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.

LEGISLATIVE COUNSEL’S DIGEST


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 having 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” it receives and to pay for all campaign activity from that separate bank account. Existing law defines, among other terms, a “reporting nonprofit organization” to mean 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 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 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, and in some instances requires, the Franchise Tax 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 requires the board to issue a written audit report, and 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 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,” 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. The bill would redefine “specific source or sources of funds” to mean 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 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, 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.
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.


State-mandated local program: no yes.

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

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 Section 54964.6 of the Government Code is repealed.

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

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

(1) “Reporting nonprofit organization” means a nonprofit organization for which public resources from one or more local agencies account for more than 20 percent of the nonprofit organization’s annual gross revenue in the current fiscal year or either of the previous two fiscal years. A reporting nonprofit organization shall not include a nonprofit organization that sponsors a committee, as defined in Section 82048.7 of the Government Code, if the nonprofit organization reports all contributions it received and all expenditures it made on campaign disclosure statements filed by the sponsored committee and the nonprofit organization makes no payments from its general treasury to the sponsored committee other than payments for contributions by donors earmarked for the sponsored committee. For purposes of
this subdivision, “earmarked” means a payment by a donor to a nonprofit organization subject to a condition, agreement, or understanding that the payment will be used for making contributions or independent expenditures by the sponsored committee of the sponsoring nonprofit organization.

(2) “Specific source or sources of funds” shall mean 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 that are used, in whole or in part, within a two-year period from receipt for campaign activity.

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

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

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

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

(3) A description of each campaign activity.

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

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

(2) The name of the payee and amount of all payments made
from the single bank account required under subdivision (a):

(3) A description of each campaign activity.

(e) Each reporting nonprofit organization that engages in
campaign activity, either directly or through the control of another
entity, shall provide to the Franchise Tax Board and display on its
Internet Web site the information it is required to disclose under
this section. The information shall be clearly described and
identified on a separate Internet Web page, which shall be linked
from the homepage of the organization’s Internet Web site. The
link to this Internet Web page from the homepage shall be as visible
as all similar links:

(f) The Franchise Tax Board may conduct an audit of any
reporting nonprofit organization that is required to provide records
to the board pursuant to this section. The Franchise Tax Board
shall conduct an audit of any reporting nonprofit organization that
engages in campaign activity in excess of five hundred thousand
dollars ($500,000) in a calendar year. The reporting nonprofit
organization shall provide records to the Franchise Tax Board that
substantiate the information required to be disclosed by this section.
The Franchise Tax Board shall determine whether the organization
complied with the requirements of Section 54964.5 and this section;
issue a written audit report, and transmit the written audit report
to the Attorney General and the district attorney for the county in
which the reporting nonprofit organization is domiciled.

(g) If the Franchise Tax Board determines at the conclusion of
an audit that a reporting nonprofit organization has violated Section
54964.5 or this section, the Attorney General or the district attorney
for the county in which the reporting nonprofit organization is
domiciled may impose a civil fine upon the reporting nonprofit
organization in an amount up to ten thousand dollars ($10,000)
for each violation.

SEC. 2. Section 84311 is added to the Government Code, to
read:

84311. (a) A nonprofit organization or an officer, employee,
or agent of a nonprofit organization shall not use, or permit
another to use, public resources, received from any local agency
for any campaign activity not authorized by law.
(b) As used in this section and Section 84312, the following terms shall have the following meanings:

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

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

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

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

(ii) Incidental or minimal use of public resources.

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

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

(4) “Expenditure” means a payment used for communications that expressly advocate the approval or rejection of a clearly identified ballot measure, or the election or defeat of a clearly identified candidate, by the voters, or that constitutes a campaign contribution.
(5) “Local agency” has the same meaning as that term is defined in paragraph (4) of subdivision (b) of Section 54964 and shall also include a public entity created pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1) by one or more entities described in Section 54964.

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

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

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

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

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

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

(1) The informational activities are not otherwise prohibited by the California Constitution or the laws of this state.
(2) The information provided constitutes an accurate, fair, and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the ballot measure.

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

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

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

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

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

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

(A) “Publicly funded multipurpose organization” means a multipurpose organization, as defined in subdivision (a) of Section 84222, for which public resources, as defined in paragraph (7) of subdivision (b) of Section 84311, from one or more local agencies account for more than 20 percent of the multipurpose organization’s annual gross revenue in the current fiscal year or
either of the previous two fiscal years. “Publicly funded multipurpose organization” does not include a multipurpose organization that sponsors a committee, as defined in Section 82048.7, if the multipurpose organization reports all specific sources of funds received and all campaign activities on campaign disclosure statements filed by the sponsored committee, and the multipurpose organization makes no payments from its general treasury to the sponsored committee other than payments for contributions by donors earmarked for the sponsored committee. For purposes of this subparagraph, “earmarked” means a payment by a donor to a multipurpose organization subject to a condition, agreement, or understanding that the payment will be used for making contributions or independent expenditures by the sponsored committee of the sponsoring multipurpose organization.

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

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

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

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

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

(2) Except as otherwise defined in this section, the definitions in subdivision (b) of Section 84311 apply to this section.
(c) Thirty days after the end of each quarter, a publicly funded multipurpose organization that engages in campaign activity of fifty thousand dollars ($50,000) or more related to statewide candidates or ballot measures or engages in campaign activity of two thousand five hundred dollars ($2,500) or more related to local candidates or ballot measures, either directly or through the control of another entity, at any point during that quarter shall disclose the following information for that quarter:

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

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

3. A description of each campaign activity.

(d) By January 31 following the end of each even-numbered year, a publicly funded multipurpose organization that engages in campaign activity of one hundred thousand dollars ($100,000) or more related to statewide candidates or ballot measures or engages in campaign activity of ten thousand dollars ($10,000) or more related to local candidates or ballot measures, either directly or through the control of another entity, at any point during that even year or the prior odd year, shall disclose the following information for those two calendar years:
(1) The name and amount of any specific source or sources of funds used for campaign activity if the aggregate amount of funds received since January 1 of the most recent odd year by the publicly funded multipurpose organization from that specific source or sources of funds is at least one thousand dollars ($1,000). The publicly funded multipurpose organization shall report all sources of funds that satisfy the definition of subparagraph (B) of paragraph (1) of subdivision (b) and for the balance of its campaign activities paid from the separate bank account. The publicly funded multipurpose organization shall report sources of funds based on a last in, first out accounting method.

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

(3) A description of each campaign activity.

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

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

(g) If the Commission determines at the conclusion of an audit that a publicly funded multipurpose organization has violated Section 84311 or this section, the Commission, the Attorney
General, or the district attorney for the county in which the organization is domiciled may impose a civil fine upon the organization in an amount up to ten thousand dollars ($10,000) for each violation.

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

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

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

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

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

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

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

(A) “Campaign activity” does not include the costs of adopting a position or a resolution supporting or opposing a clearly identified ballot measure or candidate, including, but not limited to, posting the position or resolution on the nonprofit organization’s Internet
Web site, communicating the position or resolution to members
of the nonprofit organization, or issuing a press statement.
(B) “Campaign activity” does not include incidental or minimal
use of public resources.
(C) “Campaign activity” does not include incidental costs related
to the establishment or administration of a sponsored committee
as defined in Section 82048.7. A reasonable accounting method
may be used to determine the use of nonpublic resources to pay
for that cost. “Establishment and administration” means the cost
of office space, telephones, salaries, utilities, supplies, legal and
accounting fees, and other expenses incurred in establishing and
operating a sponsored committee.
(3) “Candidate” means an individual who has qualified to have
his or her name listed on the ballot, or who has qualified to have
write-in votes on his or her behalf counted by elections officials;
for nomination or election to an elective office at any regular or
special primary or general election, and includes any officeholder
who is the subject of a recall election.
(4) “Expenditure” means a payment used for communications
that expressly advocate the approval or rejection of a clearly
identified ballot measure, or the election or defeat of a clearly
identified candidate, by the voters or that constitutes a campaign
contribution.
(5) “Local agency” shall have the same meaning as that term is
defined in paragraph (4) of subdivision (b) of Section 54964 and
shall also include a public entity created pursuant to the Joint
Exercise of Powers Act (Chapter 5 (commencing with Section
6500) of Division 7 of Title 1) by one or more entities described
in Section 54964.
(6) “Nonprofit organization” means any entity incorporated
under the Nonprofit Corporation Law (Division 2 (commencing
with Section 5000) of Title 1 of the Corporations Code) or a
nonprofit organization that qualifies for exempt status under
Section 115 or 501(e) of the Internal Revenue Code, provided;
however, that “nonprofit organization” does not include any
nonprofit organization that qualifies for tax-exempt status under
Section 501(e)(3) of the Internal Revenue Code.
(7) “Public resources” means the following:
(A) Any property or asset owned by a local agency, including,
but not limited to, cash, land, buildings, facilities, funds, equipment;
supplies, telephones, computers, vehicles, travel, and local
government compensated work time that is provided to a nonprofit
organization, except funds received in exchange for consideration
for goods or services.

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

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

c. This section does not prohibit the use of public resources
for providing information to the public about the possible effects
of any ballot measure on the activities, operations, or policies of
the state or a local agency, provided that the informational activities
meet both of the following conditions:

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

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

(d) (1) Any person who intentionally or negligently violates
this section is liable for a civil penalty not to exceed one thousand
dollars ($1,000) for each day on which a violation occurs, plus
three times the value of the unlawful use of public resources. The
penalty shall be assessed and recovered in a civil action brought
in the name of the people of the State of California by the Fair
Political Practices Commission, the Attorney General, or by any
district attorney or any city attorney of a city having a population
in excess of 750,000. If two or more persons are responsible for
any violation, they shall be jointly and severally liable for the
penalty. If the action is brought by the Fair Political Practices
Commission or the Attorney General, the moneys recovered shall
be paid into the General Fund. If the action is brought by a district
attorney, the moneys recovered shall be paid to the treasurer of
the county in which the judgment was entered. If the action is
brought by a city attorney, the moneys recovered shall be paid to
the treasury of that city. No more than one judgment on the merits
with respect to any violation may be obtained under this paragraph.
(2) A civil action alleging a violation of this section shall not
be commenced more than four years after the date of the alleged
violation.
(3) The Fair Political Practices Commission shall have the
jurisdiction to commence an investigation for a violation of this
section in the manner described in Section 83115. No civil action
may be filed or prosecuted under paragraph (1) with regard to any
person for any violation of this section after the Fair Political
Practices Commission has issued an order in the manner described
in Section 83116 against that person for the same violation.
SEC. 2. Section 54964.6 of the Government Code is amended
to read:
54964.6. (a) A publicly funded multipurpose organization that
engages in campaign activity, either directly or through the control
of another entity, shall deposit into a separate bank account all
specific source or sources of funds received and shall pay for all
campaign activity from that separate bank account.
(b) As used in this section, the following terms shall have the
following meanings:
(1) “Publicly funded multipurpose organization” means a
multipurpose organization, as defined in subdivision (a) of Section
84222, for which public resources, as defined in paragraph (7) or
subdivision (b) of Section 54964.5, from one or more local agencies
account for more than 20 percent of the multipurpose
organization’s annual gross revenue in the current fiscal year or
either of the previous two fiscal years. A publicly funded
multipurpose organization shall not include a multipurpose
organization that sponsors a committee, as defined in Section
82048.7, if the multipurpose organization reports all specific
sources of funds received and all campaign activities on campaign
disclosure statements filed by the sponsored committee and the
multipurpose organization makes no payments from its general
treasury to the sponsored committee other than payments for
contributions by donors earmarked for the sponsored committee.
For purposes of this subdivision, “earmarked” means a payment
by a donor to a multipurpose organization subject to a condition,
agreement, or understanding that the payment will be used for
making contributions or independent expenditures by the sponsored committee of the sponsoring multipurpose organization.

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

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

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

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

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

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

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

(1) The name and amount of each specific source or sources of funds used for campaign activity, provided that the aggregate amount of funds received since January 1 of the most recent odd year by a publicly funded multipurpose organization from that specific source or sources of funds is at least one thousand dollars ($1,000). The publicly funded multipurpose organization shall
report all sources of funds that satisfy the criteria of paragraph (2)
of subdivision (b) and for the balance of its campaign activities
paid from the separate bank account. The publicly funded
multipurpose organization shall report sources of funds based on
a last in, first out accounting method. For purposes of this section,
“last in, first out accounting method” means an accounting method
by which contributions and expenditures are attributed to the
multipurpose organization’s contributors in reverse chronological
order beginning with the most recent of its contributors or, if there
are any prior contributions or expenditures, beginning with the
most recent contributor for which unattributed contributions
remain:

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

(3) A description of each campaign activity:

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

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

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

(3) A description of each campaign activity:

(e) Each publicly funded multipurpose organization that engages
in campaign activity, either directly or through the control of
another entity, shall provide to the Fair Political Practices
Commission and display on its Internet Web site the information
it is required to disclose under this section. The information shall
be clearly described and identified on a separate Internet Web page, which shall be linked from the homepage of the organization’s Internet Web site. The link to this Internet Web page from the homepage shall be as visible as all similar links.

(f) The Fair Political Practices Commission may require an audit of any publicly funded multipurpose organization that is required to provide records to the Fair Political Practices Commission pursuant to this section. The Fair Political Practices Commission shall require an audit of any publicly funded multipurpose organization that engages in campaign activity in excess of five hundred thousand dollars ($500,000) in a calendar year. The publicly funded multipurpose organization shall provide records to the Fair Political Practices Commission that substantiate the information required to be disclosed by this section. The Fair Political Practices Commission shall determine whether the organization complied with the requirements of Section 54964.5 and this section, issue a written audit report, and transmit the written audit report to the Attorney General and the district attorney for the county in which the publicly funded multipurpose organization is domiciled.

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

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