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LUZ M. RIVAS
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COMMITTEES
CHAIR: NATURAL RESOURCES
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HEALTH
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REVENUE AND TAXATION
BUDGET SUBCOMMITTEE NO. 3 ON
RESOURCES AND TRANSPORTATION

JOINT COMMITTEES
BUDGET
EMERGENCY MANAGEMENT

August 17, 2022

Richard M. Miadich
Fair Political Practice Commission, Chair
1102 Q Street, Suite 3000
Sacramento, CA 95811

Re: AB 975 (L. Rivas): Political Reform Act of 1974: filing requirements and gifts.

Dear Chair Miadich:

I am writing to address the specific concerns you and other Commissioners raised at recent Commission meetings concerning my bill, Assembly Bill (AB) 975. It appears these concerns relate to a belief among some Commissioners that this bill will undermine transparency rather than promote it. I assure you that is not the case.

Please find below responses to each of the concerns raised at your meetings. I trust that after considering this additional background, you will agree that AB 975 will, in fact, increase transparency without placing government employees in harm's way. With that in mind, we request that the FPPC lend its support to this important and timely bill.

(1) AB 975 Does Not Delay the Disclosure of Gifts Received by Public Officials

At the Commission's July 2022 Meeting, two commissioners expressed opposition to AB 975 believing it would create "a four month lag between the receipt of a gift and when the public finds out about [the gift]." However, this is not the case.

Public officials must disclose all reportable sources of gifts on their Statements of Economic Interests (Form 700). An official must file a Form 700 annually and when they assume and leave office. AB 975 neither adjusts the deadlines for filing Form 700s nor delays the disclosure of reportable sources of gifts.

(2) AB 975 Ensures Timely Access to Financial Disclosures without Compromising the Security or Privacy of Government Employees.

At its last meeting, the FPPC Law and Policy Committee expressed opposition to a provision of AB 975 that codifies current FPPC practice in regards to the posting of Form 700s online. Specifically, AB 975 permits the FPPC to continue to post the Form 700s of elected officials online, but not those of designated employees of state or local agencies ("87300 filers"). As you know, despite this limitation on posting, members of the public could still secure a copy of any Form 700 – regardless of the filer – quickly and easily by simply requesting a copy from the Commission.



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I sought to codify this ongoing FPPC practice via AB 975 because I feel it strikes the correct balance between the interests of transparency and those of employee safety and privacy.

As I see it, timely access to the Form 700s filed by 87300 filers is critical in promoting public trust. However, in determining the appropriate manner of disclosure, we must also consider the threat of harassment and violence that government employees face on a daily basis. Disclosing an employee's personal information online, including their home address only exacerbates this already significant safety risk. Moreover, unlike elected officials, staff often do not have the resources, including campaign funds, to purchase security equipment to protect themselves and their families.

To demonstrate this risk, let's consider the impact it could have on an Assembly District Representative who subleases a room in their apartment. State law would require that the employee disclose their home address on Schedule B of their Form 700. As a result, a constituent who is upset with the employee or their office could easily access their personal address and confront them at their home. This may sound like hyperbole, but unfortunately for government employees, it is not.

(3) It is Neither my Intent nor Understanding that AB 975 would Allow a Public Official to Relieve Themselves of a Conflict of Interest at any Time During the Return, Reimbursement or Donation Period.

At the last Law and Policy meeting, you expressed concern that AB 975 would allow a public official to participate in a governmental decision in which they had a "financial interest" arising from an over-the-limit gift. In particular, you stated that a meal, for example, would not qualify as a "gift," *for purposes of the conflict of interest rules*, so long as the official reimbursed the source for it at some time during the return, reimbursement, or donation period.

I respectfully disagree with this reasoning – both as applied to current law and that proposed under AB 975. I do so for several reasons, including that it runs counter to Commission precedent and the purposes of the Political Reform Act. This interpretation of the law is also in direct conflict with the procedure set forth in FPPC Regulation 18941, subdivision (d), for securing relief from a conflict arising from a source of gifts. That process provides that:

“if the return, donation, or reimbursement [of the gift] has not been made before the decision, and the gift would otherwise cause the official to be disqualified from participating in a governmental decision, the official must publicly disclose the receipt of the gift on the public record, disclose its value, and declare that the return, donation, or reimbursement will occur within two working days following the decision. The subsequent return, donation, or reimbursement of the gift must be made within two working days, and within 30 days after receipt or acceptance, and it must be documented in the public record.”

(Cal. Code Regs., tit. 2, § 18941, subd. (d).)

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Based on your reasoning, Government Code Section 82028, subdivision (b)(2), in its current form, would allow a public official to circumvent the requirements in FPPC Regulation 18941, subdivision (d), by simply returning a gift that gave rise to the conflict, unused, within 30 days of receipt. In other words, this reasoning essentially renders Regulation 18941, subdivision (d), unenforceable under current law and as amended under AB 975. I assume this is not the Commission's intent, and it certainly is not mine. For that reason, I support an application of these rules that requires disqualification where an official has a conflict of interest, for purposes of Government Code Section 87100, but fails to follow the requirements set forth in Regulation 18941, subdivision (d).

Please note that if AB 975 is signed into law, our office would expect the FPPC to amend Regulation 18941, subdivision (d), to reflect the new period for return, reimbursement and donation provided in the statutory definition of "gift." It is my understanding that doing so would keep the current process for officials to relieve themselves from a conflict in place.

I trust that this letter addresses the concerns raised by FPPC Commissioners regarding AB 975, and hope that the Commission will act to support the bill at its next regular meeting. If you have any questions, please contact my Legislative Director, Judy Yee at (916) 319-2039.

Respectfully,



LUZ M. RIVAS
Assemblywoman, 39th District

LR: jy