



Bill Analysis

Author: Glazer

Sponsor:

Bill Number: SB 569

Related Bills: See Legislative
History

Amended: June 19, 2023, and
June 27, 2023

SUBJECT

Political Reform Act of 1974: Lobbyist Audits

SUMMARY

This bill, under the Government Code, would amend provisions relating to the Political Reform Act of 1974, by transferring lobbyist audit responsibilities from the Franchise Tax Board (FTB) to the Fair Political Practices Commission (Commission).

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The June 19, 2023, amendments removed all coauthors and provisions of the bill relating to the Renter's Credit and replaced them with the provisions relating to the Political Reform Act as discussed in this analysis.

The June 27, 2023, amendments, removed amendments to the Political Reform Act concerning registration requirements for lobbying firms with placement agents and external managers who hire, engage, or retain a placement agent.

This only addresses the provisions of the bill that would impact the FTB.

REASON FOR THE BILL

The reason for the bill is to improve state audit responsibilities for lobbying firms and lobbyist employers.

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ANALYSIS

This bill would transfer the responsibility to audit and conduct field investigations for reports and statements filed with the Secretary of State (SOS) by lobbying firms and lobbyist employers from the FTB to the Commission. The FTB would be responsible for reports and statements selected for audit in years up to and including 2023. This bill would exclude lobbying firms and lobbying employers with less than \$1 in payments or contributions from being selected for audit.

Effective/Operative Date

This bill would be effective and operative on January 1, 2024.

Federal/State Law

Federal Law

The Federal Election Commission (FEC) is an independent regulatory agency of the United States whose purpose is to enforce campaign finance law in United States federal elections. Created in 1974 through amendments to the Federal Election Campaign Act, the commission describes its duties as "to disclose campaign finance information, to enforce the provisions of the law such as the limits and prohibitions on contributions, and to oversee the public funding of Presidential elections.

State Law

In 1974, California voters passed Proposition 9, also known as the Political Reform Act (Act) and created the Commission and codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. The Act requires periodic reports to be filed that disclose payments made in connection with efforts to influence legislative or administrative action. These periodic lobbying disclosure reports are also required to include information about the legislative and administrative actions that were lobbied during the period covered by the report.

The FTB is responsible for the independent auditing of the required reports and statements.

Implementation Considerations

None noted.

Technical Considerations

None noted.

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Policy Considerations

None noted.

LEGISLATIVE HISTORY

SB 459 (Allen, et al., Chapter 873, Statutes of 2022) requires additional disclosure on required reports and increases the frequency of reports to be filed by lobbying entities, as specified. This bill also requires additional disclosures on issue lobbying advertisements, as specified.

SB 1239 (Hertzberg, Chapter 662, Statutes of 2018) among other changes associated with filing campaign and lobbying reports to the Cal-Access Replacement System (CARS), eliminated the requirement to file paper copies of lobbying reports required to be filed online or electronically upon the certification of CARS by the SOS.

AB 1217 (Mullin, 2019/2020), among other provisions, would have required individuals who make payments for "electioneering communications or "issue lobbying communication" to make specified disclosures. AB 1217 did not pass out of the Senate by the constitutional deadline.

AB 1574 (Mullin of 2019/2020) would have required lobbying disclosure reports be filed monthly instead of quarterly. AB 1574 did not pass out of the Assembly by the constitutional deadline.

PROGRAM BACKGROUND

The Commission is a five-member independent nonpartisan commission that has primary responsibility for the impartial and effective administration of the Act. The Commission's objectives are to ensure that public officials act in a fair and unbiased manner in the governmental decision-making process, to promote transparency in government, and to foster public trust in the political system. These objectives are met through the filing of various reports and statements.

The Commission has primary responsibility for the impartial and effective administration of the Act. The Act regulates campaign financing, conflicts of interest, lobbying, and governmental ethics. Historically, the FTB has been responsible for the independent auditing of the required reports and statements including those filed by lobbyist employers and lobbying firms who are drawn for audit by the Commission.

FISCAL IMPACT

The FTB's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be determined.

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ECONOMIC IMPACT

This bill as amended on June 27, 2023, would not impact state income or franchise tax revenue.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

As per the July 3, 2023, Assembly Committee on Elections analysis of SB 569 (Glazer, 2023/2024), there are no organizations on file supporting the bill, while the Institute of Governmental Advocates opposes the bill.

ARGUMENTS

As per the same analysis, the following argument in opposition of this bill was provided. In opposition to this bill, the Institute of Governmental Advocates (IGA) writes:

“[T]he PRA as originally enacted divided various responsibilities...to existing governmental agencies, including the Secretary of State and the Franchise Tax Board, while also creating a new agency, the Fair Political Practices Commission. IGA believes that this division of responsibility was sensible at the time and remains sensible today.

SB 569 appears to stem from a concern that FTB has not completed random audits of lobbying firms and lobbyist employers in recent years. Assuming that is true, we do not know if that is Covid-related, staffing related, or related to an excessive number of “mandatory” audits. What we do know is that over the past decade, FTB audits have shown that lobbying firms and lobbyist employers are, in fact, complying with the disclosure obligations of the PRA.

IGA supports the existing audit program and believes that the staffing issues faced by the FTB that may have caused the perceived backlog apply to all persons, entities, and committees subject to mandatory or random audit, not just lobbyists and lobbying firms. Thus, the solution is not to transfer this duty to the FPPC, create a new division in the FPPC, and fund the NEW staffing needed, but rather to simply fund the FTB’s existing program.”

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LEGISLATIVE CONTACT

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