY: Revises the monetary ranges that public officials, public employees, and candidates, when filing a statement of economic interests (SEI), use to describe the value of their investments, interests in real property, and income. Specifically, **this bill:**

- 1) Requires public officials, public employees, and candidates, when they are required to report an investment or interest in real property on an SEI, to select one of the following monetary ranges that describes the fair market value of the investment or interest in real property:
 - a) \$2,000 to \$25,000;
 - b) More than \$25,000 to \$100,000;
 - c) More than \$100,000 to \$250,000;
 - d) More than \$250,000 to \$500,000;
 - e) More than \$500,000 to \$1 million;
 - f) More than \$1 million to \$5 million;
 - g) More than \$5 million to \$10 million; or,
 - h) More than \$10 million.

- 2) Requires public officials, public employees, and candidates, when they are required to report a source of income or loan on an SEI, to select one of the following monetary ranges that describes the aggregate value of income from the source, or in the case of a loan, the highest amount owed to the source:
 - a) \$500 to \$1,000;
 - b) More than \$1,000 to \$10,000;
 - c) More than \$10,000 to \$25,000;
 - d) More than \$25,000 to \$100,000;
 - e) More than \$100,000 to \$250,000;

- f) More than \$250,000 to \$500,000;
 - g) More than \$500,000 to \$1 million;
 - h) More than \$1 million to \$5 million;
 - i) More than \$5 million to \$10 million; or,
 - j) More than \$10 million.
- 3) Makes technical, non-substantive changes.

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 candidates for, and current holders of, specified elected or appointed state and local offices, and designated employees of state and local agencies, to 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 monetary ranges:
 - a) \$2,000 to \$10,000;
 - b) More than \$10,000 to \$100,000;
 - c) More than \$100,000 to \$1 million; or,
 - d) More than \$1 million.
- 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 monetary ranges, except as specified:
 - a) \$500 to \$1,000;
 - b) More than \$1,000 to \$10,000;
 - c) More than \$10,000 to \$100,000; or,
 - d) More than \$100,000.

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, "By revising the dollar amounts associated with the ranges in the Political Reform Act to accurately reflect today's economic value, SB 24 would make the necessary changes that would more accurately reflect the needs of the public to understand where potential conflicts of interest might arise for public officials and required reporting public employees."

- 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, which are sometimes referred to as "Form 700s." 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) **Financial Interests:** Under existing law, when a public official, public employee, or candidate for public office is required to disclose a financial interest on his or her SEI, the filer is not required to disclose the exact value of the interest, but instead must select a monetary range that describes the value of the interest. As noted above, this bill revises the monetary ranges that public officials use to describe the values of their financial interests on SEIs. In most cases, the revised disclosure categories in this bill would provide greater specificity about the values of financial interests held by public officials.

The changes to the disclosure categories that are proposed by this bill are detailed below:

Financial Interest	Existing Law	This Bill
Investment or Interest in Real Property		
<ul style="list-style-type: none"> • SEI Disclosure Ranges: 	\$2,000 - \$10,000 \$10,000.01 - \$100,000 \$100,000.01 - \$1 million Over \$1 million	\$2,000 - \$25,000 \$25,000.01 - \$100,000 \$100,000.01 - \$250,000 \$250,000.01 - \$500,000 \$500,000.01 - \$1 million \$1,000,000.01 - \$5 million

		\$5,000,000.01 - \$10 million More than \$10 million
Income		
<ul style="list-style-type: none"> SEI Disclosure Ranges: 	\$500 - \$1,000 \$1,000.01 - \$10,000 \$10,000.01 - \$100,000 Over \$100,000	\$500 - \$1,000 \$1,000.01 - \$10,000 \$10,000.01 - \$25,000 \$25,000.01 - \$100,000 \$100,000.01 - \$250,000 \$250,000.01 - \$500,000 \$500,000.01 - \$1 million \$1,000,000.01 - \$5 million \$5,000,000.01 - \$10 million More than \$10 million

- 4) **Is More Disclosure Always Better?** One of the purposes of the PRA is 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 monetary ranges of disclosure on SEIs should be updated so that the public better understands potential conflicts of interest by public officials and employees.

If a public official or a candidate reports that he or she receives income of more than \$1 million from a single 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 \$10 million help to illustrate whether there is a potential conflict of interest, or 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. Determining appropriate financial disclosure rules is a subjective task, and the committee may wish to consider whether the benefit of the increased specificity proposed by this bill outweighs the additional burdens that such increased specificity imposes for those who are required to file financial disclosure reports.

- 5) **Previous Legislation:** AB 10 (Gatto) of 2015, would have revised the monetary ranges that specified public officials or candidates, when filing an SEI, use to describe the value of their investments, interests in real property, and income, among other provisions. AB 10 was vetoed by Governor Brown. In his veto message, the Governor stated that "The Political Reform Act already requires public officials to disclose their income, investments and business activities with enough particularity so that conflicts of interest can be identified. This bill adds yet more complexity to existing reporting requirements without commensurate benefit, and I am not convinced that this bill will provide more useful information to the public."

AB 2162 (Portantino) of 2012, which was substantially similar to this bill, was vetoed by Governor Brown. The veto message for AB 2162 was similar to the veto message for AB 10

of 2015, as detailed above.

- 6) **Arguments in Support:** In support of this bill, the California Newspaper Publishers Association writes:

SB 24 would update the Form 700 to provide additional threshold reporting requirements, which would give the public more detailed information about the extent of candidates' and officials' income and investments. Greater disclosure requirements create a greater understanding of the financial interests that may impact a lawmaker's decisions. More specifically, the increase in disclosure requirements would make the data the state collects more accurate and telling, and provide journalists who analyze this data with more exact information than the current scheme.

SB 24 is a measure that promotes transparency by giving the public more information about an official's financial holdings. It also contributes to the creation of a more robust database of this information for journalists to analyze election and political data.

- 7) **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

California Common Cause
California Newspaper Publishers Association

Opposition

None on file.

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