



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

To: Chair Remke, Commissioners Audero, Hatch, and Hayward

From: Jack Woodside, General Counsel
Sukhi Brar, Senior Commission Counsel

Subject: Proposed Amendments to Regulations Affected by AB 249

Date: December 11, 2017

I. Requested Action

Adopt the proposed amendments to Regulations 18225, 18247.5, 18402, 18420, 18423, 18435, 18450.3, 18450.5, 18521.5 to incorporate changes made to the Political Reform Act by AB 249, along with grammatical and other minor amendments as described below.¹

II. Background

On October 7, 2017, Governor Brown signed AB 249 (the Disclose Act) into law. The substantive provisions of the bill go into effect on January 1, 2018. The Disclose Act significantly changes various provisions in the Act. These changes include an overhaul of the Act's advertising disclosure provisions.

In light of AB 249, staff is proposing amendments to implement the bill including harmonizing existing language and removing redundant language. This proposal is the first phase of these regulatory amendments. A second phase of regulatory amendments will be proposed at the Commission's January meeting.

An Interested Persons meeting was held on November 28th and staff received positive feedback from AB 249's sponsor, California Clean Money Campaign, on these regulations. No other comments were received.

III. Summary of Proposed Regulatory Actions for December Meeting

During the first phase of the process, staff is recommending amendments to the following nine regulations:

¹ The regulations of the FPPC are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to this source. The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code.

1. Regulation 18225. Expenditure.

Regulation 18225 further defines the term “expenditure” found in Section 82025. However, AB 249 places the all of the language in current Regulation 18225 into Section 82025, therefore staff proposes the repeal of Regulation 18225.

2. Regulation 18247.5. Primarily Formed Committees.

Regulation 18247.5 further defines the term “primarily formed committee” found in Section 82047.5. Staff is proposing removing language from this regulation that interprets existing Sections 84503 and 84504 of the Act, which are being repealed and replaced by a AB 249. Staff also proposes removal of provisions that are redundant to existing language in the Act. Additionally, staff is proposing language to clarify that the phrase “on the same ballot” in subdivision (a) of Section 82047.5 means “in the same election.”

3. Regulation 18402. Committee Names.

AB 249 repeals and replaces existing advertisement disclaimer rules in Sections 84503 and 84504. Regulation 18402(c) sets forth the Act’s rules governing committee names. However, these rules conflict with AB 249’s new Section 84503 and staff proposes amending Regulation 18402 to conform with new naming conventions. Additionally, staff proposes conforming changes to remove or correct cross-references to amended or repealed sections of the Act and regulations.

4. Regulation 18420. Reporting of Campaign Contributions and Expenditures of State or Local Government Agencies.

Regulation 18420 defines when a payment made by a state or local government agency is a contribution or expenditure under the Act and includes a reference to Regulation 18225, which further defines the term “expenditure” under the Act. However, staff is proposing the repeal of Regulation 18225, as explained above. Therefore, staff proposes amending Regulation 18420 to replace a reference to Regulation 18225 with a reference to new Section 82025, which will now contain the substance of Regulation 18225.

5. Regulation 18423. Payments for Personal Services as Contributions and Expenditures.

Regulation 18423 defines when payments made by an employer to an employee for services performed by the employee for political purposes become a contribution under the Act and includes a reference to Regulation 18225. However, staff is proposing the repeal of Regulation 18225, as explained above. Therefore, staff proposes amending Regulation 18420 to replace a reference to Regulation 18225 with a reference to new Section 82025, which will now contain the substance of Regulation 18225.

6. Regulation 18435. Definition of Mass Mailing and Sender.

Existing Section 84305 of the Act establishes sender identification requirements, requiring candidates and committees to properly identify themselves when sending a mass mailing. Regulation 18435 defines the terms “sender” and “pay for” as used in Section 84305 and provides that the sender identification requirements apply to a candidate or committee that sends over 200 substantially similar messages distributed through electronic mail in a calendar month. AB 249 amends Section 84305 incorporating the definition of the term “pay for,” as well as the sender identification requirement for electronic mail, into Section 84305(e). Staff proposes removing the language from the regulation that is now included in Section 84305.

7. Regulation 18450.3. Committee Name Identification. Advertisement Disclosure.

Regulation 18450.3 interprets existing Section 84504’s ballot measure committee name and identification requirements. However, AB 249’s repeal of existing Section 84504 removes the basis for Regulation 18450.3, and new Section 84504 does not relate to ballot measure committee name and identification requirements. Staff recommends repealing this regulation.

8. Regulation 18450.5. Amended Advertising Disclosure.

Existing Regulation 18450.5 interprets required advertisement disclosure updates for existing Sections 84503, 84504 and 84506. Regulation 18450.5 also interprets the timing of the advertisement disclosure amendments for existing Section 84509. AB 249 repeals existing Sections 84503, 84504, 84506 and 84509 and replaces Sections 84503, 84504 and 84509. Except for the rules regarding updates to committee name changes, existing Regulation 18450.5 has been replaced by AB 249. Staff proposes eliminating language in this regulation that has been replaced by language that will now be in the Act.

9. Regulation 18521.5. Ballot Measure Committees Controlled by Candidates for Elective State Office.

Regulation 18521.5 establishes rules for candidate controlled ballot measure committees and includes references to Section 84504, which has now been repealed and replaced by AB 249, and existing Regulation 18450.3, which staff proposes repealing (see above). Staff proposes removing these references because they are no longer applicable.

Attachments:

- Repeal of Regulation 18225
- Amendments to Regulation 18247.5
- Amendments to Regulation 18402
- Amendments to Regulation 18420
- Amendments to Regulation 18423
- Amendments to Regulation 18435
- Amendments to Regulation 18450.3
- Amendments to Regulation 18450.5
- Amendments to Regulation 18521.5