

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1107

Introduced by Senator Allen
(Principal coauthor: Senator Hancock)

February 17, 2016

An act to amend ~~Section 85206~~ of Sections 85300 and 85320 of, and to add Sections 89519.5 and 91004.5 to, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 1107, as amended, Allen. Political Reform Act of 1974: public moneys: definition.

Existing law prohibits a person who has been convicted of a felony involving bribery, embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes, from being considered a candidate for, or elected to, a state or local elective office. Existing law, the Political Reform Act of 1974, provides that campaign funds under the control of a former candidate or elected officer are considered surplus campaign funds at a prescribed time, and it prohibits the use of surplus campaign funds except for specified purposes.

This bill would prohibit an officeholder who is convicted of one of those enumerated felonies from using funds held by that officeholder's candidate controlled committee for purposes other than certain purposes permitted for the use of surplus campaign funds. The bill would also require the officeholder to forfeit any remaining funds held six months after the conviction became final, and it would direct those funds to be deposited in the general fund.

The Political Reform Act of 1974 prohibits a public officer from expending, and a candidate from accepting, public moneys for the purpose of seeking elective office. ~~The act defines “public moneys” by reference to its definition in the Penal Code.~~

~~This bill would expressly set forth that definition within the act, permit a public officer or candidate to expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity established a dedicated fund for this purpose, as specified.~~

~~The act prohibits a foreign government or principal, as defined, from making a contribution or expenditure in connection with a state or local ballot measure, and it also sets forth civil and criminal penalties for violations of the act’s provisions.~~

~~This bill would expand the scope of the prohibitions relating to foreign governments and principals by also prohibiting a foreign government or principal from making a contribution in support of, or opposition to, a state or local candidate. It would also permit a greater criminal penalty to be imposed for a violation of that prohibition, and it would establish the amount of a civil penalty for a violation of the prohibition.~~

~~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 act may be amended by a statute that becomes effective upon approval of the voters.~~

~~This bill would require the Secretary of State to submit the bill to the voters for approval at a statewide election, as specified.~~

Vote: majority. 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 85300 of the Government Code is
2 amended to read:

1 85300. (a) ~~No~~ Except as provided in subdivision (b), a public
2 officer shall ~~expend~~ not expend, and ~~no~~ a candidate shall ~~accept~~
3 not accept, any public moneys for the purpose of seeking elective
4 office.

5 (b) A public officer or candidate may expend or accept public
6 moneys for the purpose of seeking elective office if the state or a
7 local governmental entity establishes a dedicated fund for this
8 purpose and both of the following are true:

9 (1) Public moneys held in the fund are available to all qualified,
10 voluntarily participating candidates for the same office without
11 regard to incumbency or political party preference.

12 (2) The state or local governmental entity has established
13 criteria for determining a candidate's qualification by statute,
14 ordinance, resolution, or charter.

15 SEC. 2. Section 85320 of the Government Code is amended to
16 read:

17 85320. (a) ~~No~~ A foreign government or foreign principal shall
18 not make, directly or through any other person, any contribution,
19 expenditure, or independent expenditure in connection with the
20 qualification or support of, or opposition to, ~~any~~ a state or local
21 candidate or ballot measure.

22 (b) ~~No~~ A person ~~and~~ ~~no~~ or a committee shall not solicit or accept
23 a contribution from a foreign government or foreign principal in
24 connection with the qualification or support of, or opposition to,
25 ~~any~~ a state or local candidate or ballot measure.

26 (c) For the purposes of this section, a "foreign principal"
27 includes the following:

28 (1) A foreign political party.

29 (2) A person outside the United States, unless either of the
30 following is established:

31 (A) The person is an individual and a citizen of the United
32 States.

33 (B) The person is not an individual and is organized under or
34 created by the laws of the United States or of any state or other
35 place subject to the jurisdiction of the United States and has its
36 principal place of business within the United States.

37 (3) A partnership, association, corporation, organization, or
38 other combination of persons organized under the laws of or having
39 its principal place of business in a foreign country.

1 (4) A domestic subsidiary of a foreign corporation if the decision
2 to contribute or expend funds is made by an officer, director, or
3 management employee of the foreign corporation who is neither
4 a citizen of the United States nor a lawfully admitted permanent
5 resident of the United States.

6 (d) This section ~~shall~~ *does* not prohibit a contribution,
7 expenditure, or independent expenditure made by a lawfully
8 admitted permanent resident.

9 (e) ~~Any~~ A person who violates this section ~~shall be~~ *is* guilty of
10 a misdemeanor and shall be fined *the greater of ten thousand*
11 *dollars (\$10,000) or* an amount equal to the amount contributed
12 or expended.

13 SEC. 3. Section 89519.5 is added to the Government Code, to
14 read:

15 89519.5. (a) An officeholder who is convicted of a felony
16 enumerated in Section 20 of the Elections Code, and whose
17 conviction has become final, shall use funds held by the
18 officeholder's candidate controlled committee only for the
19 following purposes:

20 (1) The payment of outstanding campaign debts or elected
21 officer's expenses.

22 (2) The repayment of contributions.

23 (b) Six months after the conviction becomes final, the
24 officeholder shall forfeit any remaining funds subject to subdivision
25 (a), and these funds shall be deposited in the general fund.

26 (c) This section does not apply to funds held by a ballot measure
27 committee or in a legal defense fund formed pursuant to Section
28 85304.

29 SEC. 4. Section 91004.5 is added to the Government Code, to
30 read:

31 91004.5. (a) A person who intentionally violates Section 85320
32 is liable in a civil action brought by the civil prosecutor, for each
33 violation, for the greater of ten thousand dollars (\$10,000) or an
34 amount equal to the amount contributed or expended.

35 (b) The civil prosecutor may not bring an action pursuant to
36 this section against a person being criminally prosecuted for a
37 violation of Section 85320 pursuant to Section 91000.

38 (c) This section is applicable only to violations occurring after
39 the effective date of this section.

1 *SEC. 5. The provisions of this bill are severable. If any*
2 *provision of this bill or its application is held invalid, that invalidity*
3 *shall not affect other provisions or applications that can be given*
4 *effect without the invalid provision or application.*

5 *SEC. 6. No reimbursement is required by this act pursuant to*
6 *Section 6 of Article XIII B of the California Constitution because*
7 *the duties imposed on a local agency or school district by this act*
8 *were expressly included in a ballot measure approved by the voters*
9 *in a statewide election, within the meaning of Section 17556 of*
10 *the Government Code.*

11 *SEC. 7. The Secretary of State shall, pursuant to subdivision*
12 *(b) of Section 81012 of the Government Code, submit this act to*
13 *the voters for approval at a statewide election in accordance with*
14 *Section 9040 of the Elections Code.*

15 ~~SECTION 1. Section 85206 of the Government Code is~~
16 ~~amended to read:~~

17 ~~85206. "Public moneys" means all bonds and evidence of~~
18 ~~indebtedness, and all moneys belonging to the state, or any city,~~
19 ~~county, town, district, or public agency therein, and all moneys,~~
20 ~~bonds, and evidences of indebtedness received or held by state,~~
21 ~~county, district, city, town, or public agency officers in their official~~
22 ~~capacity.~~