



**To:** Chair Miadich and Commissioners Baker  
**From:** Lindsey Nakano, Sr. Legislative Counsel  
**Subject:** **Legislative Update – May 2023**  
**Date:** May 3, 2023

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## 1. General Update

- As of the date of this report, 15 Political Reform Act-related bills are active, including 4 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

- May 5 – Last day for policy committees to hear and report non-fiscal bills introduced in their house.
- May 19 – Last day for fiscal committees to hear and report to the Floor bills introduced in their house.
- June 2 – Last day for each house to pass bills introduced in that house.
- June 15 – Budget must be passed by midnight.
- July 14 – Last day for policy committees to meet and report bills.
- July 15 - Aug. 14 – Summer recess.
- 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

- **On the suspense file in Appropriations:** AB 868 (Wilson), SB 29 (Glazer)
- **On the Senate floor:** SB 678 (Umberg)

#### Status and Summaries

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

**Coauthor:** Assemblymember Lee

**Status:** Amended on 3/30/23; on suspense in the Assembly Appropriations Committee

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

#### **Detailed Summary:**

*New committee duty:* AB 868 would require a committee that pays for a digital advertisement to appear on an online platform to submit to the Commission 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:* The above information would be due in accordance with existing deadlines for the submission of semiannual statements and preelection statements.

*Operative date:* The duty to submit this information would begin on the January 1<sup>st</sup> 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.

*Eliminates existing duplicative requirement:* The bill would, upon certification of the above system, eliminate the existing requirement for an online platform that disseminates committees' online platform disclosed advertisements and

that receives \$50,000 or more from digital advertisement sales during a calendar month to maintain and make accessible for public inspection specified records of campaign advertisements.

*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: \$360,000 - \$391,000 (first year); \$181,000 - \$210,000 (ongoing annually)

- 1 one-year limited-term position (IT)
- 1 position (IT)
- Annual system costs

FPPC Position: Support

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

**Coauthor:** Senator Ochoa Bogh

**Status:** On suspense in 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 successful participants. 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 an administrative enforcement proceeding, 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: \$455,000 (first year), and \$421,000 (ongoing annually)

- 3 positions
- Note: The Commission is seeking funding for PREP in the 2023-24 budget. If the final budget includes that funding, FPPC's costs on SB 29 would be removed.

FPPC Position: Support

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

**Status:** Passed in the Senate Elections Committee on 4/19/23 (7-0); on the Senate floor

**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 penalties, but the Commission would be authorized to seek injunctive relief to compel disclosure.

FPPC Cost: Minor and absorbable

FPPC Position: Support

- **SB 888 (Senate Elections Committee) – PRA Omnibus**

**Status:** Amended 4/17/23; passed in the Senate Elections Committee on 4/18/23 (7-0) and the Senate Judiciary Committee on 4/25/23 (11-0); set for hearing in the Senate Appropriations Committee on 5/8/23.

**Short Summary:** SB 888 includes several minor and cleanup changes to the PRA, and additionally would (1) alter the requirements relating to FPPC Commissioners seeking office and (2) require SOS and local filing officers to redact bank account numbers and the street name and building number of addresses on campaign statements or reports before making those statements or reports available to the public.

**Detailed Summary:**

*Altering the requirements relating to FPPC Commissioners seeking office:* Existing law prohibits a member of the FPPC from seeking election to any other public office during the member's term of appointment. Under this existing law, a Commissioner cannot seek public office during their 4-year term, even if the Commissioner ends their term early. SB 888 would repeal the prohibition on seeking office during one's term of appointment, and would instead (1) require a member who declares candidacy for another office to resign from the Commission, and (2) prohibit a chair of the Commission from filing to be a candidate for any elective office until at least one year after their service in the position expires.

*Increasing privacy and security on statements of organization:* Existing law requires recipient committees to file their original statement of organization with SOS, and a copy with their local filing officer. SB 888 would allow a committee to redact its bank account number on the copy of the statement provided to the local filing officer and would require SOS to redact the bank account number on statements that are provided to the public.

*Increasing privacy and security on campaign statements:* The bill would also require SOS and local filing officers to redact street names and building numbers on campaign reports and statements before providing them to the public.

*Minor/cleanup changes:* The bill makes several minor and cleanup changes including:

- Deleting the definition of a term that is not used in the PRA.
- Making conforming amendments to Section 84504.2, which was inadvertently left out of a bill passed in 2022.
- Correcting incorrect cross-references.

- Amending Section 85300 back to pre-2016 language. The section, as amended in 2016, was declared void and unenforceable by a Superior Court decision, and affirmed by the Court of Appeals in 2019.
- Correcting a cross-reference relating what campaign expenditures count toward the voluntary expenditure ceiling.

FPPC Cost: Minor and absorbable

FPPC Position: Support (prior version)

Other Commission Proposals:

- Lobbying of Local Redistricting Commissions
- Contributor Education and Certification Requirement
- Long Arm Statute

#### 4. Other Commission-Related Bills

##### Updates

- **On the suspense file in Appropriations:** AB 83 (Lee), SB 248 (Newman), SB 328 (Dodd), SB 724 (Glazer), SB 858 (Niello)
- **On the Senate floor:** SB 681 (Allen)
- **On the Assembly floor:** AB 37 (Bonta)

##### Status and Summaries

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

**Coauthor:** Senator Wiener

**Status:** Passed in the Assembly Elections Committee on 3/29/23 (7-0); passed in the Assembly Appropriations Committee on 4/26/23 (15-0)

**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 “reasonably related to the candidate or elected officer’s status as a candidate or elected officer.”

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

*Repeal of 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 repeals this reporting requirement.

FPPC Cost: Minor and absorbable

FPPC Position: None

- **AB 83 (Lee) – Prohibition on contributions and expenditures by foreign-influenced business entities**

**Coauthor:** Assemblymember Kalra

**Status:** Passed in the Assembly Elections Committee on 3/15/23 (5-2); on suspense in the Appropriations Committee

**Short Summary:** AB 83 prohibits foreign-influenced business entities from making contributions, expenditures, or independent expenditures, and requires all business entities that make contributions, expenditures, or independent expenditures to file a new certification avowing that they are not foreign-influenced.

**Detailed Summary:**

*Expands existing prohibition:* Existing law prohibits a foreign government or foreign principal from making a contribution, expenditure, or independent expenditure in connection with the qualification or support of, or opposition to, any state or local ballot measure or in connection with the election of a candidate to state or local office. AB 83 expands the existing prohibition to additionally apply to a “foreign-influenced business entity.”

*“Foreign-influenced business entity” defined:* AB 83 defines “foreign-influenced business entity” to mean a business entity in which any of the following occur:

(A) A single foreign principal holds, owns, controls, or otherwise has direct or indirect beneficial ownership of one percent or more of the total equity, outstanding voting shares, membership units, or other applicable ownership interests of the entity.

(B) Two or more foreign principals, in aggregate, hold, own, control, or otherwise have direct or indirect beneficial ownership of equity or voting shares in an amount that is equal to or greater than 5 percent of the total equity, outstanding voting shares, membership units, or other applicable ownership interests of the entity.

(C) One or more foreign principals participate in any way, directly or indirectly, in the business entity’s decisionmaking process with respect to contributions or expenditures of funds in connection with a ballot measure or election.

*Expands definition of “foreign principal”:* The bill expands “foreign principal” to include a business entity that the foreign principal, or a foreign



government, holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or at least 50% of the total equity or outstanding voting shares.

*New business entity certification duty:* The bill would also require a business entity, within 7 days of making a contribution, expenditure, or independent expenditure, to file a statement of certification with the filing officer and candidate or committee avowing that the business entity is not a foreign-influenced business entity.

*Required receipt of certification:* The bill would prohibit a person from using a contribution or donation from a business entity for the purpose of making a contribution, expenditure, or independent expenditure, or for conveying funds to another for any of those same purposes, unless the person receives the business entity's statement of certification and complies with the other requirements of the Act.

*Required designation, recordkeeping, and accounting:* The bill would require a person who uses a contribution or donation from a business entity for a contribution, expenditure, or independent expenditure to separately designate, record, and account for the funds and ensure that disbursements for those purposes are made only from funds that comply with the requirements of this bill.

*Does not prohibit sponsoring a committee:* The bill provides that it does not prohibit a business entity from sponsoring a sponsored committee and does not require a statement of certification from a sponsor solely because it has engaged in specified activities that qualify it as a sponsor.

FPPC Cost: \$435,000 (first year) and \$414,000 (ongoing)

- 3 positions (2 in Enforcement, 1 in Legal); plus approximately \$200,000 in potential litigation costs

FPPC Position: None

- **AB 270 (Lee) – Public financing of campaigns**

**Principal Coauthors:** Senators Allen and Umberg

**Coauthor:** Assemblymember Bennett

**Status:** Coauthors added 4/19/23; passed in the Assembly Elections Committee on 4/19/23 (5-2); referred to the Assembly Appropriations Committee

**Short Summary:** AB 270 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:* AB 270 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, AB 270 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, AB 270 would require approval by the voters at the November 5, 2024, statewide general election.

FPPC Cost: Minor and absorbable

FPPC Position: None

- **AB 334 (Rubio) – Section 1090 and independent contractors**

**Status:** Passed in the Assembly Elections Committee on 4/19/23 (7-0); referred to the Assembly Appropriations Committee

**Short Summary:** AB 334 clarifies the circumstances under which an independent contractor is not an “officer” for purposes of Section 1090.

**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.

*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 either (1) did not have responsibilities for public contracting on behalf of the public entity under the initial contract, or (2) did not participate in making the subsequent contract through its performance of the initial contract. The bill further clarifies what circumstances must be present in order for an independent contractor to not “have responsibilities for public contracting” and to not “participate in the making of the subsequent contract.”

FPPC Cost: Minor and absorbable

FPPC Position: None

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

**Principal Coauthor:** Assemblymember Lee

**Status:** Passed in the Senate Elections Committee on 4/19/23 (6-1); set for hearing in the Senate Appropriations Committee on 5/8/23

**Summary:** SB 24 (Umberg) is identical to AB 270 (Lee). Please see AB 270 above for the full summary.

FPPC Cost: Minor and absorbable

FPPC Position: None

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

**Status:** Passed in the Senate Elections Committee on 4/19/23 (6-0); on suspense in the Senate Appropriations Committee

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

**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.

*Deadline:* The new statement would be due by the final filing date of the declaration of candidacy.

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

*New SOS duty:* The bill would require SOS to create the form by April 1, 2024, and to post all disclosures on its website for 4 years from the date of filing.

*Penalties:* In addition to other penalties under the PRA, the bill would also authorize a governing body with the power to remove an elected officer from an elective office to consider a violation of these requirements as grounds for removal from office.

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:** On suspense in the Senate 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.

**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**

**Status:** Passed in the Senate Elections Committee on 4/19/23 (6-0); amended 4/27/23; set for hearing in the Senate Appropriations Committee on 5/8/23

**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:* The bill 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.

FPPC Cost: Minor and absorbable

FPPC Position: None

- **[SB 681 \(Allen\) – Requirements for amending the Political Reform Act](#)**

**Status:** Passed in the Assembly Elections Committee on 3/21/23 (6-1); amended 3/28/23; on the Senate floor

**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 7 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: None

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

**Coauthor:** Senator Wilk

**Status:** On suspense in the Senate 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 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 or 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

- **SB 858 (Niello) – Preparation of measure summaries for the ballot pamphlet**

**Coauthors:** Senators Seyarto and Wilk

**Status:** On suspense in the Senate Elections Committee

**Short Summary:** SB 858 would require the Legislative Analyst, instead of the Attorney General, to prepare the official summary of measures that will appear on the ballot, contingent on passage of similar proposed changes in the California Constitution.

**Detailed Summary:**

*Existing law:* The PRA includes requirements relating to the content of the state ballot pamphlet, including summaries and analyses of measures. The Legislative Analyst is required to prepare summaries of the general meaning and effect of “yes” and “no” votes on each state measure, and an impartial analysis of the measure, including a description of the measure and a fiscal analysis. The Attorney General is responsible for preparing the official summary for each measure.

*Responsibility for the official summary:* SB 858, as it amends the PRA, would require the Legislative Analyst, instead of the Attorney General to prepare the official summary of each measure.

*Other changes in the Elections Code:* The bill makes several similar changes in the Elections Code to require the Legislative Analyst, instead of the Attorney General, to prepare ballot titles and summaries for initiative and referendum measures.

*Contingent on passage of a Constitutional amendment:* The California Constitution imposes certain duties on the Attorney General relating to initiative and referendum petitions and measures. Another bill, SCA 3, would amend the California Constitution to impose these duties instead on the Legislative Analyst. The changes made in SB 858 would only take effect if SCA 3 also passes.



FPPC Cost: Minor and absorbable

FPPC Position: None

**5. Bills Not Moving Forward This Year**

- [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)