

**Meeting Minutes
Fair Political Practices Commission
Law and Policy Committee Meeting
March 8, 2022 10:00 a.m.**

The Law and Policy Committee meeting was called to order at 10:00 a.m.

- 1. Public Comment for items not on the agenda.**
- 2. Approval of February 8, 2022, minutes.**

MOTION: To approve February 8, 2022, Committee minutes. Moved by Commissioner Baker, seconded by Chair Miadich. The motion was approved 2-0.

- 3. Legislative Development Update.**

Lindsey Nakano, Senior Legislative Counsel, briefed the Law and Policy Committee on updates since the last Committee Meeting. There have been four bills introduced to the Assembly this year that contains the Commission's priority proposals; two of which were introduced after the last Commission meeting.

AB 2172 was introduced by Assemblymember Cervantes and is currently a spot bill that will be amended with the Commission's proposal to eliminate dual paper filing requirements under the Political Reform Act.

SB 1483 was introduced by Assemblymember Glazer relating to the Commission's new education program for individuals with a low level of experience on the Political Reform Act and who committed violations with minimal public harm. This was referred to as the diversion program, but Staff is considering alternative titles due to feedback from the Commission after the last Commission meeting.

The tentative fee amount for participation in the education program is fifty dollars for statement of economic interest courses and one hundred dollars for all other courses. Chair Miadich asked for Staff's rationale in setting these fee amounts. Ms. Nakano responded that statement of economic interest courses has a lower fee since they require the least staff resources and the least number of

resources to update these programs. Additionally, staff looked at the current streamline penalty amounts and scaled back from those amounts to ensure that it would be proportional.

A letter relating to AB 775 was sent to Assemblymember Berman's office, as well as to the election committees pursuant to the Commission's direction at the February Commission Meeting. The letter reaffirms the Commission's support for the bill and the bill's goals. It also encouraged the legislature to move forward with the legislation as soon as possible.

SB 921, introduced by Senator Newman, creates a state archive for state level digital campaign ads. Staff submitted a support letter for the bill, and staff has received some feedback from stakeholders including some concerns about the deadlines for submission. Staff is continuing to work with stakeholders and the author's office on the bill.

There are nine other Commission related bills active this year, with six of them introduced after last month's Commission meeting. The first bill, AB 2528, was introduced by Assemblymember Bigelow. It requires that an elected officer's statement, report, or document filed pursuant to the Act that is not current filed with the Secretary of State to be filed through their online filing and disclosure system. A copy would still be required to be filed with their local filing officer, if applicable.

Chair Miadich asked if the proposed bill will change forms currently received at the FPPC and those would then go to the Secretary of State. Ms. Nakano responded that it would be in addition, and that the bill is written broadly. This means that any statement, report, or document filed under the Political Reform Act, if it is not filed with the SOS, will need to be filed with the Secretary of State in addition to who it is currently filed with. Chair Miadich wanted further clarification that in the case of behested payment reports they would have to file with their filing officer, in which Ms. Nakano agreed with that statement.

Commissioner Baker inquired how would this bill effect the local or city level. Ms. Nakano responded that it would affect all levels of government, and it covers everything filed under the Act.

Chair Maidich inquired if it would be an obligation for the filer to submit their report with the Secretary of State or if the filing officer would send over the copy. Ms. Nakano responded that based on the language and Dave Bainbridge, General Counsel's comment, it would be up to the filers.

AB 2544 is a spot bill, focusing on the Political Reform Act. Based on previous conversations with the author's office, it will be amended outside of the Political Reform Act.

SB 1352, authored by Senator Allen, revises the contribution reporting requirement for contributions received before the 90-day pre-election period. Currently candidates for elective state office must report contribution of \$5,000 or more within ten business days of when the contribution is received, if the contribution is received from a single source before the 90-day pre-election period. The bill would lower the threshold for purposes of reporting from \$5,000 to \$1,000 and would make the deadline for reporting 72 hours instead of 10 days. The bill will also extend these reporting requirements to committees primarily formed to support or oppose a candidate for elective state offices.

SB 1360, by Senator Umberg, is similar to SB 752 by Senator Allen from last year. The bill would require certain political advertisements to identify the top contributors without regard to any minimum contribution threshold. The current minimum threshold for top contributors is set at 50,000 dollars. The bill would also make changes to the disclosure requirements for political ads, including changes to the required form, content, and presentation of certain types of disclosures. The bill would also make changes in the Elections Code relating to the initiative, referendum, and recall petitions, including by requiring a new disclosure statement relating to top funders.

Commissioner Baker inquired if this bill has been sponsored by any advocacy groups. Ms. Nakano responded that the California Clean Money Campaign is sponsoring the the bill. Chair Miadich clarified whether SB 1360 was imitating the issue ad bill from last year. Ms. Nakano responded that it was another bill, which was SB 459, which had the lobbying reporting requirements and the issue

ad requirements. This bill is a separate bill that was relating to advertisement disclosures and not the issue ad subject.

SB 1362, authored by Senator Melendez, would require any person who makes payment to influence action on the citizens redistricting Commission totaling one thousand dollars or more in a calendar year to submit reports about those payments to the Secretary of State.

SB 1439, authored by Senator Glazer, applies certain disqualification rules and contribution limitations to directly elected officials of local government agencies. These officials are currently exempt from the existing provisions that generally prohibit contributions to an official of an agency of more than 250 dollars from any party participant or an agent of either, while certain proceedings are pending before the agency and for three months after the final decision. These local officials are also currently exempt from disqualification requirements for contributions received in the 12 months prior to the proceeding. The bill would eliminate these exemptions and apply these rules to directly elected local government officials. The bill also extends the amount of time that a party or participant is prohibited from contributing, after the proceeding from three months from the date of the final decision to 12 months of the final decision date.

4. Discussion of Items for April 2022 Committee Meeting

Chair Miadich stated Ms. Nakano will be back for another legislative update.

Commissioner Baker discussed two news stories that recently became public. One is the concept of bounties that consultants can get for advocacy without having to register as a lobbyist or comply with rules from The Sacramento Bee on March 2nd. Commissioner Baker would like to hear a report on what the law currently is and discuss what the Commission may want to do to address what is happening. The second article was about transparency rules that apply to the Commission and whether the Commission should be following the 1974 APA or the most recent version.

Commissioner Baker stated she would like a briefing on this topic as well.

Chair Miadich responded with respect to the bounty article, fixing the loophole would require statutory change.

In respect to the APA article that was written by Richard Rios and a lobbyist, the issue was litigated, and the decision is available for the Commissioners, and it is stated that the PRA was written in such a way that the court determined we were subject to the 1974 and not the modern iteration of the APA and the central reasoning for that is that there needs to be attention placed on maintaining the independence of the agency. If we imposed the entirety of the modern APA, a political appointee, who could be hired or replaced at any time within the executive branch, would have to approve all regulations. This point might give some pause to the public to learn that politicians could veto the regulations, but there can be discussion where releasing this information to the public could be had. Commissioner Baker welcomes the discussion to gain institutional knowledge but stated the discussion doesn't have the same urgency as the other issues currently being sought by the Commission.

In returning to the first article, Commissioner Baker stated she would like a discussion on potential solutions to the issues raised in the article before the next legislative package discussion. Chair Miadich stated there is currently a schedule to discuss regulations on lobbying activity and suggested Staff could separately, but at the same time, address the bounty issue and why we can't address that by regulation and what the legislative fix for the issue could be.

MOTION: To adjourn the meeting. Moved by Commissioner Baker, seconded by Chair Miadich. The motion was approved 2-0.

The meeting adjourned at 10:23 a.m.