

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

SB 888 (Committee on Elections and Constitutional Amendments)

Version: April 17, 2023

Hearing Date: April 25, 2023

Fiscal: Yes

Urgency: No

AM

SUBJECT

Political Reform Act of 1974

DIGEST

This bill contains various changes to the Political Reform Act of 1974 (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, requiring the Secretary of State (SOS) to redact the bank account number on a statement of organization filed with the Secretary of State before making the statement available to the public in any form. The bill also 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.

EXECUTIVE SUMMARY

This noncontroversial bill makes various changes to the PRA requested by stakeholders who are either affected by the PRA or frequently work with various provisions within the PRA, and includes technical changes identified by the Senate Committee on Elections and Constitutional Amendments. There is no known support or opposition. The bill passed the Senate Committee on Elections and Constitutional Amendments on a vote of 7 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Political Reform Act (PRA), which creates the Fair Political Practices Commission (FPPC) and makes it responsible for the impartial, effective administration and implementation of the PRA. (Gov. Code § 81000.)¹

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

- 2) Defines “statewide election,” for purposes of the PRA, as an election for statewide elective office. (§ 82052.5.)
- 3) Defines “committee” to mean any person or combination of persons who directly or indirectly does any of the following:
 - a) receives contributions totaling \$2,000 or more in a calendar year;
 - b) makes independent expenditures totaling \$1,000 or more in a calendar year;
or
 - c) makes contributions totaling \$10,000 or more in a calendar year to or at the behest of candidates or committees. (§ 82013.)
- 4) Provides that no member of the FPPC, during the member’s tenure, can hold any other public office, serve as an officer of any political party or partisan organization, participate in or contribute to an election campaign, or employ or be employed as a lobbyist. Prohibits a commissioner from seeking election to any other public office during the commissioner’s term of appointment. (§ 83105.)
- 5) Requires a committee to file a statement of organization with the SOS, and file a copy of the statement of organization with the local filing officer, if any, as specified. Provides that the data made available on the internet cannot not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed pursuant to the PRA. (§ 84101.)
- 6) Requires certain political advertisements to make specified disclosures and specifies the required form, content, and presentation of the disclosures depending on the medium in which the advertisement appears. (§ 84504.2, 84504.4.)
- 7) Authorizes a public officer or candidate to expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity establishes a dedicated fund for this purpose, as specified, and both of the following are true:
 - a) public moneys held in the fund are available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference; and
 - b) the governmental entity has established criteria for determining a candidate’s qualification, as provided. (§ 85300(b).)
- 8) 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).)
- 9) Governs the disclosure of information collected and maintained by public agencies pursuant to the CPRA. (Gov. Code §§ 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. (Gov. Code § 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. (Gov. Code § 7920.530.)
 - c) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 7922.530.)

This bill:

- 1) Deletes the definition of "statewide election" from the PRA.
- 2) Permits a committee to redact a bank account number included on the copy of the statement of organization filed with the local filing officer.
 - a) Prohibits a local filing officer from requiring a committee to disclose a bank account number on the copy of the statement of organization filed with the local filing officer as a condition of accepting that filing.
- 3) Permits a committee to redact a bank account number included on the copy of the statement of organization filed with the local filing officer. A local filing officer cannot require a committee to disclose a bank account number on the copy of the statement of organization filed with the local filing officer as a condition of accepting that filing.
- 4) Requires 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.
- 5) Requires the SOS or the local filing officer to redact the street name and building number on a report or statement filed before making it available to the public in any form.
- 6) Clarifies the required form and content of disclosures on print advertisements, as specified.

- 7) Removes the provision that provides a public officer or candidate may expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity establishes a dedicated fund for this purpose by statute, ordinance, resolution, or charter. This provision was held invalid as impermissibly amending an initiative statute in *Howard Jarvis Taxpayers Assn. v. Newsom* (2019) 39 Cal.App.5th 158.
- 8) Clarifies that if a member of the FPPC declares a candidacy for elective office, then they are required to resign from the FPPC. Prohibits the chair of the FPPC from filing to be a candidate for any elective office until at least one year after their service as Chair expires.
- 9) Makes various technical, nonsubstantive changes.

COMMENTS

1. Stated need

The author writes:

SB 888 is an omnibus bill that makes various changes to the Political Reform Act of 1974 (PRA). This bill includes changes requested by stakeholders who are either affected by the PRA or frequently work with various provisions with the PRA. This bill also seeks to improve the privacy of sensitive information for filers.

2. Background

This bill by the Senate Committee on Elections and Constitutional Amendments makes various noncontroversial changes to the provisions of the PRA. Their analysis of this bill provides background on the PRA and a description of the changes the bill is making and why.² This Committee analysis will focus on the provisions of the bill in our jurisdiction – the access to limitation of public records. The bill requires a two-thirds vote because it amends the Political Reform Act of 1974, an initiative measure.

3. Public right of access under the CPRA and privacy

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.

² Sen. Comm. on Elec. and Const. Amdts. Analysis of SB 888 (2023-34 reg. session) as amended April 17, 2023.

This bill limits access to existing public records in two ways. Under existing law, the online filing for a person's street number and street name are redacted; however, the information on the hard copy is not redacted and may be disclosed to the public. In light of recent incidents of political violence and the rise of threats against candidates and public officials, this bill would ensure that street number and street names continue to be submitted to the filing officer, but prohibits them from being publically disclosed.

Additionally, when a committee files a statement of organization form (Form 410), one of the required fields is a bank account number. The original Form 410 is submitted to the SOS and a copy is submitted to a local filing officer. When making these forms available online for the public, the SOS redacts the bank account; however, this information on the hard copy of Form 410 is not redacted and may be disclosed to the public. The bill will provide that the bank account number must be redacted on the hard copy of the form and not disclosed to the public.

The bill states that the above limitations on the access to public records is needed in order to protect filers' privacy and to prevent financial fraud. In light of the bill's findings on the need for limiting access, this limitation to the CPRA seems warranted.

SUPPORT

None known

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 423 (Umberg, Ch. 31, Stats. 2020), in an early version of this bill, among other provisions, would have ensured that bank account numbers on a committee's Statement of Organization form are kept confidential. This bill was later amended to reflect a different elections issue.

SB 1360 (Umberg, Ch. 887, Stats. 2022) changed the text and formatting of required disclosures on petitions and electronic media and video campaign advertisements, as specified. SB 1360 also required disclosures on electronic media advertisements about top contributors funding the advertisement.

SB 1107 (Allen, Ch. 837, Stats. 2016) provided, within the PRA, an exception to the existing ban on use of public moneys for the purpose of seeking public office and a

requirement that an officeholder who is convicted of specified crimes to forfeit any remaining campaign funds to the general fund.

SB 867 (Cooley, Ch. 749, Stats. 2017), among other provisions, made various provisions of the PRA that are located within the definition of the term "contribution."

AB 800 (Gordon, Ch. 9, Stats. 2014), among other provisions, deleted provisions that prohibited audits or investigations of candidates, controlled committees, and primarily formed committees until after the last date for filing certain reports or statements.

PRIOR VOTES:

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