



To: Chair Miadich, Commissioners Baker, Wilson, and Wood
From: Lindsey Nakano, Sr. Legislative Counsel
Subject: **Legislative Update – September 2023**
Date: September 5, 2023

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1. General Update

- As of the date of this report, 6 Political Reform Act-related bills are active, including 2 Commission-initiated bills. Additionally, 1 bill, SB 678 (Umberg), relating to disclaimers on third-party social media posts, was passed and signed by the Governor.
- 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. 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 9/5/23)

- **2-year bill:** AB 868 (Wilson), relating to the DATA Act, was made into a 2-year bill by the Senate Appropriations Committee.
- **Passed in Appropriations:** SB 29 (Glazer), relating to PREP, passed in the Assembly Appropriations Committee.
- **Passed and Signed:** SB 678 (Umberg) passed and was signed by the Governor.

Status and Summaries

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

Coauthors: Senator Ochoa Bogh; Assemblymember Bryan

Status: Passed in the Senate Appropriations Committee on 9/1/23 (16-0)

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 (69-0); passed in the Senate (38-0); signed by the Governor on 9/1/23.

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 9/5/23)

- **Amended:** AB 37 (Bonta), relating to using campaign funds for security expenses, was amended to revise the standard for when campaign funds may be expended for security expenses and to allow security systems to be retained without reimbursement while there is a continued, verified threat to safety.
- **Amended:** SB 681 (Allen), relating to the requirements for amending the Political Reform Act, was amended to make a minor change.
- **Passed by both houses:** AB 334 (Rubio); AB 421 (Bryan)
- **2-year bills (not moving forward this year):** SB 24 (Umberg), relating to public financing of campaigns; SB 409 (Newman), relating to candidate ballot pamphlet video statements; SB 724 (Glazer), relating to communications about elected state officers.
- **Held in the Appropriations Committee (not moving forward):** SB 248 (Newman), relating to a new candidate experience disclosure; SB 328 (Dodd), relating to contribution limits; SB 858 (Niello), relating to ballot measure titles and summaries.

Status and Summaries

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

Coauthor: Senator Wiener

Status: Amended 8/31/23; on the Senate floor

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 the candidate or elected officer has received threats to their physical safety and the threats have been reported to and verified by law enforcement. AB 37 would repeal these verification requirements.

Retains similar threshold standard: Existing law allows campaign funds to be used for security systems if the threats arise from the candidate's or elected officer's activities, duties, or status as a candidate or elected officer. AB 37 would adopt a nearly identical standard to allow campaign funds to be used for security expenses if the threat or potential threat to safety arises from the candidate's or elected officer's activities, duties, or 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.

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 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.

Delayed reimbursement for continued threat: AB 37 provides an alternate reimbursement or return deadline if there is a continued threat verified by law enforcement, with return or reimbursement due within one year of the threat ceasing, or upon sale of the property, whichever occurs sooner.

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 (38-0); passed in the Assembly (75-0)

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

- **[AB 421 \(Bryan\) – Ballot pamphlet information for referendum measures](#)**

Coauthors: Assemblymembers Addis, Bennett, Berman, Boerner, Bonta, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Haney, Hart, Jackson, Kalra, Lee, Lowenthal, McKinnor, Ortega, Luz Rivas, Santiago, Schiavo, and Ward; Senators Becker, Blakespear, Gonzalez, Menjivar, Portantino, Smallwood-Cuevas, and Wiener

Status: Passed in the Senate (30-9); passed in the Assembly (55-17)

Short Summary: AB 421 would require information about top funders to be included in the ballot pamphlet for referendum measures.

Detailed Summary:

Top funders: AB 421 would require the ballot pamphlet for referendum measures to include a list of the three persons who made aggregate contributions and expenditures of \$50,000 or more, with the heading “TOP FUNDERS OF PETITION TO OVERTURN THE LAW.”

Committee contributor disclosure: If a primarily formed ballot measure committee or a general purpose committee qualifies as a top funder, the highest contributors to the committee must instead be listed in the ballot pamphlet as the top funders, if the contributor's contributions to the committee combined with any individual contributions to qualify the referendum would qualify that contributor as a top funder.

SOS duty: The bill requires SOS to determine the list of top funders no later than the date the referendum qualifies for the ballot.

FPPC Cost: Minor and absorbable

FPPC Position: None

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

Status: Passed in the Assembly Appropriations Committee on 8/23/23 (15-0); on the Assembly floor

Short Summary: SB 632 imposes new requirements relating to the deadline for notification of approval or rejection of candidate ballot pamphlet statements and explicitly 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 explicitly 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, explicitly 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 Appropriations Committee on 8/16/23 (12-4); on the Assembly 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 8 days, except that bills that did not previously amend the PRA would continue to be subject to the 12-day notice period.

New email alert requirements: Existing law, outside of the PRA, requires the Legislative Counsel to make certain legislative information available to the public in electronic form, including the text of bills, analyses, votes, history, and status. SB 681 adds a section to the PRA requiring the Legislative Counsel to, through that public notification system, create an option for the public to sign up for email alerts whenever a bill is introduced or amended that amends the PRA. These automated alerts about PRA bills would be required to be sent no later than 9 a.m. the calendar day after the legislative action.

FPPC Cost: Minor and absorbable

FPPC Position: Support

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 868](#) (Wilson) – Digital Advertisement Transparency and Accountability (DATA) Act (2-year bill)
- [AB 1170](#) (Valencia) – Electronic Filing of SEIs (2-year bill)
- [SB 24](#) (Umberg) – Public financing of campaigns (2-year bill)
- [SB 248](#) (Newman) – Disclosure of candidate’s education, work, and military service history (held in Assembly Appropriations)
- [SB 251](#) (Newman) – Incompatible offices: elected officers employed by another elected officer (failed passage in Senate Elections Committee)
- [SB 328](#) (Dodd) – Contribution limit expansion to candidates for all local elective offices (held in Assembly Appropriations)
- [SB 379](#) (Umberg) – Spot bill
- [SB 409](#) (Newman) – Candidate ballot pamphlet statements: video statement pilot program (2-year bill)
- [SB 569](#) (Glazer) – Transfer of lobbying audit duty from FTB to FPPC (held in Assembly Appropriations)
- [SB 573](#) (Wahab) – Restrictions on post-legislative employment (2-year bill)
- [SB 724](#) (Glazer) – Disclosure of paid communications that identify an elected state officer (2-year bill)
- [SB 858](#) (Niello) – Preparation of measure summaries for the ballot pamphlet (held in Senate Appropriations)
- [SB 888](#) (Senate Elections Committee) – PRA Omnibus (held in Senate Appropriations)