

AMENDED IN ASSEMBLY MARCH 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1673**

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**Introduced by Assembly Member Garcia**

February 12, 2014

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An act to amend Section ~~10100~~ of the Elections Code, relating to ~~elections~~. *82015 of the Government Code, relating to the Political Reform Act of 1974.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1673, as amended, Garcia. ~~Elections: nomination papers. Political Reform Act of 1974: contributions.~~

*Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. "Contribution" is defined for purposes of the act as a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes. The definition does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are \$500 or less.*

*This bill would revise the definition of "contribution" to exclude a lobbyist, lobbying firm, or lobbyist employer from the exemption authorizing a payment of \$500 or less by the occupant of a home for costs related to a meeting or fundraising event at the home, thereby*

*making those payments by a lobbyist, firm, or lobbyist employer a contribution for purposes of the act.*

*A violation of the act’s provisions is punishable as a misdemeanor. By expanding the scope of an existing crime, 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 2/3 vote of each house and compliance with specified procedural requirements.*

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

~~Existing law authorizes a county elections official, when he or she is required to examine the signatures upon any nomination paper or petition of a candidate for municipal office, to employ necessary help for the examination.~~

~~This bill would make a technical, nonsubstantive change to those provisions:~~

~~Vote: majority 2/3. Appropriation: no. Fiscal committee: no-yes. State-mandated local program: no-yes.~~

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

- 1 SECTION 1. Section 82015 of the Government Code is
- 2 amended to read:
- 3 82015. (a) “Contribution” means a payment, a forgiveness of
- 4 a loan, a payment of a loan by a third party, or an enforceable
- 5 promise to make a payment, except to the extent that full and
- 6 adequate consideration is received, unless it is clear from the
- 7 surrounding circumstances that it is not made for political purposes.
- 8 (b) (1) A payment made at the behest of a committee as defined
- 9 in subdivision (a) of Section 82013 is a contribution to the
- 10 committee, unless full and adequate consideration is received from
- 11 the committee for making the payment.

1 (2) A payment made at the behest of a candidate is a contribution  
2 to the candidate, unless the criteria in either subparagraph (A) or  
3 (B) are satisfied:

4 (A) Full and adequate consideration is received from the  
5 candidate.

6 (B) It is clear from the surrounding circumstances that the  
7 payment was made for purposes unrelated to his or her candidacy  
8 for elective office. The following types of payments are presumed  
9 to be for purposes unrelated to a candidate's candidacy for elective  
10 office:

11 (i) A payment made principally for personal purposes, in which  
12 case it may be considered a gift under the provisions of Section  
13 82028. Payments that are otherwise subject to the limits of Section  
14 86203 are presumed to be principally for personal purposes.

15 (ii) A payment made by a state, local, or federal governmental  
16 agency or by a nonprofit organization that is exempt from taxation  
17 under Section 501(c)(3) of the Internal Revenue Code.

18 (iii) A payment not covered by clause (i), made principally for  
19 legislative, governmental, or charitable purposes, in which case it  
20 is neither a gift nor a contribution. However, payments of this type  
21 that are made at the behest of a candidate who is an elected officer  
22 shall be reported within 30 days following the date on which the  
23 payment or payments equal or exceed five thousand dollars  
24 (\$5,000) in the aggregate from the same source in the same  
25 calendar year in which they are made. The report shall be filed by  
26 the elected officer with the elected officer's agency and shall be  
27 a public record subject to inspection and copying pursuant to  
28 subdivision (a) of Section 81008. The report shall contain the  
29 following information: name of payor, address of payor, amount  
30 of the payment, date or dates the payment or payments were made,  
31 the name and address of the payee, a brief description of the goods  
32 or services provided or purchased, if any, and a description of the  
33 specific purpose or event for which the payment or payments were  
34 made. Once the five-thousand-dollar (\$5,000) aggregate threshold  
35 from a single source has been reached for a calendar year, all  
36 payments for the calendar year made by that source ~~must~~ shall be  
37 disclosed within 30 days after the date the threshold was reached  
38 or the payment was made, whichever occurs later. Within 30 days  
39 after receipt of the report, state agencies shall forward a copy of  
40 these reports to the Fair Political Practices Commission, and local

1 agencies shall forward a copy of these reports to the officer with  
2 whom elected officers of that agency file their campaign  
3 statements.

4 (C) For purposes of subparagraph (B), a payment is made for  
5 purposes related to a candidate’s candidacy for elective office if  
6 all or a portion of the payment is used for election-related activities.  
7 For purposes of this subparagraph, “election-related activities”  
8 shall include, but are not limited to, the following:

9 (i) Communications that contain express advocacy of the  
10 nomination or election of the candidate or the defeat of his or her  
11 opponent.

12 (ii) Communications that contain reference to the candidate’s  
13 candidacy for elective office, the candidate’s election campaign,  
14 or the candidate’s or his or her opponent’s qualifications for  
15 elective office.

16 (iii) Solicitation of contributions to the candidate or to third  
17 persons for use in support of the candidate or in opposition to his  
18 or her opponent.

19 (iv) Arranging, coordinating, developing, writing, distributing,  
20 preparing, or planning of any communication or activity described  
21 in clause (i), (ii), or (iii).

22 (v) Recruiting or coordinating campaign activities of campaign  
23 volunteers on behalf of the candidate.

24 (vi) Preparing campaign budgets.

25 (vii) Preparing campaign finance disclosure statements.

26 (viii) Communications directed to voters or potential voters as  
27 part of activities encouraging or assisting persons to vote if the  
28 communication contains express advocacy of the nomination or  
29 election of the candidate or the defeat of his or her opponent.

30 (D) A contribution made at the behest of a candidate for a  
31 different candidate or to a committee not controlled by the  
32 behesting candidate is not a contribution to the behesting candidate.

33 (3) A payment made at the behest of a member of the Public  
34 Utilities Commission, made principally for legislative,  
35 governmental, or charitable purposes, is not a contribution.  
36 However, payments of this type shall be reported within 30 days  
37 following the date on which the payment or payments equal or  
38 exceed five thousand dollars (\$5,000) in the aggregate from the  
39 same source in the same calendar year in which they are made.  
40 The report shall be filed by the member with the Public Utilities

1 Commission and shall be a public record subject to inspection and  
2 copying pursuant to subdivision (a) of Section 81008. The report  
3 shall contain the following information: name of payor, address  
4 of payor, amount of the payment, date or dates the payment or  
5 payments were made, the name and address of the payee, a brief  
6 description of the goods or services provided or purchased, if any,  
7 and a description of the specific purpose or event for which the  
8 payment or payments were made. Once the five-thousand-dollar  
9 (\$5,000) aggregate threshold from a single source has been reached  
10 for a calendar year, all payments for the calendar year made by  
11 that source ~~must~~ shall be disclosed within 30 days after the date  
12 the threshold was reached or the payment was made, whichever  
13 occurs later. Within 30 days after receipt of the report, the Public  
14 Utilities Commission shall forward a copy of these reports to the  
15 Fair Political Practices Commission.

16 (c) "Contribution" includes the purchase of tickets for events  
17 such as dinners, luncheons, rallies, and similar fundraising events;  
18 the candidate's own money or property used on behalf of his or  
19 her candidacy other than personal funds of the candidate used to  
20 pay either a filing fee for a declaration of candidacy or a candidate  
21 statement prepared pursuant to Section 13307 of the Elections  
22 Code; the granting of discounts or rebates not extended to the  
23 public generally or the granting of discounts or rebates by television  
24 and radio stations and newspapers not extended on an equal basis  
25 to all candidates for the same office; the payment of compensation  
26 by any person for the personal services or expenses of any other  
27 person if the services are rendered or expenses incurred on behalf  
28 of a candidate or committee without payment of full and adequate  
29 consideration.

30 (d) "Contribution" further includes any transfer of anything of  
31 value received by a committee from another committee, unless  
32 full and adequate consideration is received.

33 (e) "Contribution" does not include amounts received pursuant  
34 to an enforceable promise to the extent those amounts have been  
35 previously reported as a contribution. However, the fact that those  
36 amounts have been received shall be indicated in the appropriate  
37 campaign statement.

38 (f) (1) "Contribution" does not include a payment made by an  
39 occupant of ~~a home or~~ an office for costs related to any meeting  
40 or fundraising event held in the occupant's ~~home or~~ office if the

1 costs for the meeting or fundraising event are five hundred dollars  
 2 (\$500) or less.

3 (2) “Contribution” does not include a payment made by an  
 4 occupant of a home who is not a lobbyist, lobbying firm, or lobbyist  
 5 employer for costs related to any meeting or fundraising event  
 6 held in the occupant’s home if the costs for the meeting or  
 7 fundraising event are five hundred dollars (\$500) or less.

8 (g) Notwithstanding the foregoing definition of “contribution,”  
 9 the term does not include volunteer personal services or payments  
 10 made by any individual for his or her own travel expenses if the  
 11 payments are made voluntarily without any understanding or  
 12 agreement that they shall be, directly or indirectly, repaid to him  
 13 or her.

14 (h) “Contribution” further includes the payment of public  
 15 moneys by a state or local governmental agency for a  
 16 communication to the public that satisfies both of the following:

17 (1) The communication expressly advocates the election or  
 18 defeat of a clearly identified candidate or the qualification, passage,  
 19 or defeat of a clearly identified measure, or, taken as a whole and  
 20 in context, unambiguously urges a particular result in an election.

21 (2) The communication is made at the behest of the affected  
 22 candidate or committee.

23 *SEC. 2. No reimbursement is required by this act pursuant to*  
 24 *Section 6 of Article XIII B of the California Constitution because*  
 25 *the only costs that may be incurred by a local agency or school*  
 26 *district will be incurred because this act creates a new crime or*  
 27 *infraction, eliminates a crime or infraction, or changes the penalty*  
 28 *for a crime or infraction, within the meaning of Section 17556 of*  
 29 *the Government Code, or changes the definition of a crime within*  
 30 *the meaning of Section 6 of Article XIII B of the California*  
 31 *Constitution.*

32 *SEC. 3. The Legislature finds and declares that this bill furthers*  
 33 *the purposes of the Political Reform Act of 1974 within the meaning*  
 34 *of subdivision (a) of Section 81012 of the Government Code.*

35 ~~SECTION 1. Section 10100 of the Elections Code is amended~~  
 36 ~~to read:~~

37 ~~10100. Whenever the county elections official is required to~~  
 38 ~~examine the signatures upon any nomination paper or petition of~~  
 39 ~~a candidate for a municipal office, he or she may employ necessary~~  
 40 ~~help for the examination. The cost shall be paid by the city.~~

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