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**AB-902 Political Reform Act of 1974: Fair Political Practices Commission: regulations.** (2019-2020)

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**Assembly Bill No. 902**

**CHAPTER 312**

An act to amend Section 84100 of, to add Sections 81005, 81010.5, 82015.5, 82038.3, 82048.8, 87206.5, and 89503.5 to, to repeal Section 85311 of, and to repeal and add Sections 82007, 84105, 84223, 86100, 86105, and 90002 of, the Government Code, relating to the Political Reform Act of 1974.

[ Approved by Governor September 20, 2019. Filed with Secretary of State September 20, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 902, Levine. Political Reform Act of 1974: Fair Political Practices Commission: regulations.

(1) The Political Reform Act of 1974 requires certain statements and reports to be filed on specified dates or during or within specified time periods. An existing regulation adopted by the Fair Political Practices Commission clarifies that, where the filing deadline for filing these statements or reports falls on a Saturday, Sunday, or official state holiday, the filing deadline shall be extended to the next regular business day, with the exception of specified reports that must be filed immediately before an election.

This bill would codify this regulation.

(2) The act requires filing officers to process and maintain certain statements and reports, among other specified duties. An existing regulation adopted by the Commission provides that the failure by a filing officer or filing official to comply with a duty or to provide notice of a filing or disclosure obligation does not affect a person's duty to file statements and reports disclosing information, as required by the act or any enforceable conflict of interest code.

This bill would codify this regulation.

(3) The act defines "immediate family" as the spouse and dependent children. An existing regulation adopted by the Commission defines "spouse" to include registered domestic partners recognized by state law.

This bill would codify this regulation.

(4) The act requires all committees to have a treasurer, who must authorize all expenditures made by or on behalf of the committee. An existing regulation adopted by the Commission permits recipient committees, as defined in the act, to designate one assistant treasurer, who may sign and verify campaign statements on behalf of the committee under certain circumstances.

This bill would codify this regulation and make other conforming changes.

(5) The act requires lobbying firms and lobbyist employers to file a registration statement with the Secretary of State, as specified. An existing regulation adopted by the Commission extends the filing requirements of lobbyist employers to lobbying coalitions, which are defined as a group of 10 or more persons formed primarily to influence legislative or administrative action, whose

members make payments to the coalition for sharing the expenses of employing a lobbyist or contracting for the services of a lobbying firm. The regulation also specifies that a bona fide federation, confederation, or trade, labor, or membership organization is not a lobbying coalition if it is ongoing in nature and its membership services are not limited to influencing legislative or administrative action.

This bill would codify this regulation.

(6) The act requires lobbying firms and specified lobbyist employers to register with the Secretary of State, unless specified exceptions apply. Individual lobbyists must submit a lobbyist certification as part of this registration. Certain lobbyist employers are not required to register with the Secretary of State, but must file statements pursuant to the act. An existing regulation adopted by the Commission additionally requires that lobbyist employers who are not required to register with the Secretary of State must complete a written authorization for a lobbying firm to engage in activities on its behalf, which must be filed with the lobbying firm's registration, and maintain records and file quarterly reports.

This bill would revise and recast these provisions of the act and codify the Commission's regulation.

(7) The act requires elected officials to file statements disclosing the official's investments, interests in real property, and income. The interests in real property that must be disclosed include leasehold interests. An existing regulation adopted by the Commission specifies the information that must be provided whenever an official must disclose a leasehold interest.

This bill would codify this regulation.

(8) The act prohibits specified public officials from receiving gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250), as adjusted biennially for inflation. An existing regulation adopted by the Commission specifies that a gift is both "received" and "accepted" when the public official, or the official's immediate family member, knowingly takes actual possession of the gift, is provided the benefit of the gift, or takes any action exercising direction or control over the gift.

This bill would codify this regulation.

(9) The act requires that audits and investigations of lobbying firms and lobbyist employers be performed on a biennial basis and cover reports filed during a period of two years, as specified. An existing regulation adopted by the Commission incorporates this requirement and provides further detail regarding the scope of the audits and investigations required by the act.

This bill would codify this regulation.

(10) This bill would make various other technical, nonsubstantive changes to provisions of the act.

(11) Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(13) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a  $\frac{2}{3}$  vote of each house of the Legislature and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 81005 is added to the Government Code, to read:

**81005.** (a) If this title requires that a statement or report be filed before or on a specified date or during or within a specified period, and the filing deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for the statement or report shall be extended to the next regular business day.

(b) This extension does not apply to the following statements or reports:

(1) Contribution reports required by Section 84203, subdivision (b) of Section 84203.3, or Section 85309, or the contributor's notice of a late in-kind contribution required by subdivision (a) of Section 84203.3, when the due date for these types of reports

falls on a Saturday, Sunday, or official state holiday immediately before an election.

(2) Independent expenditure reports required by Section 84204 or 85500.

**SEC. 2.** Section 81010.5 is added to the Government Code, to read:

**81010.5.** A filing officer or filing official's failure to comply with a duty or to provide notice of a filing or disclosure obligation does not affect a person's duty to file statements and reports disclosing information as required by this title or any enforceable conflict of interest code.

**SEC. 3.** Section 82007 of the Government Code is repealed.

**SEC. 4.** Section 82007 is added to the Government Code, to read:

**82007.** (a) "Candidate" means any of the following:

(1) Anyone who is listed on a ballot or is qualified to have write-in votes cast on their behalf counted by elections officials for nomination or election to any elective office.

(2) Anyone who receives a contribution, makes an expenditure, or gives their consent for another person to receive a contribution or make an expenditure, to bring about the person's nomination or election to an elective office, even if any of the following apply:

(A) The specific elective office for which the person will seek nomination or election is unknown at the time the contribution is received or the expenditure is made.

(B) The person has not announced the candidacy or filed a declaration of candidacy.

(3) An elected officer, including any elected officer who is the subject of a recall.

(b) Anyone who becomes a candidate retains candidate status until that status is terminated under Section 84214.

(c) "Candidate" does not include any candidate, as defined in Section 30101(2) of Title 52 of the United States Code, for federal office, as to the person's activities related to seeking nomination or election to that federal office.

**SEC. 5.** Section 82015.5 is added to the Government Code, to read:

**82015.5.** (a) To determine when contributions are aggregated under this title, "entity" means any person other than an individual, and "majority owned" means ownership of more than 50 percent.

(b) If an individual directs or controls an entity's contributions, the entity's contributions shall be aggregated with contributions made by both of the following:

(1) That individual.

(2) Any other entity whose contributions that individual directs or controls.

(c) If two or more entities make contributions that are directed or controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(d) Contributions made by entities that are majority owned by a person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their contribution-making decisions.

**SEC. 6.** Section 82038.3 is added to the Government Code, to read:

**82038.3.** (a) "Lobbying coalition" means a group of 10 or more persons formed primarily to influence legislative or administrative action, whose members make payments to the coalition for sharing the expenses of employing a lobbyist or contracting for the services of a lobbying firm.

(b) For purposes of Sections 86115 and 86116, a lobbying coalition shall file the same statements and reports as a lobbyist employer.

(c) A bona fide federation, confederation, or trade, labor, or membership organization is not a lobbying coalition if it is ongoing in nature and its membership services are not limited to influencing legislative or administrative action.

(d) A person making payments to a lobbying coalition does not qualify as a lobbying firm or lobbyist employer as a result of those payments.

**SEC. 7.** Section 82048.8 is added to the Government Code, to read:

**82048.8.** "Spouse" includes registered domestic partners recognized by state law.

**SEC. 8.** Section 84100 of the Government Code is amended to read:

**84100.** (a) Every recipient committee, as defined by subdivision (a) of Section 82013, shall have a treasurer. An expenditure shall not be made by or on behalf of a committee without the authorization of the treasurer or the treasurer's designated agents. A contribution or expenditure shall not be accepted or made by or on behalf of a committee when the office of treasurer is vacant.

(b) A recipient committee, as defined by subdivision (a) of Section 82013, may designate one assistant treasurer on the committee's statement of organization. The assistant treasurer may sign and verify a campaign statement on behalf of the committee if the assistant uses reasonable diligence to prepare and review the statement and signs to that effect under penalty of perjury as required by Section 81004.

**SEC. 9.** Section 84105 of the Government Code is repealed.

**SEC. 10.** Section 84105 is added to the Government Code, to read:

**84105.** (a) A candidate or committee that receives contributions totaling five thousand dollars (\$5,000) or more from a person in a calendar year shall inform that contributor within two weeks of receipt that the contributor may be required to file campaign reports. The notice shall include a reference to the filing requirements for multipurpose organizations under Section 84222.

(b) A candidate or committee that receives a contribution of ten thousand dollars (\$10,000) or more from a person during a period in which late-contribution reports are required to be filed under Section 84203 shall provide the information in subdivision (a) of that section to the contributor within one week.

(c) The notifications required by this section need not be sent to a contributor who has an identification number assigned by the Secretary of State issued under Section 84101.

**SEC. 11.** Section 84223 of the Government Code is repealed.

**SEC. 12.** Section 84223 is added to the Government Code, to read:

**84223.** (a) A committee primarily formed to support or oppose a state ballot measure or state candidate that raises one million dollars (\$1,000,000) or more for an election shall maintain an accurate list of the committee's top 10 contributors, as specified by Commission regulations. A current list of the top 10 contributors shall be provided to the Commission for disclosure on the Commission's internet website, as provided in subdivision (c).

(b) (1) Except as provided in paragraph (4), the list of top 10 contributors shall identify the names of the 10 persons who have made the largest cumulative contributions to the committee, the total amount of each person's contributions, the city and state of the person, the person's committee identification number, if any, and any other information deemed necessary by the Commission. If any of the top 10 contributors identified on the list are committees pursuant to subdivision (a) of Section 82013, the Commission may require, by regulation, that the list also identify the top 10 contributors to those contributing committees.

(2) (A) A committee primarily formed to support or oppose a state ballot measure shall count the cumulative amount of contributions received by the committee from a person for the period beginning 12 months prior to the date the committee made its first expenditure to qualify, support, or oppose the measure and ending with the current date.

(B) A committee primarily formed to support or oppose a state candidate shall count the cumulative amount of contributions received by the committee from a person for the primary and general elections combined.

(3) The aggregation rules of Section 82015.5 and any implementing regulations adopted by the Commission shall apply in identifying the persons who have made the top 10 cumulative contributions to a committee.

(4) A person who makes contributions to a committee in a cumulative amount of less than ten thousand dollars (\$10,000) shall not be identified or disclosed as a top 10 contributor to a committee pursuant to this section.

(c) (1) The Commission shall adopt regulations to govern the manner in which the Commission shall display top 10 contributor lists provided by a committee that is subject to this section, and the Commission shall post the top 10 contributor lists on its internet website in the manner prescribed by those regulations. The Commission shall provide the top 10 contributor lists to the

Secretary of State, upon the request of the Secretary of State, for the purpose of additionally posting the contributor lists on the Secretary of State's internet website.

(2) A committee shall provide an updated top 10 contributor list to the Commission when any of the following occurs:

(A) A new person qualifies as a top 10 contributor to the committee.

(B) A person who is an existing top 10 contributor makes additional contributions of five thousand dollars (\$5,000) or more in the aggregate to the committee.

(C) A change occurs that alters the relative ranking order of the top 10 contributors.

(3) The 10 persons who have made the largest cumulative contributions to a committee shall be listed in order from largest contribution amount to smallest amount. If two or more contributors of identical amounts meet the threshold for inclusion in the list of top 10 contributors, the order of disclosure shall be made beginning with the most recent contributor of that amount.

(4) The Commission shall post or update a top 10 contributor list within five business days or, during the 16 days before the election, within 48 hours of a contributor qualifying for the list or of any change to the list.

(d) In listing the top 10 contributors, a committee shall use reasonable efforts to identify and state the actual individuals or corporations that are the true sources of the contributions made to the committee from other persons or committees.

(e) In addition to any other lists that the Commission is required to post on its internet website, the Commission shall compile, maintain, and display on its internet website a current list of the top 10 contributors supporting and opposing each state ballot measure, as prescribed by Commission regulations.

(f) This section shall remain in effect only until the Secretary of State certifies an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602 of the Government Code, and as of that date is repealed.

**SEC. 13.** Section 84223 is added to the Government Code, to read:

**84223.** (a) For a committee primarily formed to support or oppose a state ballot measure or state candidate that raises one million dollars (\$1,000,000) or more for an election, the Secretary of State shall maintain an accurate list of the committee's top 10 contributors, as specified by Commission regulations. The list shall be based on the filer's campaign statements and reports. A current list of the top 10 contributors shall be posted on the Secretary of State's internet website, as provided in subdivision (c).

(b) (1) Except as provided in paragraph (4), the list of top 10 contributors shall identify the names of the 10 persons who have made the largest cumulative contributions to the committee, the total amount of each person's contributions, the city and state of the person, the person's committee identification number, if any, and any other information deemed necessary by the Commission. If any of the top 10 contributors identified on the list are committees pursuant to subdivision (a) of Section 82013, the Commission may require, by regulation, that the list also identify the top 10 contributors to those contributing committees.

(2) (A) For a committee primarily formed to support or oppose a state ballot measure, the cumulative amount of contributions received by the committee from a person for the period beginning 12 months prior to the date the committee made its first expenditure to qualify, support, or oppose the measure and ending with the current date shall be counted.

(B) For a committee primarily formed to support or oppose a state candidate, the cumulative amount of contributions received by the committee from a person for the primary and general elections combined shall be counted.

(3) The aggregation rules of Section 82015.5 and any implementing regulations adopted by the Commission shall apply in identifying the persons who have made the top 10 cumulative contributions to a committee.

(4) A person who makes contributions to a committee in a cumulative amount of less than ten thousand dollars (\$10,000) shall not be identified or disclosed as a top 10 contributor to a committee pursuant to this section.

(c) (1) The Commission shall adopt regulations to govern the manner in which the Secretary of State shall display top 10 contributor lists maintained for a committee that is subject to this section, and the Secretary of State shall post the top 10 contributor lists on its internet website in the manner prescribed by those regulations.

(2) A committee's top 10 contributor list shall be updated when any of the following occurs:

(A) A new person qualifies as a top 10 contributor to the committee.

(B) A person who is an existing top 10 contributor makes additional contributions to the committee.

(C) A change occurs that alters the relative ranking order of the top 10 contributors.

(3) The 10 persons who have made the largest cumulative contributions to a committee shall be listed in order from largest contribution amount to smallest amount. If two or more contributors of identical amounts meet the threshold for inclusion in the list of top 10 contributors, the order of disclosure shall be made beginning with the most recent contributor of that amount.

(4) The Secretary of State shall post or update a top 10 contributor list within five business days or, during the 16 days before the election, within 48 hours of receiving data of a contributor qualifying for the list or of any change to the list.

(d) In addition to any other lists that the Secretary of State is required to post on its internet website, the Secretary of State shall compile, maintain, and display on its internet website a current list of the top 10 contributors supporting and opposing each state ballot measure, as prescribed by Commission regulations.

(e) This section shall not become operative until the Secretary of State certifies an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602 of the Government Code.

**SEC. 14.** Section 85311 of the Government Code is repealed.

**SEC. 15.** Section 86100 of the Government Code is repealed.

**SEC. 16.** Section 86100 is added to the Government Code, to read:

**86100.** (a) The following persons shall register with the Secretary of State:

(1) Lobbying firms.

(2) Lobbyist employers under subdivision (a) of Section 82039.5 who employ one or more in-house lobbyists.

(3) Lobbying coalitions who employ at least one in-house lobbyist.

(b) Each individual lobbyist shall submit a lobbyist certification under Section 86103 for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee, or as part of the registration of the lobbyist employer that employs the lobbyist.

(c) Lobbyist employers under subdivision (b) of Section 82039.5 who contract only for a lobbying firm's services, lobbying coalitions who contract for a lobbying firm's services and do not employ an in-house lobbyist, and persons described in subdivision (b) of Section 86115, are not required to register with the Secretary of State, but shall maintain records and file quarterly reports under this chapter.

(d) (1) Except as provided in paragraph (2), a registration statement shall be filed both by online or electronic means and physically, submitting the original statement and one copy, in paper format.

(2) Upon certification by the Secretary of State of an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602, a registration statement shall be filed by online or electronic means.

**SEC. 17.** Section 86105 of the Government Code is repealed.

**SEC. 18.** Section 86105 is added to the Government Code, to read:

**86105.** The registration for a lobbyist employer that employs lobbyists or a lobbying coalition shall include:

(a) The following information regarding the lobbyist employer or coalition:

(1) The filer's full name, business address, email address, and telephone number.

(2) Information sufficient to identify the nature and interests of the filer, including:

(A) For an individual, the name and address of the filer's employer, if any, or if self-employed, the filer's principal place of business, and a description of the business activity in which the filer or the filer's employer is engaged.

(B) For a business entity, a description of the business activity in which it is engaged.

(C) For an industry, trade, or professional association, a description of the industry, trade, or profession it represents including a specific description of any part or faction of the industry, trade, or profession that the association exclusively or primarily represents and, if the association has 50 or fewer members, the names of the members.

(D) For other persons, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest that the person principally represents or from which its membership or financial support is principally derived.

(3) The lobbying employer's or coalition's lobbying interests.

(4) A list of the state agencies whose legislative or administrative actions the lobbyist employer or coalition will attempt to influence.

(b) The lobbyist employer or coalition shall provide:

(1) A list of the lobbyists who are employed by the lobbyist employer or coalition.

(2) The lobbyist certification of each lobbyist employed.

(c) Any other information required by the Commission consistent with this chapter's purposes and provisions.

**SEC. 19.** Section 87206.5 is added to the Government Code, to read:

**87206.5.** If an official must disclose a leasehold interest, the official shall do all of the following:

(a) Identify the interest as a leasehold interest.

(b) Disclose the number of years remaining on the lease.

(c) Provide the leased property's address or other precise location.

(d) Provide the exact date the lease became effective or terminated if the lease became effective or terminated during the period covered by the statement.

(e) Disclose the value of the leasehold interest as specified in subdivision (d) of Section 87206.

**SEC. 20.** Section 89503.5 is added to the Government Code, to read:

**89503.5.** A gift is both "received" and "accepted" when the public official, or the official's immediate family member, knowingly takes actual possession of the gift, is provided the benefit of the gift, or takes any action exercising direction or control of the gift.

**SEC. 21.** Section 90002 of the Government Code is repealed.

**SEC. 22.** Section 90002 is added to the Government Code, to read:

**90002.** (a) The scope of audits and investigations under Section 90001 is as follows:

(1) Audits and investigations of lobbying firms and employers of lobbyists shall be conducted biennially covering reports filed during the previous two-year period. If a lobbying firm or lobbyist employer keeps a separate account for all receipts and payments for which reporting is required by this chapter, the requirement of an audit under subdivision (a) of Section 90001 shall be satisfied by an audit of that account and the supporting documentation required to be maintained by Section 86110.

(2) For campaign statements or reports of a candidate, controlled committee, or committee primarily supporting or opposing a candidate, the audit or investigation shall cover all campaign statements and reports filed for the primary and general election, or a special or runoff election, as well as any previous campaign statements or reports filed since the last election for that office. The audit or investigation shall not include statements or reports previously audited under Section 90001 or 90003.

(3) For campaign statements or reports of a committee primarily supporting or opposing a measure, the audit or investigation shall cover all campaign statements and reports filed by the committee in connection with the measure.

(4) For all other committees, the audit or investigation shall cover all campaign statements and reports filed during the previous two calendar years.

(b) The audit or investigation periods may be extended to include any transaction that relates to or is connected with the election being audited or investigated or the two-year period.

(c) An audit or investigation conducted under Section 90001 shall not include campaign statements or reports filed in conjunction with an election for any other office.

(d) This section shall not be interpreted to act as a limit on the Franchise Tax Board or the Commission in undertaking a discretionary audit under Section 90003.

**SEC. 23.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**SEC. 24.** The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.