



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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EXECUTIVE STAFF REPORTS

August 17, 2017 Commission Hearing

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I. ADMINISTRATION AND TECHNOLOGY DIVISION

STAFF: ERIN PETH, EXECUTIVE DIRECTOR

LORESSA HON, CHIEF OF ADMINISTRATION AND TECHNOLOGY

Since the new State fiscal year began on July 1, 2017, we are providing the Commission with an overview of the budget.

The State budget for FY 17-18 appropriates a total of \$11,843,000 to the FPPC. Approximately 88.5% (or \$10,481,000) of the budget covers the required salaries, wages and benefits for our 82.5 authorized positions, and 11.5% (or \$1,362,000) is allocated to operating expenses and equipment.

Staff will be available at the meeting to answer any questions you may have on this topic.

Funding		
Total Appropriation and Reimbursements		\$ 11,843,000
Budget Allocation		
Salaries and Wages		7,153,000
Staff Benefits		3,328,000
Operating Expenses and Equipment Total		1,362,000
- General Expenses (e.g., membership dues, subscriptions, disability and unemployment claims)	184,000	
- Printing	54,000	
- Communications	44,000	
- Postage	16,000	
- Travel	44,000	
- Training	19,000	
- Facilities Operations (Rent)	614,000	
- Consulting and Professional Services (Internal State Government)	154,000	
- Consulting and Professional Services (External State Government)	105,000	
- Consolidated Data Centers	96,000	
- Data Processing / Information Technology	32,000	
Total Budget Allocation		\$ 11,843,000

II. ENFORCEMENT DIVISION

STAFF: GALENA WEST, CHIEF OF ENFORCEMENT

During the period of June 16, 2017 through August 3, 2017, the Enforcement Division received 76 complaints, opened 12 for investigation, and rejected 33. The Enforcement Division received 175 non-filer referrals during this time.

Also during this time, the Enforcement Division closed a total of 123 cases including:

- 47 warning letters,
- 22 no action letters,
- 27 as a result of the adoption of stipulations and defaults at the June Commission meeting, and
- 27 committees were administratively terminated.

The Division had 969 cases in various stages of resolution at the time of the June Monthly Report and currently has approximately 956 cases in various stages of resolution, including the 25 cases before the Commission as listed in the August 2017 agenda.

On May 1, 2015, the Division received from the Secretary of State's office 2,460 \$50 Annual Fee referrals for 2013 fees not paid timely. Of those, 69 remain pending. On October 22, 2015, the Division received the \$50 Annual Fee referrals for 2014, which totaled 1,786. Of those, 114 remain pending. We are receiving 2015, 2016, and 2017 referrals periodically through the new Electronic Complaint System.

III. LEGAL DIVISION

STAFF:

JACK WOODSIDE, GENERAL COUNSEL

JOHN WALLACE, ASSISTANT GENERAL COUNSEL

TRISH MAYER, ASSISTANT CHIEF

A. Pending Litigation

Howard Jarvis Taxpayers Association v. Edmund Brown, et al.

On December 12, 2016, the Howard Jarvis Taxpayers Association and retired State Senator and Judge Quentin L. Kopp filed a lawsuit against Governor Brown and the Commission to invalidate a new law that would allow public funds to be used for political campaigning. In September of 2016, the Governor signed Senate Bill 1107 which authorizes the use of public funds to finance campaigns if a jurisdiction adopts a law or ordinance creating a public financing program. Plaintiffs allege the new law improperly eliminates the prohibition against public financing of campaigns, implemented pursuant to Proposition 73 in 1988, because it was done without voter approval. In addition, plaintiffs allege that the new law violates the Political Reform Act¹ because it does not “further the purposes of the Act,” an express requirement in the Act for legislative amendment. The Attorney General’s Office is representing both Governor Brown and the Commission in this litigation. The briefing is complete and a hearing was held in superior court on August 4, 2017. Following oral argument, the judge took the matter under submission and will issue a decision within 90 days.

Frank J. Burgess v. Fair Political Practices Commission

Frank J. Burgess filed a writ of mandate in Riverside Superior Court on October 4, 2015, seeking relief from the Commission’s decision and order in *In re Frank J. Burgess*, Case No. 12/516.

Mr. Burgess’s case was first heard by an Administrative Law Judge (ALJ), and then Mr. Burgess challenged the ALJ’s decision to the Commission. On March 19, 2015, the Commission rejected the ALJ’s decision and decided the case based on the record and the parties’ supplemental briefing. Ultimately, the Commission found that Mr. Burgess had violated Section 87100 of the Political Reform Act and imposed a \$5,000 fine on July 7, 2015.

Mr. Burgess challenged that decision as an excess of the Commission’s jurisdiction, an abuse of discretion, and a denial of due process rights. On September 15, 2016, the superior court issued

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to this source, unless otherwise indicated.

its judgment granting the petition on due process grounds. The Court further ordered the Commission to file a Return to the Writ on or before November 7, 2016.

After a closed session discussion at the Commission meeting on October 20, 2016, the Commission voted to let the superior court's judgment stand and to vacate and set aside its Decision and Order in the underlying matter, thereby dismissing the administrative proceedings against Mr. Burgess. The Commission timely filed a Return to the Writ.

On November 14, 2016, Burgess filed a Motion for Attorney's Fees under Code of Civil Procedure section 1021.5 ("private attorney general"). The FPPC in conjunction with the Attorney General's office prepared an opposition to this motion which was filed on January 25, 2017. The fee motion was heard on April 3, 2017, and the superior court took the matter under submission after argument by the parties. On April 10, 2017, the superior court granted Burgess's motion for attorney's fees. The Commission voted in closed session to appeal the superior court's order granting Burgess attorney's fees at the June meeting. The Court entered an order requiring the parties to participate in a settlement conference set for September 12, 2017, at 10:00 a.m.

B. Outreach and Training

On June 22, 2017, Senior Commission Counsel Emelyn Rodriguez participated in a panel discussion as part of the lobbyist ethics training course conducted by the Assembly Legislative Ethics Committee and the Senate Committee on Legislative Ethics. The training is required for all registered lobbyists.

C. Advice

From June 1 through July 31, 2017, the Legal Division responded to the following requests for advice:

- ***Requests for Advice:*** Legal Division Political Reform Consultants and attorneys collectively responded to more than 655 e-mail and telephone requests for advice in June and 737 in July.
- ***Advice Letters:*** Legal Division received 25 advice letter requests and issued 30 advice letters.
- ***Section 1090 Letters:*** Legal Division received 14 new advice letter requests concerning Section 1090 and issued nine. This year to date we have received 53 requests regarding Section 1090.

D. Advice Letter Summaries

Full copies of FPPC Advice Letters, including those listed below, are available at:
<http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

Campaign

David Mitrani

[A-17-119](#)

The Commission defers to the Secretary of State's Office on whether they will accept digital signatures on campaign finance reports, provided the digital signatures meet the requirements of Section 16.5 and any applicable regulations governing digital signatures.

Conflict of Interest

Brent P. Collinson, Esq.

[A-17-089](#)

A Director of the Board of Directors of the Truckee Fire Protection District of Nevada County and an attorney for the district were found to have disqualifying conflicts of interest in participating in governmental decisions to impose a special tax on real property located within a portion of the District when the Director owned a residence and the attorney owned his law office within the affected area.

Kara K. Ueda

[A-17-095](#)

Under the Act, a City Manager was advised that he would have a conflict of interest in participating in the tax sharing agreement negotiations between the City and the County regarding a new development project due to his financial interest in the residence located within 500 feet of the project.

Bill Sartor

[A-17-096](#)

A council member who had been employed by a developer within the previous 12 months has a financial interest in the developer's business and a conflict of interest in any decisions involving the developer's proposed project applications.

Gary S. Winuk

[I-17-110](#)

The Mobile Source Air Pollution Reduction Review Committee ("MSRC") is a subdivision of South Coast Air Quality Management District. Where the Chair of the MSRC works as an independent contractor for a private grant writing advisory firm on a commission and monthly fee basis, he has a financial interest in both the firm and in any client of the firm from whom he has received over \$500 in commission income in the past 12 months.

Michael Torres

[A-17-117](#)

Planning Commission Chairman Kramer may not participate in governmental decisions involving the revitalization of Mariners' Mile in Newport Beach. The Chairman has financial interests in his employer Pacific Hospitality Group Ventures, Inc. and in International Bay Clubs, for which he is on the Board of Directors, and both entities have a business relationship with the Balboa Bay Resort which is located in and does business from Mariners' Mile.

Brian S. Harnik, Esq.

[I-17-122](#)

The Act would prohibit a Mayor from taking part in the City's marijuana regulation decisions, if the Mayor's spouse's law firm took on as a client a marijuana business that previously has plans on locating a marijuana research laboratory within the City.

Russell B. Blair[A-17-126](#)

A Citrus Heights Planning Commissioner did not have a disqualifying conflict of interest in participating in governmental decisions regarding proposed developmental projects that were reviewed and commented on by a municipal consulting firm that contracts with the Planning Commissioner's employer. The Commission does not have a financial interest in the consulting firm.

Krishan Chopra[A-17-127](#)

The Act prohibits a City of Mountain View councilmember from taking part in decisions relating to a boutique lifestyle hotel project because those decisions would have a reasonably foreseeable material financial effect on her residence, located within 670 feet of the project. The seven-story, 160-room hotel project includes a rooftop deck, and ground floor retail (restaurant, retail storefronts), and a public plaza. The project would substantially increase the intensity of use and traffic levels, including parking demand, in the area immediately surrounding the project, including the area encompassing the councilmember's residence and surrounding properties.

David Rice[A-17-130](#)

A Board member of the Santa Ana Water Board, an organization responsible for implementing, enforcing and adopting revisions to the Water Quality Control Plan for the Santa Ana River Basin ("Basin Plan"), does not have a conflict of interest in the Newport Bay Bacteria Amendment to the Basin Plan despite his residence being within 500 feet of Newport Bay. The decision does not present a reasonably foreseeable financial effect, of a material nature, on his residence. The Bacteria Amendment water quality improvements to Newport Bay are expected to be marginal or negligible. Further, the revisions will not impact his residence or his enjoyment of his property and will not result in any compliance actions on his residence.

Martin Lysons[A-17-131](#)

Two City of Brentwood Councilmembers were found to have a disqualifying conflict of interest due to the proximity of their residences to two proposed senior living facilities as part of a development project to consolidate two golf courses into one and establish the facilities. In contrast, one Councilmember, two Planning Commissioners, and the City Manager were not disqualified from making governmental decisions regarding the project because their residences were sufficiently removed from the development of the facilities, so as not to have a financial material effect.

Michael A. Guina[A-17-137](#)

A city councilmember who is employed by a labor union does not have a conflict of interest in a contract between the city and a different labor union that represents city employees because there is no reasonably foreseeable financial effect on her employer, a union that does not represent any employees in that jurisdiction. Also, labor unions would not qualify as a "related business entity" as that term is defined in Regulation 18700.2 because they are not a "business entity" as defined in Section 82005.

Gregory G. Diaz[A-17-141](#)

A city councilmember does not have a conflict of interest in a decision on a Climate Action Plan despite having investment interests in various oil and gas related businesses. The decision would

not likely contribute to a change in the value of any of the companies' publicly traded stock because the plan is advisory only, and there would be no reasonably foreseeable financial effect on those financial interests.

Donna Mooney[A-17-146](#)

A planning commissioner who owns an engineering firm and leases office space in the central business district does not have a conflict of interest in a decision on an appeal to approve a permit for a proposed health care facility that would be located within 500 feet of his business. The decision would not have a reasonably foreseeable material financial effect on the commissioner's engineering firm or commercial lease.

Larissa Seto[A-17-149](#)

Commissioner Balch has a financial interest in his father, Jack W. Balch, because the commissioner is employed by, and has an ownership interest in, Balch Enterprises, Inc. and the Commissioner's father is the president of the company and has the power to direct or cause the direction of the management and policies of Balch Enterprises, Inc. Consequently, the Commissioner will have a conflict of interest in decisions on the Downtown Specific Plan because the Commissioner's father, through a trust, owns property in the specific plan area.

Minh C. Tran[A-17-153](#)

A decision to allow an existing winery to build an additional facility would not have a material financial effect on the value of the Commissioner's employer (a wine tour business) since the applicant is but one of 125 Napa wineries listed on the employer's website for tours. Moreover, more generalized decisions that affect the wine industry in the county will fall under the "public generally" exception. This is because 816 of the 2,196 businesses in unincorporated area of the county are wineries and this constitutes a significant segment of the businesses in the jurisdiction (37 percent). While the Commissioner's employer is not a winery, the employer is wholly dependent on the industry. However, any effect on the employer is likely be more attenuated than an effect on the wineries.

Jim Stollberg[A-17-154](#)

Because the Board member has a 33% ownership interest in Hampton Farming Company, LLC (Hampton), he will also have an interest in customers of Hampton that pay Hampton such that his 1/3rd share is \$500 or more. Consequently, he will have a conflict of interest if Hampton or a client of Hampton will be foreseeably and materially affected by a District decision.

Charles J. McKee[A-17-155](#)

The County Counsel's office is considering submitting a proposal to provide legal services to Salinas Valley Basin Groundwater Sustainability Agency (the "JPA"). Mr. Girard's spouse is employed with the California American Water Company ("CalAm"). CalAm operates a few small domestic water systems whose groundwater supply is in the Basin, where the JPA has jurisdiction. However, since CalAm does a very small percentage of its total pumping in the JPA's jurisdiction, it does not appear that any of the decisions in question will contribute to a change in the value of a CalAm and Mr. Girard will not have a conflict of interest.

Iman Novin[A-17-156](#)

The Act prohibits a Walnut Creek Planning Commissioner and Alternate Member of the North Downtown Specific Plan (NDSP) Advisory Committee, who owns and manages a real estate and development firm located within the NDSP area in his private capacity, from taking part in decisions relating to the NDSP. Those decisions would have a reasonably foreseeable material financial effect on the Commissioner's firm by increasing the need for its services. The firm proactively positioned itself to take advantage of zoning changes that may be authorized with the adoption of the NDSP by sending solicitation letters to owners of property within the NDSP area and offering to purchase those properties on behalf of the firm's clients.

John E. Cavanaugh, Esq.[I-17-166](#)

The Act would not prohibit the Mayor from taking part in a decision impacting a business that is a member of the Chamber of Commerce solely due to that business being a Chamber member, but would prohibit the Mayor from taking part in the decision if it is reasonably foreseeable that the Chamber, or the Mayor, or an immediate family member of the Mayor will receive a measurable benefit or loss from that decision.

Eric Lucan[A-17-168](#)

Councilmember does not have a conflict of interest with respect to the Novato Boulevard Improvements Project (the "Project") because his property is 1,200 feet away from the stretch of Novato Boulevard to be improved through the Project and is separated from the project by a buffer of four to five developed city blocks.

Gifts**SMUD CSC Randall J. Hakes**[A-17-138](#)

SMUD has an opportunity for its employees to participate in an offer from a car manufacturer to purchase a certain vehicle model at a discounted price. Since the discounts are discounts made in the regular course of business to members of the public without regard to official status, they are not "gifts" for any purposes.

Terence M. King[A-17-143](#)

A Chino Basin Water Conservation District Board Member and spouse's attendance at a "VIP Event" provided by a San Bernardino County Supervisor and any personal benefits provided at the VIP Event are gifts subject to limits and reporting under the Act, those gifts are valued at the Board Member and spouse's pro-rata share of their cost, and the Supervisor is the source of the gifts.

Honoraria**D. Wayne Leech, Esq.**[A-17-163](#)

The Act does not prohibit the Councilmember from continuing his speaking activities in connection with his consulting business and receiving payment for these services. The payments for these activities are earned income for personal services, which is customarily provided in connection with the practice of a bona fide business, and therefore are not prohibited honorarium.

Revolving Door

Keith White[A-17-086](#)

A former Public Utilities Regulatory Analyst's work on a 2014 Long-Term Procurement Plan was one of general application and did not involve specific utilities or parties. Thus, it did not meet the definition of "proceeding" for purposes of the permanent ban and did not preclude his consultant work on a 2016 Integrated Resource Plan.

Section 1090

Supervisor David Griffith[A-17-050](#)

The Act and Section 1090 do not preclude county supervisor from participating on an informal collaborative group or serving as a director of a 501(c)(3) corporation. However, under the Act, the supervisor must recuse himself from any decision with a foreseeable and material effect on either entity, including a decision to fund the entity, if he has received income (including certain reimbursements) of \$500 or more from the entity in the prior 12 months. Notwithstanding the Act, Section 1090 does not preclude the supervisor or the County from entering contracts involving the entities, so long as the supervisor only receives reimbursement for actual expenses from the entities. However, the supervisor must disclose his interest in the 501(c)(3) organization in the agency's official records prior to participating in any contract involving the organization.

Brant Bordsen[I-17-059](#)

Under the Act, a Mayor and two councilmembers with real property and business interests near a highway project were not disqualified from decisions regarding the project because the effect on their financial interests was indistinguishable from the effect on the public generally. Another councilmember did not have a reasonably foreseeable disqualifying interest in decisions related to the project because his property was not adjacent to the highway. Additionally, under Section 1090, the Councilmembers did not have financial interests in the contract at issue under the facts presented.

Dennis LaSalle[A-17-074](#)

A private subcontractor, who participated in the scheduling services on the project management phase of the Pure Water Project, is not prohibited by Section 1090 from bidding on a Request for Proposals (RFP) related to construction management services for the first phase of the project. Section 1090 is not applicable where the facts indicate the subcontractor was not acting as a public officer. Here, the subcontractor's scheduling services were of a technical nature, the position was not one with a potential to exert considerable influence on the contracting decisions of the prime contractor or the City, and no facts showed involvement by the scheduler in the development of the construction management RFP.

Michael Calabrese[A-17-087](#)

A local agency employee was advised that he and other similarly situated employees would have a conflict of interest under Section 1090 in participating in their official capacities in decisions before their agency's board that would eliminate a provision affecting their compensation. However, under the rule of necessity, we advised that an affected employee may participate by

providing necessary documentation or analysis to the board only if there is no other method of providing such documentation or analysis to the board. Additionally, we advised that employees may appear at board meetings or have contact with board members related to the issue if it is made clear that they are speaking in their individual capacities and not their official capacities.

Kent S. Boes[A-17-116](#)

Section 1090 would not apply to a Member of the County Board of Supervisors buying property at a County Tax Collector public auction of tax-defaulted property within the County so long as the Board of supervisors had no substantive involvement in the process and ultimate contracts for sale, other than simply approving the list of houses to be sold.

Eileen Monaghan Teichert[A-17-118](#)

Section 1090 prohibits a San Bernardino County Transportation Authority (“SBCTA”) Board of Directors member from making or participating in making, and the SBCTA from entering into, an engineering services contract with Falcon Engineering given that the member’s consulting business provides public outreach services to Falcon Engineering on non-SBCTA construction projects. However, if the member terminated the existing contract work for Falcon Engineering, Section 1090 would permit the SBCTA to enter into the contract, but the Act would require the member to recuse herself from decisions involving Falcon Engineering for 12 months from her final receipt of income from that firm.

Gary W. Schons[A-17-129](#)

Section 1090 does not prohibit the City of Palm Desert from entering into a development agreement if the applicant developer hires an attorney who rents office space from the Mayor and her husband to represent the developer before the City in the City’s development application review process. Under Section 1091(b)(5), the remote interest applies, so long as the Mayor abstains from making or participating in making decisions relating to that agreement pursuant to Section 1091(a).

Katharine L. Elliott[A-17-140](#)

A County Supervisor was advised that she did not have a conflict of interest in participating in decisions relating to a collective bargaining agreement with the Sheriff’s Association when her husband is employed with the Sheriff’s office so long as the decisions apply equally to all Sheriff’s Office employees in the same bargaining unit or representative group as the Supervisor’s husband. Also, the Act does not prohibit the Supervisor from taking part in governmental decisions relating to approval of the Sheriff’s Office budget or purchase of Sheriff’s Office equipment unless the decisions would have a reasonably foreseeable material financial effect upon the personal finances of the Supervisor or her immediate family. We also advised that Section 1090 does not prohibit the Supervisor from making or participating in the making of, or the County from entering into, the collective bargaining agreement because Section 1091.5(a)(6)’s noninterest exception applies. Section 1091.5(a)(6) provides that an officer of a public agency shall not be deemed to be interested in a contract if the officer’s interest in the contract is the officer’s spouse’s employment by the agency, and the spouse’s employment has existed for at least one year prior to the officer’s election or appointment.

Rosann Gallien[A-17-145](#)

As a volunteer of the San Diego-Imperial Counties Labor Council (“Labor Council”), a San Diego County Water Authority Board member, does not have a financial interest in the Labor Council under the Act. If he receives remuneration from the Labor Council of \$500 or more in the 12 months prior to the decision, he has a source of income financial interest in the Labor Council. However, under the facts presented, he does not have a financial interest in a union member of the Labor Council and is not disqualified from decisions relating to the union representing Water Authority employees because the union’s dues to the Labor Council are minimal and will not foreseeably effect the Labor Council or his remuneration from the Labor Council. Under Section 1090, he does not have a conflict of interest as a volunteer or if he receives remuneration from the Labor Council, because he does not have a financial interest in the contracts between the Water Authority and the local union.

Stacey Simon[A-17-148](#)

Where a construction firm has previously advised the County by providing a facility assessment, the firm is making or participating in making a subsequent contract for the preparation of plans and specifications for the jail facility while acting in an official capacity, and is prohibited by Section 1090 from bidding on this subsequent contract.

Section 84308**Larry Bush**[A-17-161](#)

Section 84308 applies to a member of the San Francisco Citizens’ General Obligation Bond Oversight Committee and would prohibit the member from soliciting a contribution of more than \$250, from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered. Section 84308 would prohibit the member from accepting or receiving a contribution if the contribution is for that person’s own candidacy or own controlled committee (including a candidacy for election to the Democratic County Central Committee.)

E. Miscellaneous Decisions

None to report.

F. Upcoming Regulations

October 2017: Pre-Notice: Regulation 18450.1. Definitions, Advertisement Disclosure. Update varies definitions for the types of advertisements (e.g., billboards, banners) subject to disclosure requirements.

November 2017: Pre-Notice: Regulations 18700-18707. Conflict of Interest Regulations. Having advised on the new conflict of interest rules for over a year, staff will propose refinements to the conflict of interest regulations enacted in 2014 and 2015 to clarify obligations and requirements.

G. Conflict of Interest Codes

Adoptions and Amendments

State Agency Conflict of Interest Codes

- CA State University Channel Islands Site Authority
- Department of Finance
- Health and Human Services Agency
- State Treasurer's Office

Multi-County Agency Conflict of Interest Codes

- Antelope Valley-East Kern Water Agency
- Antelope Valley-East Kern Water Agency Financing Authority
- Baldy View Regional Occupational Program
- Dublin San Ramon Services District
- Employers' Training Resource
- Great Basin Unified Air Pollution Control District
- Indian Wells Valley Groundwater Authority
- Marin Schools Insurance Authority
- Metropolitan Water District of Southern California
- Sacramento Regional County Sanitation District
- San Joaquin Valley Unified Air Pollution Control District
- San Luis Water District
- Santa Maria - Bonita School District
- Southern California Home Financing Authority
- Southern Cascades Community Services District
- West Turlock Subbasin Groundwater Sustainability Agency

Exemptions and Extensions

Exemption

- None

Extension

- None

H. Probable Cause Hearings

Please note, a finding of probable cause does not constitute a finding that a violation has occurred. The respondents are presumed to be innocent of any violation of the Act unless a violation is proven in a subsequent proceeding.

1. **In the Matter of R4: Redondo Residents for Responsible Revitalization and Tod Loewenstein, Case No. 15/112.** On June 20, 2017, after hearing, probable cause was found to believe Respondents committed the following violations of the Act:

- Count 1: The Committee and Loewenstein failed to identify in the Committee name that the primarily formed Committee was against Measure B, in violation of Section 84107.
- Count 2: The Committee and Loewenstein failed to include the Committee's name and "paid for by" on approximately 3,200 flyers the Committee distributed in violation of Section 84504(c) and Regulation 18450.4(b)(1).
- Count 3: The Committee and Loewenstein distributed approximately 30,000 door hangers that did not include reference to Measure B in the Committee name disclosure in violation of Sections 84107 and 84504(c).
- Count 4: The Committee and Loewenstein sent mass mailings that did not include reference to Measure B in the Committee name disclosure in violation of Sections 84305 and 84107.

The following matters were decided based solely on the papers. The respondents did not request a probable cause hearing.

2. **In the Matter of Janice Keating for Assembly 2010, Janice Keating, and Jeff Perine, Case No. 16/19743.** On June 15, 2017, probable cause was found to believe Respondents committed the following violations of the Act:

- Count 1: The Committee, Keating, and Perine failed to timely file their semi-annual campaign statement for the period of July 1, 2014 to December 31, 2014, electronically, by February 2, 2015, in violation of Sections 84200(a); and 84605(a)(1).
- Count 2: The Committee, Keating, and Perine failed to timely file their semi-annual campaign statement for the period of January 1, 2015 to June 30, 2015, electronically, by July 31, 2015, in violation of Sections 84200(a); and 84605(a)(1).
- Count 3: The Committee, Keating, and Perine failed to timely file their semi-annual campaign statement for the period of July 1, 2015 to December 31, 2015, electronically, by February 1, 2016, in violation of Sections 84200(a); and 84605(a)(1).
- Count 4: The Committee, Keating, and Perine failed to timely file their semi-annual campaign statement for the period of January 1, 2016 to June 30, 2016, electronically, by August 1, 2016, in violation of Sections 84200(a); and 84605(a)(1).
- Count 5: The Committee, Keating, and Perine failed to timely file their semi-annual campaign statement for the period of July 1, 2016 to December 31, 2016,

electronically, by January 31, 2017, in violation of Sections 84200(a); and 84605 (a)(1).

Count 6: As a committee required to file a statement of organization, the Committee, Keating, and Perine were required to pay an annual fee of \$50 to the Secretary of State no later than January 15, 2016. However, the Committee, Keating, and Perine failed to timely pay the requisite fee, in violation of Section 84101.5(c).

Count 7: As a committee required to file a statement of organization, the Committee, Keating, and Perine were required to pay an annual fee of \$50 to the Secretary of State no later than January 15, 2017. However, the Committee, Keating, and Perine failed to timely pay the requisite fee, in violation of Section 84101.5(c).

3. **In the Matter of Williams for AC Transit Board 2014 and Mark Williams, Case No. 16/205.** On June 19, 2017, probable cause was found to believe Respondents committed the following violations of the Act:

Count 1: The Committee and Williams failed to timely file the semi-annual campaign statement due July 31, 2012, in violation of Section 84200.

Count 2: The Committee and Williams failed to timely file the semi-annual campaign statement due January 31, 2013, in violation of Section 84200.

Count 3: The Committee and Williams failed to timely file the semi-annual campaign statement due July 31, 2013, in violation of Section 84200.

Count 4: The Committee and Williams failed to timely file the semi-annual campaign statement due January 31, 2014, in violation of Section 84200.

Count 5: The Committee and Williams failed to timely file the semi-annual campaign statement due July 31, 2014, in violation of Section 84200.

Count 6: The Committee and Williams failed to timely file the pre-election campaign statement due October 6, 2014, in violation of Section 84200.7(b).

Count 7: The Committee and Williams failed to timely file the pre-election campaign statement due October 23, 2014, in violation of Section 84200.7(b).

Count 8: The Committee and Williams failed to timely file the semi-annual campaign statement due February 2, 2015, in violation of Section 84200.

Count 9: The Committee and Williams failed to timely file the semi-annual campaign statement due July 31, 2015, in violation of Section 84200.

Count 10: The Committee and Williams failed to timely file the semi-annual campaign statement due February 1, 2016, in violation of Section 84200.

- Count 11: The Committee and Williams failed to timely file the semi-annual campaign statement due August 1, 2016, in violation of Section 84200.
- Count 12: The Committee and Williams failed to timely file the semi-annual campaign statement due January 31, 2017, in violation of Section 84200.
- Count 13: The Committee and Williams failed to pay the 2014 annual fee by the January 15, 2014 due date, in violation of Section 84101.5(c).
- Count 14: The Committee and Williams failed to pay the 2015 annual fee by the January 15, 2015 due date, in violation of Section 84101.5(c).

4. **In the Matter of Sam Ramirez, Case No. 15/1169.** On July 11, 2017, probable cause was found to believe Respondent committed the following violations of the Act:

- Count 1: Ramirez was a member of the Delano City Council from December 6, 2004, until December 4, 2012. As a public official, Ramirez had a duty to file a Statement of Economic Interests (“SEI”) within thirty days of leaving office. By not filing his leaving office statement by the January 4, 2013, deadline, Ramirez violated Section 87204.
- Count 2: Ramirez served as a Senior Field Representative for State Assemblyman Steve Fox of the Thirty-Sixth State Assembly District from August 12, 2013, until January 2, 2015. As a designated employee, Ramirez had a duty to file a combined Annual/Leaving Office SEI within thirty days of leaving office. By not filing his SEI by the February 2, 2015, deadline, Ramirez violated Section 87300.

5. **In the Matter of Alvin Velazquez, Case No. 16/19750.** On July 27, 2017, probable cause was found to believe Respondent committed the following violations of the Act:

- Count 1: Failure to Timely File a 2015 Annual SEI Respondent Velasquez failed to timely file a 2015 Annual SEI by April 1, 2016, in violation of Section 87300.
- Count 2: Failure to Timely File a 2016 Annual SEI Respondent Velazquez failed to timely file a 2016 Annual SEI by April 3, 2017, in violation of Section 87300.

IV. EXTERNAL AFFAIRS AND EDUCATION DIVISION

STAFF: COURTNEY MILLER, MANAGER

Phone Advice Requests

The External Affairs and Education Division responded to 999 requests for technical assistance via telephone in June and July.

Training Presentations

Political Reform Consultants Deborah Hanephin and Glen Bailey traveled to Chula Vista to present Campaign Filing Officer and SEI Filing Officer workshops to local filing officers from the San Diego area. There were approximately 30 participants.

Deborah Hanephin also traveled with Philip Ung, Coordinator of Legislation and External Affairs, to present to around 40 people at the California Political Treasurer's Association Conference in Monterey. Deborah spoke about campaign finance rules surrounding recall elections, and provided other helpful reminders to the audience.

Political Reform Consultants Alexandra Castillo and John Kim conducted an SEI Filing Officer outreach session at the California Department of Corrections and Rehabilitation.

Division staff produced and posted a video for Form 700 filers to summarize filing requirements. Staff continues to work on producing training video modules to assist Form 700 filers.

Filing Schedules

Division staff created and posted four filing schedules for the state special election in Assembly District 51. State committee filing schedules were also created and posted for 2019.

V. LEGISLATIVE UPDATE

STAFF: PHILLIP UNG, DIRECTOR, LEGISLATIVE AND EXTERNAL AFFAIRS

There are 11 active bills affecting the Political Reform Act. This is a reduction from 12 bills in the June report. One bill was signed into law by the Governor. The Legislature is currently on summer recess and is scheduled to return August 21.

Legislation currently being tracked by Commission staff and other related documents can be found on the [Commission's Pending Legislation](#) page.

Chaptered Bills (#1)

1. **AB 895 (Quirk): Campaign Statements; Electronic Filing**

FPPC Position: *None currently*

Status: Chaptered

Fiscal Estimate: Minor and Absorbable

Last Action: Approved by the Governor. Chaptered by Secretary of State – Chaptered 111, Statutes of 2017. (07/24/2017)

Summary:

The Act requires certain individuals and entities to file campaign statements with the Secretary of State including requiring some to file online and others to file online voluntarily. The Act requires paper filers to continue to file in paper format until the Secretary of State determines online filing is secure and effective. The Act also requires paper filing be considered the official filing for audits and other legal purposes.

This bill would eliminate the requirement of certain filers to file in the paper format if they file online. The bill will be implemented upon certification by the Secretary of State of the new Cal-ACCESS system.

Political Reform Act or Related Bills (#2-12)

2. **AB 187 (Gloria): Local Ballot Measure Expenditure Reporting**

FPPC Position: *None currently*

Status: Senate Floor – Third Reading

Fiscal Estimate: Minor and absorbable

Last Amended: March 23, 2017

Last Action: Ordered by Senate Appropriations Committee to Senate Floor pursuant to Senate Rule 28.8. (06/26/2017)

Summary:

The Act subjects a committee that receives contributions totaling \$2,000 or more in a calendar year to specified reporting requirement, that committee is required to file online or electronically each time it makes contributions of independent expenditures of at least \$5,000 to support or oppose the qualification or passage of a single state ballot measure. Existing law requires that the filing occur within 10 business days of the contribution or independent expenditure and that it contain detailed information relating to the committee, ballot initiative, and contribution or independent expenditure.

This bill additionally requires a committee to file a report each time it makes contributions totaling \$5,000 or more or independent expenditures aggregating \$5,000 or more to support or oppose the qualification of a single local ballot measure. The report will be filed with the local filing officer within 10 business days of reaching the aggregated amount.

3. AB 249 (Mullin): Advertisement Disclosure and Earmarking of Funds

FPPC Position: *None currently*

Status: Senate Rules Committee

Fiscal Estimate: None requested

Last Amended: July 20, 2017

Last Action: Amended and Re-referred to Senate Rules Committee. (07/20/2017)

Summary:

The Act provides comprehensive regulations for campaign finance disclosure requiring committees that support or oppose ballot measures to use the name or phrase that clearly identifies the economic or other special interest of its donors of \$50,000 or more. If major donors share a common employer, then the employer is disclosed. The Act prohibits any person from making any contribution to a committee on the condition or with the agreement that it will be contributed to a particular candidate (i.e., earmarked) unless the true source of the contribution is fully disclosed.

The bill would redefine and recast the Act's advertisement disclaimer provisions. The bill prescribes the disclosure statements, location, and format criteria required for television, radio, telephone, and internet advertisements with some exemptions. The bill would require on-advertisement disclosure of the top three contributors. Certain committees would be exempt from the top contributor disclosure, including major donors and individuals and entities making independent expenditures.

It should be noted that there is a potential risk for litigation resulting from the provision in the bill that would expand the advertisement rules to general purpose committees.

Staff believes there are several concerns regarding the earmarking provisions of the bill. First, the bill would narrow the circumstances of when contributions are considered illegally earmarked. It would permit any dues, assessments, fees and similar payments made to membership organizations that are less than \$500 per calendar from a single source for the purpose of making expenditures and contributions to state or local ballot measures without

disclosure of the true source of that money - an exemption that could be particularly detrimental in local races. Lastly, the bill prohibits the Commission from using “timing” as the sole basis for finding violations related to earmarking. In response to their technical assistance request, staff has communicated these issues to the author and sponsor.

4. AB 551 (Levine): Post-Governmental Employment; Exemptions

FPPC Position: *None currently*

Status: Senate Floor – Third Reading

Fiscal Estimate: Minor and Absorbable

Last Amended: April 18, 2017

Last Action: Ordered to Senate Floor by Senate Appropriations Committee pursuant to Senate Rule 28.8. (07/10/2017)

Summary:

The Act prohibits a local official from receiving compensation to communicate with or appear before their former agency to influence legislative action. This prohibition lasts for one year after leaving office. The Act excludes from the prohibition government-to-government communications.

This bill prohibits an independent contractor of a local government agency or a public agency from appearing or communicating on behalf of that agency before their former agency. The prohibition lasts for one year.

5. AB 867 (Cooley): Behested Payments

FPPC Position: *None currently*

Status: Senate Floor – Third Reading

Fiscal Estimate: Minor and Absorbable

Last Amended: April 17, 2017

Last Action: Ordered to Senate Floor by Senate Appropriations Committee pursuant to Senate Rule 28.8. (06/26/2017)

Summary:

The Act defines “contribution” as a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes. The Act further describes types of payments that are expressly included or excluded from the definition, including specified payments made at the behest of a committee, elected officer, or member of the Public Utilities Commission. The Act requires that certain behested payments that are made principally for legislative, governmental, or charitable purposes be reported, as specified.

This bill revises the definition of “contribution” for purposes of the Act and creates sections for the definitions of “behested payments,” “election-related activities,” and “made at the behest of.”

6. AB 1620 (Dababneh): Post-Governmental EmploymentFPPC Position: *None currently*

Status: Senate Appropriations Committee

Fiscal Estimate: Minor and Absorbable

Last Amended: June 13, 2017

Last Action: Set, first hearing. Hearing cancelled at the request of author. (07/03/2017)

Summary:

The Act prohibits a former Member of the Legislature from receiving compensation to communicate to or appear before the Legislature to influence legislative action. This prohibition lasts for one year after leaving office.

The bill would extend the prohibition for a Member of the Legislature who resigns from office prior to the completion of a term. For these individuals, the prohibition begins the day of resignation and ends one year after the last day in the second year of the legislative session which the officer was elected to serve.

7. SB 24 (Portantino): Statement of Economic InterestsFPPC Position: *None currently*

Status: Assembly Appropriations Committee – Consent Calendar

Fiscal Estimate: Minor and absorbable.

Introduction: December 5, 2016

Last Action: Approved by Assembly Elections Committee (6 ayes, 0 noes.) and referred to Assembly Appropriations Committee. (07/13/2017)

Summary:

The Act requires the disclosures 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 each reportable source.

This bill would revise the dollar amounts associated with these ranges to provide for 8 total ranges of fair market value of investments and real property interests, and 10 total ranges of aggregate value of income.

8. SB 45 (Mendoza): Mass Mailing ProhibitionFPPC Position: *None currently*

Status: Assembly Appropriations Committee

Fiscal Estimate: \$141,171 first year; \$134,171 ongoing

Last Amended: July 17, 2017

Last Action: Approved by Assembly Elections Committee (6 ayes, 0 noes.) and referred to Assembly Appropriations Committee. (07/13/2017)

Summary:

Existing law provides that no newsletter or other mass mailing shall be sent at public expense. The Commission's regulation defines criteria for mass mailings at public expense, and lists certain forms of mass mailings that will be permitted despite the Act's prohibition, including announcements of specified meetings or events sent by elected officials.

This bill would adopt the Commission's regulation in its entirety, including the list of exceptions from the prohibition. The bill also would provide that despite the exceptions, a mass mailing shall not be sent within the 60 days preceding an election by or on behalf of a candidate, state or local, whose name will appear on the ballot, except as otherwise specified in the bill.

9. SB 226 (Hertzberg): Slate Mailers

FPPC Position: *None currently*

Status: Senate Floor - Concurrence

Fiscal Estimate: Minor and Absorbable

Last Amended: June 15, 2017

Last Action: Approved by Assembly and referred to Senate for Concurrence in Assembly Amendments. (07/17/2017)

Summary:

The Act regulates slate mailer organizations and prescribes specific disclosures on slate mailers and mass mailings. There are slate mailer organizations that identify themselves as representing non-governmental organizations including organizations composed of or affiliated with public safety-related occupations. The Act specifies additional disclosures for mailers that imply association with public safety-related occupations.

Regarding public safety-related occupations, this bill would require the slate mailer organization to disclose on the mailing, in a specified format, the number of members of public safety personnel the slate mailer organization represents, or a statement that the organization does not represent any public safety personnel.

10. SB 267 (Pan): City of Sacramento Enforcement

FPPC Position: *None currently*

Status: Assembly Appropriations Committee

Fiscal Estimate: City of Sacramento to reimburse FPPC's costs

Urgency: Yes

Last Amended: Amendments pending

Last Action: Approved by Assembly Local Government Committee (9 ayes, 0 noes) and referred to Assembly Appropriations Committee. (07/13/2017)

Summary:

The Act authorizes the Commission to contract with the County of San Bernardino and the City of Stockton to provide impartial, effective administration, implementation, and enforcement of local campaign finance ordinances.

This bill would authorize the Commission and the City of Sacramento to enter a similar agreement. The bill also requires the Commission provide a report to the Legislature no later than four years after contracting with the City of Sacramento. This bill contains an urgency clause.

11. SB 358 (Stern): Secretary of State; local disclosure websites

FPPC Position: *None currently*

Status: Assembly Appropriations Committee

Fiscal Estimate: No cost to the Commission

Introduction: February 14, 2017

Last Action: Approved by Assembly Elections Committee and referred to Assembly Appropriations Committee. (07/13/2017)

Summary:

The Act requires candidates and committees to file periodic campaign statements with the Secretary of State or the local filing officer.

This bill would require the Secretary of State to post hyperlinks on his or her website of any local government agency that has publicly-disclosed campaign finance information and update the hyperlinks accordingly.

12. SB 679 (Morrell): Post-Governmental Employment

FPPC Position: *None currently*

Status: Assembly Appropriations Committee

Fiscal Estimate: Minor and Absorbable

Last Amended: April 26, 2017

Last Action: Approved by Assembly Elections Committee (7 ayes, 0 noes) and referred to Assembly Appropriations Committee. (06/28/2017)

Summary:

The Act prohibits a former Member of the Legislature from receiving compensation to communicate to or appear before the Legislature to influence legislative action. This prohibition lasts for one year after leaving office.

This bill prohibits lobbying by Members of the Legislature who resign prior to the end of their term. This prohibition lasts for two years commencing on the day of resignation.

Bills Expected Not to Move Further in 2017 (#13-21)

13. AB 14 (Gomez): Advertisement Disclosure and Earmarking of Funds

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Urgency: Yes

Last Amended: July 6, 2017

Last Action: Amended and Re-referred to Assembly Elections and Redistricting Committee
(05/01/17)

Summary:

The Act provides comprehensive regulations for campaign finance disclosure requiring committees that support or oppose ballot measures to use the name or phrase that clearly identifies the economic or other special interest of its donors of \$50,000 or more. If major donors share a common employer, then the employer is disclosed. The Act prohibits any person from making any contribution to a committee on the condition or with the agreement that it will be contributed to a particular candidate (i.e., earmarked) unless the true source of the contribution is fully discussed.

The bill would redefine and recast the Act's advertisement disclaimer provisions. The bill prescribes the disclosure statements, location, and format criteria required for television, radio, telephone, and internet advertisements with some exemptions. The bill would require on-advertisement disclosure of the top three contributors. Certain committees would be exempt from the top contributor disclosure, including major donors and individuals and entities making independent expenditures.

The bill also explicitly exempts from the definition of "advertisement" a communication paid for by a political party or a candidate controlled election committee. It should be noted that there is a potential risk for litigation resulting from the provision in the bill that would expand the advertisement rules to general purpose committees. This bill contains an urgency clause.

14. AB 664 (Steinorth): Campaign Expenditures

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Introduction: February 14, 2017

Last Action: Failed Passage in Assembly Elections and Redistricting Committee. Granted Reconsideration. (04/26/17)

Summary:

The Act requires that contributions deposited into a campaign account for a candidate for elective office be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office. The Act imposes limitations on certain expenditures as political, legislative, or government purposes. Government Code 84307.5 prohibits compensation from campaign funds to a candidate's spouse or domestic partner in exchange for services rendered.

This bill would prohibit payment, in exchange for services rendered, to a parent, spouse or domestic partner, grandparent, sibling, child, or grandchild of that officer or candidate.

15. AB 774 (Harper): Foreign Contributions

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Introduction: February 15, 2017

Last Action: Failed Passage in Elections and Redistricting Committee. Granted Reconsideration. (04/26/17)

Summary:

The Political Reform Act prohibits a foreign government or principal, as defined, from making a contribution or expenditure in connection with a ballot measure, and prohibits a person or committee from soliciting or accepting a contribution from a foreign government or principal for this purpose. (Section 85320.)

This bill would expand the scope of the law by also prohibiting a foreign government, principal, or foreign national from making a contribution or expenditure, and a person or committee from soliciting or accepting this type of contribution, in connection with any election in California (not just ballot measures). While this activity is currently prohibited under federal law, this bill expands the Commission's authority to enforce incidents of foreign contributions or expenditures into California campaigns should the Federal Election Commission (FEC) not act. There is a risk for potential litigation because the bill expands the current law prohibition to foreign nationals.

16. AB 1089 (Mullin): Local Contribution Limits

FPPC Position: *None currently*

Status: Assembly Appropriations Committee – Suspense File

Fiscal Estimate: \$1,091,973 (first year), \$1,035,973 (ongoing)

Introduction: February 17, 2017

Last Action: Held under submission. (05/26/2017)

Summary:

The Act contains contribution limits and other restrictions related to contribution limits for state office and statewide offices. The Act specifies nothing in the law prevents the Legislature or local agency from adopting additional requirements, and nothing nullifies contribution limitations or prohibitions in local jurisdictions. All ordinances or other provisions adopted by local governments must be filed with the Commission.

The bill would establish a state-mandated contribution limit on local and special jurisdictions, which the Commission would be required to regulate and enforce. The state-mandated contribution limit is equal to the limits of state legislative candidates and would be adjusted for cost-of-living. Jurisdictions that adopt their own limit or have already established a limit would not be subject to the state limit established by this bill.

17. AB 1234 (Levine): Contribution Limits; Political Parties

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee
Fiscal Estimate: \$141,171 first year; \$134,171 ongoing
Introduction: February 17, 2017
Last Action: Held under submission. (05/26/2017)

Summary:

The Act contains contribution limits on state offices, statewide offices, the Governor and small contributor committees. The Act exempts a political party committee from these contribution limits.

This bill would eliminate the exemption and make political party committees subject to contribution limits.

18. AB 1333 (Dababneh): Local Government Agency Notices

FPPC Position: *None currently*
Status: Assembly Appropriations Committee – Suspense File
Fiscal Estimate: Assembly Appropriations estimate over \$150,000
Introduction: February 17, 2017
Last Action: Held under submission. (05/26/2017)

Summary:

Whenever an ordinance is submitted to voters of a county, city, or district at an election, election officials must print the ordinance and make a copy of the ordinance available to any voters who requests a copy.

This bill adds a new chapter to the Act to require every local government agency that maintains a website to post notice of any upcoming election in which voters will vote on a tax or bond measure of the agency. The bill also requires every local government agency that publishes an electronic newsletter to include the notice in the newsletter.

19. AB 1458 (Friedman) Candidate websites; Cal-Access

FPPC Position: *None currently*
Status: Assembly Floor
Fiscal Estimate: Minor and Absorbable
Last Amended: April 18, 2017
Last Action: Refused passage on Assembly Floor. (06/01/2017)

Summary:

The Act requires candidate and committees to file periodic campaign statements with the Secretary of State or local filing officer. Secretary of State is required to disclose certain information from campaign statements in a user-friendly, easily understandable format.

This bill would require a candidate for state elective office to include and conspicuously display on their campaign homepage a hyperlink to the Secretary of State's online disclosure website

that displays the candidate's campaign finance information. This requirement would not apply to social media.

20. AB 1524 (Brough): Mass Mailing Prohibition

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Introduction: February 17, 2017

Last Action: Heard in Assembly Elections and Redistricting Committee; Two-year Bill
(04/26/17)

Summary:

Commission regulations defines criteria for mass mailings at public expense and specify certain forms of mass mailing that are not subject to the Political Reform Act's prohibition against mass mailings.

This bill would prohibit a mass mailing that complies with the Commission's regulatory criteria from being sent within the 90 days preceding an election by or on behalf of a candidate, state or local, whose name will appear on the ballot or on behalf of an agency, if a measure on the ballot will have a direct financial impact on the agency. The bill exempts school districts or community college districts who provide impartial and informative information regarding a bond issue or other measure. The bill does not apply to mass mailings required by law.

21. SB 529 (Nguyen): Inspection of Public Records

FPPC Position: *None currently*

Status: Senate Elections and Constitutional Amendment Committee

Fiscal Estimate: None requested

Introduction: February 17, 2017

Last Action: Set for hearing. Cancelled at Request of Author; Two-Year Bill (04/04/17)

Summary:

The Act provides that every report and statement filed pursuant to the Act is a public record and open for public inspection and reproduction. The Act prohibits any conditions upon persons seeking to inspect reports and statements.

This bill specifies recipient committee campaign statements filed with local filing officers be furnished promptly and would clarify that a request to inspect does not need to be made pursuant to the California Public Records Act.