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GOVERNMENT CODE - GOV

TITLE 9. POLITICAL REFORM [81000 - 91014] (Title 9 added June 4, 1974, by initiative Proposition 9.)

CHAPTER 3. Fair Political Practices Commission [83100 - 83124] (Chapter 3 added June 4, 1974, by initiative Proposition 9.)

83100. There is hereby established in state government the Fair Political Practices Commission. The Commission shall have five members, including the chair. No more than three members of the Commission shall be members of the same political party.

(Amended by Stats. 2021, Ch. 50, Sec. 147. (AB 378) Effective January 1, 2022.)

83101. The chair and one additional member of the Commission shall be appointed by the Governor. The Governor's appointees shall not be members of the same political party.

(Amended by Stats. 2021, Ch. 50, Sec. 148. (AB 378) Effective January 1, 2022.)

83102. (a) The Attorney General, the Secretary of State, and the Controller shall each appoint one member of the Commission.

(b) If the Attorney General, the Secretary of State, and the Controller are all members of the same political party, the chair of the state central committee of any other political party with a registration of more than five hundred thousand may submit to the Controller a list of not less than five persons who are qualified and willing to be members of the Commission. The list shall be submitted not less than ten days after the effective date of this chapter for the Controller's initial appointment, and not later than January 2 immediately prior to any subsequent appointment by the Controller. If the Controller receives one or more lists pursuant to this section, the Controller's appointment shall be made from one of such lists.

(Amended by Stats. 2021, Ch. 50, Sec. 149. (AB 378) Effective January 1, 2022.)

83103. Members and the chair of the Commission shall serve four-year terms beginning on February 1 and ending on January 31 or as soon thereafter as their successors are qualified, except that the initial appointees under Section 83102 shall serve six-year terms. A member or chair who has been appointed at the beginning of a term is not eligible for reappointment.

(Amended by Stats. 2021, Ch. 50, Sec. 150. (AB 378) Effective January 1, 2022. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

83104. Vacancies on the Commission shall be filled, within thirty days, by appointment of the same official who appointed the prior holder of the position. The provisions of Section 83102 (b) are not applicable to the filling of vacancies. Appointments to fill vacancies shall be for the unexpired term of the member or chair whom the appointee succeeds. A vacancy or vacancies shall not impair the right of the remaining members to exercise all of the powers of the board. Three members shall constitute a quorum.

(Amended by Stats. 2021, Ch. 50, Sec. 151. (AB 378) Effective January 1, 2022.)

83105. Each member of the commission shall be an elector. A member of the commission, during the member's tenure, shall not 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 nor, during the member's term of appointment, seek election to any other public office. Members of the commission may be removed by the Governor, with concurrence of the Senate, for substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office or violation of this section, after written notice and opportunity for a reply.

(Amended by Stats. 2021, Ch. 50, Sec. 152. (AB 378) Effective January 1, 2022. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

83106. The chair of the Commission shall be compensated at the same rate as the president of the Public Utilities Commission. Each remaining member shall be compensated at the rate of one hundred dollars (\$100) for each day on which the member

engages in official duties. The members and chair of the Commission shall be reimbursed for expenses incurred in performance of their official duties.

(Amended by Stats. 2021, Ch. 50, Sec. 153. (AB 378) Effective January 1, 2022.)

83107. The Commission shall appoint an executive director who shall act in accordance with Commission policies and regulations and with applicable law. The Commission shall appoint and discharge officers, counsel and employees, consistent with applicable civil service laws, and shall fix the compensation of employees and prescribe their duties.

(Added June 4, 1974, by initiative Proposition 9.)

83108. The Commission may delegate authority to the chair or the executive director to act in the name of the Commission between meetings of the Commission.

(Amended by Stats. 2021, Ch. 50, Sec. 154. (AB 378) Effective January 1, 2022.)

83109. For purposes of Section 19818.6, a nonclerical position under the Commission shall not be included in the same class in the civil service classification plan with any position of any other department or agency.

(Amended by Stats. 2013, Ch. 654, Sec. 2. (AB 1418) Effective January 1, 2014. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

83110. The principal office of the Commission shall be in Sacramento but it may establish offices, meet, and exercise its powers at any other place in the state. Meetings of the Commission shall be public except that the Commission may provide otherwise for discussions of personnel and litigation.

(Added June 4, 1974, by initiative Proposition 9.)

83111. The Commission has primary responsibility for the impartial, effective administration and implementation of this title.

(Added June 4, 1974, by initiative Proposition 9.)

83111.5. The commission shall take no action to implement this title that would abridge constitutional guarantees of freedom of speech, that would deny any person of life, liberty, or property without due process of law, or that would deny any person the equal protection of the laws.

(Added by Stats. 1999, Ch. 225, Sec. 1. Effective August 24, 1999.)

83112. The Commission may adopt, amend and rescind rules and regulations to carry out the purposes and provisions of this title, and to govern procedures of the Commission. These rules and regulations shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5, Sections 11371 et seq.) and shall be consistent with this title and other applicable law.

(Added June 4, 1974, by initiative Proposition 9.)

83113. The commission shall, in addition to its other duties, do all of the following:

- (a) Prescribe forms for reports, statements, notices and other documents required by this title.
- (b) Prepare and publish manuals and instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with and enforcement of this title, and explaining the duties of persons and committees under this title.
- (c) Provide assistance to agencies and public officials in administering the provisions of this title.
- (d) Maintain a central file of local campaign contribution and expenditure ordinances forwarded to it by local government agencies.
- (e) Annually publish a booklet not later than March 1 that sets forth the provisions of this title and includes other information the commission deems pertinent to the interpretation and enforcement of this title. The commission shall provide a reasonable number of copies of the booklet at no charge for the use of governmental agencies and subdivisions thereof that request copies of the booklet. The commission may charge a fee, not to exceed the prorated cost of producing the booklet, for providing copies of the booklet to other persons and organizations.

(Amended by Stats. 1999, Ch. 855, Sec. 1. Effective January 1, 2000. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

83114. (a) Any person may request the commission to issue an opinion with respect to that person's duties under this title. The commission shall, within 14 days, either issue the opinion or advise the person who made the request whether an opinion will be issued. Any person who acts in good faith on an opinion issued to that person by the commission shall not be subject to criminal or

civil penalties for so acting, provided that the material facts are as stated in the opinion request. The commission's opinions shall be public records and may from time to time be published.

(b) Any person may request the commission to provide written advice with respect to the person's duties under this title. Such advice shall be provided within 21 working days of the request, provided that the time may be extended for good cause. It shall be a complete defense in any enforcement proceeding initiated by the commission, and evidence of good faith conduct in any other civil or criminal proceeding, if the requester, at least 21 working days prior to the alleged violation, requested written advice from the commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice or because of the failure of the commission to provide advice within 21 days of the request or such later extended time.

(Amended by Stats. 2021, Ch. 50, Sec. 155. (AB 378) Effective January 1, 2022. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

83115. Upon the sworn complaint of any person or on its own initiative, the commission shall investigate possible violations of this title relating to any agency, official, election, lobbyist or legislative or administrative action. Within 14 days after receipt of a complaint under this section, the commission shall notify in writing the person who made the complaint of the action, if any, the commission has taken or plans to take on the complaint, together with the reasons for such action or nonaction. If no decision has been made within 14 days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

(Amended by Stats. 1985, Ch. 775, Sec. 4. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

83115.5. A finding of probable cause to believe this title has been violated shall not be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have violated this title is notified of the violation by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of that person's right to be present in person and represented by counsel at any proceeding of the commission held for the purpose of considering whether probable cause exists for believing the person violated this title. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or, if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the commission a written request that the proceeding be public.

(Amended by Stats. 2021, Ch. 50, Sec. 156. (AB 378) Effective January 1, 2022.)

83116. When the commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The commission shall have all the powers granted by that chapter. When the commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

(a) Cease and desist violation of this title.

(b) File any reports, statements, or other documents or information required by this title.

(c) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

(Repealed and added by Stats. 2000, Ch. 102, Sec. 6. Approved in Proposition 34 at the November 7, 2000, election. Operative January 1, 2001, by Sec. 83 of Ch. 102.)

83116.3. Whenever the commission rejects the decision of an administrative law judge made pursuant to Section 11517, the commission shall state the reasons in writing for rejecting the decision.

(Added by Stats. 1999, Ch. 297, Sec. 1. Effective January 1, 2000.)

83116.5. Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter. However, this section shall apply only to persons who have filing or reporting obligations under this title, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by this title, and a violation of this section shall not constitute an additional violation under Chapter 11 (commencing with Section 91000).

(Repealed and added by Stats. 2000, Ch. 102, Sec. 9. Approved in Proposition 34 at the November 7, 2000, election. Operative January 1, 2001, by Sec. 83 of Ch. 102.)

83116.7. (a) As an alternative to an administrative proceeding under this chapter, the Commission may establish and administer a political reform education program for persons who violate this title subject to the limitations in this section and other limitations imposed by the Commission.

(b) (1) Requirements for eligibility in the political reform education program include, but are not limited to, all of the following:

- (A) The person has little or no experience with the section of this title that the person violated.
- (B) The underlying violation resulted in minimal or no public harm.
- (C) The person has not been ordered to pay a penalty for the same type of violation in the previous five years.
- (D) There is no evidence of an intent to violate this title or to conceal a violation of this title.

(2) The Commission may impose additional eligibility requirements for participation in the political reform education program.

(c) (1) If a person meets the requirements to participate in the political reform education program specified by the Commission and completes the program, the person shall not be subject to administrative, civil, or criminal penalties under this title for that same violation and it shall not be deemed a prior violation of this title in any subsequent proceeding against the person.

(2) If a person fails to complete the political reform education program specified by the Commission, the Commission may pursue an administrative action for that violation.

(d) To offset the costs to the state of the political reform education program, the Commission may charge a fee to a person who participates in the political reform education program that shall not exceed the reasonable cost to the Commission to administer the political reform education program. The fee shall be payable to the General Fund.

(e) It is the intent of the Legislature that funds be appropriated annually to the Commission to administer the political reform education program. This funding shall not supplant or offset funding appropriated to the Commission to discharge its other duties under the Political Reform Act of 1974.

(Added by Stats. 2023, Ch. 696, Sec. 1. (SB 29) Effective October 10, 2023.)

83117. The Commission may:

- (a) Accept grants, contributions and appropriations;
- (b) Contract for any services which cannot satisfactorily be performed by its employees;
- (c) Employ legal counsel. Upon request of the Commission, the Attorney General shall provide legal advice and representation without charge to the Commission.

(Added June 4, 1974, by initiative Proposition 9.)

83117.5. It shall be unlawful for a member of the commission to receive a gift of ten dollars (\$10) or more per month.

"Gift" as used in this section means a gift made directly or indirectly by a state candidate, an elected state officer, a legislative official, an agency official, or a lobbyist or by any person listed in Section 87200.

(Added by Stats. 1975, Ch. 797.)

83118. The Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the Commission's duties or exercise of its powers.

(Added June 4, 1974, by initiative Proposition 9.)

83119. The Commission may refuse to excuse any person from testifying, or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena of the Commission notwithstanding an objection that the testimony or evidence required of that person may tend to incriminate that person. An individual shall not be prosecuted in any manner or subjected to any penalty or forfeiture whatever for or on account of any transaction, act, matter, or thing concerning which that person is compelled, after having claimed that person's privilege against self-incrimination, to testify or produce evidence, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Immunity shall not be granted to any witness under this section unless the Commission has notified the Attorney General of its intention to grant immunity to the witness at least thirty days in advance, or unless the Attorney General waives this requirement.

(Amended by Stats. 2021, Ch. 50, Sec. 157. (AB 378) Effective January 1, 2022.)

83120. An interested person may seek judicial review of any action of the Commission.

(Added June 4, 1974, by initiative Proposition 9.)

83121. If judicial review is sought of any action of the Commission relating to a pending election, the matter shall be advanced on the docket of the court and put ahead of other actions. The court may, consistent with due process of law, shorten deadlines and take other steps necessary to permit a timely decision.

(Added June 4, 1974, by initiative Proposition 9.)

83122. There is hereby appropriated from the General Fund of the state to the Fair Political Practices Commission the sum of five hundred thousand dollars (\$500,000) during the fiscal year of 1974–1975, and the sum of one million dollars (\$1,000,000), adjusted for cost-of-living changes, during each fiscal year thereafter, for expenditure to support the operations of the commission pursuant to this title. The expenditure of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. The Legislature shall appropriate such additional amounts to the commission and other agencies as may be necessary to carry out the provisions of this title.

The Department of Finance, in preparing the state budget and the Budget Bill submitted to the Legislature, shall include an item for the support of the Political Reform Act of 1974, which item shall indicate all of the following: (1) the amounts to be appropriated to other agencies to carry out their duties under this title, which amounts shall be in augmentation of the support items of such agencies; (2) the additional amounts required to be appropriated by the Legislature to the commission to carry out the purposes of this title, as provided for in this section; and (3) in parentheses, for informational purposes, the continuing appropriation during each fiscal year of one million dollars (\$1,000,000) adjusted for cost-of-living changes made to the commission by this section.

The definition of "expenditure" in Section 82025 is not applicable to this section.

(Amended by Stats. 1976, Ch. 1075. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

83123.5. (a) Upon mutual agreement between the Commission and the Board of Supervisors of the County of San Bernardino, the Commission is authorized to assume primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance reform ordinance passed by the Board of Supervisors of the County of San Bernardino. The Commission is authorized to be the civil prosecutor responsible for the civil enforcement of that local campaign finance reform ordinance in accordance with this title. As the civil prosecutor of the County of San Bernardino's local campaign finance reform ordinance, the Commission may do both of the following:

(1) Investigate possible violations of the local campaign finance reform ordinance.

(2) Bring administrative actions in accordance with this title and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2.

(b) Any local campaign finance reform ordinance of the County of San Bernardino enforced by the Commission pursuant to this section shall comply with this title.

(c) The Board of Supervisors of the County of San Bernardino shall consult with the Commission prior to adopting and amending any local campaign finance reform ordinance that is subsequently enforced by the Commission pursuant to this section.

(d) (1) The Board of Supervisors of the County of San Bernardino and the Commission may enter into any agreements necessary and appropriate to carry out the provisions of this section, including agreements pertaining to any necessary reimbursement of state costs with county funds for costs incurred by the Commission in administering, implementing, or enforcing a local campaign finance reform ordinance pursuant to this section.

(2) An agreement entered into pursuant to this subdivision shall not contain any form of a cancellation fee, a liquidated damages provision, or other financial disincentive to the exercise of the right to terminate the agreement pursuant to subdivision (e), except that the Commission may require the Board of Supervisors of the County of San Bernardino to pay the Commission for services rendered and any other expenditures reasonably made by the Commission in anticipation of services to be rendered pursuant to the agreement in the event that the Board of Supervisors of the County of San Bernardino terminates the agreement.

(e) The Board of Supervisors of the County of San Bernardino or the Commission may, at any time, by ordinance or resolution, terminate any agreement made pursuant to this section for the Commission to administer, implement, or enforce a local campaign finance reform ordinance or any provision thereof.

(Amended by Stats. 2019, Ch. 315, Sec. 4. (AB 946) Effective January 1, 2020.)

83123.6. (a) (1) Upon mutual agreement between the Commission and the governing body of a local government agency, the Commission may assume primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance or government ethics law passed by the local government agency.

(2) (A) Upon approval of an agreement pursuant to paragraph (1), the Commission shall be the civil prosecutor responsible for the civil enforcement of the local campaign finance or government ethics law of the local government agency in accordance with this title.

(B) As the civil prosecutor, the Commission may do all of the following with respect to the local campaign finance or government ethics law:

(i) Provide advice.

(ii) Investigate possible violations.

(iii) Bring administrative actions in accordance with this title and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2.

(iv) Bring civil actions.

(C) The Commission shall not be required to obtain authorization from the local government agency to bring an administrative or civil action pursuant to subparagraph (B).

(b) A local campaign finance or government ethics law of the local government agency enforced by the Commission pursuant to this section shall comply with this title.

(c) The governing body of the local government agency shall consult with the Commission before adopting and amending any local campaign finance or government ethics law that is subsequently enforced by the Commission pursuant to this section.

(d) (1) The governing body of the local government agency and the Commission shall enter into any agreements necessary and appropriate to carry out the provisions of paragraph (1) of subdivision (a), including agreements pertaining to any necessary local reimbursement of direct and indirect costs incurred by the Commission in administering, implementing, or enforcing a local campaign finance or government ethics law pursuant to this section. Before approving an agreement for local reimbursement, the Commission shall submit the proposed agreement to the Department of General Services for review. The Commission may approve the agreement 90 days after submitting it to the Department of General Services or after receiving the department's written review of the agreement, whichever occurs first. The Commission shall submit an approved agreement, along with any review received, to the Department of Finance.

(2) An agreement entered into pursuant to this subdivision shall not contain a cancellation fee, a liquidated damages provision, or other financial disincentive to terminate the agreement pursuant to subdivision (e), except that, if the local government agency terminates the agreement, the Commission may require the governing body of the local government agency to pay the Commission for services rendered and any other expenditures reasonably made by the Commission in anticipation of services to be rendered pursuant to the agreement.

(e) The governing body of the local government agency or the Commission may, at any time, by ordinance or resolution, terminate an agreement made pursuant to this section for the Commission to administer, implement, or enforce a local campaign finance ordinance or any provision thereof. The termination shall be effective 90 days after the enactment of the ordinance or resolution unless an agreement between the local government and the Commission requires a longer period.

(f) The Commission shall conspicuously post on its Internet Web site a list of every local government agency that it has entered into agreement with pursuant to this section.

(g) An agreement for the enforcement of a local campaign finance or government ethics law between the Commission and the City of Stockton, or the City of Sacramento that was in effect on December 31, 2018, shall be deemed to comply with this section.

(h) If an agreement is entered into pursuant to this section, the Commission shall report to the Legislature regarding the performance of that agreement on or before January 1, 2025, and shall submit that report in compliance with Section 9795. The Commission shall develop the report in consultation with the governing body of the local government agency. The report shall include, but not be limited to, all of the following:

(1) The status of the agreement.

(2) The estimated annual cost savings, if any, for the local government agency.

(3) A summary of relevant annual performance metrics, including measures of use, enforcement, and customer satisfaction.

(4) Public comments submitted to the Commission or the local government agency relative to the operation of the agreement.

(5) Legislative recommendations.

(i) This section does not apply to a jurisdiction with a population of 3,000,000 or more or to the County of San Bernardino.

(j) This section shall remain in effect only until January 1, 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2026, deletes or extends that date.

(Repealed and added by Stats. 2018, Ch. 394, Sec. 2. (AB 2880) Effective January 1, 2019. Repealed as of January 1, 2026, by its own provisions.)

83124. The commission shall adjust the contribution limitations and voluntary expenditure limitations provisions in Sections 85301, 85302, 85303, and 85400 in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100) for limitations on contributions and one thousand dollars (\$1,000) for limitations on expenditures.

(Repealed and added by Stats. 2000, Ch. 102, Sec. 11. Approved in Proposition 34 at the November 7, 2000, election. Operative January 1, 2001, by Sec. 83 of Ch. 102.)