

ASSEMBLY BILL

No. 1666

Introduced by Assembly Member Garcia

February 12, 2014

An act to amend Sections 83124 and 89513 of the Government Code, and to amend Section 86 of the Penal Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1666, as introduced, Garcia. Political Reform Act of 1974: campaign funds: bribery fines.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing and prohibits the use of campaign funds to pay or reimburse fines, penalties, judgments, or settlements, except as specified. Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties.

Existing law subjects any member of the Legislature or any member of the legislative body of a city, county, city and county, school district, or other special district who asks for or receives a bribe in exchange for influence over his or her official action to imprisonment in a state prison and imposes prescribed restitution fines based on whether a bribe has actually been received.

This bill would increase the restitution fines to twice the original amount and prohibit the use of campaign funds to pay for the restitution fines. By introducing a new prohibition, the violation of which would be a misdemeanor, the bill would create a crime, thereby imposing a state-mandated local program. The bill would also require the Fair Political Practices Commission to adjust the fine amounts on January

1 of each odd-numbered year to reflect any increase or decrease in the Consumer Price Index.

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 2/3 vote of each house and compliance with specified procedural requirements.

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

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 83124 of the Government Code is
2 amended to read:

3 83124. The commission shall adjust the contribution limitations
4 and voluntary expenditure limitations provisions in Sections 85301,
5 85302, 85303, and 85400 *and the fine amounts specified in Section*
6 *86 of the Penal Code* in January of every odd-numbered year to
7 reflect any increase or decrease in the Consumer Price Index. Those
8 adjustments shall be rounded to the nearest one hundred dollars
9 (\$100) for limitations on contributions ~~and~~, one thousand dollars
10 (\$1,000) for limitations on expenditures, *and ten dollars (\$10) for*
11 *fine amounts.*

12 SEC. 2. Section 89513 of the Government Code is amended
13 to read:

14 89513. This section governs the use of campaign funds for the
15 specific expenditures set forth in this section. It is the intent of the
16 Legislature that this section shall guide the interpretation of the
17 standard imposed by Section 89512 as applied to other expenditures
18 not specifically set forth in this section.

19 (a) (1) Campaign funds shall not be used to pay or reimburse
20 the candidate, the elected officer, or any individual or individuals
21 with authority to approve the expenditure of campaign funds held
22 by a committee, or employees or staff of the committee or the
23 elected officer’s governmental agency for travel expenses and

1 necessary accommodations except when these expenditures are
2 directly related to a political, legislative, or governmental purpose.

3 (2) For the purposes of this section, payments or reimbursements
4 for travel and necessary accommodations shall be considered as
5 directly related to a political, legislative, or governmental purpose
6 if the payments would meet standards similar to the standards of
7 the Internal Revenue Service pursuant to Sections 162 and 274 of
8 the Internal Revenue Code for deductions of travel expenses under
9 the federal income tax law.

10 (3) For the purposes of this section, payments or reimbursement
11 for travel by the household of a candidate or elected officer when
12 traveling to the same destination in order to accompany the
13 candidate or elected officer shall be considered for the same
14 purpose as the candidate's or elected officer's travel.

15 (4) Whenever campaign funds are used to pay or reimburse a
16 candidate, elected officer, his or her representative, or a member
17 of the candidate's household for travel expenses and necessary
18 accommodations, the expenditure shall be reported as required by
19 Section 84211.

20 (5) Whenever campaign funds are used to pay or reimburse for
21 travel expenses and necessary accommodations, any mileage credit
22 that is earned or awarded pursuant to an airline bonus mileage
23 program shall be deemed personally earned by or awarded to the
24 individual traveler. Neither the earning or awarding of mileage
25 credit, nor the redeeming of credit for actual travel, shall be subject
26 to reporting pursuant to Section 84211.

27 (b) (1) Campaign funds shall not be used to pay for or reimburse
28 the cost of professional services unless the services are directly
29 related to a political, legislative, or governmental purpose.

30 (2) Expenditures by a committee to pay for professional services
31 reasonably required by the committee to assist it in the performance
32 of its administrative functions are directly related to a political,
33 legislative, or governmental purpose.

34 (3) Campaign funds shall not be used to pay health-related
35 expenses for a candidate, elected officer, or any individual or
36 individuals with authority to approve the expenditure of campaign
37 funds held by a committee, or members of his or her household.
38 "Health-related expenses" includes, but is not limited to,
39 examinations by physicians, dentists, psychiatrists, psychologists,
40 or counselors, expenses for medications, treatments or medical

1 equipment, and expenses for hospitalization, health club dues, and
2 special dietary foods. However, campaign funds may be used to
3 pay employer costs of health care benefits of a bona fide employee
4 or independent contractor of the committee.

5 (c) (1) Campaign funds shall not be used to pay or reimburse
6 fines, penalties, judgments, or settlements, except those resulting
7 from either of the following:

8 ~~(1)~~

9 (A) Parking citations incurred in the performance of an activity
10 that was directly related to a political, legislative, or governmental
11 purpose.

12 ~~(2)~~

13 (B) Any other action for which payment of attorney's fees from
14 contributions would be permitted pursuant to this title.

15 (2) *Campaign funds shall not be used to pay a restitution fine*
16 *imposed under Section 86 of the Penal Code.*

17 (d) Campaign funds shall not be used for campaign, business,
18 or casual clothing except specialty clothing that is not suitable for
19 everyday use, including, but not limited to, formal wear, if this
20 attire is to be worn by the candidate or elected officer and is directly
21 related to a political, legislative, or governmental purpose.

22 (e) (1) Except where otherwise prohibited by law, campaign
23 funds may be used to purchase or reimburse for the costs of
24 purchase of tickets to political fundraising events for the attendance
25 of a candidate, elected officer, or his or her immediate family, or
26 an officer, director, employee, or staff of the committee or the
27 elected officer's governmental agency.

28 (2) Campaign funds shall not be used to pay for or reimburse
29 for the costs of tickets for entertainment or sporting events for the
30 candidate, elected officer, or members of his or her immediate
31 family, or an officer, director, employee, or staff of the committee,
32 unless their attendance at the event is directly related to a political,
33 legislative, or governmental purpose.

34 (3) The purchase of tickets for entertainment or sporting events
35 for the benefit of persons other than the candidate, elected officer,
36 or his or her immediate family are governed by subdivision (f).

37 (f) (1) Campaign funds shall not be used to make personal gifts
38 unless the gift is directly related to a political, legislative, or
39 governmental purpose. The refund of a campaign contribution
40 does not constitute the making of a gift.

1 (2) Nothing in this section shall prohibit the use of campaign
2 funds to reimburse or otherwise compensate a public employee
3 for services rendered to a candidate or committee while on
4 vacation, leave, or otherwise outside of compensated public time.

5 (3) An election victory celebration or similar campaign event,
6 or gifts with a total cumulative value of less than two hundred fifty
7 dollars (\$250) in a single year made to an individual employee, a
8 committee worker, or an employee of the elected officer's agency,
9 are considered to be directly related to a political, legislative, or
10 governmental purpose. For purposes of this paragraph, a gift to a
11 member of a person's immediate family shall be deemed to be a
12 gift to that person.

13 (g) Campaign funds shall not be used to make loans other than
14 to organizations pursuant to Section 89515, or, unless otherwise
15 prohibited, to a candidate for elective office, political party, or
16 committee.

17 SEC. 3. Section 86 of the Penal Code is amended to read:

18 86. Every Member of either house of the Legislature, or any
19 member of the legislative body of a city, county, city and county,
20 school district, or other special district, who asks, receives, or
21 agrees to receive, any bribe, upon any understanding that his or
22 her official vote, opinion, judgment, or action shall be influenced
23 thereby, or shall give, in any particular manner, or upon any
24 particular side of any question or matter upon which he or she may
25 be required to act in his or her official capacity, or gives, or offers
26 or promises to give, any official vote in consideration that another
27 Member of the Legislature, or another member of the legislative
28 body of a city, county, city and county, school district, or other
29 special district shall give this vote either upon the same or another
30 question, is punishable by imprisonment in the state prison for
31 two, three, or four years and, in cases in which no bribe has been
32 actually received, by a restitution fine of not less than ~~two thousand~~
33 ~~dollars (\$2,000)~~ *four thousand dollars (\$4,000)* or not more than
34 ~~ten thousand dollars (\$10,000)~~ *twenty thousand dollars (\$20,000)*
35 or, in cases in which a bribe was actually received, by a restitution
36 fine of at least the actual amount of the bribe received or ~~two~~
37 ~~thousand dollars (\$2,000)~~ *four thousand dollars (\$4,000)*,
38 whichever is greater, or any larger amount of not more than double
39 the amount of any bribe received or ~~ten thousand dollars (\$10,000)~~
40 *twenty thousand dollars (\$20,000)*, whichever is greater.

1 In imposing a fine under this section, the court shall consider
2 the defendant's ability to pay the fine.

3 SEC. 4. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 SEC. 5. The Legislature finds and declares that this bill furthers
13 the purposes of the Political Reform Act of 1974 within the
14 meaning of subdivision (a) of Section 81012 of the Government
15 Code.