

ASSEMBLY THIRD READING  
AB 1590 (Elections Committee)  
As Introduced March 18, 2021  
2/3 vote

## SUMMARY

Makes various minor and technical changes to the Political Reform Act (PRA).

### Major Provisions

- 1) Clarifies that a committee that is required to pay a \$50 annual fee to the Secretary of State (SOS), and that fails to timely pay that fee, is subject to an administrative penalty of \$150. Transfers the responsibility for enforcing that requirement – and for collecting the penalty – from the Fair Political Practices Commission (FPPC) to the SOS.
- 2) Corrects an erroneous cross-reference in the PRA.

## COMMENTS

In 1997, the Legislature passed and Governor Pete Wilson signed SB 49 (Karnette), Chapter 866, Statutes of 1997, which required the SOS, in consultation with the FPPC, to develop and implement an online filing and disclosure system for campaign and lobbying disclosure reports and statements required to be filed under the PRA, as specified. The system developed pursuant to SB 49 is called the California Automated Lobby Activity and Campaign Contribution and Expenditure Search System, more commonly referred to as Cal-Access.

Given the age, instability, and limitations of Cal-Access, the Legislature has taken steps to replace that system. In 2012, the Legislature enacted SB 1001 (Yee), Chapter 506, Statutes of 2012, which imposed a \$50 annual fee on political committees that are required to file disclosure reports pursuant to the PRA and increased the fee on lobbying firms and lobbyist employers from \$25 to \$50 per year per lobbyist. The revenue generated by the bill is available to be used to update or replace the Cal-Access system.

SB 1001 provided that a committee that fails to pay the required fee by the deadline is subject to a penalty equal to three times the amount of the fee – or \$150. Although the \$50 fee must be paid to the SOS, SB 1001 required the FPPC to enforce the provision of law requiring that committees pay the fee.

After SB 1001 took effect, the FPPC began bringing administrative enforcement actions against committees that had failed to pay the \$50 fee and the \$150 penalty outlined in SB 1001. In addition to seeking payment of the \$50 fee and the statutorily prescribed \$150 penalty, the cases brought through the FPPC's administrative enforcement process also sought to impose additional monetary penalties against those committees for violating the PRA. Specifically, the FPPC concluded that a failure by a committee to pay the annual fee in a timely manner was itself a violation of the PRA, and that violation was subject to the same penalties that generally are available for violations of the PRA.

At an April 2017 meeting, however, a member of the FPPC questioned whether the FPPC had the authority to levy a fine against a committee for a violation of the PRA if the committee failed to pay the annual fee in a timely manner. Instead, the member suggested that the \$150 statutorily

prescribed penalty in SB 1001 was intended to be the *exclusive* penalty available when a committee failed to pay the \$50 annual fee by the statutory deadline. Since that meeting, the FPPC largely has stopped bringing enforcement actions against committees for failing to pay the \$50 annual fee in a timely manner.

By requiring the SOS, rather than the FPPC, to enforce the requirement that specified campaign committees pay a \$50 annual fee (and by requiring the SOS to collect the specified penalty for the failure to timely pay the fee), this bill will clarify that a committee's failure to pay the \$50 annual fee in a timely manner is subject to a \$150 penalty, but is not generally subject to a separate enforcement action by the FPPC for a violation of the PRA.

California voters passed an initiative, Proposition 9, in 1974 that created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. That initiative is commonly known as the PRA. Amendments to the PRA that are not submitted to the voters, such as those contained in this bill, must further the purposes of the initiative and require a two-thirds vote of both houses of the Legislature.

#### **According to the Author**

This is an Assembly Elections Committee omnibus bill, containing various minor and technical changes to the PRA. This bill includes changes requested by the FPPC, and technical changes identified by committee staff.

#### **Arguments in Support**

The Fair Political Practices Commission writes in support, "Under current law, a political committee is required to pay a \$50 annual fee to the [SOS], and failure to pay the annual fee is subject to a \$150 penalty. The FPPC has authority to enforce this provision and currently collects the \$150 penalty. AB 1590, as it amends Section 84101.5 of the Government Code, would transfer the responsibility for enforcing this provision to the [SOS]. This bill would resolve the question of whether the FPPC has authority to enforce the requirement to pay the annual committee fee beyond the \$150 penalty by eliminating the FPPC's role in enforcement and consolidating collection of the original fee and the penalty under the [SOS]."

#### **Arguments in Opposition**

None received.

### **FISCAL COMMENTS**

None. This bill is keyed non-fiscal by the Legislative Counsel.

### **VOTES**

#### **ASM ELECTIONS: 6-0-1**

**YES:** Berman, Bennett, Low, Mayes, Mullin, Blanca Rubio

**ABS, ABST OR NV:** Seyarto

### **UPDATED**

VERSION: March 18, 2021

CONSULTANT: Ethan Jones / ELECTIONS / (916) 319-2094

FN: 0000283