



Fair Campaign Practices Commission  
Open Government Commission

## CONCURRENT MEETING OF THE FAIR CAMPAIGN PRACTICES COMMISSION AND THE OPEN GOVERNMENT COMMISSION

### MEETING AGENDA

May 20, 2021

7:00 p.m.

Pursuant to Executive Order N-29-20 issued by the Governor on March 17, 2020, this meeting will be held telephonically. Members of the public interested in attending will be able to observe and address the meeting using the following information:

Please use the following link to join the meeting:

<https://us02web.zoom.us/j/81384737206>

Or Telephone: +1 (669) 900-6833

Meeting ID: 813 8473 7206

Secretary: Samuel Harvey

### **The Commission may act on any item on this agenda**

1. Call to Order 7:00 p.m.
2. Roll Call.
3. Public Comment. *Comments on subjects not on the agenda that are within the Commissions' purview are heard at the beginning of meeting. Speakers may comment on agenda items when the Commission hears those items.*
4. Approval of minutes for April 15, 2021 FCPC-OGC Concurrent Regular Meeting

### **Fair Campaign Practices Commission (FCPC) Agenda**

5. Reports.
  - a. Report from Chair.
  - b. Report from Staff.
6. Mandated Cost of Living Adjustments for Public Financing Program; discussion and possible action

7. City Clerk Department enforcement referrals to the California Fair Political Practices Commission (FPPC); discussion and possible action:
  - a. Carole Marosovic for Berkeley Rent Board 2020
  - b. Stephen Murphy for Berkeley City Council 2020

### **Open Government Commission (OGC) Agenda**

8. Reports.
  - a. Reports from Chair.
  - b. Reports from Staff.
9. Recommendation to City Council re public participation in meetings held via videoconference; discussion and possible action.
10. Limitation of Speaker Time at City meetings; discussion and possible action.
11. Substantive changes or additions to an item on the agenda at the meeting it is scheduled to be heard; discussion and possible action.
12. Letter of Support for SB-459 Political Reform Act of 1974: lobbying; discussion and possible action.

### **Joint FCPC-OGC Agenda**

13. Appointment of Vice-Chair; discussion and possible action.
14. Report and discussion re Council Agenda & Rules Committee action on officeholder accounts and councilmember budget ("D-13 Account") grants; discussion and action.
15. Adjournment.

### **Communications**

- Email from Cordell Hindler

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD). Please refrain from wearing scented products to this meeting.

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S.

Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information. **SB 343 Disclaimer:** Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the City Attorney's Office at 2180 Milvia St., 4<sup>th</sup> Fl., Berkeley, CA.



Fair Campaign Practices Commission  
Open Government Commission

## DRAFT MINUTES

April 15, 2021

### CONCURRENT REGULAR MEETING OF THE FAIR CAMPAIGN PRACTICES COMMISSION AND THE OPEN GOVERNMENT COMMISSION

Pursuant to Executive Order N-29-20 issued by the Governor on March 17, 2020, this meeting was held telephonically.

Secretary: Samuel Harvey, Deputy City Attorney

Members Present: Jedidiah Tsang (Vice Chair), Janis Ching, Dean Metzger, Patrick O'Donnell, Patrick Sheahan, Jessica Blome, James Hynes, Mark Humbert, Alex Sharenko

Also Present: Samuel Harvey, Staff Secretary

#### 1. Call to Order

Chair called the meeting to order at 7:02 p.m.

#### 2. Roll Call

Roll call taken.

#### 3. Public Comment (items not on agenda)

Two speakers.

#### 4. Approval of minutes for March 18, 2021 FCPC-OGC Concurrent Regular Meeting

- i. Public comment: One speakers.
- ii. Commission discussion and action.

*Motion to delay consideration of approval of minutes until after staff report (M/S/C: Ching/Metzger; Ayes: Metzger, O'Donnell, Ching, Sheahan, Blome, Hynes, Humbert, Sharenko, Tsang; Noes: none; Abstain: none; Absent: none.)*

*Motion to approve minutes amending to include description of discussion regarding potential special OGC meeting to consider complaints received after deadline for March 18, 2021 regular meeting (M/S/C: Metzger/Blome; Ayes: Metzger, O'Donnell, Ching,*

Sheahan, Blome, Hynes, Humbert, Sharenko, Tsang; Noes: none; Abstain: none; Absent: none.)

### **Fair Campaign Practices Commission (FCPC) Agenda**

5. **FCPC Reports**

- a. Report from Chair.
- b. Report from Staff.

6. **Mandated Cost of Living Adjustments for Public Financing Program**

- a. Public comment: No speakers.
- b. Commission discussion and action.

*Motion to continue process of reviewing cost of living adjustments and ask staff to obtain additional information from the City Clerk regarding campaign expenditures in the City and costs of the public financing program (M/S/C: O'Donnell/Metzger; Ayes: Metzger, O'Donnell, Ching, Sheahan, Hynes, Humbert, Sharenko, Tsang; Noes: Blome; Abstain: none; Absent: none.)*

7. **Developing policies allowing administrative closure of inactive campaign committees**

- a. Public comment: No speakers.
- b. Commission discussion and action.

*Motion to direct staff to draft regulation language incorporating the recommendations from the staff report, making a one-year non-responsive requirement applicable to all criteria for administrative closure (M/S/C: O'Donnell/Hynes; Ayes: Metzger, O'Donnell, Ching, Sheahan, Blome, Hynes, Humbert, Sharenko, Tsang; Noes: none; Abstain: none; Absent: none.)*

### **Open Government Commission (OGC) Agenda**

8. **OGC Reports**

- a. Report from Chair.
- b. Report from Staff.

*Brief discussion on procedures for calling special meetings.*

9. **Handling of public communications submitted to City legislative bodies as part of public record in land use proceedings**

- a. Public comment: One speaker.
- b. Commission discussion.

10. **Brown Act and Open Government Ordinance complaints submitted by Shirley Dean related to City Council land use items**

- a. Public comment: Three speakers.
- b. Commission discussion and action.

*Motion to consider complaints as two separate agenda items at next Commission meeting and for staff to provide additional information to enable the Commission to consider the complaints and make recommendations to Council (M/S/F: Metzger/Sheahan; Ayes: Metzger, Ching, Sheahan; Noes: O'Donnell, , Blome, Hynes, Humbert, Sharenko, Tsang; Abstain: none; Absent: none.)*

*Motion to adopt staff's recommendation to dismiss the complaints and give consideration to the concerns raised in the Open Government Ordinance complaint regarding the one-minute limit on public comment. (M/S/C: Hynes/Sharenko; Ayes: O'Donnell, Blome, Hynes, Humbert, Sharenko, Tsang; Noes: Metzger, Ching, Sheahan; Abstain: none; Absent: none.)*

*Motion to consider a recommendation to Council to review the one-minute rule and practices for ceding of time during public comment while meetings are conducted via videoconference. (M/S/C: Ching/Metzger; Ayes: Metzger, O'Donnell, Ching, Sheahan, Hynes, Humbert, Tsang; Noes: Blome, Sharenko; Abstain: none; Absent: none.)*

**Joint FCPC-OGC Agenda**

11. **Report and discussion re Council Agenda & Rules Committee action on officeholder accounts and councilmember budget grants**

- a. Public comment: One speaker.
- b. Commission discussion.

13. **Adjournment**

*Motion to adjourn. (M/S/C: Blome/Sharenko; Ayes: Metzger, O'Donnell, Ching, Sheahan, Blome, Hynes, Humbert, Sharenko, Tsang; Noes: none; Abstain: none; Absent: none.)*

The meeting adjourned at 10:40 p.m.



Fair Campaign Practices Commission

Date: May 13, 2021  
To: Fair Campaign Practices Commission  
From: Samuel Harvey, Secretary  
Subject: Clerk Department FPPC enforcement referrals

The City Clerk Department has submitted referrals to the Enforcement Division of the California Fair Political Practices Commission (“FPPC”) for the following campaign committees:

- Carole Marasovic for Berkeley Rent Board 2020 (Attachment 1)
- Stephen Murphy for Berkeley City Council 2020 (Attachment 2)

According to the referrals, each committee has failed to file its semi-annual campaign statement for the period ending on December 31, 2020. These campaign statements were due on January 31, 2021. (Cal. Gov. Code § 84200(a); BMC § 2.12.270.A.) As the referrals note, the Clerk Department provided the committees with reminders prior to the filing deadline as well as subsequent notices of non-filing.

The FPPC has authority to enforce the California Political Reform Act (Cal. Gov. Code § 8100 et seq.). The FPPC frequently addresses enforcement matters related to the failure to file campaign reports. Generally, the resolution of these matters will involve a committee filing any outstanding reports and paying a fine.

The Berkeley Election Reform Act (“BERA”), requires campaign committees to comply with state reporting requirements. (BMC § 2.12.270 (“Campaign statements shall be filed in accordance with the filing dates prescribed by state law.”).) The Berkeley Fair Campaign Practices Commission (“FCPC”) is charged with enforcing BERA. The FCPC therefore has the authority to initiate separate enforcement matters regarding the apparent failure by these committees to file required semi-annual reports.

Staff recommends the Commission direct staff to initiate investigations into these referrals and return at a future meeting with findings and a recommendation of whether there is probable cause to believe a violation of BERA has occurred.

Attachments:

1. Clerk Department referral to FPPC: Carole Marasovic for Berkeley Rent Board 2020
2. Clerk Department referral to FPPC: Stephen Murphy for Berkeley City Council 2020

## Complaint Type

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### Electronic Complaint System

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**Complaint:** If you suspect someone has violated the Political Reform Act, file a complaint with the FPPC's Enforcement Division using the Electronic Complaint System. To file, provide the requested information on the complaint below, attach all documents you have containing evidence of the violations using the document uploader, and click submit. You will receive an email confirming receipt of your complaint if you provide a return email address. If you file a sworn complaint, you will receive notifications regarding your complaint.

**Referral:** Filing officers can submit referrals to the Enforcement Division using the Electronic Complaint System. To refer a matter for prosecution by the Enforcement Division, provide the information requested below, attach the respondent's most recent statement or report and a copy of your conflict of interest code (if applicable), and click submit. You will receive an email confirming receipt of the referral and notification when the FPPC takes action on the referral.

**If you have questions or problems submitting your complaint or referral, please email [complaint@fppc.ca.gov](mailto:complaint@fppc.ca.gov) and we will assist you.**

## Complaint Type

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Complaint Type: Staff/Filing Officer  
Referral



**For Official Use Only.**

The Referral section is only for use by Local and State Filing Officers and Officials.

Do not complete this section if you are trying to file a Complaint.

## Non-Filer Enforcement Referral

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### Referral Type

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Non-Filer Referral Type:

Campaign Statement Non-Filer



## Campaign Statement Non-Filer Information

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### Referral Details

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Violation Type	Code Section	Date of Election	Filing Due Date	Reporting Period Start Date	Reporting Period End Date
Campaign Statements Not Filed	Semiannual Statements (84200)	11/3/2020	2/1/2021	10/18/2020	12/31/2020

To begin your referral, please select the **Add New Campaign Statement** button on the right side and complete the information fields.

### Referring Filing Official's Contact Information

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First Name: Mark  
Last Name: Numainville  
Email: [elections@cityofberkeley.info](mailto:elections@cityofberkeley.info)  
Phone Number: (510) 981-6908  
Jurisdiction: Local  
County, City, or Agency: City  
Filing Officer's Title: City Clerk  
Name of Agency: City of Berkeley

### Committee Information

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Committee Name: Carole Marasovic for Berkeley Rent Board 2020  
Committee ID: 1432934  
Office Sought: Rent Stabilization Board  
Address: [REDACTED]  
City: Berkeley  
State: CA  
Zip Code: 94702  
Email: [daphnesflight@yahoo.com](mailto:daphnesflight@yahoo.com)  
Phone Number: [REDACTED]

### Treasurer Information

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Treasurer First Name: Heather  
Treasurer Last Name: Ovenden  
Address: [REDACTED]  
City: Berkeley  
State: CA  
Zip Code: 94702  
Email: [heathero75gwhs@gmail.com](mailto:heathero75gwhs@gmail.com)  
Phone Number: [REDACTED]

Candidate or Principal Officer Information

Candidate or Principal Officer First Name: Carole

Address: [REDACTED]

State: CA

Email: [daphnesflight@yahoo.com](mailto:daphnesflight@yahoo.com)

Candidate or Principal Officer Last Name: Marasovic

City: Berkeley

Zip Code: 94702

Phone Number: [REDACTED]

Notification Information

Notification Type – Please Select Two at a Minimum	Date Attempted or Completed
Mail	3/8/2021
Email	3/8/2021
Mail	2/5/2021
Email	2/5/2021
Email	1/27/2021
Mail	1/6/2021

Please attach any Notification-related documents in the "Upload" section of this form.

Upload

Files

Document Name	Update Date/Time
Carole_Marasovic_for_Berkeley_Rent_Board_2020_fppc501_201_2020_08_07.pdf	3/30/2021 11:30 AM
Carole_Marasovic_for_Berkeley_Rent_Board_2020_fppc410_201_2020_09_01.pdf	3/30/2021 11:30 AM
Carole_Marasovic_for_Berkeley_Rent_Board_2020_fppc460_201_2020_10_23.pdf	3/30/2021 11:30 AM
2021-03-08 SWN Carole Marasovic for Berkeley Rent Board 2020.pdf	3/30/2021 11:29 AM
2021-02-05 NONF Carole Marasovic for Berkeley Rent Board 2020.pdf	3/30/2021 11:28 AM
2021-03-08 SWN.pdf	3/30/2021 11:28 AM
2021-02-05 NONF (Email).pdf	3/30/2021 11:28 AM
2021-01-27 Semi-Annual Reminder.pdf	3/30/2021 11:28 AM
Carole Marasovic for Berkeley Rent Board 2020.pdf	3/30/2021 11:27 AM

Please click the **upload document** button after selecting your additional evidence (such as copies of campaign statements, notes, etc).

## Additional Comments

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Additional Comments:

Candidate Carole Marasovic informed the Berkeley City Clerk Department that her treasurer quit a few days before the November 3, 2020 election. However, Heather Ovenden is still listed on the committee's Form 410 as treasurer. Ms. Marasovic is listed as the Assistant Treasurer.

## Submit

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## Submit Referral

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## Complaint Type

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### Electronic Complaint System

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**Complaint:** If you suspect someone has violated the Political Reform Act, file a complaint with the FPPC's Enforcement Division using the Electronic Complaint System. To file, provide the requested information on the complaint below, attach all documents you have containing evidence of the violations using the document uploader, and click submit. You will receive an email confirming receipt of your complaint if you provide a return email address. If you file a sworn complaint, you will receive notifications regarding your complaint.

**Referral:** Filing officers can submit referrals to the Enforcement Division using the Electronic Complaint System. To refer a matter for prosecution by the Enforcement Division, provide the information requested below, attach the respondent's most recent statement or report and a copy of your conflict of interest code (if applicable), and click submit. You will receive an email confirming receipt of the referral and notification when the FPPC takes action on the referral.

**If you have questions or problems submitting your complaint or referral, please email [complaint@fppc.ca.gov](mailto:complaint@fppc.ca.gov) and we will assist you.**

## Complaint Type

---

Complaint Type: Staff/Filing Officer  
Referral



**For Official Use Only.**

The Referral section is only for use by Local and State Filing Officers and Officials.

Do not complete this section if you are trying to file a Complaint.

## Non-Filer Enforcement Referral

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### Referral Type

---

Non-Filer Referral Type:

Campaign Statement Non-Filer

## Campaign Statement Non-Filer Information

---

### Referral Details

---

Violation Type	Code Section	Date of Election	Filing Due Date	Reporting Period Start Date	Reporting Period End Date
Campaign Statements Not Filed	Semiannual Statements (84200)		2/1/2021	7/1/2020	12/31/2020

To begin your referral, please select the **Add New Campaign Statement** button on the right side and complete the information fields.

### Referring Filing Official's Contact Information

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First Name: Mark  
Last Name: Numainville  
Email: [elections@cityofberkeley.info](mailto:elections@cityofberkeley.info)  
Phone Number: (510) 981-6908  
Jurisdiction: Local  
County, City, or Agency: City  
Filing Officer's Title: City Clerk  
Name of Agency: City of Berkeley

### Committee Information

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Committee Name: Stephen Murphy for Berkeley City Council 2020  
Committee ID: 1379609  
Office Sought: [REDACTED]  
Address: [REDACTED] Berkeley  
City: Berkeley  
State: CA  
Zip Code: 94709  
Email: [lindajperry@hotmail.com](mailto:lindajperry@hotmail.com)  
Phone Number: [REDACTED]

### Treasurer Information

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Treasurer First Name: Linda  
Treasurer Last Name: Perry  
Address: [REDACTED]  
City: San Leandro  
State: CA  
Zip Code: 94578  
Email: [REDACTED]  
Phone Number: lindajperry@hotmail.com

Candidate or Principal Officer Information

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Candidate or Principal Officer First Name: Stephen

Candidate or Principal Officer Last Name: Murphy

Address: [REDACTED]

City: Berkeley

State: CA

Zip Code: 94709

Email: [stephenmurphy2016@gmail.com](mailto:stephenmurphy2016@gmail.com)

Phone Number: [REDACTED]

Notification Information

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Notification Type – Please Select Two at a Minimum	Date Attempted or Completed
Email	3/8/2021
Mail	3/8/2021
Telephone call	2/2/2021
Email	2/5/2021
Mail	2/5/2021
Email	1/7/2021
Mail	1/7/2021

Please attach any Notification-related documents in the "Upload" section of this form.

## Upload

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Files

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Document Name	Update Date/Time
2021-03-08 SWN Stephen Murphy for Berkeley City Council 2020.pdf	4/1/2021 2:16 PM
2021-03-08 SWN (Email).pdf	4/1/2021 2:15 PM
2021-02-05 NONF Stephen Murphy for Berkeley City Council 2020.pdf	4/1/2021 2:15 PM
2021-02-05 NONF (Email).pdf	4/1/2021 2:15 PM
2021-01-07 Notification (Mail).pdf	4/1/2021 2:14 PM
2021-01-07 Notification (Email).pdf	4/1/2021 2:14 PM

Please click the **upload document** button after selecting your additional evidence (such as copies of campaign statements, notes, etc).

## Additional Comments

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### Additional Comments:

Although this campaign committee is named "Stephen Murphy for Berkeley City Council 2020", Stephen Murphy did not file a Form 501 nor did he qualify (or attempt to qualify) as a candidate in the November 3, 2020 general municipal election.

[Submit](#)

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[Submit Referral](#)

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Open Government Commission

ACTION CALENDAR  
XXXXXX XX, 2021

To: Honorable Mayor and Members of the City Council

From: Brad Smith, Chair, Open Government Commission

Submitted by: Samuel Harvey, Secretary, Open Government Commission

Subject: Public comment at City Council meetings in the era of only-electronic access

RECOMMENDATION

Consider making the following changes to City Council practices for holding public meetings in general: (1) make all documents available at least 24 hours in advance of each meeting; and (2) consider preserving public comment time to two minutes even when there are 10 or more speakers, or to consider raising the threshold necessary to allow for such limitations on public comment.

Consider making the following changes to City Council practices for holding public meetings via teleconference technologies: (1) clearly define how the order of public speakers is determined; and (2) clearly outline the process by which a speaker may cede time to another speaker.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

This recommendation was approved by the Open Government Commission (“OGC”) at its regular meeting of May 20, 2021.

**Action:**

**Vote:**

This recommendation is provided by the OGC pursuant to its authority under BMC § 2.06.190.A.2 to “propose additional legislation or procedures that it deems advisable to ensure the City’s compliance with [the Open Government Ordinance], the Brown Act, the Public Records Act, and the Lobbyist Registration Act, and advise the City Council as to any other action or policy that it deems advisable to enhance open and effective government in Berkeley.”



## BACKGROUND

Because we have not been meeting in person for over a year now, and all public meetings are being held electronically, much of the public's ability to organize themselves and to access documents that are presented just before or during a meeting are severely curtailed. This is especially true for those without good internet connection or electronic devices that allow for video access. Because this could lead to the magnification of certain voices while silencing others, and because public participation is a necessary ingredient in democratic governance, the Open Government Commission recommends that the Berkeley City Council consider changes to how public comment is given.

First, we recommend that all documents discussed at a meeting be made available 24 hours in advance. This would enable the public (including those who can only join by phone) to view the documents and formulate their comments about them.

Second, clearly define how the order in which speakers are called upon to speak is determined. During in-person meetings, like-minded speakers could line up in an order of their choosing. Is this possible electronically?

Third, clearly outline the steps the public must take to cede time to a speaker during public comment. For instance, when called upon, a speaker could ask for extra time and members of the public could use an icon like the "thumbs-up" to cede time. We ask that a mechanism for members of the public who dial-in also be considered in this process.

Lastly, we have recommended this in the past, but we ask you again to consider preserving public comment time to two minutes even when there are 10 or more speakers, or to consider raising the threshold necessary to allow for such limitations on public comment. The Open Government Commission understands the length of council meetings, but also recognizes the restrictions that a one-minute allowance places on a member of the public's ability to express their sentiments in their entirety.

## ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

## RATIONALE FOR RECOMMENDATION

These recommendations aim to ensure the public has the ability to fully access and participate in City Council meetings.

## ALTERNATIVE ACTIONS CONSIDERED

None.

## CITY MANAGER

## CONTACT PERSON

Brad Smith, Chair, Open Government Commission, (510) 981-6998

Samuel Harvey, Commission Secretary, Open Government Commission (510) 981-6998



Open Government Commission

April 21, 2021

To: Brad Smith, Chair, Open Government Commission  
Samuel Harvey, Secretary, Open Government Commission

From: Dean Metzger, Commissioner

Subject: Agenda item for the May 20, 2021 OGC meeting - Limitation of Speaker Time at City meetings

At the April 15, 2021 OGC meeting a complaint from Shirley Dean was on the agenda as Item 9 that detailed the problem of limiting public speakers to 1 minute if more than 10 members of the public wanted to speak on any one agenda item.

The practice to limit speaker time to one minute when more than 10 people have indicated they want to speak. is egregious.

This is far too short a time to say very much that is meaningful. The very procedure that sets such a speaker limitation is based on there being more than the usual number of speakers, indicating that there is great public interest in the agenda item. This speaker limitation procedure is saying that the greater the interest, the less time we will give to individual speakers.

You might argue that conceding time to another speaker makes up for this but consider those instances when changes have just been presented and there is no time to either make the necessary arrangements for a speaker to present well-reasoned testimony based on time granted from other speakers.

The City of Richmond allows two to three minutes, with no conceding time, but it is possible for speakers to be called in an order to accommodate those times when a linked presentation can be done. Council and Commission time is

important, but there is a higher importance that needs to be recognized and that is Council obtaining adequate public input, particularly on issues of greater interest.

This is simply not good government 101!

Open government that seeks input from an informed public is the heart of real democracy.

The OGC recommends to Council change the rules for public comment to include the following.

This would give each public speaker time to make a meaningful presentation and the meeting members time to hear what the public really has to say.

This change would be made in the “The Berkeley City Council Rules of Procedure and Order” document and the proposed following changes (in red) are for commission discussion.

### **The Berkeley City Council Rules of Procedure and Order**

Adopted by Resolution No. 69,283–N.S. Effective February 4, 2020

#### **IV. Conduct of Meeting – Page 23**

##### A. Comments from the Public

General:

**Public comment at in person meetings:**

If there are less than 30 speakers per any item on the agenda, public comment will be limited to two minutes per speaker with the provision that one speaker may allot his/her time to another speaker for a maximum of four minutes.

If there are 31 or more speakers the item will be removed from the agenda and moved to a special meeting where all speakers will be allowed two minutes with the provision that one speaker may allot his/her time to another speaker for a maximum of four minutes.

The presiding officer at any meeting may ask that the speakers form two groups – one in favor of the item and the other opposed to the item. Then asked that if a speaker agrees with a previous speaker, that speaker limits his/her comment to establishing that fact. The City Clerk shall record the number of speakers that are for or against the item and announce the numbers to the council at the end of the comment period for that item.

Public comment at City Council meetings in the era of only electronic access:

Because we have not been meeting in person for over a year now, and all public meetings are being held electronically, much of the public's ability to organize themselves and to access documents that are presented just before or during a meeting are severely curtailed. This is especially true for those without good internet connection or electronic devices that allow for video access. Because this could lead to the magnification of certain voices while silencing others, and because public participation is a necessary ingredient in democratic governance, the Open Government Commission recommends that the Berkeley City Council consider changes to how public comment is given.

1. All documents discussed at a meeting must be made available 24 hours in advance. This would enable the public (including those who can only join by phone) to view the documents and formulate their comments about them.
2. Clearly define how the order in which speakers are called upon to speak is determined. During in-person meetings, like-minded speakers could line up in an order of their choosing. Is this possible electronically?
3. Clearly outline the steps the public must take to cede time to a speaker during public comment. For instance, when called upon, a speaker could ask for extra time and members of the public could use an icon like the "thumbs-up" to cede time.
4. Extend the public comment time to two minutes in all cases and allow one speaker to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

1. Public Comment on Consent Calendar and Information Items.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

**Each speaker may speak for two minutes. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.**

2. Public Comment on Action Items.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Each speaker may speak for two minutes. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

3. Appeals Appearing on Action Calendar.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to (one) **Two** minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however no speaker shall have more than (two) **FOUR** minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

4. Public Comment on Non-Agenda Matters.

**To remain as is.**

B. Consent Calendar

**There are no written rules.**

E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each speaker may speak for two minutes. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

#### F. Work Sessions

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

Each speaker may speak for two minutes. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.



Open Government Commission

April 21, 2021

To: Brad Smith, Chair, Open Government Commission  
Samuel Harvey, Secretary, Open Government Commission

From: Dean Metzger, Commissioner

Subject: Agenda item for the May 20, 2021 OGC meeting - Substantive changes or additions to an item on the agenda at the meeting it is scheduled to be heard.

At the April 15, 2021 OGC meeting a complaint from Shirley Dean was on the agenda that detailed the problem of council members, committee members and commission members presenting new documents at the beginning of or during the meeting. The Brown Act goes indeed allow for this to happen, but only in emergencies.

This does not apply to changes presented several days (3 days minimum) before a public meeting, nor to changes that occur during a public meeting that are done in public and are a result of either public comments made at the meeting, or the discussion among decision makers during that public meeting. This involves changes to an agenized item that are presented just prior to or at the beginning of the public meeting. This is becoming common practice.

Substantive changes are presented just a short time before a scheduled meeting with the result that the public has had no opportunity to read, understand and react to the new material.

This is indeed a common problem and it happened throughout the discussion of the items concerning re-zoning residential areas throughout the City, which happens to be an item of intense interest to the public, no matter what side of the issue one might be on.

In fact, it happened at the resent Council meeting regarding when the re-written



version of the so-called Droste item was on the agenda. Throughout that meeting, the Mayor stated over and over that the over 100 speakers could read for the first time what was being proposed! This is simply not good government 101!

Open government that seeks input from an informed public is the heart of real democracy.

The OGC recommends to Council that if any additional information that would be introduced just prior to or at the meeting and was considered critical to that item, that item would be removed from the agenda and rescheduled to a later meeting. The change for discussion is in red.

This would give the public and the meeting members time to read the new material and respond if they chose to do so.

This change would be made in the “Council Rules and Procedures” document.

### **The Berkeley City Council Rules of Procedure and Order**

Adopted by Resolution No. 69,283–N.S. Effective February 4, 2020

#### **III. AGENDA – Page 9**

##### **4. Submission of Supplemental and Revised Agenda Material.**

Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City’s website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be

considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation.

b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council evaluation.

c) After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

Unless the item is a safety issue or financial criticals, the material cannot be used by the meeting body for the items discussion. If the new material is critical for the discussion of the item, the Item shall be removed from the agenda and rescheduled to a later meeting.



Open Government Commission

ACTION CALENDAR  
XXXXX XX, 2021

To: Honorable Mayor and Members of the City Council  
 From: Open Government Commission  
 Submitted by: Brad Smith, Chairperson, Open Government Commission  
 Samuel Harvey, Secretary, Open Government Commission  
 Subject: Letter of Support for SB-459 Political Reform Act of 1974: lobbying

RECOMMENDATION

Send a letter of support to Senator Nancy Skinner in support of SB-459 Political Reform Act of 1974: lobbying (Attached).

SUMMARY

Current lobbying reports don't provide information about who is funding lobbying efforts until after the bills have passed or died. SB-459 would require the following reforms:

1. Monthly, rather than quarterly, disclosures for the largest lobbyist.
2. 72-hour reporting of significant spending on issue ads and the naming of the special interests that bought the ads.
3. Requiring lobbying reports to disclose their position (e.g., "Support" or "Oppose")

Passage of SB-459 will increase lobbying transparency with the public being more capable of "following the money."

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Difficult for the public to know who is attempting to influence our elected officials.

### BACKGROUND

Currently, it is impossible to know who is spending money lobbying our lawmakers until after their votes have been cast and the session ends. This legislation will increase the transparency of money spent to influence legislation.

### ENVIRONMENTAL SUSTAINABILITY

There are no identified environmental effects related to this recommendation.

### RATIONALE FOR RECOMMENDATION

To increase transparency about who is funding lobbying efforts.

### ALTERNATIVE ACTIONS CONSIDERED

Not sending a letter to Senator Nancy Skinner.

### CITY MANAGER

### CONTACT PERSON

Brad Smith, Chair, Open Government Commission  
Samuel Harvey, Secretary, Open Government Commission

### Attachments:

1. SB-459 Senate Committee Analyses
2. SB-459 Political Reform Act of 1974: lobbying, text

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**SENATE COMMITTEE ON APPROPRIATIONS**

**Senator Anthony Portantino, Chair  
2021 - 2022 Regular Session**

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**SB 459 (Allen) - Political Reform Act of 1974: lobbying**

**Version:** April 28, 2021

**Urgency:** No

**Hearing Date:** May 10, 2021

**Policy Vote:** E. & C.A. 4 - 0

**Mandate:** Yes

**Consultant:** Robert Ingenito

**Bill Summary:** SB 459 would (1) require lobbying entities to disclose additional information on lobbying reports, as specified, (2) increase the frequency of reporting if certain conditions are met, and (3) require additional disclosures on issue lobbying advertisements, as specified.

**Fiscal Impact:** The Fair Political Practices Committee (FPPC) indicates that it would incur costs of \$387,000 in 2021-22, and \$336,000 annually thereafter, to implement the provisions of the bill (General Fund). Potential costs to the Secretary of State (SOS) have yet to be identified.

**Background:** In 1974, California voters passed the Political Reform Act (Proposition 9), which created FPPC and codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. The PRA stipulates that amendments to it are not required to be submitted to voters if the amendments further the purposes of the PRA, are approved by a two-thirds vote of both houses of the Legislature, and chaptered. Additionally, the PRA 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.

In 1997, SB 49 (Karnette) established the Online Disclosure Act of 1997, which required SOS, in consultation with FPPC, to develop and implement a process whereby reports and statements required by the PRA could be filed online and viewed by the public. Consequently, SOS established the California Automated Lobby Activity and Campaign Contribution and Expenditure Search System, commonly known as Cal-Access. SB 49 also required certain candidates, committees, slate mailer organizations, lobbyists, lobbyist employers, and lobbying firms to file campaign reports online.

In 2016, the Legislature passed and Governor Brown signed SB 1349 (Hertzberg), which required SOS, in consultation with FPPC, to develop and certify for public use a new online filing and disclosure system for statements and reports that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format. This new system, also known as the Cal-Access Replacement System (CARS), will be available for filers and public use on June 30, 2021.

Current law requires disclosures of certain payments made for issue advocacy advertisements. Specifically, existing law requires payments in connection with these advertisements be disclosed on lobbying disclosure reports, under certain circumstances. Lobbyist employers and persons who do not employ an in-house

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lobbyist or contract with a lobbying firm, but who directly or indirectly make payments of \$5,000 or more in any calendar quarter to influence or attempt to influence legislative or administrative action, must file periodic lobbying disclosure reports. Among the types of expenditures that count toward the \$5,000 filing threshold are payments for or in connection with soliciting or urging other persons to enter into direct communication with state officials, including payments made for advertisements that urge voters to communicate with elected officials on pending legislation.

However, the information that is required to be disclosed by \$5,000 filers and lobbyist employers with respect to payments made for issue advocacy communications can be limited. Lobbyist employers and \$5,000 filers must disclose the total of all payments to influence legislative or administrative action, and must provide information about the recipients of payments of \$2,500 or more made to influence legislative or administrative action. They are not required to link specific payments with the legislative or administrative action that those payments were designed to influence, specify the position expressed in the advertisement, or provide a copy of the advertisement to the targeted official.

**Proposed Law:** This bill, beginning January 1, 2023 would, among other things, do the following:

- Require specific lobbying entities to provide in their periodic reports the name or number of each bill or administrative action that either engaged in direct communication or was directed by that entity to engage in direct communication with an elective state official, agency official, or legislative official on the entity's behalf for the purpose of influencing legislative or administrative action during the reporting period, as specified. Require the report to indicate, in chronological order, a specific position that most closely describes the client position publicly communicated, as specified.
- Require monthly reporting of lobbying disclosure reports if the sum of the total amount of all payments subject to reporting exceeds \$15,000, as specified. Requires this monthly report be filed during the first 15 days of the month following any qualifying calendar month.
- Require, during the period beginning 60 days before the deadline for the passage of bills established by joint resolution of the Legislature, the filing of a report within 72 hours of retaining a lobbying firm to influence legislative or administrative action during those 60 days, including the amount paid to the lobbying firm upon being retained or to be paid to the lobbying firm pursuant to a contract for lobbying.
- Provide that the types of communications that may qualify as an issue lobbying advertisement, as defined, include those established in specific provisions of existing law, a prerecorded telephone call made to more than 200 persons, a substantially similar email, text message, or other electronic communication that is sent to over 200 recipients, or any other substantially similar communication determined by regulations adopted by the FPPC.

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- Provide that a pending legislative or administrative action is clearly identified if the communication states a legislative or administrative identification number, official title, or popular name associated with the action. Provides that the action is also clearly identified if the communication refers to the subject matter of the action and either states that the measure is before an elective state official, agency official, or legislative official for a vote or decision or, taken as a whole and in context, unambiguously refers to the action.
- Require an issue lobbying advertisement to clearly and conspicuously indicate in the communication the person that authorized and paid for the communication as the source or payor of the communication, as specified. Provides that if the person who authorized and paid for the issue lobbying advertisement is a lobbying firm, the lobbyist employer on whose behalf the issue lobbying advertisement was authorized and paid for shall be disclosed in place of the lobbying firm.
- Require a copy of any issue lobbying advertisement which clearly identifies an elective state official, agency official, or legislative official be provided by mail, email, or hand delivery to that elective state official, agency official, or legislative official within 72 hours of being communicated, as specified.
- Require a person that incurs cumulative costs equal to or exceeding \$5,000 for issue lobbying advertisements in a calendar quarter to file a report with SOS within 72 hours, as specified. Require a report regarding issue lobbying advertisements to include specified information.

**Related Legislation:**

- AB 1217 (Mullin, 2019), among other provisions, would have required individuals who publish an “issue lobbying communication” within 60 days of the end of the legislative session to disclose the funders of the advertisement, as specified. The bill died in the Senate Committee on Elections and Constitutional Amendments.
- SB 1239 (Hertzberg, Chapter 662, Statutes of 2018) among other changes associated with filing campaign and lobbying reports to the 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.
- SB 49 (Karnette, Chapter 866, Statutes of 1997) required SOS, in consultation with the FPPC, to develop and implement a process whereby reports and statements required under the PRA could be filed online and viewed by the public, as specified. This system is known as Cal-Access.

**Staff Comments:** FPPC indicates that it would require three new positions to accommodate the additional workload generated by the bill, resulting from (1) the increase in referrals due to the increased filing and reporting requirements, and (2) the new issue lobbying advertisements requirements.

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Any local government costs resulting from the mandate in this measure are not state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

**-- END --**





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period, as specified. Requires the report to indicate, in chronological order, a specific position that most closely describes the client position publicly communicated, as specified.

- 2) Requires monthly reporting of lobbying disclosure reports if the sum of the total amount of all payments subject to reporting exceeds \$15,000, as specified. Requires this monthly report be filed during the first 15 days of the month following any qualifying calendar month.
- 3) Requires, during the period beginning 60 days before the deadline for the passage of bills established by joint resolution of the Legislature, the filing of a report within 72 hours of retaining a lobbying firm to influence legislative or administrative action during those 60 days, including the amount paid to the lobbying firm upon being retained or to be paid to the lobbying firm pursuant to a contract for lobbying.
- 4) Provides that if the sum of the total amount of payments exceeds \$45,000 in a calendar quarter, then monthly reports shall be filed for the next 12 months, as specified.
- 5) Defines “issue lobbying advertisement” to mean any communication that is authorized and paid for, directly or indirectly, by a specified lobbying entity, that refers to one or more clearly identified pending legislative or administrative actions and does any of the following:
  - a) Solicits or urges persons other than the lobbying entity to communicate directly with an elective state official, agency official, or legislative official for the primary purpose of attempting to influence state legislative or administrative action, as specified.
  - b) Refers to a state legislative or administrative action and urges its defeat, amendment, postponement, enactment, or promulgation.
- 6) Provides that the types of communications that may qualify as an issue lobbying advertisement include those established in specific provisions of existing law, a prerecorded telephone call made to more than 200 persons, a substantially similar email, text message, or other electronic communication that is sent to over 200 recipients, or any other substantially similar communication determined by regulations adopted by the FPPC.
- 7) Provides that a pending legislative or administrative action is clearly identified if the communication states a legislative or administrative identification number, official title, or popular name associated with the action. Provides that the action is also clearly identified if the communication refers to the subject matter of the action and either states that the measure is before an elective state official, agency official, or legislative official for a vote or decision or, taken as a whole and in context, unambiguously refers to the action.
- 8) Requires an issue lobbying advertisement to clearly and conspicuously indicate in the communication the person that authorized and paid for the communication as the source or payor of the communication, as specified. Provides that if the person

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who authorized and paid for the issue lobbying advertisement is a lobbying firm, the lobbyist employer on whose behalf the issue lobbying advertisement was authorized and paid for shall be disclosed in place of the lobbying firm.

- 9) Provides that an issue lobbying advertisement complies if the communication does either of the following:
  - a) Clearly and conspicuously identifies the person as the sender, broadcaster, or creator of the communication, as specified.
  - b) Includes the words "Paid for by" or a smaller phrase followed by the name of the person.
- 10) Requires a copy of any issue lobbying advertisement which clearly identifies an elective state official, agency official, or legislative official be provided by mail, email, or hand delivery to that elective state official, agency official, or legislative official within 72 hours of being communicated, as specified.
- 11) Requires a person that incurs cumulative costs equal to or exceeding \$5,000 for issue lobbying advertisements in a calendar quarter to file a report with the SOS within 72 hours, as specified. Requires a report regarding issue lobbying advertisements to include the following information:
  - a) The dates or period of time that each issue lobbying advertisement was communicated.
  - b) The legislative or administrative identification numbers associated with the legislative or administrative action that was the subject of the lobbying issue advertisement, as specified.
  - c) For each legislative or administrative action for which there were issue lobbying advertisements, the position on the legislative or administrative action urged on the lobbying issue advertisement.
  - d) For each legislative or administrative action for which there were issue lobbying advertisements, the medium of the issue lobbying advertisements which referenced the action.
  - e) For each legislative or administrative action for which there were issue lobbying advertisements, the cumulative cost of the issue lobbying advertisements they appear in, as specified.
  - f) Any other relevant information determined by regulations adopted by the FPPC.
- 12) Provides that the provisions of this bill shall not become operative until January 1, 2023.
- 13) Makes technical, nonsubstantive changes.

## **BACKGROUND**

Political Reform Act of 1974. In 1974, California voters passed Proposition 9, also known as the PRA, and created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. The PRA stipulates that amendments to the PRA are not required to be submitted to voters if the amendments further the purposes of the PRA, approved by a two-thirds vote of both houses of the Legislature, and chaptered.

Additionally, the PRA requires periodic reports to be filed that discloses 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.

Cal-Access and the Cal-Access Replacement System. In 1997, the Legislature passed and Governor Wilson signed SB 49 (Karnette), Chapter 866, Statutes of 1997, and established the Online Disclosure Act of 1997. SB 49 required the SOS, in consultation with the FPPC, to develop and implement a process whereby reports and statements required by the PRA could be filed online and viewed by the public. As a result, the SOS established the California Automated Lobby Activity and Campaign Contribution and Expenditure Search System, commonly known as Cal-Access. SB 49 also required certain candidates, committees, slate mailer organizations, lobbyists, lobbyist employers, and lobbying firms to file campaign reports online.

In 2016, the Legislature passed and Governor Brown signed SB 1349 (Hertzberg), Chapter 845, Statutes of 2016. SB 1349 required the SOS, in consultation with the FPPC, to develop and certify for public use a new online filing and disclosure system for statements and reports that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format. According to the SOS website, this new system, also known as the Cal-Access Replacement System (CARS), will be available for filers and public use on June 30, 2021.

Issue Lobbying Advertisements. Existing law currently requires disclosures of certain payments made for issue advocacy advertisements. Specifically, existing law requires payments in connection with these advertisements be disclosed on lobbying disclosure reports, under certain circumstances. Lobbyist employers and persons who do not employ an in-house lobbyist or contract with a lobbying firm, but who directly or indirectly make payments of \$5,000 or more in any calendar quarter to influence or attempt to influence legislative or administrative action, must file periodic lobbying disclosure reports. Among the types of expenditures that count toward the \$5,000 filing threshold are payments for or in connection with soliciting or urging other persons to enter into direct communication with state officials, including payments made for advertisements that urge voters to communicate with elected officials on pending legislation.

However, the information that is required to be disclosed by \$5,000 filers and lobbyist employers with respect to payments made for issue advocacy communications can be limited. Lobbyist employers and \$5,000 filers must disclose the total of all payments to

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influence legislative or administrative action, and must provide information about the recipients of payments of \$2,500 or more made to influence legislative or administrative action. They are not required to link specific payments with the legislative or administrative action that those payments were designed to influence, specify the position expressed in the advertisement, or provide a copy of the advertisement to the targeted official.

**COMMENTS**

- 1) According to the author: In California, lobbying firms and interest groups that hire them must file quarterly reports on their lobbying activity. These reports are due one month after the close of each quarter. The third quarter (Q3) lobbying report covers the most significant legislative quarter of the year: July through September. This period includes the Legislature's final committee and floor votes and, in even-years, the Governor's entire bill-signing period. Unsurprisingly, in terms of lobbying expenditures, this is the most expensive quarter of the year, with over \$100 million being spent in both Q3 of 2020 and 2019.

However, because of quarterly lobbying reporting, these three months of increased lobbying are not disclosed until *after* the Legislature has decided which bills to pass or defeat and *after* the Governor has decided which bills to sign or veto. Thus, Q3 reporting provides no useful transparency and accountability about the most intense lobbying affecting whether bills live or die.

More must be done to ensure that accurate, timely and useful information about the millions of dollars spent every year to influence the fate of legislation is available to lawmakers, the press and the public.

- 2) Argument in Support. In a letter supporting SB 459, the League of Women Voters of California stated, in part, the following:

*SB 459 would increase the frequency of reporting for major lobbyists, requiring monthly reporting for lobbying firms and interest groups that report more than \$15,000 in lobbying activity in a month. In addition, lobbying groups that report more than \$45,000 in lobbying activity in a quarter would be required to report monthly for the next 12 months. During the 60-day period before the deadline for passage of bills, a report would need to be filed within 24 hours of retaining a lobbying firm hired to influence legislative action. The careful parsing of fiscal triggers ensures visibility into the influence of the wealthiest, most powerful interests while safeguarding small non-profits from costly reporting requirements.*

*SB 459 would also expand transparency by requiring: lobbyists to disclose the public positions they are taking on bills; 72-hour reporting of issue ads buys over a specified amount; and interest groups to put their names on their ads, thereby eliminating anonymous pressure campaigns.*

*The League of Women Voters of California strongly supports SB 459 because Californians deserve to know who is spending millions of dollars to influence legislation being made in their names.*

**SB 459 (Allen)**

- 3) Apply it to Everybody? Lobbying reports are required to be filed quarterly. Under the provisions of the bill, a lobbying entity could be required to file these reports monthly if a certain monetary spending threshold within a specified period of time is met and/or exceeded. Once this threshold is met, the report must be filed monthly for the next 12 months. This would create an additional requirement for lobbying entities because they would have to keep track of their spending within a month or quarter and may have to track the start and end of a 12-month period. The author should consider whether these additional reporting requirements should be required monthly for all lobbying entities currently required to file these periodic reports regardless of the amount spent within a period of time.
- 4) Positions Publicly Communicated. This bill specifies a lobbying disclosure report is required to provide the name or number of each bill or administrative action as well as the position publicly communicated. The position reported must indicate one of the following that most closely describes the client position publicly communicated: “support,” “support if amended,” “neutral seeking amendment,” “neutral expressing concerns,” “oppose unless amended,” and “oppose.”

While there is not a universal standard for positions taken on actions and legislation, there is a general understanding that a position can be “support,” “neutral,” or “opposed.” Depending on the entity, “support if amended” and “oppose unless amended” is also a common stance taken on actions or bills. However, even though a “support if amended” position is used frequently in legislative conversation, for some entities that officially lists positions on an action or on a bill, “support if amended” is considered the same as “neutral” and is not different than “watch,” “with concerns,” “neutral expressing concerns,” “request amendments,” or “neutral seeking amendments.” A similar comparison could also be used for “oppose” and “oppose unless amended” because “oppose” and “oppose unless amended” both signal opposition to an action or bill. The difference is that “oppose unless amended” provides a recommended path to remove an entity’s opposition position versus outright opposition.

As the bill moves through the legislative process, the author should consider having a “neutral” option instead of “neutral seeking amendment or “neutral expressing concerns.” The author should also consider whether “support if amended” and “oppose unless amended” provides an accurate and insightful portrayal of an entity’s position. If the bill is amended and changes are made to these positions, then it should also apply to the reporting requirements for issue lobbying advertisements.

- 5) Copies of an Issue Lobbying Advertisement. For issuing lobbying advertisements, the bill requires a copy of any issue lobbying advertisement that clearly identifies an elective state official, agency official, or legislative official be provided by mail, email, or hand delivery to that elective state official, agency official, or legislative official within 72 hours of being communicated. This includes, but is not limited to, an issuing lobbying advertisement that is a piece of mail, an email, a text message, or any other electronic communication.

As the bill moves through the legislative process, the author should consider whether an email, text message, or other typically internal method of communication should be delivered to the targeted individual and whether this provision interferes

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with the ability of a person to freely communicate and urge a position to a wider audience. The required reports regarding issue lobbying advertisements, as prescribed by this bill, will likely provide an appropriate level of disclosure regarding how much is being spent on an advertisement and the type of advertisement.

- 6) It's the Final Countdown. This bill requires a lobbying report to be filed within 72 hours of retaining a lobbying firm to influence legislative or administrative action during those 60 days, including the amount paid to the lobbying firm upon being retained or to be paid to the lobbying firm pursuant to a contract for lobbying during the period beginning 60 days before the deadline for the passage of bills established by joint resolution of the Legislature. The goal is to encompass and provide additional insight during the final days of the legislative year.

However, the Legislature establishes deadlines through joint rules in a concurrent resolution and the Senate uses custom and practice if joint rules are not in place. For the deadline to pass legislation in the second year of a legislative session, the California Constitution provides that “no bill may be passed by either house on or after September 1 of an even-numbered year except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, and bills passed after being vetoed by the Governor.”

Committee staff recommends removing “established by joint resolution of the Legislature” from the bill so it reads, “...beginning 60 days before the deadline for the passage of bills” (Page 6, Lines 21-22).

- 7) Minor Amendments. On Page 8, Lines 27-28, there is a provision specifying that an issue lobbying advertisement is in compliance with the requirements prescribed by the bill if the words “Paid for by” or a smaller phrase followed by the name of the person is used in the communication. Committee staff recommends the bill be amended to replace “smaller” with “similar.”

Additionally, this bill has an operative date of January 1, 2023. However, the operative date is mentioned in two places. First, it is mentioned in Section 5 (Page 9, Line 37) of the bill. It is also mentioned in Section 7 (Page 10, Lines 10-11) of the bill. Committee staff recommends the author delete the operative date in Section 5 of the bill since Section 7 of bill includes Section 5 and states, “Sections 1 to 5 of this act shall not become operative until January 1, 2023.”

**RELATED/PRIOR LEGISLATION**

AB 1217 (Mullin) of 2019, among other provisions, would have required individuals who publish an “issue lobbying communication” within 60 days of the end of the legislative session to disclose the funders of the advertisement, as specified.

AB 1574 (Mullin) of 2019 would have required lobbying disclosure reports be filed monthly instead of quarterly.

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SB 1239 (Hertzberg), Chapter 662, Statutes of 2018, among other changes associated with filing campaign and lobbying reports to the 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 71 (Huber) of 2011 would have, among other changes, clarified that when a filer describes their lobbying interests on a periodic lobbying report, the lobbying entity include the bill number, if any, of legislation lobbied for or against during the reporting period. AB 1274 (Huber) of 2009 was similar to AB 71.

SB 49 (Karnette), Chapter 866, Statutes of 1997, required the SOS, in consultation with the FPPC, to develop and implement a process whereby reports and statements required under the PRA could be filed online and viewed by the public, as specified. This system is known as Cal-Access.

**POSITIONS**

**Sponsor:** California Common Cause

**Support:** California Clean Money Campaign  
Courage Campaign  
League of Women Voters of California  
Mi Familia Vota

**Oppose:** None received

-- END --



AMENDED IN SENATE APRIL 28, 2021

AMENDED IN SENATE APRIL 12, 2021

AMENDED IN SENATE MARCH 10, 2021

**SENATE BILL**

**No. 459**

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**Introduced by Senator Allen**  
*(Coauthors: Senators Glazer and Newman)*  
(Coauthor: Assembly Member Mullin)

February 16, 2021

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An act to amend Sections 86114, 86116, 86117, and 86118 of, and to add Section 86119 to, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 459, as amended, Allen. Political Reform Act of 1974: lobbying.

Existing law, the Political Reform Act of 1974, regulates the activities of lobbyists, lobbying firms, and lobbyist employers in connection with attempts to influence legislative and administrative action by legislative and other state officials, including by requiring that lobbyists, lobbying firms, and lobbyist employers register and file periodic reports with the Secretary of State.

This ~~bill~~ *bill*, beginning January 1, 2023, would require lobbyists, lobbying firms, and lobbyist employers to include information in the periodic reports that identifies each bill or administrative action subject to lobbying activity, and the respective position advocated for, during that period. This bill would require a lobbying firm or lobbyist employer to file a monthly report for any calendar month in which the total amount of payments subject to reporting exceeds \$15,000, and would require a lobbying firm or lobbyist employer to file monthly reports for 12

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months following any calendar quarter in which the total amount of payments subject to reporting exceeds \$45,000. The bill would require certain persons to file specified reports following a calendar quarter in which that person incurs cumulative costs equal to or exceeding \$5,000 for issue lobbying advertisements, as defined.

A violation of the act is punishable as a misdemeanor, and reports and statements filed under the act are required to be signed under the penalty of perjury. By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

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.

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:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 86114 of the Government Code, as  
2 amended by Section 38 of Chapter 662 of the Statutes of 2018, is  
3 amended to read:  
4 86114. (a) Lobbying firms shall file periodic reports containing  
5 all of the following:  
6 (1) The full name, address, email address, and telephone number  
7 of the lobbying firm.  
8 (2) (A) The full name, business address, and telephone number  
9 of each person who contracted with the lobbying firm for lobbying  
10 services, a description of the specific lobbying interests of the  
11 person, and the total payments, including fees and the  
12 reimbursement of expenses, received from the person for lobbying  
13 services during the reporting period.  
14 (B) (i) For each client, the report shall indicate the name or  
15 number of each bill or administrative action, with regard to which  
16 a partner, owner, officer, or employee of the lobbying firm either

1 engaged in direct communication, including through issue lobbying  
2 advertisements, or was directed by that client to engage in direct  
3 communication, with an elective state official, agency official, or  
4 legislative official on behalf of that client for the purpose of  
5 influencing legislative or administrative action during the reporting  
6 period, either by reference to its legislative or administrative  
7 identification number if one exists or by brief description if no  
8 such number exists.

9 (ii) For each bill or issue lobbying advertisement related to a  
10 bill, the report shall indicate one of the following that most closely  
11 describes the client position publicly communicated: “support,”  
12 “oppose,” “support if amended,” “oppose unless amended,”  
13 “neutral seeking amendment,” “neutral expressing concerns.” The  
14 report shall list in chronological order any changes in position  
15 during that reporting period but shall not be required to disclose  
16 the date of any change in position.

17 (iii) The report shall not include bills or administrative actions  
18 which have failed passage prior to the reporting period, bills or  
19 administrative actions which the lobbying firm is only watching  
20 or monitoring, or bills or administrative actions which the lobbying  
21 firm has not attempted to influence during the reporting period.

22 (3) The total amount of payments received for lobbying services  
23 during the period.

24 (4) A periodic report completed and verified by each lobbyist  
25 in the lobbying firm pursuant to Section 86113.

26 (5) Each activity expense incurred by the lobbying firm  
27 including those reimbursed by a person who contracts with the  
28 lobbying firm for lobbying services. A total of all activity expenses  
29 of the lobbying firm and all of its lobbyists shall be included.

30 (6) If the lobbying firm subcontracts with another lobbying firm  
31 for lobbying services:

32 (A) The full name, address, email address, and telephone number  
33 of the subcontractor.

34 (B) The name of the person for whom the subcontractor was  
35 retained to lobby.

36 (C) The total amount of all payments made to the subcontractor.

37 (7) The date, amount, and the name of the recipient of any  
38 contribution of one hundred dollars (\$100) or more made by the  
39 filer to an elected state officer, a state candidate, a committee  
40 controlled by an elected state officer or state candidate, or a

1 committee primarily formed to support or oppose those officers  
2 or candidates. If this contribution is reported by the lobbying firm  
3 or by a committee sponsored by the lobbying firm in a campaign  
4 statement filed pursuant to Chapter 4 which is required to be filed  
5 with the Secretary of State, the filer may report only the name of  
6 the committee and the identification number of the committee.

7 (8) Any other information required by the commission consistent  
8 with the purposes and provisions of this chapter.

9 (b) In addition to the information required by subdivision (a),  
10 lobbying firms which qualify pursuant to paragraph (2) of  
11 subdivision (a) of Section 82038.5 shall also report the name and  
12 title of each partner, owner, officer, and employee of the lobbying  
13 firm who, on at least five separate occasions during the reporting  
14 period, engaged in direct communication with any elective state  
15 official, legislative official, or agency official, for the purpose of  
16 influencing legislative or administrative action on behalf of a  
17 person who contracts with the lobbying firm for lobbying services.  
18 This does not include individuals whose actions were purely  
19 clerical.

20 SEC. 2. Section 86116 of the Government Code, as amended  
21 by Section 39 of Chapter 662 of the Statutes of 2018, is amended  
22 to read:

23 86116. Every person described in Section 86115 shall file  
24 periodic reports containing the following information:

25 (a) The name, business address, email address, and telephone  
26 number of the lobbyist employer or other person filing the report.

27 (b) The total amount of payments to each lobbying firm.

28 (c) The total amount of all payments to lobbyists employed by  
29 the filer.

30 (d) (1) A description of the specific lobbying interests of the  
31 filer.

32 (2) The information required by subparagraph (B) of paragraph  
33 (1) of subdivision (a) of Section 86114. A person described in  
34 Section 86115 may, through a form adopted by the commission,  
35 refer to and incorporate by reference the information contained in  
36 a report filed by the person's lobbying firm pursuant to Section  
37 86114 to meet the requirement of this paragraph.

38 (e) A periodic report completed and verified by each lobbyist  
39 employed by a lobbyist employer pursuant to Section 86113.

1 (f) Each activity expense of the filer. A total of all activity  
2 expenses of the filer shall be included.

3 (g) The date, amount, and the name of the recipient of any  
4 contribution of one hundred dollars (\$100) or more made by the  
5 filer to an elected state officer, a state candidate, or a committee  
6 controlled by an elected state officer or state candidate, or a  
7 committee primarily formed to support or oppose the officer or  
8 candidate. If this contribution is reported by the filer or by a  
9 committee sponsored by the filer in a campaign statement filed  
10 pursuant to Chapter 4 which is required to be filed with the  
11 Secretary of State, the filer may report only the name of the  
12 committee, and the identification number of the committee.

13 (h) (1) Except as set forth in paragraph (2), the total of all other  
14 payments to influence legislative or administrative action including  
15 overhead expenses and all payments to employees who spend 10  
16 percent or more of their compensated time in any one month in  
17 activities related to influencing legislative or administrative action.

18 (2) A filer that makes payments to influence a ratemaking or  
19 quasi-legislative proceeding before the Public Utilities  
20 Commission, as defined in subdivision (b) or (c), respectively, of  
21 Section 82002, may, in lieu of reporting those payments pursuant  
22 to paragraph (1), report only the portion of those payments made  
23 to or for the filer's attorneys for time spent appearing as counsel  
24 and preparing to appear as counsel, or to or for the filer's witnesses  
25 for time spent testifying and preparing to testify, in this type of  
26 Public Utilities Commission proceeding. This alternative reporting  
27 of these payments made during a calendar month is not required  
28 to include payments made to an attorney or witness who is an  
29 employee of the filer if less than 10 percent of the attorney's or  
30 witness's compensated time in that month was spent in appearing,  
31 testifying, or preparing to appear or testify before the Public  
32 Utilities Commission in a ratemaking or quasi-legislative  
33 proceeding. For the purposes of this paragraph, time spent  
34 preparing to appear or preparing to testify does not include time  
35 spent preparing written testimony.

36 (i) Any other information required by the commission consistent  
37 with the purposes and provisions of this chapter.

38 SEC. 3. Section 86117 of the Government Code is amended  
39 to read:

1 86117. (a) Reports required by Sections 86114 and 86116  
2 shall be filed during the month following each calendar quarter.  
3 The period covered shall be from the first day of January of each  
4 new biennial legislative session through the last day of the calendar  
5 quarter prior to the month during which the report is filed, except  
6 as specified in subdivision (b), and except that the period covered  
7 shall not include any information reported in previous reports filed  
8 by the same person. When total amounts are required to be  
9 reported, totals shall be stated both for the period covered by the  
10 statement and for the entire legislative session to date.

11 (b) The period covered by the first report a person is required  
12 to file pursuant to Sections 86114 and 86116 shall begin with the  
13 first day of the calendar quarter in which the filer first registered  
14 or qualified. On the first report a person is required to file, the total  
15 amount shall be stated for the entire calendar quarter covered by  
16 the first report.

17 (c) In addition to the requirements of subdivision (a), a person  
18 described in Section 86115 shall also do both of the following:

19 (1) File a monthly report pursuant to Section 86116 for any  
20 calendar month where the sum of the total amount of all payments  
21 subject to reporting pursuant to that section exceeds fifteen  
22 thousand dollars (\$15,000). The monthly report required by this  
23 subdivision shall be filed during the first 15 days of the month  
24 following any qualifying calendar month.

25 (2) During the period beginning 60 days before the deadline for  
26 the passage of ~~bills established by joint resolution of the~~  
27 ~~Legislature, bills~~, file a report within 72 hours of retaining a  
28 lobbying firm to influence legislative or administrative action  
29 during those 60 days, including the amount paid to the lobbying  
30 firm upon being retained or to be paid to the lobbying firm pursuant  
31 to a contract for lobbying. The report required by this subparagraph  
32 shall be made public within 24 hours of receipt, either through the  
33 internet or distribution or posting of portable document formats  
34 (PDFs) of the documents or summaries of the documents online.

35 (d) If the sum described in paragraph (1) of subdivision (c)  
36 exceeds forty-five thousand dollars (\$45,000) in a calendar quarter,  
37 the person described in Section 86115 shall file monthly reports  
38 pursuant to Section 86116 for the next 12 months.

39 (e) In addition to the requirements of subdivision (a), a lobbying  
40 firm shall also file a monthly report pursuant to Section 86114 for

1 any calendar month where the total amount of payments received  
2 for lobbying services exceeds fifteen thousand dollars (\$15,000).  
3 The monthly report required by this subdivision shall be filed  
4 during the first 15 days of the month following any qualifying  
5 calendar month.

6 (f) If the sum described in subdivision (e) exceeds forty-five  
7 thousand dollars (\$45,000) in a calendar quarter, the person  
8 described in Section 86115 shall file monthly reports for the next  
9 12 months.

10 (g) Regardless of the total amounts of payments made or  
11 received, any person described in Section 86115, or any lobbying  
12 firm, may elect to file monthly reports pursuant to subdivision (c)  
13 or (e). Notwithstanding subdivision (a), any person described in  
14 Section 86115, or any lobbying firm, that files monthly reports  
15 pursuant to subdivision (c) or (e) for each month of a calendar  
16 quarter shall not file a quarterly report covering that same period.

17 (h) When total amounts are required to be reported, totals shall  
18 be stated both for the period covered by the statement and for the  
19 entire legislative session to date.

20 SEC. 4. Section 86118 of the Government Code, as amended  
21 by Section 40 of Chapter 662 of the Statutes of 2018, is amended  
22 to read:

23 86118. (a) Reports required by Sections 86114 and 86116  
24 shall be filed online or electronically with the Secretary of State.

25 (b) Original documents may be signed and filed with electronic  
26 signatures.

27 SEC. 5. Section 86119 is added to the Government Code, to  
28 read:

29 86119. (a) (1) “Issue lobbying advertisement” as used in this  
30 chapter means any communication as described in Section 84501  
31 that is authorized and paid for, directly or indirectly, by a person  
32 described in Section 86115 and that refers to one or more clearly  
33 identified pending legislative or administrative actions and does  
34 any of the following:

35 (A) Solicits or urges persons other than the person described in  
36 Section 86115 to communicate directly with an elective state  
37 official, agency official, or legislative official for the primary  
38 purpose of attempting to influence state legislative or administrative  
39 action.

1 (B) Refers to a state legislative or administrative action and  
2 urges its defeat, amendment, postponement, enactment, or  
3 promulgation.

4 (2) The types of communications that may qualify as an issue  
5 lobbying advertisement include those described in Section 82041.5,  
6 subdivision (a) of Section 84501, subdivision (a) of Section  
7 84504.3, a prerecorded telephone call made to more than 200  
8 persons, a substantially similar email, text message, or other  
9 electronic communication that is sent to over 200 recipients, or  
10 any other substantially similar communication determined by  
11 regulations adopted by the commission.

12 (3) A pending legislative or administrative action is clearly  
13 identified if the communication states a legislative or administrative  
14 identification number, official title, or popular name associated  
15 with the action. In addition, the action is clearly identified if the  
16 communication refers to the subject matter of the action and either  
17 states that the measure is before an elective state official, agency  
18 official, or legislative official for a vote or decision or, taken as a  
19 whole and in context, unambiguously refers to the action.

20 (b) (1) An issue lobbying advertisement shall clearly and  
21 conspicuously indicate in the communication the person described  
22 in Section 86115 that authorized and paid for the communication  
23 as the source or payor of the communication. If the person who  
24 authorized and paid for the issue lobbying advertisement is a  
25 lobbying firm, the lobbyist employer on whose behalf the issue  
26 lobbying advertisement was authorized and paid for shall be  
27 disclosed in place of the lobbying firm.

28 (2) An issue lobbying advertisement complies with this  
29 subdivision if the communication does either of the following:

30 (A) Clearly and conspicuously identifies the person described  
31 in Section 86115 as the sender, broadcaster, or creator of the  
32 communication.

33 (B) Includes the words “Paid for by” or a ~~smaller~~ *similar* phrase  
34 followed by the name of the person.

35 (c) A copy of any issue lobbying advertisement which clearly  
36 identifies an elective state official, agency official, or legislative  
37 official shall be provided by mail, email, or hand delivery to that  
38 elective state official, agency official, or legislative official within  
39 72 hours of being communicated.



1 (d) (1) A person described in Section 86115 that incurs  
2 cumulative costs equal to or exceeding five thousand dollars  
3 (\$5,000) for issue lobbying advertisements in a calendar quarter  
4 shall file a report with the Secretary of State within 72 hours. The  
5 report shall be filed with the Secretary of State by online or  
6 electronic transmission only using the online filing system  
7 described in subdivision (b) of Section 84602.

8 (2) The cost of an issue lobbying advertisement shall include  
9 actual costs attributable to the communications, but shall not  
10 include the payment of salary for staff time.

11 (3) A report required by this subdivision shall include the  
12 following information:

13 (A) The dates or period of time that each issue lobbying  
14 advertisement was communicated.

15 (B) The legislative or administrative identification numbers  
16 associated with the legislative or administrative action that was  
17 the subject of the lobbying issue advertisement. If an action is not  
18 associated with an identification number, a short description of  
19 the subject matter of the action.

20 (C) For each legislative or administrative action for which there  
21 were issue lobbying advertisements, the position on the legislative  
22 or administrative action urged on the lobbying issue advertisement,  
23 which may include “support,” “oppose,” “support if amended,”  
24 “oppose unless amended,” “neutral seeking amendment,” or a  
25 similar short description.

26 (D) For each legislative or administrative action for which there  
27 were issue lobbying advertisements, the medium of the issue  
28 lobbying advertisements which referenced the action, which may  
29 include, for example, direct mail, text messages, television  
30 advertisements, radio advertisements, social media advertisements,  
31 search engine advertisements, or other online advertisements.

32 (E) For each legislative or administrative action for which there  
33 were issue lobbying advertisements, the cumulative cost of the  
34 issue lobbying advertisements they appear in. If an issue lobbying  
35 advertisement referenced more than one legislative or  
36 administrative action, then the cost of the advertisement for  
37 purposes of this paragraph shall be apportioned between those  
38 actions.

39 (F) Any other relevant information determined by regulations  
40 adopted by the commission.

1 (4) Issue lobbying advertisement costs shall be reported on  
2 subsequent periodic lobbying reports without regard to reports  
3 filed pursuant to this subdivision.

4 ~~(e) This section shall become operative on January 1, 2023.~~

5 ~~(f)~~

6 (e) The commission may, by regulation, increase the dollar  
7 amounts specified in this section.

8 SEC. 6. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.

17 SEC. 7. Sections 1 to 5 of this act shall not become operative  
18 until January 1, 2023.

19 SEC. 8. The Legislature finds and declares that this bill furthers  
20 the purposes of the Political Reform Act of 1974 within the  
21 meaning of subdivision (a) of Section 81012 of the Government  
22 Code.

# **COMMUNICATIONS**

## El Cerrito council procedures

Cordell Hindler <cordellhindler@ymail.com>

Sun 5/2/2021 3:58 PM

To: FCPC (Fair Campaign Practices Commission) <FCPC@cityofberkeley.info>

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

hello Sam, I have an Agenda that shows how the El Cerrito city council meetings proceed:

Each period for public comment will be announced. Public Comments may be submitted one of two ways:

- Via Zoom using the "Raise Hand" icon to request to speak. If joining by phone, dial \*9 to "raise your hand", and when prompted by the host, \*6 to unmute/mute.
- Via email to cityclerk@ci.el-cerrito.ca.us. Email must contain in the subject line Public Comments – Not on the Agenda or Public Comments – agenda item

Sincerely  
Cordell