

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 1170 (Valencia)
Version: June 17, 2024
Hearing Date: June 25, 2024
Fiscal: Yes
Urgency: No
AM

SUBJECT

Political Reform Act of 1974: filing requirements

DIGEST

This bill requires public officials and candidates who file their original statements of economic interests (SEIs) (known as Form 700s) with the Fair Political Practices Commission (FPPC) to file them using the FPPC's electronic filing system, as provided. The bill also requires the FPPC to redact the telephone number and mailing address of the filer from data that is made public on the FPPC's website. The bill also, at the request of the filer, requires FPPC to redact the street name and building number of the filer's personal residence under specified circumstances.

EXECUTIVE SUMMARY

In the wake of the Watergate scandal, California voters enacted the Political Reform Act (PRA) and established the Fair Political Practices Commission (FPPC) through Proposition 9 in 1974 (June 1974, prim. elec.). The FPPC is a five-member independent, non-partisan commission tasked with the responsibility of administering the PRA. Under the PRA, various candidates for, and current holders of, specified elected or appointed state and local offices and designated employees of state and local agencies must file SEIs. This bill requires public officials and candidates who file their Form 700s with the FPPC to file them electronically. This bill seeks to relieve the burden on the FPPC of filing hard copy statements. The bill also requires the FPPC to redact the telephone number and personal residential address of a filer from data that is made public on the FPPC's website. This analysis will focus on the provisions of the bill that are in this Committee's jurisdiction, principally the limitation on the access to public records. The bill requires a two-thirds vote because it amends the Political Reform Act of 1974, an initiative measure. The bill passed the Senate Committee on Elections and Constitutional Amendments on a vote of 7 to 0. The bill is sponsored by the FPPC. The bill is supported by the California Association of Clerks and Election Officials. No timely opposition was received by the Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Political Reform Act (PRA), which creates the FPPC and makes it responsible for the impartial, effective administration and implementation of the PRA. (Gov. Code § 81000.¹)
- 2) Requires that candidates for, and current holders of, specified elected or appointed state and local offices and designated employees of state and local agencies file SEIs disclosing their financial interests, including investments, real property interests, and income. (§ 81009 et seq.)
- 3) Authorizes an agency to allow the electronic filing of an SEI, including amendments, in accordance with regulations adopted by the FPPC. (§ 87500.2.)
- 4) Authorizes the FPPC to develop and operate an online system for filing SEIs, and to allow all the data filed through the online system to be available on the FPPC's website in an easily understood format that provides the greatest public access and to provide assistance to those seeking public access to that information. (§ 87500.3.)
- 5) Requires the FPPC to redact private information, including, but not limited to, the signatures of filers, from the data that is made available on the internet. (§ 87500.3(d)(2).)
- 6) Permits certain reports, statements, or copies of those reports or statements that are filed pursuant to the PRA and that have been on file for at least two years to be retained as a copy on microfilm or other space-saving materials and, after the Secretary of State (SOS) certifies an online filing and disclosure system, as an electronic copy. (§ 81009(g).)
- 7) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
 - a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)
 - b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)

¹ All further references are to the Government Code unless stated otherwise.

- 8) Governs the disclosure of information collected and maintained by public agencies pursuant to the California Public Records Act (CPRA). (§§ 7920.000 et seq.)
 - a) States that the Legislature, mindful of the individual right to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (§ 7921.000.)
 - b) Defines "public records" as any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (§ 7920.530.)
 - c) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (§ 7922.530.)

This bill:

- 1) Requires the FPPC to develop and operate an online system for filing SEIs, consistent with specified requirements under existing law.
 - a) Revises and recasts existing filing requirement statutes for various candidates for, and current holders of, specified elected or appointed state and local offices and designated employees of state and local agencies to conform with this change.
 - b) Provides that the FPPC may retain an original report, statement, or copy in a paper format or an electronic copy for public inspection.
- 2) Specifies that private information that must be redacted by the FPPC from the data made available online additionally includes the telephone number and mailing address of the filer of the SEI.
- 3) Specifies that, at the request of the filer, the street name and building number of the filer's personal residence address under either of the following circumstances:
 - a) The filer identifies a business entity's address is the same as the filer's personal residence address.
 - b) The filer reports income from renting space to a tenant at the filer's personal residence address, and the tenant's address is the same as the filer's personal residence.
- 4) Specifies that, at the request of a filer who is a current elected official or a former elected official who is filing because they have left office, and if the FPPC determines the current or former elected official has a reasonable privacy concern related to a family member's name or other personally identifiable information:
 - a) The family member's name;
 - b) The family member's address;
 - c) The address of an entity that employee the family member; or
 - d) The name of an entity that includes the family member's name or address in the entity's name.

- 5) Authorizes the FPPC to adopt regulations that define “family member” and “reasonable privacy concern” for these purposes.
- 6) Makes various legislative findings of the Legislature.

COMMENTS

1. Stated need for the bill

The author writes:

To increase transparency and efficiency, AB 1170 will amend to the Political Reform Act of 1974 (Act) by requiring public officials and candidates to electronically file their Statements of Economic Interests (SEIs) – Form 700. Processing hard copy filings takes up valuable staff time and requires the FPPC to lease space sufficient to store the hard copies. According to the FPPC, it expends over 100 employee hours and \$10,000 annually on the processing of hardcopy SEIs. Universal e-filing would eliminate this burden and waste of public resources.

AB 1170 requires public officials and candidates for whom the FPPC is the filing officer, to file their SEI electronically with the FPPC. This change will free up FPPC staff resources and eliminate costs related to document storage. Additionally, this change makes it easier for public officials and candidates to comply with the law.

2. CPRA and access to public records

Existing law already requires the FPPC to redact private information, including, but not limited to, the signature of a filer from the data that is made available on the FPPC’s website. Existing law requires the FPPC to implement a policy regarding redaction of private information for these purposes, and to conduct one or more public hearings to receive input on the development of this policy. This bill seeks to revise and recast these provisions based on feedback from stakeholders to instead enact specific redaction authorizations in regards to posting data on the FPPC’s website, instead of the more general authorization provided for under existing law.

First, the bill would require the FPPC to redact the telephone number and mailing address of a filer, in addition to the signature of the filer. Existing FPPC regulations already provide that the address, telephone number, and signature block of an elected official will be redacted from the cover page of the document posted on the website. (Tit. 2, Cal. Code of Reg. § 18313.5(b).) Additionally, the bill provides that, at the request of the filer, the street name and building number of the filer’s personal residence address is to be redacted under either of the following circumstances:

- the filer identifies a business entity's address as the same as the filer's personal residence address; or
- the filer reports income from renting space to a tenant at the filer's personal residence address, and the tenant's address is the same as the filer's personal residence.

The above provisions are consistent with the CPRA, which prohibits a state or local agency from posting the home address or telephone number of an elected or appointed official on the internet without the official's permission. (Gov. Code § 7928.205.)

Lastly, the bill enacts an existing FPPC regulation into statute. (*see* Tit. 2, Cal. Code of Reg. § 18313.6). Specifically, the bill provides that, at the request of a filer who is a current elected official or a former elected official who is filing because they have left office, and if the FPPC determines the current or former elected official has a reasonable privacy concern related to a family member's name or other personally identifiable information, the following information can be redacted from the data posted on the FPPC's website:

- the family member's name;
- the family member's address;
- the address of an entity that employes the family member; or
- the name of an entity that includes the family member's name or address in the entity's name.

The bill authorizes the FPPC to adopt regulations to define "family member" and "reasonable privacy concern" for these purposes. Existing FPPC regulations already define family member, for these purposes, as including an official's spouse or former spouse including a registered domestic partner or former registered domestic partner; child or step-child; parent; grandparent; grandchild; brother; sister; current or former parent-in-law, brother-in-law, or sister-in-law; nephew; niece; aunt; uncle; grand nephew; grand niece; grand aunt; grand uncle; first cousin; first cousin once removed; or spouse or former spouse of these persons other than a former in-law. (*Id.* at (b).)

California generally recognizes that public access to information concerning the conduct of the people's business is a fundamental and necessary right. At the same time, the state recognizes that this right must be balanced against the right to privacy. The general right of access to public records may, therefore, be limited where records include personal information or information of a sensitive nature. The bill states that the above limitation on the access to public records is needed in order to protect a filer's privacy. As this bill is enacting existing regulations of the FPPC into law and the CPRA already provides protections for posting a public official's home address and telephone on the internet, these findings seem warranted.

3. Statements in support

The FPPC, the sponsor of the bill, writes in support stating:

Existing law under the PRA provides that the FPPC is the filing officer for statewide elected officers and candidates and other specified public officials. Generally, these public officials file Form 700s with their agency or another person or entity, who retain a copy of the statement and then forward the original statement to the Commission.

AB 1170 would instead require public officials for whom the Commission is the filing officer to file their Form 700s directly with the Commission using the Commission's electronic filing system.

Existing law also requires redaction of private information on the Form 700 that is made available on the FPPC's website, including the signature of the filer. AB 1170 would expand that required redaction to include the personal residential address and telephone number of the filer.

AB 1170 would modernize and streamline the filing process for these important public documents.

SUPPORT

Fair Political Practices Commission (sponsor)
California Association of Clerks and Election Officials

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation:

SB 1027 (Menjivar, 2024) authorizes a committee to redact a bank account number included on the copy of the statement of organization filed with the local filing officer and requires the SOS to redact the bank account number on a statement of organization before making the statement available to the public in any form, and requires the SOS or a local filing officer to redact the name and building number on a report or statement before making the report or statement available to the public in any form. SB 1027 is currently pending in the Assembly Judiciary Committee.

AB 1785 (Pacheco, 2024) prohibits a state or local agency from publicly posting, as defined, the name and assessor parcel number associated with the home address of any

elected or appointed official on the internet without first obtaining written permission. AB 1785, at the time this analysis was written, was currently pending in the Senate Appropriations Committee.

Prior Legislation:

SB 888 (Committee on Elections and Constitutional Amendments, 2023) contained various changes to the PRA, including authorizing a committee to redact a bank account number included on the copy of the statement of organization filed with the local filing officer and requiring the SOS to redact the bank account number on a statement of organization filed with the SOS before making the statement available to the public in any form. SB 888 was held in the Senate Appropriations Committee.

PRIOR VOTES

Senate Elections and Constitutional Amendments Committee (Ayes 7, Noes 0)

Assembly Floor (Ayes 77, Noes 0)

Assembly Appropriations Committee (Ayes 15, Noes 0)

Assembly Elections Committee (Ayes 7, Noes 0)
