



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich, Commissioners Baker, Wilson, and Wood
From: Lindsey Nakano, Sr. Legislative Counsel
Subject: **Legislative Update – August 2023**
Date: July 21, 2023

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1. General Update

- As of the date of this report, 13 Political Reform Act-related bills are active, including 3 Commission-initiated bills.
- Staff is continuing to reach out to and work with authors, other members, interested parties, and stakeholders, and to seek bipartisan support on Commission legislation.

2. Upcoming Legislative Deadlines

- Sept. 1 – Last day for fiscal committees to meet and report bills to the Floor.
- Sept. 8 – Last day to amend on the floor.
- Sept. 14 – Last day for each house to pass bills.
- Oct. 14 – Last day for the Governor to sign or veto bills.

3. FPPC Priority Bills

Updates (as of 7/21/23)

- **Amended:** AB 868 (Wilson), relating to the DATA Act, was amended to require an online platform to transmit campaign ads to the Commission, in lieu of the platform maintaining its own public ad database, and to require committees to submit all other kinds of digital ads to the Commission.
- **Amended:** SB 29 (Glazer), relating to PREP, was amended to add that a person who completes PREP is not subject to administrative, civil, or criminal penalties, and to make other nonsubstantive changes.
- **Passed in Second House:** SB 678 (Umberg) passed in the Assembly.

Status and Summaries

- **[AB 868 \(Wilson\) – Digital Advertisement Transparency and Accountability \(DATA\) Act](#)**

Coauthor: Assemblymember Lee

Status: Amended 6/27/23; passed in the Senate Elections Committee on 7/5/23 (6-1); passed in the Senate Judiciary Committee on 7/11/23 (10-1); set for hearing in the Senate Appropriations Committee on 8/14/23.

Short Summary: AB 868 would create a publicly accessible record of campaign advertisements that appear on online platforms.

Detailed Summary:

Existing law: Under existing law, online platforms that disseminate certain campaign advertisements are required to maintain, and make available for online public inspection in a machine readable format, records of those advertisements for committees that purchased \$500 or more in advertisements on the online platform during the preceding 12 months. Those records are required to be made available as soon as practicable.

Revised platform duty: AB 868 would require platforms to transmit those records to the FPPC, instead of maintaining their own individual public records, under the same deadline.

New committee duty: AB 868 would additionally require a committee that pays for a digital advertisement, other than an advertisement reported by an online platform as described above, to submit to the FPPC a copy of the digital advertisement and specified information, including the name and ID

number of the committee, the name of the candidate or number of the ballot measure, the online platform or platforms on which the ad was displayed, and the amount paid or agreed to be paid to the online platform.

Deadline for committees: The above information would be due in accordance with existing deadlines for the submission of semiannual statements and preelection statements.

“Digital advertisement” defined: “Digital advertisement” is defined to mean a paid advertisement, as defined in Section 84501, that appears in a digital format, including on an internet website, digital application, web application, or connected television platform.

Operative date: The duty to submit this information would begin on the January 1st that is at least 60 days after the Commission certifies a system for accepting and maintaining the reports.

Public access: The bill would require the Commission to make the information submitted available in a centralized and publicly accessible online format.

Liability: The bill would provide that a committee that submits the required information after the applicable deadline will be liable for a \$10 per day late fee, and that this penalty is the exclusive penalty for violations that are unintentional, including inadvertent or negligent violations. Other penalties under the PRA would be available for intentional violations.

FPPC Cost: Pending

FPPC Position: Support

- **[SB 29 \(Glazer\) – FPPC’s Political Reform Education Program \(PREP\)](#)**

Coauthors: Senator Ochoa Bogh; Assemblymember Bryan

Status: Passed in the Assembly Elections Committee on 6/21/23 (8-0); amended 6/22/23; referred to the Senate Appropriations Committee

Short Summary: SB 29 would codify the Commission’s Political Reform Education Program in statute, authorize charging a fee for participation, and authorize waiver of the late filing fee for participants who complete the program. The bill would also authorize waiver of the late filing fee for individuals who were seriously ill or hospitalized.

Detailed Summary:

Codifies PREP: SB 29 would codify FPPC regulation by authorizing the Commission to establish and administer a political reform education program for persons who violate the PRA, as an alternative to administrative, civil, or criminal penalties, and would set forth minimum requirements for eligibility, which are consistent with the Commission’s existing eligibility requirements for participation.

Fee authority: The bill would authorize the Commission to charge a fee, payable to the General Fund, to a participant in the program, which may not exceed the reasonable costs of administering the program.

Late filing fee waiver: The bill would require filing officers to waive the late filing fee for a person who completes the program. The bill would additionally require filing officers to waive the late fee for a person who was unable to timely file due to being seriously ill or hospitalized.

FPPC Cost: None.

- Note: The Commission secured funding for PREP in the 2023-24 budget.

FPPC Position: Support

- **[SB 678 \(Umberg\) – Disclaimers on Paid Third-Party Social Media Posts](#)**

Status: Passed in the Assembly Elections Committee on 6/7/23 (8-0); passed in the Assembly Appropriations Committee on 6/28/23 (14-0); passed on the Assembly floor on 7/3/23 (69-0); in the Senate with concurrence on Assembly amendments pending

Short Summary: SB 678 would require a person who is paid by a committee to post content online supporting or opposing a campaign to include a disclaimer stating that the person was paid by that committee.

Detailed Summary:

New disclaimer requirement: SB 678 would require a person who is paid by a committee to support or oppose a candidate or ballot measure on an internet website, web application, or digital application, other than the committee’s own website, profile, or landing page, to include a disclaimer, that states, or is substantially similar to, the following:

“The author was paid by [name of committee and committee identification number] in connection with this posting.”

New committee duty: The bill would require a committee to notify the person posting the content of the disclaimer requirement.

Injunctive relief: If a person fails to post the disclaimer, they would not be subject to administrative, civil, or criminal penalties, but the Commission would be authorized to seek injunctive relief to compel disclosure.

Exceptions: The bill provides that the new disclaimer requirement does not apply to specified content for which a disclaimer is already required under the PRA or to content posted by a compensated employee of the committee if the only expense to the committee is compensated staff time.

FPPC Cost: Minor and absorbable

FPPC Position: Support

4. Other Commission-Related Bills

Updates (as of 7/21/23)

- **New bill:** SB 569 (Glazer), which was previously unrelated to the PRA, was amended to make changes relating to lobbying audits.
- **New bill:** SB 632 (Caballero), which was previously unrelated to the PRA, was amended to make changes relating to candidate ballot pamphlet statements.
- **Amended:** AB 37 (Bonta), relating to using campaign funds for security expenses, was amended to add reimbursement and reporting requirements and to change the standard for when campaign funds may be expended for security expenses.
- **Amended:** SB 24 (Umberg), relating to public financing of campaigns, was amended to make a correction.
- **Amended:** SB 328 (Dodd), relating to contribution limits, was amended to make a correction.
- **Amended:** SB 409 (Newman), relating to a pilot program for candidate video statements, was amended to add a reporting requirement and make changes relating to what content is permitted in the statement.

- **Not moving forward this year:** AB 270 (Lee), relating to public financing of campaigns, is now a 2-year bill.

Status and Summaries

- **AB 37 (Bonta) – Use of campaign funds for security systems and personal security**

Coauthor: Senator Wiener

Status: Amended 6/27/23; passed in the Senate Elections Committee on 7/5/23 (7-0); amended 7/10/23; set for hearing in the Senate Appropriations Committee on 8/14/23

Short Summary: AB 37 would repeal existing law that authorizes use of campaign funds for electronic security systems after verification of threats to physical safety, and would instead authorize broader use of campaign funds for both electronic security systems and personal security without verification.

Detailed Summary:

Expansion to personal security expenses: Existing law allows campaign funds to be used for home or office electronic security systems under certain conditions. AB 37 would expand permitted campaign fund use to also include payments for the reasonable costs of providing personal security.

Expansion to family and staff: Existing law allows campaign funds to be used only for electronic security systems at the home or office of the candidate or elected officer. AB 37 would allow campaign funds to be used additionally for home or office electronic security systems and personal security expenses for the immediate family or staff of the candidate or elected officer.

Repeal of verification requirement: Existing law allows campaign funds to be used for home or office security systems only if (1) the candidate or elected officer has received threats to their physical safety, (2) the threats arise from their activities, duties or status as a candidate or elected officer, and (3) the threats have been reported to and verified by law enforcement. AB 37 would repeal these verification requirements.

New threshold standard: AB 37 would allow campaign funds to be used for the security expenses described above if they are directly related to a political, legislative, or governmental purpose.

Repeal of \$5,000 limit: Existing law allows up to \$5,000 to be used for electronic security systems. AB 37 repeals that limit.

Return or reimbursement requirement: Existing law requires the candidate or elected officer to reimburse the campaign fund account for the costs of the security system upon sale of the property where the security equipment is installed, based on the fair market value of the security equipment at the time the property is sold. AB 37 instead requires either return of, or reimbursement for, the security equipment within one year of the of when the official is no longer in office or the candidate is no longer a candidate for the office for which the security equipment was purchased, or upon sale of the property on which the security equipment is located, whichever occurs sooner. Return or reimbursement would be required for all security equipment purchased with campaign funds.

Retains special reporting requirement: Existing law requires candidates or elected officers who use campaign funds for electronic security systems to report this expenditure to the Commission and information including when the threat was reported to law enforcement, the contact information of the law enforcement agency, and a description of the threat. AB 37 alters this special reporting requirement to require reporting to the Commission only of the expenditure, and additionally requires the candidate or elected official to report reimbursement for security equipment to the Commission.

FPPC Cost: Minor and absorbable

FPPC Position: None

- **[AB 334 \(Rubio\) – Section 1090 and independent contractors](#)**

Coauthors: Assemblymember Gipson; Senator Ochoa Bogh

Status: Passed in the Senate Elections Committee on 6/6/23 (7-0); passed in the Senate Judiciary Committee on 7/6/23 (11-0); set for hearing in the Senate Appropriations Committee on 8/14/23

Short Summary: AB 334 clarifies the circumstances under which, for purposes of Section 1090, an independent contractor is not an “officer,” and, if the independent contractor is an officer, when the independent contractor did not participate in the making of a subsequent contract such that they may be hired for the subsequent contract.

Detailed Summary:

Existing law: Section 1090 prohibits a member of the Legislature or an officer or employee of the state or a county, district, judicial district, or city from being financially interested in any contract made by them in their official

capacity, or by any body or board of which they are members. Additionally, the actions of an independent contractor may qualify them as an “officer” for purposes of Section 1090, such that the independent contractor would be prohibited from being hired for a subsequent contract.

Circumstance the bill applies to: AB 334 would apply when a public entity that has entered a contract with an independent contractor to perform one phase of a project seeks to enter into a subsequent contract with that independent contractor for a later phase of the same project.

Clarifies when an independent contractor is not an “officer”: AB 334 would provide that, in the circumstance described above, the independent contractor is not an “officer” of the public entity, for purposes of Section 1090, if the independent contractor’s duties and services related to the initial contract did not include engaging in or advising on public contracting on behalf of the public entity. The bill further defines “engaging in or advising on public contracting.”

Clarifies when an independent contractor who is an “officer” may still be hired for a subsequent contract: AB 334 would provide that if an independent contractor is an officer, they may still be hired for a subsequent contract on the same project if the independent contractor did not engage in or advise on the making of the subsequent contract during its performance of the initial contract. The bill provides circumstances under which an independent contractor has not “engage[d] in or advise[d] on the making of the subsequent contract.”

Safe harbor: AB 334 provides that a person who acts in good faith reliance on the provisions of the bill shall not be subject to criminal, civil, or administrative enforcement under Section 1090, if the initial contract contains language requiring that the independent contractor meet the requirements set forth above, and the independent contractor is not in breach of those duties.

Complete defense: AB 334 additionally creates a complete defense in circumstances where the contractual language above was not included in the initial contract, but the independent contractor is nonetheless in compliance with the requirements set forth above.

FPPC Cost: Minor and absorbable

FPPC Position: Support

- **SB 24 (Umberg and Allen) – Public financing of campaigns**

Principal Coauthors: Senator Stern; Assemblymembers Cervantes and Lee

Coauthors: Senators Newman, Roth, and Wiener; Assemblymembers Low, Quirk-Silva, and Schiavo

Status: Amended on 6/26/23; passed in the Assembly Elections Committee on 7/5/23 (6-1); referred to the Assembly Appropriations Committee

Short Summary: SB 24 would authorize the use of public funds for campaigns under certain conditions, subject to approval by the voters.

Detailed Summary:

Existing law and background: Existing law prohibits a public officer from expending, and a candidate from accepting, public money for the purpose of seeking elective office. In 2016, an exception was added to allow public funds to be used for campaigns under specific conditions. The 2016 exception was challenged and was declared void and unenforceable by a Superior Court decision and affirmed by the Court of Appeals in 2019 as an improper legislative amendment of a voter initiative.

Re-authorizes public financing of campaigns: SB 24 would re-authorize a public officer or candidate to expend or accept public moneys for the purpose of seeking elective office if (1) the state or a local governmental entity establishes a dedicated fund for this purpose, (2) money in the fund is available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference, and (3) the state or local governmental entity has established criteria for determining a candidate's qualification by statute, ordinance, resolution, or charter.

Prohibits use of certain public funds for this purpose: Unlike the 2016 bill, SB 24 would prohibit public money from the dedicated fund from being taken from money that is earmarked for education, transportation, or public safety. This restriction would not apply to charter cities.

Voter approval required: Unlike the 2016 bill, SB 24 would require approval by the voters at the November 5, 2024, statewide general election.

FPPC Cost: Pending

FPPC Position: None

- **SB 248 (Newman) – Disclosure of candidate’s education, work, and military service history**

Coauthor: Assemblymember Bryan

Status: Passed in the Assembly Elections Committee on 6/21/23 (6-0); referred to the Assembly Appropriations Committee

Short Summary: SB 248 would require candidates to disclose their prior education, work, and military service history under penalty of perjury.

Detailed Summary:

New candidate duty: SB 248 would require a candidate for elective office to file a new disclosure statement that includes prior education and work history, and history of military service with the Secretary of State. The bill would require SOS to post all disclosures on its website for 4 years from the date of filing.

Deadline: The new statement would be due under the same deadline as the statement of intention to be a candidate.

Under penalty of perjury: The statement would be filed under penalty of perjury.

Creation of the form: The bill would require the FPPC to create the form.

Penalties: False statements may be prosecuted by the Attorney General or district attorney, failure to timely file the form would be subject to a late filing fee, failure to file the form would be subject to penalties under the Act, and governing bodies with power to remove an elective officer from office may investigate violations and use failure to file the disclosure statement or false statements as grounds for the officer’s removal.

Delayed operative date: The provision requiring the new candidate experience disclosure takes effect on the January 1st after the Cal-Access Replacement System is certified.

FPPC Cost: Minor and absorbable

FPPC Position: None

- **SB 328 (Dodd) – Contribution limit expansion to candidates for all local elective offices**

Coauthors: Senator Ochoa Bogh and Assemblymember Jackson

Status: Amended on 6/28/23; passed in the Assembly Elections Committee on 7/5/23 (6-1); referred to the Assembly Appropriations Committee

Short Summary: SB 328 applies the PRA’s contribution limits to candidates for all local elective offices, which would now include school districts, community college districts, and special districts.

Detailed Summary:

Previous expansion of contribution limits: In 2019, the Legislature passed AB 571 (Mullin), which expanded the PRA’s contribution limits to candidates for elective county or city office, effective January 1, 2021, and authorized counties and cities to adopt different contribution limits.

Existing definition of “local government agency”: Existing law in the PRA defines “local government agency” to mean a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing.

Expansion of contribution limits to all local elective offices: SB 328 would further expand the contribution limits to apply to all candidates for local elective offices.

Authority to enact different limits: SB 328 would authorize local governments to impose different contributions limits than those imposed by the PRA.

Delayed operative date: The bill would become operative on January 1, 2025.

FPPC Cost: \$1,397,599 (first year) and \$1,334,599 (ongoing)

- 9 positions (6 in Enforcement, 2 in Legal, and 1 in Audits)

FPPC Position: Support

- **SB 409 (Newman) – Candidate ballot pamphlet statements: video statement pilot program**

Status: Passed in the Assembly Elections Committee on 6/21/23 (7-0); amended 6/26/23; referred to the Assembly Appropriations Committee

Short Summary: SB 409 would authorize a pilot program to add a QR code to the ballot pamphlet that would link to a video statement by the candidate.

Detailed Summary:

Existing law: Existing law authorizes a candidate for statewide elective office who accepts the voluntary expenditure limits to purchase the space to place a statement in the state ballot pamphlet. The Secretary of State is responsible for setting the time frames and procedures for the preparation of state ballot pamphlets.

Pilot program for candidate video statements: SB 409 would require SOS to establish a pilot program in up to four counties that allows a candidate to additionally include in their candidate statement a QR code link to a video statement. The bill would impose certain requirements relating to the content, word limit, format, and appearance of the video statements. The bill would authorize a candidate to film their video statement in a participating county elections office or in a place designated by the SOS if the candidate is unable to provide the background, camera, and upload capability themselves. The bill would require the SOS and any participating county to post the video statements on their respective internet website so that it is accessible via the QR code link.

Reporting requirement: The bill would require a participating county to report to the SOS about their pilot programs and would require the SOS to report annually to the Legislature.

Sunset: The bill would sunset the pilot program after four years.

FPPC Cost: Minor and absorbable

FPPC Position: None

- **SB 569 (Glazer) – Transfer of lobbying audit duty from FTB to FPPC**

Status: Amended 6/19/23 and 6/27/23; passed in the Assembly Elections Committee on 7/5/23 (7-0); referred to the Assembly Appropriations Committee

Short Summary: SB 569 would transfer the duty to conduct mandatory lobbying audits from FTB to the FPPC.

Detailed Summary:

Existing law: Existing law requires that 25% of all lobbying firms and 25% of all lobbyist employers who employ one or more lobbyists be selected for audit through a random draw process that occurs in February of each odd year. The Franchise Tax Board is required to conduct audits of the selected lobbying entities and the lobbyists employed by them.

Transfer of audit duty: SB 569 would transfer the lobbying audit duty to the FPPC, commencing with the entities selected for audit in February of 2025.

Excluding entities with no activity: The bill would exclude lobbying firms and lobbyist employers from the audit selection pool if they have less than \$1 in payments or contributions.

Additional FPPC duties: The bill would require the FPPC to:

1. Post audits conducted by the FPPC on the FPPC website for at least 10 years from the conclusion of the audit.
2. Annually report to the Legislature on the number and type of audits completed by the FPPC.
3. Adopt regulations or policies to ensure the operational independence of audit personnel from enforcement operations under the PRA.

FPPC Cost: \$1,187,000 (first year); \$1,124,000 (ongoing)

- 9 new positions (Audit Division)

FPPC Position: None

- **SB 632 (Caballero) – Candidate ballot pamphlet statements: notification of approval or rejection and authorized content**

Status: Amended 6/27/23; passed in the Assembly Elections Committee on 7/5/23 (7-0); amended 7/11/23; referred to the Assembly Appropriations Committee

Short Summary: SB 632 imposes new requirements relating to the deadline for notification of approval or rejection of candidate ballot pamphlet statements and authorizes candidates to include party affiliation or membership or activity in partisan organizations in their ballot pamphlet statement.

Detailed Summary:

Deadline for notification: The bill would require the Secretary of State or the office of the elections official to notify a candidate of whether their candidate ballot pamphlet statement was approved or rejected upon filing the statement if filed in person, or within one business day if the statement was filed electronically.

Party affiliation: The bill authorizes candidates, except candidates for Superintendent of Public Instruction, to include party affiliation and membership or activity in partisan organizations in their ballot pamphlet statement.

Elections Code: The amendments additionally make changes in the Elections Code, allowing a candidate for U.S. Senate or U.S. Representative to include party affiliation and membership or activity in partisan organizations in the state voter information guide or county voter information guide.

FPPC Cost: Minor and absorbable

FPPC Position: None

- **SB 681 (Allen) – Requirements for amending the Political Reform Act**

Coauthor: Assemblymember Cervantes

Status: Passed in the Assembly Elections Committee on 6/21/23 (6-1); referred to the Assembly Appropriations Committee

Short Summary: SB 681 would shorten the notice period for bills amending the PRA.

Detailed Summary:

Existing law: Existing law allows the PRA to be amended by the Legislature if certain conditions are met, including that at least 12 days before passage in each house, the bill in its final form has been delivered to the Commission for distribution to the news media and to every person who has requested the commission to send copies of such bills to that person.

Shortening the notice period: SB 681 would shorten the notice period described above from 12 to 8 days, except that bills that did not previously amend the PRA would continue to be subject to the 12-day notice period.

FPPC Cost: Minor and absorbable

FPPC Position: Support

- **[SB 724 \(Glazer\) – Disclosure of paid communications that identify an elected state officer](#)**

Coauthor: Senator Wilk

Status: Passed in the Assembly Elections Committee on 7/5/23 (6-0); referred to the Assembly Appropriations Committee

Short Summary: SB 724 would require a new report when a person makes or receives a payment for certain communications that clearly identify an elected state officer.

Detailed Summary:

Existing law on communications identifying a candidate: Existing law requires a person to file a report with SOS if the person pays or promises to pay \$50,000 or more, or receives or is promised \$5,000 or more, for certain communications that clearly identify a candidate for elective state office, but do not expressly advocate the election or defeat of the candidate, if they are published within 45 days of an election.

New reporting requirement for communications identifying an elected state officer: SB 724 would require a person to file a new report if the person pays, promises to pay, or receives payment, for a communication described below.

1. The person pays or promises to pay \$25,000 or more, or the person receives or is promised \$5,000 or more, for the communication.
2. The communication clearly identifies an elected state officer.

3. The communication was made with the intent to influence the officer or public opinion.
4. The communication is published within 150 days of an election.

Reporting deadline: The bill would require that the report is filed online or electronically with the SOS within 48 hours of the payment or promise.

Report contents: The bill would require that the report include the name of the person, address, occupation, and employer, and amount of the payment.

Exception: A person receiving payment is not required to report if the person is in the business of providing goods or services and receives or is promised the payment for the purpose of providing those goods or services.

FPPC Cost: \$127,000 (first year) \$120,000 (ongoing)

- 1 position (Legal); plus approximately \$200,000 in potential litigation costs

FPPC Position: None

5. Bills Not Moving Forward This Year

- [AB 83](#) (Lee) – Prohibition on contributions and expenditures by foreign-influenced business entities (placed on the inactive file at the request of the author)
- [AB 270](#) (Lee) – Public financing of campaigns (2-year bill)
- [AB 1170](#) (Valencia) – Electronic Filing of SEIs (2-year bill)
- [SB 251](#) (Newman) – Incompatible offices: elected officers employed by another elected officer (failed passage in Senate Elections Committee)
- [SB 379](#) (Umberg) – Spot bill
- [SB 573](#) (Wahab) – Restrictions on post-legislative employment (2-year bill)
- [SB 858](#) (Niello) – Preparation of measure summaries for the ballot pamphlet (failed deadline for passage in fiscal committee)
- [SB 888](#) (Senate Elections Committee) – PRA Omnibus (held in Senate Appropriations)