

SENATE THIRD READING
SB 686 (Glazer)
As Amended August 24, 2021
2/3 vote

SUMMARY

Requires a limited liability company (LLC) that makes contributions or expenditures in connection with California elections to publicly disclose the identities of specified members of the LLC.

Major Provisions

- 1) Requires an LLC that qualifies as a committee or a sponsor of a committee pursuant to the Political Reform Act (PRA), as specified, to file a statement of members with the Secretary of State (SOS) that contains specified information. Requires the statement of members to include a list of the following members of the LLC:
 - a) Each person who has a membership interest in the LLC equal to or greater than 10% of the total outstanding membership interests; and,
 - b) Each person who made a cumulative capital contribution of \$10,000 or more to the LLC after it qualified as a committee or committee sponsor, or within the preceding 12 months before it qualified.
- 2) Requires an LLC to file its statement of members within 10 days of the LLC qualifying as a committee or committee sponsor, except as specified. Requires an LLC to amend its statement of members if it receives a capital contribution of \$10,000 or more after qualifying as a committee or sponsor of a committee.
- 3) Requires a statement of members to be filed by email with the SOS until the SOS makes that statement available for filing using its new online filing and disclosure system, as specified. Requires thereafter that any statement of members be filed online or electronically with the SOS. Requires the SOS to post all statements filed by email on its internet website within five business days, or within 48 hours if the statement is received during the last 16 days before an election.
- 4) Provides that if a member listed on an LLC's statement of members is itself an LLC, the statement shall list all members of that LLC who would be listed on a statement of members if the member LLC qualified as a committee or committee sponsor.

COMMENTS

According to information from the SOS, an LLC is a legal entity that generally offers liability protection similar to that of a corporation, but is taxed differently. To form an LLC in California, the organizers of the LLC must file articles of organization with the SOS. In those articles, the LLC must designate an agent and a manager, and list the name and address of both. An LLC must also indicate whether it is member-managed (i.e. managed by its investors) or manager-managed (i.e. professionally managed by an outsider). Many LLCs remain anonymous by appointing a professional agent and manager, such as an attorney or accountant, thereby never having to reveal their members or the sources of capital contributions (i.e. funding).

In February 2020, at the request of commissioners who had expressed concerns about the lack of meaningful disclosure of political activity by LLCs, Fair Political Practices Commission (FPPC) staff made a presentation to the FPPC that provided background on how existing campaign disclosure laws applied to politically-active LLCs, and that provided options on how to improve the disclosure of such political activity. Following that presentation, in June 2020, the FPPC adopted regulations that require the identity of the individual primarily responsible for approving an LLC's political activities to be disclosed on campaign statements or reports that disclose contributions or expenditures by the LLC. The FPPC also determined that requiring disclosure of the source of funds that LLCs use to make contributions and expenditures would require a statutory change.

A memo prepared by staff in connection with the FPPC's consideration of the regulations that it adopted notes that its enforcement staff "has identified a pattern in which LLCs, often formed shortly before an election, make large contributions and expenditures in California elections without the sources of the money ever being disclosed to the public in any meaningful way. This lack of information about the individuals responsible for the political activity conducted through LLCs makes investigation of suspicious activity extremely challenging and burdensome and leaves no way for the public to determine the source of LLC political activity."

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

Please see the policy committee analysis for a full discussion of this bill.

According to the Author

"SB 686 provides greater transparency and disclosure for limited liability companies that make political contributions. According to data from the SOS' Political Reform Division, there were 2,635 Major Donor and [independent expenditure] committees in 2019. Of those, 253 were LLCs. Additionally, a 2019 FPPC Enforcement Division examination of LLCs found that while it was relatively easy to find information about an LLC's type of business, its address, and its agent for service of process, it was extremely difficult and many times impossible to identify an LLC's owners or the true source of funds for an LLC's political expenditures.

"Californians deserve to know who is trying to influence their political process. This bill is a simple, yet meaningful, approach to provide clarity regarding political contributions that can oftentimes be murky."

Arguments in Support

In a support letter sent on a prior version of this bill, the sponsor of this bill, the FPPC, wrote, "Currently, limited liability companies can make large campaign contributions and expenditures in elections in the state without any meaningful disclosure to the public about the true source of those funds. Often, these LLCs are formed or purchased shortly before an election. SB 686 would require an LLC that qualifies as a committee or committee sponsor under the [PRA] to file a statement with the [SOS] that includes disclosure of certain members of the LLC. The changes made by this bill increase transparency in the political process by providing the public with more information about the individuals behind LLCs that engage in campaign spending. For this reason, the FPPC is pleased to sponsor SB 686."

Arguments in Opposition

None received.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, first year SOS General Fund costs of approximately \$560,000, and \$120,000 annually thereafter, to implement the provisions of the bill.

Ongoing annual FPPC General Fund costs of approximately \$120,000.

VOTES**SENATE FLOOR: 32-6-2**

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Bates, Borgeas, Dahle, Grove, Jones, Wilk

ABS, ABST OR NV: Melendez, Nielsen

ASM ELECTIONS: 6-1-0

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

NO: Seyarto

ASM APPROPRIATIONS: 12-4-0

YES: Lorena Gonzalez, Bryan, Calderon, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Kalra

NO: Bigelow, Megan Dahle, Davies, Fong

UPDATED

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