

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Gordon & Dickinson Analyst: Jane Raboy Bill Number: AB 800  
Introduced Date: February 21,  
Related Bills: See Legislative History Telephone: 845-5718 Amended Dates: April 15, & April 30, 2013  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Political Reform Act of 1974/FTB Audits & Investigation

### SUMMARY

This bill would modify the Political Reform Act of 1974 (ACT), broaden the authority of the Fair Political Practices Commission (Commission), and extend the audit or investigation due dates.

### RECOMMENDATION

No position.

### Summary of Amendments

The bill as introduced on February 21, 2013, modified a number of provisions of the ACT, including provisions relating to the Franchise Tax Board (FTB) audit responsibilities under the ACT, as discussed in this analysis.

The April 15, 2013, amendments modified a number of provisions that do not impact the department.

The April 30, 2013, amendments added the requirement that the FTB complete random basis audits within two years after the person or entity was selected for audit by the Commission.

This is the department's first analysis of this bill. This analysis only addresses the provisions of the bill that impact the department's programs and operations.

### REASON FOR THE BILL

The reason for this bill is to ensure that information regarding political contributions and expenditures is provided to the public prior to elections.

### EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2014, and operative as of that date.

Board Position:

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\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
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Executive Officer

Date

Selvi Stanislaus

5/14/13

## **ANALYSIS**

### **PROGRAM BACKGROUND**

The FTB's Political Reform Audit Program conducts audits of candidates for legislative, constitutional, local and judicial offices, statewide measures and general purpose committees, lobbying firms and employers. The program works closely with the Commission, the Secretary of State (SOS), and local filing officers.

The FTB program conducts audits on both a mandatory and random basis, in accordance with generally accepted auditing procedures. Audit procedures include interviewing committee staff, preparing bank reconciliations, evaluating internal controls, and examining documentation of receipts and expenditures, including third party information. The size of an audit varies, ranging from hundreds of millions of dollars and hundreds of hours to complete, to a few thousand dollars and a few hours.

At the conclusion of an audit, each entity receives an audit report containing the FTB's opinion of its compliance with the ACT and a description of any material issues. Examples of material issues are personal use of campaign funds, inadequate disclosure of information regarding contributions and expenditures, missing disclosure reports, and failure to maintain required records. Audit reports are public documents and are available for review with the SOS or local filing officer. In addition, the reports are sent to the Commission and Attorney General or District Attorney for review.

Generally, the FTB program places a higher priority on conducting mandatory audits than random basis audits due to the higher dollar amounts or level of the office or committee. However, other considerations, such as timing of elections sometimes necessitate re-prioritization of this workload.

### **STATE LAW**

Under the ACT, current state law requires the FTB to conduct audits and field investigations of various financial statements and campaign disclosure statements filed by political committees, lobbyists, lobbyist employers, and most candidates for elective office, including legislative, constitutional, or local government offices. The Commission, however, audits statements filed by candidates for State Controller and members of the Board of Equalization.

Generally, the FTB and the Commission are prohibited to audit or investigate any candidate or committee prior to the last date for filing the first report or statement following the general, runoff or special election for the office for which the candidate ran, or following the election at which the measure was adopted or defeated.

The ACT requires FTB to complete random basis audits within one year after the candidate or entity is selected for audit by the Commission. The statute of limitations for initiating civil action against an alleged campaign statement violator is the earlier of four years from the date an audit could begin or one year from the date FTB forwards its report to the Commission.

## THIS BILL

This bill would do the following:

- Allow an audit or investigation to commence prior to the filing of any reports or statements for general, runoff, or special elections; and would allow the audit or investigation of all campaign statements and reports.
- Broaden the FTB's and the Commission's ability to audit or investigate any report or statement required under the ACT.
- Extend the requirement that the FTB complete random basis audits from within one year to within two years after the person or entity was selected for audit by the Commission.

## IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

## **LEGISLATIVE HISTORY**

AB 45 (Dickinson, et al. 2013/2014), similar to this bill, would, among other provisions, authorize the Commission and the FTB to undertake audits or pre-election audits of campaign records. AB 45 is currently in the Assembly Elections and Redistricting Committee.

SB 1458 (Johnson, Chapter 591, Statutes of 2004) accelerated the time in which audit reports for random audits are required to be filed and limited the time by which a civil action would be initiated against alleged violators.

## **OTHER STATES' INFORMATION**

A comparison with other states would not be meaningful as this bill pertains to administrative procedures that are specific to California.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

This bill would not impact the state's income tax revenue.

## **SUPPORT/OPPOSITION<sup>1</sup>**

Support: California Common Cause and Fair Political Practices Commission.

Opposition: None on file.

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<sup>1</sup> As provided in the Assembly Committee on Elections and Redistricting, April 23, 2013  
<[http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab\\_0751-0800/ab\\_800\\_cfa\\_20130422\\_125000\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0751-0800/ab_800_cfa_20130422_125000_asm_comm.html)>

## **ARGUMENTS**

Proponents: Some may say that it is beneficial to commence an audit or investigation of campaign financing prior to the filing of campaign statements or reports because it could prevent receipt and use of contributions which are not permitted by law.

Opponents: Some may say that an audit or investigation could interfere with the campaign and cause unnecessary delay and expenses.

## **LEGISLATIVE STAFF CONTACT**

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