

LEGAL ALERTS | JAN 09, 2018

2018 California Public Agency Laws – Part I

Elections, Public Records Act, Revenue and Conflicts of Interest



The California Legislature was busy in 2017, which means plenty of laws passed in Sacramento that will impact public agencies. In this three-part series, Best Best & Krieger LLP gives a

comprehensive summary of the new laws that have specific importance to your work. We hope that you will contact us for further information or with any questions about these bills. All laws went into effect Jan. 1, unless otherwise noted.

Elections

AB 469 — Candidates: nomination documents. Current law requires a candidate for elective office to pay a prescribed filing fee or to submit, at least 15 days before the close of the nomination period, a petition containing signatures of registered voters in lieu of the filing fee. Instead, this measure requires a candidate to file an in-lieu-fee petition at least 30 days before the close of the nomination period. The bill strikes the authorization for a candidate to submit a supplemental petition to cover any deficiency, and permits the candidate to pay a pro rata portion of the filing fee. The bill also requires that the forms for securing signatures be made available 60 days before the first day for circulating nomination papers. Section 8106 of the Elections Code, relating to elections.

AB 765 — Local initiative measures: submission to the voters. This bill requires that the election for a county, municipal or district initiative measure that qualifies for the ballot be the next statewide or regular election, as applicable, unless the governing body calls a special election. Sections 1405, 9111, 9118, 9212, 9215 and 9310, and sections 9116, 9214 and 9311 of the Elections Code, relating to elections.

AB 840 — Elections: vote by email and provisional ballots. This measure

People



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permits a voter, who did not sign his/her vote by mail ballot identification envelope, to return a completed unsigned ballot statement by email. It also provides that the provisional ballots are not to be included when a public manual tally of the ballots tabulated by the voting system is performed. Sections 3019 and 15360 of the Elections Code, relating to elections.

AB 918 — California Voting for All Act. This measure imposes new duties on county elections officials and creates a state-mandated local program, intended to expand requirements to ensure availability and accessibility to ballots in languages other than English. Sections 4000.5, 4001.5, 4005, 12303, 14200, 14201 and 14282, and section 4005.6 and chapter 5 to division 13 of the Elections Code, relating to elections.

AB 1367 — Improper signature-gathering tactics. This bill makes it a crime, punishable by a fine not exceeding \$5,000 or imprisonment for up to one year, or both, for any entity in charge of a person who knowingly directs an affiant to make a false affidavit, or who knows or should have reasonably known that the affiant has made a false affidavit concerning an initiative, referendum, or recall petition or the signatures appended to an initiative, referendum or recall petition contain a false affidavit. Section 18660 of the Elections Code, relating to elections.

AB 1729 — Examination of petitions. This measure requires a county elections official to save referendum and initiative petitions until one year from the date that proponents of a measure last examined the petition. Section 6253.5 of the Government Code, relating to petitions.

SB 286 — Elections: voting. Permits vote-by-mail voters who are unable to surrender their vote-by-mail ballots to vote with a regular, non-provisional ballot under specified conditions. Various Sections of the Elections Code, relating to elections.

SB 568 — Primary elections: election date. This measure, beginning in 2019, changes the date of the statewide direct primary and the presidential primary to the first Tuesday after the first Monday in March and continues the requirement that those elections be consolidated. Sections 316, 340, 1000, 1001, 1201 and 1202 of the Elections Code.

Public Records Act

AB 119 — Personal email addresses of public employees. The California Public Records Act exempts from public inspection the home addresses, home telephone numbers, personal cellular telephone numbers and birth dates of all employees of public agencies, but authorizes disclosure of that information under specified circumstances. This bill extends that exemption to the personal

email addresses of public agency employees, unless the personal email address is used by the employee to conduct public business or is necessary to identify a person in an otherwise disclosable communication. Government Code section 6254.3, took effect in June 2017.

AB 459 — Public records: video or audio recordings of certain crimes.

This bill specifies that the California Public Records Act does not require disclosure of a video or audio recording that was created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence or child abuse that depicts the face, intimate body part, or voice of a victim of the incident depicted in the recording. The bill requires an agency to justify withholding such a video or audio recording by demonstrating that, on the facts of the particular case, the public interest served by not disclosing the recording clearly outweighs the public interest served by disclosure of the recording. The bill requires the agency to consider specified factors when balancing the public interests. The bill also authorizes a victim who is a subject of such a recording, the parent or legal guardian of a minor subject, a deceased subject's next of kin, or a subject's legally authorized designee, to be permitted to inspect the recording and to obtain a copy of the recording. Section 6254.4.5 to the Government Code, relating to public records.

AB 492 — Advertising and solicitations: government documents. This measure permits a nongovernmental entity to solicit a fee for providing a copy of a public record so long as the solicitation meets specific requirements set by the parent government agency. These requirements include, but are not limited to: including a prescribed statement declaring that the solicitation is an advertisement and not from a government agency, listing the fee charged by the relevant state or local agency that has custody of the record, and including the necessary information to contact the state or local agency that has custody of the record. Section 17533.6.5 to the Business and Professions Code, relating to government documents.

Revenue

AB 1194 — Local bond measures: tax rate statement. This bill requires that the fiscal statement that is to be included in the sample ballot for local bond measures include the best estimate from official sources of the average annual tax rate that are required to be levied to fund the bond issue over the entire duration of the bond debt service. It also requires the estimate to identify the final fiscal year in which the tax is anticipated to be collected. Section 9401 of the Elections Code, relating to elections.

SB 231 — Local government: fees and charges. Defines and adds the term "sewer" to the provisions of articles XIII C and XIII D of the California

Constitution (Proposition 218). Proposition 218 generally requires that assessments, fees and charges be adopted only after the provision of written notice to affected property owners and the holding of a public hearing. Existing law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with Proposition 218. This bill defines the term “sewer” for these purposes. Section 53750 of the Government Code, relating to local government finance.

SB 450 — Bonds: public notice. Existing law authorizes the governing body of a public body to authorize the issuance of bonds pursuant to a resolution, indenture, agreement or other instrument providing for the issuance of bonds. Existing law defines a “public body” to mean, among other entities, a county, city, or city and county. This bill, prior to authorization of the issuance of certain bonds, requires the governing body of a public body to obtain and disclose specified information regarding the bonds in a meeting open to the public. The bill requires the information to be obtained as a good faith estimate from an underwriter, financial advisor, or private lender or from a third party borrower, if the public body issuing bonds is a conduit financing provided. Government Code section 5852.1, relating to bonds.

Conflicts of Interest

AB 187 — Political Reform Act of 1974: local ballot measure contribution and expenditure reporting. This measure adds to the Political Reform Act of 1974 the requirement that all contributions of \$5,000 or more, made by a committee in support or opposition of a local initiative or referendum ballot measure, be disclosed in a campaign report. 84204.5 of the Government Code, relating to the Political Reform Act of 1974.

AB 551 — Political Reform Act of 1974: post-employment restrictions extended. This measure prohibits former local government officials who served as independent contractors from appearing before or communicating with their former agency for compensation. 87406.3 of the Government Code, relating to the Political Reform Act of 1974.

AB 867 — Political Reform Act of 1974. The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing and related matters, including campaign contributions. The Act requires that certain “behested” payments that are made principally for legislative, governmental, or charitable purposes be reported. This bill recasts the provisions that define the term “contribution” for purposes of the Act, including provisions describing behested payments that are not contributions, and the reporting requirements for behested payments. Sections 82015 and 85400, 82004.5, 82022.5, 82041.3 and 84224 to the Government Code, relating to the Political Reform Act of 1974.

SB 45 — Political Reform Act of 1974: mass mailing prohibition. This new law codifies the portion of the Political Reform Act of 1974 that prohibits sending mass mailings at public expense. The Act defines “mass mailing” as over 200 substantially similar pieces of mail not including form letters or other mail that is sent in response to an unsolicited request, letter, or other inquiry. An existing FPPC regulation prescribes criteria for mass mailings that are prohibited by the Act and for mass mailings that are permissible under the Act. The bill also prohibits a mass mailing from being sent within the 60 days preceding an election by or on behalf of a candidate whose name will appear on the ballot. Sections 89002 and 89003 to the Government Code, relating to the Political Reform Act of 1974.

SB 226 — Political Reform Action of 1974: slate mailers by public safety personnel. The Political Reform Action of 1974 regulates a type of mass mailings known as slate mailers that support or oppose multiple candidates or ballot measures for an election. This bill requires slate mailers and mass mailings to disclose on the mailing, in a specified format, whether or not the slate mailer organization who sent them represents the public safety personnel and, if so, how many. Section 84305.7 of the Government Code, relating to the Political Reform Act of 1974.

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