



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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EXECUTIVE STAFF REPORTS

April 19, 2018 Commission Hearing

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I. ENFORCEMENT DIVISION

STAFF: GALENA WEST, CHIEF OF ENFORCEMENT

During the period of March 7, 2018 through April 5, 2018, the Enforcement Division received 83 complaints, opened 9 for investigation, and rejected 45. The Enforcement Division received 96 non-filer referrals during this time.

Also during this time, the Enforcement Division closed a total of 104 cases including:

- 55 warning letters,
- 15 no action letters,
- 2 advisory letters,
- 10 as a result of the adoption of stipulations at the March Commission meeting, and
- 22 committees were administratively terminated.

The Division had 955 cases in various stages of resolution at the time of the February Monthly Report and currently has approximately 916 cases in various stages of resolution, including the 22 cases before the Commission as listed in the April 2018 agenda.

On May 1, 2015, the Division received from the Secretary of State's office 2,460 \$50 Annual Fee referrals for 2013 fees not paid timely. Of those, 14 remain pending. On October 22, 2015, the Division received the \$50 Annual Fee referrals for 2014, which totaled 1,786. Of those, 28 remain pending. We are receiving 2015, 2016, and 2017 referrals periodically through the new Electronic Complaint System.

II. LEGAL DIVISION

STAFF:

JACK WOODSIDE, GENERAL COUNSEL

BRIAN LAU, ASSISTANT GENERAL COUNSEL

TRISH MAYER, ASSISTANT CHIEF

JOHN FESER, SENIOR COMMISSION COUNSEL IV

A. Pending Litigation

Howard Jarvis Taxpayers Association, et al. v. Edmund Brown, et al.

On December 12, 2016, the Howard Jarvis Taxpayers Association and retired State Senator and Judge Quentin L. Kopp filed a lawsuit against Governor Brown and the Commission to invalidate a new law that would allow public funds to be used for political campaigning. In September of 2016, the Governor signed Senate Bill 1107 which authorizes the use of public funds to finance campaigns if a jurisdiction adopts a law or ordinance creating a public financing program. Plaintiffs allege the new law improperly eliminates the prohibition against public financing of campaigns, implemented pursuant to Proposition 73 in 1988, because it was done without voter approval. In addition, plaintiffs allege that the new law violates the Political Reform Act¹ (the Act) because it does not “further the purposes of the Act,” an express requirement in the Act for legislative amendment. The Attorney General’s Office is representing both Governor Brown and the Commission in this litigation. A hearing was held in Superior Court on August 4, 2017. After taking the matter under submission, the Court issued a Ruling, dated August 23, 2017, “entering a judgment declaring that the amendments made to Government Code section 85300 by Senate Bill No. 1107 are void and have no legal effect; and an injunction restraining Respondents from enforcing the unconstitutional amendments made by Senate Bill No. 1107.”

In closed session at its meeting on September 21, 2017, the Commission voted to appeal the Superior Court decision. The Notice of Appeal was filed with the Third District Court of Appeal on January 9, 2018.

Frank J. Burgess v. Fair Political Practices Commission

Frank J. Burgess filed a writ of mandate in Riverside Superior Court on October 4, 2015, seeking relief from the Commission’s decision and order in *In re Frank J. Burgess*, Case No. 12/516.

¹ The Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to this source, unless otherwise indicated.

Mr. Burgess's case was first heard by an Administrative Law Judge (ALJ), and then Mr. Burgess challenged the ALJ's decision to the Commission. On March 19, 2015, the Commission rejected the ALJ's decision and decided the case based on the record and the parties' supplemental briefing. Ultimately, the Commission found that Mr. Burgess had violated Section 87100 of the Act and imposed a \$5,000 fine on July 7, 2015.

Mr. Burgess challenged that decision as an excess of the Commission's jurisdiction, an abuse of discretion, and a denial of due process rights. On September 15, 2016, the Superior Court issued its judgment granting the petition on due process grounds. The Court further ordered the Commission to file a Return to the Writ on or before November 7, 2016.

After a closed session discussion at the Commission meeting on October 20, 2016, the Commission voted to let the Superior Court's judgment stand and to vacate and set aside its Decision and Order in the underlying matter, thereby dismissing the administrative proceedings against Mr. Burgess. The Commission timely filed a Return to the Writ.

On November 14, 2016, Burgess filed a Motion for Attorney's Fees under Code of Civil Procedure section 1021.5 (private attorney general). The FPPC, in conjunction with the Attorney General's, office prepared an opposition to this motion which was filed on January 25, 2017. The fee motion was heard on April 3, 2017, and the Superior Court took the matter under submission after argument by the parties. On April 10, 2017, the Superior Court granted Burgess's motion for attorney's fees. The Commission voted in closed session to appeal the Superior Court's order granting Burgess attorney's fees at the June meeting.

The parties' respective appellate briefs have been timely filed: Appellant's opening brief on November 6, 2017; Respondent's opposition brief on December 5, 2017, and Appellant's reply brief on December 26, 2017. A hearing date for oral argument has not yet been set.

B. Outreach and Training

None to report.

C. Advice

In March 2018, the Legal Division responded to the following requests for advice:

- ***Requests for Advice:*** Legal Division Political Reform Consultants and attorneys collectively responded to more than 1,837 e-mail and telephone requests for advice.
- ***Advice Letters:*** Legal Division received 25 new advice letter requests under the Political Reform Act and completed 17 letters.
- ***Section 1090 Letters:*** Legal Division received two new advice letter requests concerning Section 1090 and completed seven letters. This year to date, we have received 11 advice requests regarding Section 1090.

D. Advice Letter Summaries

Full copies of FPPC Advice Letters, including those listed below, are available at:
<http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

Campaign

Cassandra M. Ferrannini [A-18-009\(a\)](#)

By vote on March 22, 2018, the Commission determined that questions regarding the use of campaign funds for legal costs arising from allegations of sexual harassment presents issues requiring a policy interpretation best made through a Commission Opinion under Government Code Section 83114(a) of the Political Reform Act. (See Regulation 18329(b)(8)(E).) Accordingly, the Commission withdraws and rescinds the staff issued *Ferrannini* Advice Letter, No. A-18-009, dated February 20, 2018, in its entirety.

Conflict of Interest

Kara K. Ueda [A-17-210](#)

A public official with a commercial property interest, business interests, and multiple sources of income, including 13 commercial rental units located within the area of a “vision” plan, which may lead to the adoption or amendment of the general or specific plan, may not take part in decisions regarding the plan, or other preliminary planning documents. Additionally, the public generally exception does not apply because the cumulative effect on the official’s rental business and the 13 rental units operated by the business is “unique” as compared to other businesses.

Amber Maltbie [I-17-278](#)

Councilmember, who owns residential rental properties located within 500 feet of a specific plan, may not take part in decisions amending the development standards for the entire specific plan, changing the overall density of units for the specific plan, or that relate to the lawsuit on the density issues for the specific plan. Decisions relating to the entire specific plan affecting property value within 500 feet of official’s real property have a foreseeable and material financial effect on the official’s financial interests under Regulation 18702.2(a)(11). Additionally, decisions relating to the development density within the specific plan have a foreseeable and material financial effect on the official’s interests in his rental business under Regulation 18702.1(b)(1) through (3).

Craig A. Steele [A-18-019](#)

For purposes of the Act’s conflict of interest provisions, a public official who purchases real property does not have an interest in the seller resulting from the purchase so long as the property was sold for fair market value. Additionally, an ownership interest in real property is not considered an “interest in real property” for purposes of the Act if the real property is located outside of the official’s jurisdiction.

Andrew J. Pinasco[A-18-021](#)

Under Regulation 18702.2(a)(6), a public official may take part in decisions to fund a dredging project despite having a property within the dredging project area because the official will not receive new or improved services that are distinguishable from improvements and services that are provided to or received by other similarly situated properties in the official's jurisdiction.

Bill Peake[A-18-023](#)

The Act does not prohibit City Councilmember from taking part in governmental decisions relating to the relocation of a utility cabinet within 475 feet of the Councilmember's residence, used to operate an existing sewage lift station, because the decisions would not have a reasonably foreseeable measurable impact on the Councilmember's real property interest in his residence. The relocated utility cabinet would not be visible from the Councilmember's residence due to intervening homes, trees, and topography, and the facts presented provide no indication of a measurable impact on the residence.

Ivor E. Samson[I-18-024](#)

There are narrow exceptions to the Act's conflict of interest provisions that permit a commission member to present drawings or submissions of an architectural, engineering, or similar nature prepared for a client. Additionally, the Act permits a commissioner to appear before an agency not under the appointive or budgetary control of the official's agency, including the City Council, so long as the official does not purport to be acting in his or her official capacity. The "design review board exception" in Regulation 18704(d)(6)(B) may be invoked by members of a design or architectural review committee or similar body, if otherwise appropriate, so long as the decision may be reviewed and reversed on appeal by a planning commission or city council.

Michael Torres[A-18-026](#)

Planning Commissioner with source of income interest in business entity also has a source of income interest his business partner, who owns a 50-percent interest in the entity. Accordingly, the Act prohibits the Planning Commissioner from taking part in a decision to approve a large residential development project in close proximity to his business partner's multiple commercial properties.

Rick Kowalczyk[A-18-028](#)

Councilmember is disqualified from governmental decisions regarding the City's disposition and potential future development of a 21-acre parcel of property because the property is located within 500 feet of the Councilmember's residence and the decision will have a foreseeable and material effect on the Councilmember's real property interest.

Cathy Capriola[A-18-029](#)

Councilmember does not have a conflict of interest in a decision to grant funds to a nonprofit, despite the fact that the nonprofit owns and operates facilities located within 500 feet of the Councilmember's residence. The grant does not have a foreseeable and material effect on the Councilmember's real property interest.

Betsy Martyn[A-18-034](#)

The Act does not prohibit members of the Airport District Board of Directors from taking part in governmental decisions relating to the Board's annual review of its strategic plan, given that each of those members rents an airport hangar from the district on a month-to-month basis, so long as those decisions would not have a reasonably foreseeable material financial effect on those members' personal finances or those of immediate family members distinguishable from the effect on the public generally.

Lauren Langer[A-18-038](#)

The Act prohibits a Councilmember from taking part in city decisions resulting from a multi-family residential development project in another city but within 472 feet of the Councilmember's residence. While the project is located in another city, recommendations regarding the project, decisions to monitor the project, and potential litigation involving the project would have a foreseeable and measurable financial impact on the Councilmember's real property interest near the project.

Michael Guina[A-18-044](#)

A former member of a planning commission is not subject to the Act's conflict of interest rules because he has resigned from his position and will play no further official role in governmental decision making. Accordingly, the Act does not prohibit the former official, or the official's firm, from participating as a member of a private team seeking to enter a lease disposition and development agreement with the City for the design, construction and operation of the City's Art Center

Dr. Francisco Reveles[I-18-045](#)

The Act's financial disclosure provisions do not require County Superintendent of Schools to amend his Statement of Economic interest to reflect financial interests outside of the scope of his agency's adopted conflict of interest code.

Statement of Economic Interests**William Sperling**[A-18-025](#)

A nonprofit organization, which was previously advised that it was a government entity for purposes of the Act, is a multi-county agency because it receives funding from and provides services in multiple counties. Accordingly, the Commission is the organization's code reviewing body and officials with the organization should file their statements of economic interests with the Commission until the organization's conflict of interest code is approved.

Section 1090**Kristin Pelletier, Esq.**[A-17-230](#)

Section 1090's prohibition against financial interest in governmental contracts does not preclude the City from entering into a contract with Walt Disney Parks merely because a Councilmember's spouse formerly worked for ABC, which is majority-owned by the parent company to Walt Disney Parks.

Sarah E. Tobias, Esq.[A-17-272](#)

A Councilmember, who is not receiving any benefit other than applicable tax deductions, is not prohibited by either the Act or Section 1090 from donating land to the City.

Sonia R. Carvalho[A-17-282](#)

Councilmember may take part in governmental decisions regarding marijuana related ordinances notwithstanding the fact that the official's law firm has provided legal advice and consulting services to public agencies in other jurisdictions considering marijuana-related regulations and procedures. The city's ordinance will not have a foreseeable and material effect on the official's financial interests in his law firm and its government entity clients. Government Code Section 1090 does not apply because the ordinance decisions before the city do not involve a contract.

Caren Ray[A-18-003\(a\)](#)

Neither the Act nor Section 1090 prohibits a Councilmember, who owns property used as an Airbnb rental and subject to a Transient Occupancy Tax, from taking part in decisions to contract with Airbnb for the collection of those taxes, so long as the tax applies equally to all other properties within the City subject to the tax.

Mark D. Hensley[A-18-005](#)

Councilmember who serves as an uncompensated board member for a non-profit charter school does not have a financial interest in the school. Accordingly, the Councilmember may take part in decisions involving a joint-use agreement, or other contracts, between the City and school. Additionally, Section 1090 does not prohibit the Councilmember for participating or the City from entering contracts with the charter school because a non-interest exception applies.

Jennifer M. Lyon[A-18-022](#)

Section 1090 does not prohibit agency from negotiating or modifying the contract with private contractor, who uses a company operated by an agency director as a vendor, because the remote interest exception of Section 1091(b)(17) applies. However, the Director must recuse himself from any decisions involving contracts with the contractor and refrain from providing any advice to the agency regarding the contracts.

Brian Oneto[A-18-033](#)

Under the Act and Section 1090, County Supervisor may submit a bid to perform tree removal services for independent water agency because the Supervisor is acting in his private capacity on behalf of his business interest and not in his official capacity.

E. Miscellaneous Decisions

Exemption Request

Regulation 18740 provides that an official or candidate, with the approval of the General Counsel, is not required to disclose the name of a person under Section 87207 if disclosure would violate California or Federal law. The following exemption request was approved by the General Counsel in March:

- Senator Richard Pan, Exemption No. E-18-002.

F. Potential Upcoming Regulations

Scheduling to be Determined. Adoption of Statement of Governance.

Scheduling to be Determined. Prenotice discussion of possible amendments to conflict of interest rules including: (1) rules for small shareholders and related business entities and (2) bright line materiality standards, including clarification of the 500-foot property rule.

G. Conflict of Interest Codes

Adoptions and Amendments

State Agency Conflict of Interest Codes

- Aging Department
- Environmental Health Hazard Assessment Office
- Parks and Recreation Department
- State Public Defender

Multi-County Agency Conflict of Interest Codes

- Antelope Valley Community College District
- Association of California Water Agencies Joint Powers Insurance Authority
- Bay Area Schools Insurance Cooperative
- California Charter Schools Association Joint Powers Authority
- Calistoga Joint Unified School District
- Chaffey Joint Union High School District
- Marin Sonoma Mosquito and Vector Control District
- Metropolitan Transportation Commission
- Napa County Resource Conservation District
- Partnership Health Plan of California

Exemptions

None to report.

Extensions

- CA Rehabilitation Oversight Board, Office of the Inspector General

H. Probable Cause Hearings

Please note, a finding of probable cause does not constitute a finding that a violation has occurred. The respondents are presumed to be innocent of any violation of the Act unless a violation is proven in a subsequent proceeding.

1. ***In the Matter of Donna I. Gannon, Yamel Jimmy Mourad, Yamel Jimmy Mourad and Donna I. Gannon Bell City Council 2015, and Luz Martinez, Case No. 15/149.*** On March 15, 2018, after hearing, probable cause was found to believe Respondents committed the following violations of the Act:

- Count 1: Gannon, Mourad, Yamel Jimmy Mourad and Donna I. Gannon Bell City Council 2015 (the Committee), and Martinez failed to deposit all campaign contributions into a single designated campaign bank account, and failed to make all campaign expenditures from the campaign bank account, violating Government Code Sections 85201, subdivisions (c) and (e).
- Count 2: Gannon, Mourad, the Committee, and Martinez received cash contributions of \$100 or more, and made cash expenditures of \$100 or more, violating Government Code Section 84300, subdivisions (a) and (b).
- Count 3: Gannon, Mourad, the Committee, and Martinez failed to maintain supporting records for contributions received and expenditures made, violating Government Code Section 84104.
- Count 4: Gannon, Mourad, the Committee, and Martinez failed to report all contributions and expenditures, and failed to disclose all required contributor and payee information, in the Committee's pre-election campaign statement for the reporting period of January 18, 2015 - February 14, 2015, violating Government Code Section 84211, subdivisions (a), (b), (c), (d), (t), (i), (j), and (k).
- Count 5: Gannon, Mourad, the Committee, and Martinez failed to report all contributions and expenditures, and failed to disclose all required contributor and payee information, in the Committee's semi-annual campaign statement for the reporting period of February 15, 2015 - June 30, 2015, violating Government Code Section 84211, subdivisions (a), (b), (c), (d), (t), (i), (j), and (k).
- Count 6: Gannon, Mourad, the Committee, and Martinez failed to timely file a pre-election campaign statement due on February 19, 2015, violating Government Code Section 84200.5.
- Count 7: Gannon, Mourad, the Committee, and Martinez failed to timely file a late contribution report for a \$1,000 contribution received on February 11, 2015, due on February 12, 2015, violating Government Code Section 84203.

The following matters were decided based solely on the papers. The respondents did not request a probable cause hearing.

2. ***In the Matter of Margaret "Peggy" Moore And Moore For Oakland City Council At-Large, FPPC No. 16/19843.*** On March 12, 2018, probable cause was found to believe that Respondents committed the following violation of the Political Reform Act:

Count 1: The Committee and Moore failed to include the proper sender identification on two mass mailings, in violation of Section 84305 and Regulation 18435.

3. ***In the Matter of Sallings for Santa Clara School Board 2014 and Noelani Sallings, Case No. 16/009.*** On March 15, 2018, probable cause was found to believe that Respondents committed the following violations of the Act:

Count 1: The Committee and Sallings failed to timely file the semi-annual campaign statement due on February 1, 2016, in violation of Section 84200.

Count 2: The Committee and Sallings failed to timely file the semi-annual campaign statement due on August 1, 2016, in violation of Section 84200.

Count 3: The Committee and Sallings failed to timely file the semi-annual campaign statement due on January 31, 2017, in violation of Section 84200.

Count 4: The Committee and Sallings failed to timely file the semi-annual campaign statement due on July 31, 2017, in violation of Section 84200.

Count 5: Sallings failed to timely file a 2012 Annual SEI by April 1, 2013, in violation of Section 87300.

Count 6: Sallings failed to timely file a 2013 Annual SEI by April 1, 2014, in violation of Section 87300.

Count 7: Sallings failed to timely file a 2014 Annual SEI by December 31, 2014, in violation of Section 87300.

Count 8: Sallings failed to timely file a 2015 Annual SEI by April 1, 2016, in violation of Section 87300.

4. ***In the Matter of John Fugatt and California Conservative PAC, Case No. 15/1301.*** On March 15, 2018, probable cause was found to believe that Respondents committed the following violations of the Act:

Count 1: The Committee and Fugatt failed to timely file the semi-annual campaign statement for the period July 1, 2013, through December 31, 2013, due January 31, 2014, in violation of Sections 84200 and 84605.

- Count 2: The Committee and Fugatt failed to timely file the semi-annual campaign statement for the period January 1, 2014, through June 30, 2014, due July 31, 2014, and failed to disclose contributions received and expenditures made during this period, in violation of Sections 84200, 84605 and 84211 subdivisions (a)-(d), (f), (i) and (k).
- Count 3: The Committee and Fugatt failed to timely file the preelection campaign statement for the period July 1, 2014, through October 18, 2014 due October 23, 2014, in violation of Sections 84200.5, 84200.7 and 84605.
- Count 4: The Committee and Fugatt failed to timely file the semi-annual campaign statement for the period October 19, 2014, through December 31, 2014 due January 31, 2015, in violation of Sections 84200 and 84605.
- Count 5: The Committee and Fugatt failed to timely file the semi-annual campaign statement for the period January 1, 2015, through June 30, 2015 due July 31, 2015, in violation of Sections 84200 and 84605.

5. *In the Matter of Friends Of Anna Song For County Board Of Education 2016 And Anna Song, FPPC No. 17/0107.* On March 23, 2018, probable cause was found to believe that Respondents committed the following violations of the Political Reform Act:

- Count 1: Failure to Timely File a Semi-Annual Campaign Statement. The Committee and Song failed to timely file the semi-annual campaign statement due January 31, 2017, in violation of Section 84200.
- Count 2: Failure to Timely File a Semi-Annual Campaign Statement. The Committee and Song failed to timely file the semi-annual campaign statement due July 31, 2017, in violation of Section 84200.
- Count 3: Failure to Timely Pay the 2017 Annual Fee. The Committee and Song failed to timely pay the 2017 annual fee by the January 15, 2017 due date, and failed to pay the resulting \$150 late penalty, in violation of Section 84101.5, subdivisions (c) and (d).

III. EXTERNAL AFFAIRS AND EDUCATION DIVISION

STAFF: COURTNEY MILLER, MANAGER

Phone Advice Requests

The External Affairs and Education Division responded to 1,357 requests for technical assistance via phone in March, which is one of our busiest months due to the Form 700 filing deadline.

Training & Outreach

Political Reform Consultants conducted the following workshops and outreach activities:

Alex Castillo conducted a workshop for SEI Filers for the City of San Bernardino. Approximately 10 people attended.

Glen Bailey conducted workshop for SEI Filers at the Yuba County Water Agency. Approximately 13 people attended.

John Kim conducted a Candidate/Treasurer workshop for 57 people for the Alameda County Democratic Party.

Deborah Hanephin conducted workshops for the City of Chula Vista filing officers and San Diego candidates and treasurers. More than 15 people attended the filing officer workshop and 48 people attended the Candidate/Treasurer workshop.

Deborah Hanephin conducted a Gift and Travel Payment workshop for Sonoma County. Approximately 15 filers attended the workshop.

John Kim and Alex Castillo presented workshops for SEI Filers, Candidates and Treasurers and filing officers for the City of Santa Clarita over a two-day period. The city was grateful for the opportunity to host the extensive training for its filing officers, filers, candidates and treasurers.

The External Affairs and Education Division hosted two foreign delegations of elections and ethics officials in March. On Monday, March 5th, Legislative Affairs Director Phillip Ung and Communications Director Jay Wierenga provided an overview of the FPPC and the Political Reform Act to a Nigerian delegation consisting of the nation's top election officials. The delegation was exploring accountability and transparency in U.S. state and local governments.

On Tuesday, March 6th, Mr. Ung and Mr. Wierenga provided a similar overview to a delegation of top academics and anti-corruption officials from Italy that were examining anti-corruption and law enforcement models. Both overviews included topics such as ethics, transparency, accountability, and the role of the media and public. The Italian delegation was invited to the U.S. under the auspices of the United States Department of State on a 3-week International Visitor Leadership Program hosted by the Northern California World Trade Center. The U.S.

State Department reports it hopes to use these exchanges to create opportunities for increased cultural understanding and to promote stronger relationships and diplomatic ties between the U.S. and our international partners.

IV. LEGISLATIVE UPDATE

STAFF: PHILLIP UNG, DIRECTOR, LEGISLATIVE AND EXTERNAL AFFAIRS

Staff is currently tracking nine active bills that would amend the Political Reform Act, a reduction from 12 bills in March. One spot bill remains on the tracking list. The Legislature has begun policy committee hearings with four of the nine bills set to be heard prior to the Commission's April 19 meeting.

Legislation currently being tracked by Commission staff and other related documents can be found on the [Commission's Pending Legislation](#) page.

Active Political Reform Bills (#1-9)

1. AB 664 (Steinorth): Campaign fund expenditures; fair market value

FPPC Position: *None currently*

Status: Senate Rules Committee

Fiscal Estimate: Minor and absorbable

Last Amended: January 11, 2018

Summary:

Existing law prohibits the spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation from campaign funds controlled by the elected officer or candidate.

Under the *Harden* (A-90-498) and *Tierney* (A-04-094) Advice Letters, the Commission staff has advised that the compensation from campaign funds must be fair market value or a gift may result, so long as the duties performed by a non-spouse relative are directly related to a political, legislative, or governmental purpose.

This bill would prohibit compensation above fair market value to a parent, grandparent, sibling, child, or grandchild of an elected officer or a candidate or elective office from a controlled committee of the elected officer or candidate for elective office. The bill would additionally prohibit compensation above fair market value to any business majority-owned or controlled by any spouse, domestic partners, or above named relatives. The bill further states that nothing in the bill authorizes a controlled committee to pay campaign funds in excess of fair market value in exchange for goods, services, facilities, or anything of value, to any person or vendor.

2. AB 2051 (Choi): Candidate's statement

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Last Action: Set for April 11 hearing of Assembly Elections and Redistricting Committee.

Summary:

Existing law authorizes each candidate for nonpartisan elective office in any local agency, including any city, county, city and county, or district, to prepare a candidate's statement on an appropriate form provided by the elections official. Existing law permits the statement to be withdrawn, but prohibits the statement from being changed, during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period. Existing law requires the elections official to send to each voter a county voter information guide that contains the written statements of each candidate.

This bill would permit the statement for each candidate for nonpartisan elective office in a local agency, and the statement for each candidate for statewide elective office or for state Senate and Assembly who accepts the voluntary expenditure limits, to be changed during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period. The bill would also make technical, nonsubstantive changes.

3. AB 2055 (Levine): Lobbyist registration; sexual harassment

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Last Action: Referred to Assembly Elections and Redistricting Committee and Assembly Judiciary Committee; set for April 11 hearing of Assembly Elections and Redistricting Committee.

Summary:

The Political Reform Act provides comprehensive regulation of lobbyist registration and disclosure of lobbying activity. The Commission is charged with the responsibility to investigate, upon the sworn complaint of any person or upon its own initiative, possible violations of the act relating to any agency, official, election, lobbyist, or legislative or administrative action.

This bill would prohibit a lobbyist from engaging in sexual harassment, as defined, and would authorize the Commission to order a lobbyist who violates this prohibition to cease all lobbying activity for a period of up to 4 years.

4. AB 2155 (Mullin): Campaign disclosure

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Last Action: Referred to Assembly Elections and Redistricting Committee; set for April 25 hearing.

Summary:

The act requires the names of specified candidates and committees to be disclosed in a mass electronic mailing, as defined, that the entity sends. The act also requires advertisements, as defined, to disclose, among other things, the advertisement's funding source, including independent expenditures, and the names of the top contributors to the committee paying for the advertisement. The act further requires that an advertisement supporting or opposing a candidate that is paid for by an independent expenditure include a statement that it was not authorized by a candidate or a committee controlled by a candidate.

This bill would apply those disclosure requirements to a mass electronic mailing sent by a committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee. The disclosure requirements would apply to a mass electronic mailing that are independent expenditures.

Staff Comments:

During the Commission's meeting in March 2018, the California Clean Money Campaign president Trent Lange commented that AB 2155 was a legislative vehicle for amendments to recently enacted AB 249.

5. AB 2188 (Mullin): Campaign disclosure

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Last Action: Referred to Assembly Elections and Redistricting Committee; set for April 25 hearing.

Summary:

Among other things, the Act requires an electronic media advertisement, other than an Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, to include the text "Who funded this ad?" and a hyperlink to an Internet Web site containing specified disclosures. However, the act requires that an advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, only include specified disclosures in a contrasting color and in no less than 8 point font on the committee's profile, landing page, or similar location, and not on each individual post, comment, or other similar communication.

This bill would require the disclosures on the committee's profile, landing page, or similar location to be on the cover or header photo of the committee's profile, landing page, or similar location and in no less than 10 point font. The bill would require the disclosures to be fully visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media.

This bill would require an online platform, as defined, to display a hyperlink with the text "Who funded this ad?" on an advertisement paid for by a committee. The bill would require an online platform to maintain and make available a complete record of any request to purchase an advertisement on the online platform made by a committee that purchased \$500 or more in advertisements on the online platform during the preceding 12 months. The bill would require an online platform to display a prominent button, tab, or hyperlink near the top of a profile, landing page, or similar location of the committee that links to a page clearly showing the records of any request made by the committee to purchase an advertisement on the online platform. The bill would make a person who intentionally violates these provisions for the purpose of avoiding disclosure liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

This bill would require an electronic media advertisement, other than a mass electronic mailing, that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, to include a specified disclosure regarding who paid for the advertisement.

6. AB 2689 (Gray): Gift and contribution prohibition; Governor's appointments

FPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Last Amended: March 14, 2018

Fiscal Estimate: None requested

Last Action: Set for April 11 hearing of Assembly Elections and Redistricting Committee.

Summary:

The Political Reform Act establishes limits on gifts that a person or group can give to a candidate or state elective officer and limits how much a candidate or state elective officer can accept in a calendar year. The Act also establishes limits on contributions that a person or group can contribute to a candidate for state elective office and limits how much a candidate for state elective office can accept per election.

This bill would prohibit a person appointed by the Governor to an office subject to Senate confirmation from making to a Senator or a controlled committee of the Senator, and that Senator or committee from accepting, a gift or contribution during the period between the appointment or reappointment by the Governor and confirmation by the Senate. The bill would also apply this prohibition to certain candidates for the Senate, as specified.

7. AB 2880 (Harper): Political Reform Act; local enforcementFPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Last Action: Set for April 11 hearing of Assembly Elections and Redistricting Committee.

Summary:

Existing law authorizes the Fair Political Practices Commission, upon mutual agreement between the Commission and the Board of Supervisors of the County of San Bernardino, to have primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance reform ordinance of the County of San Bernardino, as specified. Existing law also authorizes the Fair Political Practices Commission to enter such agreements with the City Council of the City of Stockton and the City Council of the City of Sacramento, respectively.

This bill would repeal those provisions and would instead generally authorize the governing body of a local government agency to contract with the Commission for the administration, implementation, and enforcement of a local campaign finance or government ethics law. This bill would also clarify that any agreement with one of the cities enumerated above that was in effect on December 31, 2018, is deemed to comply with this provision.

8. AB 2882 (Harper): Earmarking exception; membership organizationsFPPC Position: *None currently*

Status: Assembly Elections and Redistricting Committee

Fiscal Estimate: None requested

Last Action: Set for April 25 hearing of Assembly Elections and Redistricting Committee.

Summary:

Existing law prohibits a person from making a contribution to a committee or candidate that is earmarked unless the contribution is disclosed in compliance with the requirements for contributions made by an intermediary. Dues, assessments, fees, and similar payments made to a membership organization or its sponsored committee in an amount less than \$500 per calendar year from a single source for the purpose of making contributions or expenditures are not considered earmarked.

This bill would reduce this exception for payments to a membership organization or its sponsored committee to \$100.

9. SB 1239 (Hertzberg): Campaign disclosure: online filing systemFPPC Position: *None currently*

Status: Senate Elections and Constitutional Amendment Committee

Fiscal Estimate: None requested

Last Action: Referred to Senate Elections and Constitutional Amendment Committee.

Summary:

The Act requires each committee that is required to file a statement of organization to pay the Secretary of State a fee of \$50 by January 15 of each year until the committee is terminated. The Act subjects a committee that fails to pay the fee on time to a penalty equal to three times the amount of the fee.

The bill would change the deadline for payment of the annual fee to April 30 of each year. The bill also makes other technical, non-substantive changes.

Staff comments:

Senate Bill 1239 is sponsored by the Secretary of State's office. The Secretary plans to amend the bill prior to the Commission's April hearing to include amendments to the Act the Secretary believes are needed to fully implement the Cal-Access Replacement System.

Spot Bills (#10)**10. SB 1454 (Newman): Political Reform Act**

FPPC Position: *None currently*

Status: Senate Rules Committee

Fiscal Estimate: Minor and absorbable

Last Amended: January 11, 2018

Summary:

This bill would make a technical, nonsubstantive change to these provisions. It is a spot bill for more substantive legislation to be determined.