



April 16, 2019

The Honorable Lorena Gonzalez
Chair, Assembly Appropriations Committee
State Capitol, Room 2114
Sacramento, CA 95814

AB 1306 (C. Garcia) - OPPOSE
Assembly Appropriations Committee

Dear Assemblymember Gonzalez:

On behalf of the California School Boards Association (CSBA), which represents nearly 1,000 school district and county boards of education statewide, we respectfully oppose AB 1306 (C. Garcia) that is scheduled to be heard before the Assembly Appropriations Committee.

AB 1306 would amend the Political Reform Act of 1974 (PRA) to authorize the Fair Political Practices Commission (FPPC) to impose an administrative or civil penalty against an agency or individual for misuse of public money for “campaign activity.” The fines would be up to \$1,000 for each day on which the violation occurs, plus three times the value of the unlawful use of public resources.

It is not clear that AB 1306 is necessary to address misuse of public funds, given the existing enforcement mechanisms which authorize the three current entities, including the Attorney General, district attorneys, and city attorneys – any of which may bring civil action enforcing the prohibition.

The bill would give the FPPC enforcement authority over regulations that it should not have the authority to enact/enforce, which could result in overly broad enforcement. The bill defines campaign activity using Government Code Sections 82015 and 82025, which do not explicitly include the FPPC regulations. However, as the FPPC’s regulations are enacted in order to implement the PRA, the FPPC will presumably use the authority it seeks in AB 1306 to enforce its regulations as well.

The FPPC’s current regulations go beyond its authority. [FPPC Regulation section 18420.1](#) was implemented after the *Vargas v. City of Salinas* case in 2009, and makes television, electronic media, and radio spots *per se* violations of the prohibition on spending public dollars on advocacy. Under Regulation 18420.1, “a communication paid for with public moneys by a state or local governmental agency unambiguously urges a particular result in an election [if it] is clearly campaign material or campaign activity such as bumper stickers, billboards, door-to-door canvassing, or other mass media advertising including, but not limited to, television, electronic media or radio spots.”

CSBA has argued in the past that this regulation impermissibly tries to apply a legal standard that interprets a statute that is outside the jurisdiction of the FPPC. In 2008 and again in 2009, CSBA

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sent the FPPC an opposition letter to the adoption of Regulation 18420.1. In 2010, CSBA formally petitioned for rulemaking, asking the FPPC to rescind the regulation. Following the rejection of its rulemaking petition, CSBA was prepared to file a lawsuit against the FPPC seeking a judicial determination as to the validity of the regulation. That decision was tabled when CSBA was informed by the new Chair of the FPPC that the Commission enforcement staff would not be applying the regulation as part of its enforcement efforts. The FPPC had not enforced this regulation for nine years until recent action was brought against several public entities.

The California State Association of Counties (CSAC) and CSBA filed a lawsuit on August 3, 2018, challenging the FPPC regulation regarding such campaign activity being banned regardless of the content of the message. FPPC enforcement may in the future impact school boards that place measures on their local ballots and provide informational communications about the measures through television, electronic media or radio spots. The regulation is inconsistent with the express terms of the PRA, and thus exceeds the FPPC's regulatory authority. It is important that local governments have the freedom and ability to effectively communicate information with their constituents, and there have been major changes in the means and methods by which people communicate and receive information, including social media, television, etc.

Giving the FPPC enforcement authority over regulations they should not have the authority to implement could result in overly broad enforcement against CSBA members, and restrict school and county board members' ability to communicate information with their constituents

For these reasons, we oppose AB 1306 (C. Garcia) and ask for your "NO" vote when it comes before you in the Assembly Appropriations Committee. If you have questions regarding our position, please feel free to call me at (916) 669-3356 or email me at cide@csba.org.

Sincerely,



Cheryl Ide
Legislative Advocate
Office of Governmental Relations

cc: Members, Assembly Appropriations Committee
Assemblymember Christina Garcia
Natasha Collins, Principal Consultant, Assembly Appropriations Committee
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