

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2318

Introduced by Assembly Member Low

February 18, 2016

An act to ~~amend Sections 54964.5 and 54964.6 of~~ *add Sections 84311 and 84312 to, and to repeal Section 54964.6 of,* the Government Code, relating to ~~campaign activity: the Political Reform Act of 1974.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2318, as amended, Low. *Political Reform Act of 1974*: Fair Political Practices Commission: enforcement: use of public resources.

(1) ~~Existing law prohibits the use of public funds for campaign activities. Existing law prohibits a nonprofit organization or an officer, employee, or agent of a nonprofit organization from using, or permitting another to use, public resources received from a local agency for any campaign activity, as defined, and activity not authorized by law. Existing law defines, among other terms, "public resources" to mean any property or asset owned by a local agency and funds received by a nonprofit organization which have been generated from any activities related to conduit bond financing by those entities subject to specified conduit financing and transparency and accountability provisions, and "nonprofit organization" to mean an entity incorporated under the Nonprofit Corporation Law or a nonprofit organization that qualifies for exempt status under the federal Internal Revenue Code of 1986, except as specified. Existing law authorizes a civil cause of action for a violation of these prohibitions and damages that include, but are not limited to, 3 times the value of the unlawful use of the public resources. Existing law authorizes the Attorney General, a district attorney, and a~~

city attorney of a city having a population in excess of 750,000 to seek these civil remedies. Existing law authorizes the Attorney General, any district attorney, or any city attorney of a city with a population over 750,000 to bring a civil action to recover a civil penalty against any person who intentionally or negligently violates that prohibition.

The Political Reform Act of 1974 regulates contributions to public officials and also regulates conflicts of interests on the part of public officials while carrying out their respective duties. The act establishes the Fair Political Practices Commission as the agency responsible for administering and enforcing the act. The act authorizes the Commission to seek and impose administrative and civil penalties against persons who violate the act, as prescribed. The act makes a willful violation of its provisions a misdemeanor subject to specified penalties.

This bill ~~additionally~~ would restate the prohibition on the use of public resources described above within the Political Reform Act of 1974 and would also authorize the Fair Political Practices Commission to bring a civil action ~~or to commence an administrative action for violation of these provisions~~ to recover the civil penalty, as described above. The bill would authorize the Commission to investigate, hold an administrative hearing on, and issue an order against a violator of the prohibition on the use of public resources for campaign activity, instead of commencing a civil action.

(2) Existing law requires qualifying individuals and political organizations to report specified information, including, but not limited to, political contributions, in statements filed with the Fair Political Practices Commission. Existing law requires a reporting nonprofit organization that engages in campaign activity to deposit into a separate bank account all ~~“specific source or sources of funds”~~ funds it receives and to pay for all campaign activity from that separate bank account. Existing law ~~defines, among other terms, defines~~ “reporting nonprofit organization” ~~to mean as~~ a nonprofit organization for which public resources from one or more local agencies account for more than 20% of the nonprofit organization’s annual gross revenue, as specified, and ~~defines~~ “specific source or sources of funds” ~~to mean as~~ any funds received by the reporting nonprofit organization that have been designated for campaign activity use or any other funds received by the nonprofit ~~organization~~ organization that are used for campaign activity.

Existing law requires a reporting nonprofit organization that engages in campaign activity of specified amounts or more to periodically disclose to the Franchise Tax Board, and post on its Internet Web site

in a certain manner, the identity and amount of each specific source or sources of funds it receives for campaign activity, a description of the campaign activity, and the identity and amount of payments the organization makes from the required separate bank account. Existing law ~~authorizes~~ *authorizes, and in some instances requires*, the Franchise Tax Board to ~~conduct an audit of any~~ *audit a* reporting nonprofit organization and ~~requires the board to conduct an audit of any reporting nonprofit organization that engages in campaign activity in excess of \$500,000 in a calendar year. Existing law~~ *organization*, requires the board to issue a written audit ~~report~~ *report*, and ~~requires the board to~~ *requires the board to* transmit the *audit* report to the Attorney General and the district attorney for the county in which the reporting nonprofit organization is domiciled. Existing law authorizes the Attorney General or the district attorney for the county in which the reporting nonprofit organization is domiciled to ~~assess~~ *impose* a monetary civil penalty of up to \$10,000 against a reporting nonprofit organization for ~~each violation of these disclosure requirements: misusing public resources received from a local agency, as described in (1), for failing to maintain the separate bank account, or for not complying with the disclosure requirements described above.~~

This bill would *recast and relocate those provisions within the Political Reform Act of 1974, thereby making the Fair Political Practices Commission responsible for their administration and enforcement, except as specified. The bill would change the term “reporting nonprofit organization” to “publicly funded multipurpose organization,” described defined as a multipurpose organization—as defined in the Political Reform Act for which public resources from one or more local agencies account for more than 20% of the multipurpose organization’s annual gross revenue, as specified. This* ~~This~~ *The bill would redefine “specific source or sources of funds” to mean as payments or funds that meet specified criteria received by the publicly funded multipurpose organization from donors that are for, or may be used for, contributions or expenditures, as specified, or any other funds received by the publicly funded multipurpose organization within a two-year 2-year period that are used for campaign activity. This bill would shift the Franchise Tax Board’s authority and duties under these provisions to the Fair Political Practices Commission and would authorize the Fair Political Practices Commission, Commission, in addition to the Attorney General or the district attorney, to impose the monetary civil penalty of up to \$10,000 against a publicly funded multipurpose organization for each violation. organization.*

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.

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

State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 54964.6 of the Government Code is
2 repealed.

3 ~~54964.6. (a) A reporting nonprofit organization that engages~~
4 ~~in campaign activity, either directly or through the control of~~
5 ~~another entity, shall deposit into a separate bank account all specific~~
6 ~~source or sources of funds received and shall pay for all campaign~~
7 ~~activity from that separate bank account.~~

8 ~~(b) As used in this section, the following terms shall have the~~
9 ~~following meanings:~~

10 ~~(1) “Reporting nonprofit organization” means a nonprofit~~
11 ~~organization for which public resources from one or more local~~
12 ~~agencies account for more than 20 percent of the nonprofit~~
13 ~~organization’s annual gross revenue in the current fiscal year or~~
14 ~~either of the previous two fiscal years. A reporting nonprofit~~
15 ~~organization shall not include a nonprofit organization that sponsors~~
16 ~~a committee, as defined in Section 82048.7 of the Government~~
17 ~~Code, if the nonprofit organization reports all contributions it~~
18 ~~received and all expenditures it made on campaign disclosure~~
19 ~~statements filed by the sponsored committee and the nonprofit~~
20 ~~organization makes no payments from its general treasury to the~~
21 ~~sponsored committee other than payments for contributions by~~
22 ~~donors earmarked for the sponsored committee. For purposes of~~

1 this subdivision, “earmarked” means a payment by a donor to a
2 nonprofit organization subject to a condition, agreement, or
3 understanding that the payment will be used for making
4 contributions or independent expenditures by the sponsored
5 committee of the sponsoring nonprofit organization.

6 (2) “Specific source or sources of funds” shall mean any funds
7 received by the reporting nonprofit organization that have been
8 designated for campaign activity use or any other funds received
9 by the nonprofit organization that are used, in whole or in part,
10 within a two-year period from receipt for campaign activity.

11 (3) Unless otherwise defined herein, the definitions found in
12 subdivision (b) of Section 54964.5 shall apply to this section.

13 (e) Thirty days after the end of each quarter, a reporting
14 nonprofit organization that engages in campaign activity of fifty
15 thousand dollars (\$50,000) or more related to statewide candidates
16 or ballot measures or engages in campaign activity of two thousand
17 five hundred dollars (\$2,500) or more related to local candidates
18 or ballot measures, either directly or through the control of another
19 entity, at any point during that quarter shall disclose the following
20 information for that quarter:

21 (1) The name and amount of each specific source or sources of
22 funds used for campaign activity, provided that the aggregate
23 amount of funds received since January 1 of the most recent odd
24 year by a reporting nonprofit organization from that specific source
25 or sources of funds is at least two hundred fifty dollars (\$250).

26 (2) The name of the payee and amount of all payments
27 aggregating two hundred fifty dollars (\$250) or more made from
28 the single bank account required under subdivision (a).

29 (3) A description of each campaign activity.

30 (d) Thirty days after the end of each even year, a reporting
31 nonprofit organization that engages in campaign activity of one
32 hundred thousand (\$100,000) or more related to statewide
33 candidates or ballot measures or engages in campaign activity of
34 ten thousand dollars (\$10,000) or more related to local candidates
35 or ballot measures, either directly or through the control of another
36 entity, at any point during that even year or the prior odd year shall
37 disclose all the following information for those two calendar years:

38 (1) The name and amount of any specific source or sources of
39 funds used for campaign activity, provided that the aggregate
40 amount of funds received since January 1 of the most recent odd

1 year by a reporting nonprofit organization from that specific source
 2 or sources of funds is at least two hundred fifty dollars (\$250).
 3 (2) ~~The name of the payee and amount of all payments made~~
 4 ~~from the single bank account required under subdivision (a).~~
 5 (3) ~~A description of each campaign activity.~~
 6 (e) ~~Each reporting nonprofit organization that engages in~~
 7 ~~campaign activity, either directly or through the control of another~~
 8 ~~entity, shall provide to the Franchise Tax Board and display on its~~
 9 ~~Internet Web site the information it is required to disclose under~~
 10 ~~this section. The information shall be clearly described and~~
 11 ~~identified on a separate Internet Web page, which shall be linked~~
 12 ~~from the homepage of the organization's Internet Web site. The~~
 13 ~~link to this Internet Web page from the homepage shall be as visible~~
 14 ~~as all similar links.~~
 15 (f) ~~The Franchise Tax Board may conduct an audit of any~~
 16 ~~reporting nonprofit organization that is required to provide records~~
 17 ~~to the board pursuant to this section. The Franchise Tax Board~~
 18 ~~shall conduct an audit of any reporting nonprofit organization that~~
 19 ~~engages in campaign activity in excess of five hundred thousand~~
 20 ~~dollars (\$500,000) in a calendar year. The reporting nonprofit~~
 21 ~~organization shall provide records to the Franchise Tax Board that~~
 22 ~~substantiate the information required to be disclosed by this section.~~
 23 ~~The Franchise Tax Board shall determine whether the organization~~
 24 ~~complied with the requirements of Section 54964.5 and this section,~~
 25 ~~issue a written audit report, and transmit the written audit report~~
 26 ~~to the Attorney General and the district attorney for the county in~~
 27 ~~which the reporting nonprofit organization is domiciled.~~
 28 (g) ~~If the Franchise Tax Board determines at the conclusion of~~
 29 ~~an audit that a reporting nonprofit organization has violated Section~~
 30 ~~54964.5 or this section, the Attorney General or the district attorney~~
 31 ~~for the county in which the reporting nonprofit organization is~~
 32 ~~domiciled may impose a civil fine upon the reporting nonprofit~~
 33 ~~organization in an amount up to ten thousand dollars (\$10,000)~~
 34 ~~for each violation.~~
 35 *SEC. 2. Section 84311 is added to the Government Code, to*
 36 *read:*
 37 *84311. (a) A nonprofit organization or an officer, employee,*
 38 *or agent of a nonprofit organization shall not use, or permit*
 39 *another to use, public resources, received from any local agency*
 40 *for any campaign activity not authorized by law.*

1 (b) As used in this section and Section 84312, the following
2 terms shall have the following meanings:

3 (1) “Ballot measure” means a state or local initiative,
4 referendum, or recall measure certified to appear on a regular or
5 special election ballot or other measure submitted to the voters
6 by the Legislature or the governing body at a regular or special
7 election.

8 (2) (A) “Campaign activity” means a payment that is used for
9 communications that expressly advocate for or against the
10 qualification of a clearly identified ballot measure, the approval
11 or rejection of a clearly identified ballot measure, or the election
12 or defeat of a clearly identified candidate by the voters, or that
13 constitutes a campaign contribution.

14 (B) “Campaign activity” does not include any of the following:

15 (i) The costs of adopting a position or resolution supporting or
16 opposing a clearly identified ballot measure or candidate,
17 including, but not limited to, posting the position or resolution on
18 the nonprofit organizations’ Internet Web site, communicating the
19 position or resolution to members of the nonprofit organization,
20 or issuing a press statement.

21 (ii) Incidental or minimal use of public resources.

22 (iii) Incidental costs related to the establishment or
23 administration of a sponsored committee, as defined in Section
24 82048.7. A reasonable accounting method may be used to
25 determine the use of nonpublic resources to pay for that cost. For
26 purposes of this subparagraph, “establishment and administration”
27 means the cost of office space, telephones, salaries, utilities,
28 supplies, legal and accounting fees, and other expenses incurred
29 in establishing and operating a sponsored committee.

30 (3) “Candidate” means an individual who has qualified to have
31 his or her name listed on the ballot, or who has qualified to have
32 write-in votes on his or her behalf counted by elections officials,
33 for nomination or election to an elective office at any regular or
34 special primary or general election, and includes any officeholder
35 who is the subject of a recall election.

36 (4) “Expenditure” means a payment used for communications
37 that expressly advocate the approval or rejection of a clearly
38 identified ballot measure, or the election or defeat of a clearly
39 identified candidate, by the voters, or that constitutes a campaign
40 contribution.

1 (5) “Local agency” has the same meaning as that term is defined
2 in paragraph (4) of subdivision (b) of Section 54964 and shall also
3 include a public entity created pursuant to the Joint Exercise of
4 Powers Act (Chapter 5 (commencing with Section 6500) of Division
5 7 of Title 1) by one or more entities described in Section 54964.

6 (6) “Nonprofit organization” means an entity incorporated
7 under the Nonprofit Corporation Law (Division 2 (commencing
8 with Section 5000) of Title 1 of the Corporations Code) or a
9 nonprofit organization that qualifies for exempt status under
10 Section 115 of 501(c) of the federal Internal Revenue Code.
11 “Nonprofit organization” does not include a nonprofit organization
12 that qualifies for tax-exempt status under Section 501(c)(3) of the
13 federal Internal Revenue Code.

14 (7) “Public resources” means either of the following:

15 (A) Any property or asset owned by a local agency, including,
16 but not limited to, cash, land, buildings, facilities, funds, equipment,
17 supplies, telephones, computers, vehicles, travel, and local
18 government compensated work time that is provided to a nonprofit
19 organization, except funds received in exchange for consideration
20 for goods or services.

21 (B) Funds received by a nonprofit organization that have been
22 generated from any activities related to conduit bond financing
23 by those entities subject to the conduit financing and transparency
24 and accountability provision of Chapter 10.7 (commencing with
25 Section 5870) of Division 6 of Title 1, whether or not those funds
26 are received by the nonprofit organization in exchange for
27 consideration for goods or services.

28 (8) “Use” means a use of public resources from one or more
29 local agencies that is substantial enough to result in a gain or
30 advantage to the user or a loss to a local agency from which a
31 monetary value may be estimated.

32 (c) This section does not prohibit the use of public resources
33 for providing information to the public about the possible effects
34 of a ballot measure on the activities, operations, or policies of the
35 state or a local agency if the informational activities meet both of
36 the following conditions:

37 (1) The informational activities are not otherwise prohibited
38 by the California Constitution or the laws of this state.

1 (2) *The information provided constitutes an accurate, fair, and*
2 *impartial presentation of relevant facts to aid the electorate in*
3 *reaching an informed judgment regarding the ballot measure.*

4 (d) (1) *A person who intentionally or negligently violates this*
5 *section is liable for a civil penalty not to exceed one thousand*
6 *dollars (\$1,000) for each day on which a violation occurs, plus*
7 *three times the value of the unlawful use of public resources. The*
8 *penalty shall be assessed and recovered in a civil action brought*
9 *in the name of the people by the Commission. If two or more*
10 *persons are responsible for a violation, they shall be jointly and*
11 *severally liable for the penalty. Any moneys recovered by the*
12 *Commission shall be paid into the General Fund. Only one*
13 *judgment on the merits with respect to a violation may be obtained*
14 *under this paragraph or paragraph (1) of subdivision (d) of Section*
15 *54964.5.*

16 (2) *A civil action alleging a violation of this section shall not*
17 *be commenced more than four years after the date of the alleged*
18 *violation.*

19 (3) *The Commission has jurisdiction to commence an*
20 *investigation for a violation of this section in the manner described*
21 *in Section 83115. A civil action shall not be filed or prosecuted*
22 *under paragraph (1) with regard to a person for a violation of this*
23 *section after the Commission has issued an order in the manner*
24 *described in Section 83116 against that person for the same*
25 *violation.*

26 *SEC. 3. Section 84312 is added to the Government Code, to*
27 *read:*

28 *84312. (a) A publicly funded multipurpose organization that*
29 *engages in campaign activity, either directly or through the control*
30 *of another entity, shall deposit into a separate bank account all*
31 *specific source or sources of funds received and shall pay for all*
32 *campaign activity from that separate bank account.*

33 (b) (1) *As used in this section, the following terms have the*
34 *following meanings:*

35 (A) *“Publicly funded multipurpose organization” means a*
36 *multipurpose organization, as defined in subdivision (a) of Section*
37 *84222, for which public resources, as defined in paragraph (7) of*
38 *subdivision (b) of Section 84311, from one or more local agencies*
39 *account for more than 20 percent of the multipurpose*
40 *organization’s annual gross revenue in the current fiscal year or*

1 either of the previous two fiscal years. “Publicly funded
2 multipurpose organization” does not include a multipurpose
3 organization that sponsors a committee, as defined in Section
4 82048.7, if the multipurpose organization reports all specific
5 sources of funds received and all campaign activities on campaign
6 disclosure statements filed by the sponsored committee, and the
7 multipurpose organization makes no payments from its general
8 treasury to the sponsored committee other than payments for
9 contributions by donors earmarked for the sponsored committee.
10 For purposes of this subparagraph, “earmarked” means a payment
11 by a donor to a multipurpose organization subject to a condition,
12 agreement, or understanding that the payment will be used for
13 making contributions or independent expenditures by the sponsored
14 committee of the sponsoring multipurpose organization.

15 (B) “Specific source or sources of funds” means any of the
16 following:

17 (i) Payments the publicly funded multipurpose organization
18 solicits and receives from donors in an amount equal to or greater
19 than the amount identified in subdivision (a) of Section 82013 for
20 purposes of making contributions or expenditures.

21 (ii) Payments the publicly funded multipurpose organization
22 receives from donors in an amount equal to or greater than the
23 amount identified in subdivision (a) of Section 82013 subject to a
24 condition, agreement, or understanding with the donor that all or
25 a portion of the payments may be used for making contributions
26 or expenditures.

27 (iii) Existing funds of the publicly funded multipurpose
28 organization from a donor and a subsequent agreement or
29 understanding is reached with the donor that all or a portion of
30 the funds may be used for making contributions or expenditures
31 in an amount equal to or greater than the amount identified in
32 subdivision (a) of Section 82013. The date of the subsequent
33 agreement or understanding is deemed to be the date of receipt of
34 the payment.

35 (iv) Any other funds received by a publicly funded multipurpose
36 organization within a two-year period that are used for campaign
37 activity.

38 (2) Except as otherwise defined in this section, the definitions
39 in subdivision (b) of Section 84311 apply to this section.

1 (c) *Thirty days after the end of each quarter, a publicly funded*
2 *multipurpose organization that engages in campaign activity of*
3 *fifty thousand dollars (\$50,000) or more related to statewide*
4 *candidates or ballot measures or engages in campaign activity of*
5 *two thousand five hundred dollars (\$2,500) or more related to*
6 *local candidates or ballot measures, either directly or through the*
7 *control of another entity, at any point during that quarter shall*
8 *disclose the following information for that quarter:*

9 (1) *The name and amount of each specific source or sources of*
10 *funds used for campaign activity if the aggregate amount of funds*
11 *received since January 1 of the most recent odd year by the publicly*
12 *funded multipurpose organization from that specific source or*
13 *sources of funds is at least one thousand dollars (\$1,000). The*
14 *publicly funded multipurpose organization shall report all sources*
15 *of funds that satisfy the definition of subparagraph (B) of*
16 *paragraph (1) of subdivision (b) and for the balance of its*
17 *campaign activities paid from the separate bank account. The*
18 *publicly funded multipurpose organization shall report sources of*
19 *funds based on a last in, first out accounting method. For purposes*
20 *of this section, “last in, first out accounting method” means an*
21 *accounting method by which contributions and expenditures are*
22 *attributed to the multipurpose organization’s contributors in*
23 *reverse chronological order beginning with the most recent of its*
24 *contributors or, if there are any prior contributions or*
25 *expenditures, beginning with the most recent contributor for which*
26 *unattributed contributions remain.*

27 (2) *The name of the payee and amount of all payments*
28 *aggregating two hundred fifty dollars (\$250) or more made from*
29 *the separate bank account required by subdivision (a).*

30 (3) *A description of each campaign activity.*

31 (d) *By January 31 following the end of each even-numbered*
32 *year, a publicly funded multipurpose organization that engages*
33 *in campaign activity of one hundred thousand dollars (\$100,000)*
34 *or more related to statewide candidates or ballot measures or*
35 *engages in campaign activity of ten thousand dollars (\$10,000)*
36 *or more related to local candidates or ballot measures, either*
37 *directly or through the control or another entity, at any point*
38 *during that even year or the prior odd year, shall disclose the*
39 *following information for those two calendar years:*

1 (1) The name and amount of any specific source or sources of
2 funds used for campaign activity if the aggregate amount of funds
3 received since January 1 of the most recent odd year by the publicly
4 funded multipurpose organization from that specific source or
5 sources of funds is at least one thousand dollars (\$1,000). The
6 publicly funded multipurpose organization shall report all sources
7 of funds that satisfy the definition of subparagraph (B) of
8 paragraph (1) of subdivision (b) and for the balance of its
9 campaign activities paid from the separate bank account. The
10 publicly funded multipurpose organization shall report sources of
11 funds based on a last in, first out accounting method.

12 (2) The name of the payee and amount of all payments
13 aggregating two hundred fifty dollars (\$250) or more made from
14 the separate bank account required by subdivision (a).

15 (3) A description of each campaign activity.

16 (e) Each publicly funded multipurpose organization that engages
17 in campaign activity, either directly or through the control of
18 another entity, shall provide to the Commission, and display on
19 the organization's Internet Web site, the information it is required
20 to disclose under this section. The information shall be clearly
21 described and identified on a separate Internet Web page that is
22 linked from the homepage of the organization's Internet Web site.
23 The link to this Internet Web page from the homepage shall be as
24 visible as all similar links.

25 (f) The Commission may require an audit of a publicly funded
26 multipurpose organization that is required to provide records to
27 the Commission pursuant to this section. The Commission shall
28 require an audit of any publicly funded multipurpose organization
29 that engages in campaign activity in excess of five hundred
30 thousand dollars (\$500,000) in a calendar year. The publicly
31 funded multipurpose organization shall provide records to the
32 Commission to substantiate the information required to be
33 disclosed by this section. The Commission shall determine if the
34 organization complied with the requirements of Section 84311 and
35 this section, issue a written audit report, and transmit the written
36 audit report to the Attorney General and the district attorney for
37 the county in which the organization is domiciled.

38 (g) If the Commission determines at the conclusion of an audit
39 that a publicly funded multipurpose organization has violated
40 Section 84311 or this section, the Commission, the Attorney

1 *General, or the district attorney for the county in which the*
2 *organization is domiciled may impose a civil fine upon the*
3 *organization in an amount up to ten thousand dollars (\$10,000)*
4 *for each violation.*

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

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

17 ~~SECTION 1. Section 54964.5 of the Government Code is~~
18 ~~amended to read:~~

19 ~~54964.5. (a) A nonprofit organization or an officer, employee,~~
20 ~~or agent of a nonprofit organization shall not use, or permit another~~
21 ~~to use, public resources, received from any local agency for any~~
22 ~~campaign activity not authorized by law.~~

23 ~~(b) As used in this section and Section 54964.6, the following~~
24 ~~terms shall have the following meanings:~~

25 ~~(1) "Ballot measure" means a state or local initiative,~~
26 ~~referendum, or recall measure certified to appear on a regular or~~
27 ~~special election ballot or other measure submitted to the voters by~~
28 ~~the Legislature or the governing body of a local agency at a regular~~
29 ~~or special election.~~

30 ~~(2) "Campaign activity" means a payment that is used for~~
31 ~~communications that expressly advocate for or against the~~
32 ~~qualification of a clearly identified ballot measure, the approval~~
33 ~~or rejection of a clearly identified ballot measure, or the election~~
34 ~~or defeat of a clearly identified candidate by the voters, or that~~
35 ~~constitutes a campaign contribution.~~

36 ~~(A) "Campaign activity" does not include the costs of adopting~~
37 ~~a position or a resolution supporting or opposing a clearly identified~~
38 ~~ballot measure or candidate, including, but not limited to, posting~~
39 ~~the position or resolution on the nonprofit organization's Internet~~

1 Web site, communicating the position or resolution to members
2 of the nonprofit organization, or issuing a press statement.

3 (B) “Campaign activity” does not include incidental or minimal
4 use of public resources.

5 (C) “Campaign activity” does not include incidental costs related
6 to the establishment or administration of a sponsored committee
7 as defined in Section 82048.7. A reasonable accounting method
8 may be used to determine the use of nonpublic resources to pay
9 for that cost. “Establishment and administration” means the cost
10 of office space, telephones, salaries, utilities, supplies, legal and
11 accounting fees, and other expenses incurred in establishing and
12 operating a sponsored committee.

13 (3) “Candidate” means an individual who has qualified to have
14 his or her name listed on the ballot, or who has qualified to have
15 write-in votes on his or her behalf counted by elections officials,
16 for nomination or election to an elective office at any regular or
17 special primary or general election, and includes any officeholder
18 who is the subject of a recall election.

19 (4) “Expenditure” means a payment used for communications
20 that expressly advocate the approval or rejection of a clearly
21 identified ballot measure, or the election or defeat of a clearly
22 identified candidate, by the voters or that constitutes a campaign
23 contribution.

24 (5) “Local agency” shall have the same meaning as that term is
25 defined in paragraph (4) of subdivision (b) of Section 54964 and
26 shall also include a public entity created pursuant to the Joint
27 Exercise of Powers Act (Chapter 5 (commencing with Section
28 6500) of Division 7 of Title 1) by one or more entities described
29 in Section 54964.

30 (6) “Nonprofit organization” means any entity incorporated
31 under the Nonprofit Corporation Law (Division 2 (commencing
32 with Section 5000) of Title 1 of the Corporations Code) or a
33 nonprofit organization that qualifies for exempt status under
34 Section 115 or 501(c) of the Internal Revenue Code, provided,
35 however, that “nonprofit organization” does not include any
36 nonprofit organization that qualifies for tax-exempt status under
37 Section 501(c)(3) of the Internal Revenue Code.

38 (7) “Public resources” means the following:

39 (A) Any property or asset owned by a local agency, including,
40 but not limited to, cash, land, buildings, facilities, funds, equipment,

1 supplies, telephones, computers, vehicles, travel, and local
2 government compensated work time that is provided to a nonprofit
3 organization, except funds received in exchange for consideration
4 for goods or services.

5 (B) Funds received by a nonprofit organization which have been
6 generated from any activities related to conduit bond financing by
7 those entities subject to the conduit financing and transparency
8 and accountability provisions of Chapter 10.7 (commencing with
9 Section 5870) of Division 6 of Title 1, whether or not those funds
10 are received by the nonprofit in exchange for consideration for
11 goods or services.

12 (8) "Use" means a use of public resources from one or more
13 local agencies that is substantial enough to result in a gain or
14 advantage to the user or a loss to any local agency for which any
15 monetary value may be estimated.

16 (e) This section does not prohibit the use of public resources
17 for providing information to the public about the possible effects
18 of any ballot measure on the activities, operations, or policies of
19 the state or a local agency, provided that the informational activities
20 meet both of the following conditions:

21 (1) The informational activities are not otherwise prohibited by
22 the California Constitution or the laws of this state.

23 (2) The information provided constitutes an accurate, fair, and
24 impartial presentation of relevant facts to aid the electorate in
25 reaching an informed judgment regarding the ballot measure.

26 (d) (1) Any person who intentionally or negligently violates
27 this section is liable for a civil penalty not to exceed one thousand
28 dollars (\$1,000) for each day on which a violation occurs, plus
29 three times the value of the unlawful use of public resources. The
30 penalty shall be assessed and recovered in a civil action brought
31 in the name of the people of the State of California by the Fair
32 Political Practices Commission, the Attorney General, or by any
33 district attorney or any city attorney of a city having a population
34 in excess of 750,000. If two or more persons are responsible for
35 any violation, they shall be jointly and severally liable for the
36 penalty. If the action is brought by the Fair Political Practices
37 Commission or the Attorney General, the moneys recovered shall
38 be paid into the General Fund. If the action is brought by a district
39 attorney, the moneys recovered shall be paid to the treasurer of
40 the county in which the judgment was entered. If the action is

1 brought by a city attorney, the moneys recovered shall be paid to
2 the treasury of that city. No more than one judgment on the merits
3 with respect to any violation may be obtained under this paragraph.

4 (2) A civil action alleging a violation of this section shall not
5 be commenced more than four years after the date of the alleged
6 violation.

7 (3) The Fair Political Practices Commission shall have the
8 jurisdiction to commence an investigation for a violation of this
9 section in the manner described in Section 83115. No civil action
10 may be filed or prosecuted under paragraph (1) with regard to any
11 person for any violation of this section after the Fair Political
12 Practices Commission has issued an order in the manner described
13 in Section 83116 against that person for the same violation.

14 SEC. 2. Section 54964.6 of the Government Code is amended
15 to read:

16 54964.6. (a) A publicly funded multipurpose organization that
17 engages in campaign activity, either directly or through the control
18 of another entity, shall deposit into a separate bank account all
19 specific source or sources of funds received and shall pay for all
20 campaign activity from that separate bank account.

21 (b) As used in this section, the following terms shall have the
22 following meanings:

23 (1) “Publicly funded multipurpose organization” means a
24 multipurpose organization, as defined in subdivision (a) of Section
25 84222, for which public resources, as defined in paragraph (7) or
26 subdivision (b) of Section 54964.5, from one or more local agencies
27 account for more than 20 percent of the multipurpose
28 organization’s annual gross revenue in the current fiscal year or
29 either of the previous two fiscal years. A publicly funded
30 multipurpose organization shall not include a multipurpose
31 organization that sponsors a committee, as defined in Section
32 82048.7, if the multipurpose organization reports all specific
33 sources of funds received and all campaign activities on campaign
34 disclosure statements filed by the sponsored committee and the
35 multipurpose organization makes no payments from its general
36 treasury to the sponsored committee other than payments for
37 contributions by donors earmarked for the sponsored committee.
38 For purposes of this subdivision, “earmarked” means a payment
39 by a donor to a multipurpose organization subject to a condition,
40 agreement, or understanding that the payment will be used for

1 making contributions or independent expenditures by the sponsored
2 committee of the sponsoring multipurpose organization:

3 (2) ~~“Specific source or sources of funds” shall mean any of the~~
4 ~~following:~~

5 (A) ~~Payments the publicly funded multipurpose organization~~
6 ~~solicits and receives from donors in an amount equal to or greater~~
7 ~~than the amount identified in subdivision (a) of Section 82013 for~~
8 ~~the purpose of making contributions or expenditures:~~

9 (B) ~~Payments the publicly funded multipurpose organization~~
10 ~~receives from donors in an amount equal to or greater than the~~
11 ~~amount identified in subdivision (a) of Section 82013 subject to a~~
12 ~~condition, agreement, or understanding with the donor that all or~~
13 ~~a portion of the payments may be used for making contributions~~
14 ~~or expenditures:~~

15 (C) ~~Existing funds of the publicly funded multipurpose~~
16 ~~organization from a donor and a subsequent agreement or~~
17 ~~understanding is reached with the donor that all or a portion of the~~
18 ~~funds may be used for making contributions or expenditures in an~~
19 ~~amount equal to or greater than the amount identified in subdivision~~
20 ~~(a) of Section 82013. The date of the subsequent agreement or~~
21 ~~understanding is deemed to be the date of receipt of the payment.~~

22 (D) ~~Any other funds received by the publicly funded~~
23 ~~multipurpose organization within a two-year period that are used~~
24 ~~for campaign activity:~~

25 (3) ~~Unless otherwise defined herein, the definitions found in~~
26 ~~subdivision (b) of Section 54964.5 shall apply to this section:~~

27 (e) ~~Thirty days after the end of each quarter, a publicly funded~~
28 ~~multipurpose organization that engages in campaign activity of~~
29 ~~fifty thousand dollars (\$50,000) or more related to statewide~~
30 ~~candidates or ballot measures or engages in campaign activity of~~
31 ~~two thousand five hundred dollars (\$2,500) or more related to local~~
32 ~~candidates or ballot measures, either directly or through the control~~
33 ~~of another entity, at any point during that quarter shall disclose the~~
34 ~~following information for that quarter:~~

35 (1) ~~The name and amount of each specific source or sources of~~
36 ~~funds used for campaign activity, provided that the aggregate~~
37 ~~amount of funds received since January 1 of the most recent odd~~
38 ~~year by a publicly funded multipurpose organization from that~~
39 ~~specific source or sources of funds is at least one thousand dollars~~
40 ~~(\$1,000). The publicly funded multipurpose organization shall~~

1 report all sources of funds that satisfy the criteria of paragraph (2)
2 of subdivision (b) and for the balance of its campaign activities
3 paid from the separate bank account. The publicly funded
4 multipurpose organization shall report sources of funds based on
5 a last in, first out accounting method. For purposes of this section,
6 “last in, first out accounting method” means an accounting method
7 by which contributions and expenditures are attributed to the
8 multipurpose organization’s contributors in reverse chronological
9 order beginning with the most recent of its contributors or, if there
10 are any prior contributions or expenditures, beginning with the
11 most recent contributor for which unattributed contributions
12 remain.

13 (2) The name of the payee and amount of all payments
14 aggregating two hundred fifty dollars (\$250) or more made from
15 the single bank account required under subdivision (a).

16 (3) A description of each campaign activity.

17 (d) By January 31 following the end of each even year, a
18 publicly funded multipurpose organization that engages in
19 campaign activity of one hundred thousand (\$100,000) or more
20 related to statewide candidates or ballot measures or engages in
21 campaign activity of ten thousand dollars (\$10,000) or more related
22 to local candidates or ballot measures, either directly or through
23 the control of another entity, at any point during that even year or
24 the prior odd year shall disclose all the following information for
25 those two calendar years:

26 (1) The name and amount of any specific source or sources of
27 funds used for campaign activity, provided that the aggregate
28 amount of funds received since January 1 of the most recent odd
29 year by a publicly funded multipurpose organization from that
30 specific source or sources of funds is at least one thousand dollars
31 (\$1,000).

32 (2) The name of the payee and amount of all payments
33 aggregating two hundred fifty dollars (\$250) or more made from
34 the single bank account required under subdivision (a).

35 (3) A description of each campaign activity.

36 (e) Each publicly funded multipurpose organization that engages
37 in campaign activity, either directly or through the control of
38 another entity, shall provide to the Fair Political Practices
39 Commission and display on its Internet Web site the information
40 it is required to disclose under this section. The information shall

1 be clearly described and identified on a separate Internet Web
2 page, which shall be linked from the homepage of the
3 organization's Internet Web site. The link to this Internet Web
4 page from the homepage shall be as visible as all similar links.

5 (f) ~~The Fair Political Practices Commission may require an audit
6 of any publicly funded multipurpose organization that is required
7 to provide records to the Fair Political Practices Commission
8 pursuant to this section. The Fair Political Practices Commission
9 shall require an audit of any publicly funded multipurpose
10 organization that engages in campaign activity in excess of five
11 hundred thousand dollars (\$500,000) in a calendar year. The
12 publicly funded multipurpose organization shall provide records
13 to the Fair Political Practices Commission that substantiate the
14 information required to be disclosed by this section. The Fair
15 Political Practices Commission shall determine whether the
16 organization complied with the requirements of Section 54964.5
17 and this section, issue a written audit report, and transmit the
18 written audit report to the Attorney General and the district attorney
19 for the county in which the publicly funded multipurpose
20 organization is domiciled.~~

21 (g) ~~If the Fair Political Practices Commission determines at the
22 conclusion of an audit that a publicly funded multipurpose
23 organization has violated Section 54964.5 or this section, the Fair
24 Political Practices Commission, the Attorney General, or the district
25 attorney for the county in which the publicly funded multipurpose
26 organization is domiciled may impose a civil fine upon the publicly
27 funded multipurpose organization in an amount up to ten thousand
28 dollars (\$10,000) for each violation.~~

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