

AMENDED IN ASSEMBLY JULY 22, 1997

AMENDED IN ASSEMBLY JULY 1, 1997

AMENDED IN SENATE APRIL 24, 1997

AMENDED IN SENATE APRIL 10, 1997

**SENATE BILL**

**No. 363**

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**Introduced by Senator Lewis**

February 13, 1997

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An act to amend Sections 81007.5, 82015, 82025, 85200, and 85201 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 363, as amended, Lewis. Filing requirements: contributions and expenditures.

Existing provisions of the Political Reform Act of 1974 provide that any report or statement required to be filed with any official under specified provisions of the act may be faxed by the applicable deadline if certain conditions are met, including that a copy of the faxed document also be sent to the filing officer either by first-class mail or by any other guaranteed overnight delivery service within 24 hours.

This bill would provide that the copy of the faxed document may also be delivered to the filing officer by personal delivery within the 24-hour time period.

This bill would provide that the faxed report or statement shall not be deemed filed if the faxed report or statement is not a true and correct copy of the original or copy of the report

or statement personally delivered or sent by first-class mail or guaranteed overnight delivery service, and would require a filing officer who receives a faxed report or statement to make the report or statement available to the public in the same manner as otherwise provided in the act.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these penalties on certain persons who violate the provisions of the bill.

Existing provisions of the Political Reform Act of 1974 define the term “contribution,” as used in the act, to include the use of a candidate’s own money or property on behalf of his or her own candidacy.

This bill would exclude from this definition personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to a specified provision of the Elections Code.

Existing provisions of the act define the term “expenditure,” as used in the act, to include a payment unless it is clear from the surrounding circumstances that it is not made for political purposes.

This bill would exclude from this definition the use of a candidate’s own money to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to a specified provision of the Elections Code.

Existing provisions of the Political Reform Act of 1974 require that prior to the solicitation or receipt of contributions or loans, candidates must first file with the Secretary of State an original signed statement of their intention to become a candidate for a specific office, as well as one duplicate of that statement. Candidates are also required to establish a campaign contribution account, and disclose in a statement to the Secretary of State the number of the account and the name and location of the financial institution where the account was opened. A duplicate of that statement must be sent along with the original to the Secretary of State.

This bill would provide that, in the case of a statement of intent to become a candidate for a specific office, no duplicate need be filed with the Secretary of State. The bill would



likewise provide that in the case of a campaign contribution account disclosure statement, no duplicate need be filed with the Secretary of State.

*This bill would incorporate additional changes in Section 82015 of the Government Code proposed by SB 124, to become operative only if SB 124 and this bill are chaptered and become effective on or before January 1, 1998, and this bill is chaptered last.*

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 with a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a  $\frac{2}{3}$  vote.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 81007.5 of the Government  
2 Code is amended to read:  
3 81007.5. (a) Any report or statement or copies  
4 thereof required to be filed with any official under  
5 Chapter 4 (commencing with Section 84100) or Chapter  
6 7 (commencing with Section 87100) may be faxed by the  
7 applicable deadline, provided that the required originals  
8 or paper copies are sent by first-class mail or by any other  
9 personal delivery or guaranteed overnight delivery  
10 service within 24 hours of the applicable deadline and  
11 provided that the total number of pages of each report or  
12 statement faxed is no more than 30 pages.  
13 (b) A faxed report or statement shall not be deemed  
14 filed if the faxed report or statement is not a true and



1 correct copy of the original or copy of the report or  
2 statement personally delivered or sent by first-class mail  
3 or guaranteed overnight delivery service pursuant to  
4 subdivision (a).

5 (c) A filing officer who receives a faxed report or  
6 statement shall make the report or statement available to  
7 the public in the same manner as provided in Section  
8 81008. If the faxed report or statement is requested prior  
9 to the receipt of the original or copy of the report or  
10 statement by the filing officer, the filing officer shall  
11 inform the requester that the faxed report or statement  
12 will not be considered a filed report or statement if the  
13 requirements of subdivision (b) have not been met by the  
14 filer.

15 SEC. 2. Section 82015 of the Government Code is  
16 amended to read:

17 82015. "Contribution" means a payment, a  
18 forgiveness of a loan, a payment of a loan by a third party,  
19 or an enforceable promise to make a payment, except to  
20 the extent that full and adequate consideration is  
21 received, unless it is clear from the surrounding  
22 circumstances that it is not made for political purposes.

23 An expenditure made at the behest of a candidate,  
24 committee or elected officer is a contribution to the  
25 candidate, committee or elected officer unless full and  
26 adequate consideration is received for making the  
27 expenditure.

28 The term "contribution" includes the purchase of  
29 tickets for events such as dinners, luncheons, rallies and  
30 similar fundraising events; the candidate's own money or  
31 property used on behalf of his or her candidacy other than  
32 personal funds of the candidate used to pay either a filing  
33 fee for a declaration of candidacy or a candidate  
34 statement prepared pursuant to Section 13307 of the  
35 Elections Code; the granting of discounts or rebates not  
36 extended to the public generally or the granting of  
37 discounts or rebates by television and radio stations and  
38 newspapers not extended on an equal basis to all  
39 candidates for the same office; the payment of  
40 compensation by any person for the personal services or



1 expenses of any other person if such services are rendered  
2 or expenses incurred on behalf of a candidate or  
3 committee without payment of full and adequate  
4 consideration.

5 The term “contribution” further includes any transfer  
6 of anything of value received by a committee from  
7 another committee, unless full and adequate  
8 consideration is received.

9 The term “contribution” does not include amounts  
10 received pursuant to an enforceable promise to the  
11 extent such amounts have been previously reported as a  
12 contribution. However, the fact that such amounts have  
13 been received shall be indicated in the appropriate  
14 campaign statement.

15 The term “contribution” does not include a payment  
16 made by an occupant of a home or office for costs related  
17 to any meeting or fundraising event held in the  
18 occupant’s home or office if the costs for the meeting or  
19 fundraising event are five hundred dollars (\$500) or less.

20 Notwithstanding the foregoing definition of  
21 “contribution,” the term does not include volunteer  
22 personal services or payments made by any individual for  
23 his or her own travel expenses if such payments are made  
24 voluntarily without any understanding or agreement that  
25 they shall be, directly or indirectly, repaid to him or her.

26 *SEC. 2.5. Section 82015 of the Government Code is*  
27 *amended to read:*

28 82015. (a) “Contribution” means a payment, a  
29 forgiveness of a loan, a payment of a loan by a third party,  
30 or an enforceable promise to make a payment except to  
31 the extent that full and adequate consideration is  
32 received, unless it is clear from the surrounding  
33 circumstances that it is not made for political purposes.

34 ~~An expenditure made at the behest of a candidate,~~  
35 ~~committee or elected officer is a contribution to the~~  
36 ~~candidate, committee or elected officer unless full and~~  
37 ~~adequate consideration is received for making the~~  
38 ~~expenditure.~~

39 The



1 (b) (1) A payment made at the behest of a committee  
2 as defined in subdivision (a) of Section 82013 is a  
3 contribution to the committee unless full and adequate  
4 consideration is received from the committee for making  
5 the payment.

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

9 (A) Full and adequate consideration is received from  
10 the candidate.

11 (B) It is clear from the surrounding circumstances that  
12 the payment was made for purposes unrelated to his or  
13 her candidacy for elective office. The following types of  
14 payments are presumed to be for purposes unrelated to  
15 a candidate's candidacy for elective office:

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

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

25 (iii) A payment not covered by clause (i), made  
26 principally for legislative, governmental, or charitable  
27 purposes, in which case it is neither a gift nor a  
28 contribution. However, payments of this type that are  
29 made at the behest of a candidate who is an elected officer  
30 shall be reported within 30 days following the date on  
31 which the payment or payments equal or exceed five  
32 thousand dollars (\$5,000) in the aggregate from the same  
33 source in the same calendar year in which they are made.  
34 The report shall be filed by the elected officer with the  
35 elected officer's agency and shall be a public record  
36 subject to inspection and copying pursuant to the  
37 provisions of subdivision (a) of Section 81008. The report  
38 shall contain the following information: name of payor,  
39 address of payor, amount of the payment, date or dates  
40 the payment or payments were made, the name and



1 address of the payee, a brief description of the goods or  
2 services provided or purchased, if any, and a description  
3 of the specific purpose or event for which the payment or  
4 payments were made. Once the five thousand dollars  
5 (\$5,000) aggregate threshold from a single source has  
6 been reached for a calendar year, all payments for the  
7 calendar year made by that source must be disclosed  
8 within 30 days after the date the threshold was reached  
9 or the payment was made, whichever occurs later. Within  
10 30 days after receipt of the report, state agencies shall  
11 forward a copy of these reports to the Fair Political  
12 Practices Commission, and local agencies shall forward a  
13 copy of these reports to the officer with whom elected  
14 officers of that agency file their campaign statements.

15 (C) For purposes of subparagraph (B), a payment is  
16 made for purposes related to a candidate's candidacy for  
17 elective office if all or a portion of the payment is used for  
18 election-related activities. For purposes of this  
19 subparagraph, "election-related activities" shall include,  
20 but are not limited to, the following:

21 (i) Communications that contain express advocacy of  
22 the nomination or election of the candidate or the defeat  
23 of his or her opponent.

24 (ii) Communications that contain reference to the  
25 candidate's candidacy for elective office, the candidate's  
26 election campaign, or the candidate's or his or her  
27 opponent's qualifications for elective office.

28 (iii) Solicitation of contributions to the candidate or to  
29 third persons for use in support of the candidate or in  
30 opposition to his or her opponent.

31 (iv) Arranging, coordinating, developing, writing,  
32 distributing, preparing, or planning of any  
33 communication or activity described in clauses (i), (ii),  
34 or (iii), above.

35 (v) Recruiting or coordinating campaign activities of  
36 campaign volunteers on behalf of the candidate.

37 (vi) Preparing campaign budgets.

38 (vii) Preparing campaign finance disclosure  
39 statements.

1 (viii) *Communications directed to voters or potential*  
2 *voters as part of activities encouraging or assisting*  
3 *persons to vote if the communication contains express*  
4 *advocacy of the nomination or election of the candidate*  
5 *or the defeat of his or her opponent.*

6 (D) *A contribution made at the behest of a candidate*  
7 *for a different candidate or to a committee not controlled*  
8 *by the behesting candidate is not a contribution to the*  
9 *behesting candidate.*

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

27 ~~The~~

28 (d) *The term “contribution” further includes any*  
29 *transfer of anything of value received by a committee*  
30 *from another committee, unless full and adequate*  
31 *consideration is received.*

32 ~~The~~

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

39 ~~The~~



1 (f) *The* term “contribution” does not include a  
2 payment made by an occupant of a home or office for  
3 costs related to any meeting or fundraising event held in  
4 the occupant’s home or office if the costs for the meeting  
5 or fundraising event are five hundred dollars (\$500) or  
6 less.

7 ~~Notwithstanding~~

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

15 SEC. 3. Section 82025 of the Government Code is  
16 amended to read:

17 82025. “Expenditure” means a payment, a  
18 forgiveness of a loan, a payment of a loan by a third party,  
19 or an enforceable promise to make a payment, unless it  
20 is clear from the surrounding circumstances that it is not  
21 made for political purposes. “Expenditure” does not  
22 include a candidate’s use of his or her own money to pay  
23 for either a filing fee for a declaration of candidacy or a  
24 candidate statement prepared pursuant to Section 13307  
25 of the Elections Code. An expenditure is made on the  
26 date the payment is made or on the date consideration,  
27 if any, is received, whichever is earlier.

28 SEC. 4. Section 85200 of the Government Code, as  
29 amended by Section 1 of Chapter 289 of the Statutes of  
30 1996, is amended to read:

31 85200. Prior to the solicitation or receipt of any  
32 contribution or loan, an individual who intends to be a  
33 candidate for an elective office shall file with the  
34 Secretary of State an original statement, signed under  
35 penalty of perjury, of intention to be a candidate for a  
36 specific office.

37 For purposes of this section, “contribution” and “loan”  
38 do not include any payments from the candidate’s  
39 personal funds for a candidate filing fee or a candidate  
40 statement of qualifications fee.



1 SEC. 5. Section 85201 of the Government Code, as  
2 amended by Section 2 of Chapter 289 of the Statutes of  
3 1996, is amended to read:

4 85201. (a) Upon the filing of the statement of  
5 intention pursuant to Section 85200, the individual shall  
6 establish one campaign contribution account at an office  
7 of a financial institution located in the state.

8 (b) Upon the establishment of an account, an original  
9 statement setting forth the name of the financial  
10 institution, the specific location, and the account number  
11 shall be filed with the Secretary of State within 10 days,  
12 except as provided by subdivision (h).

13 (c) All contributions or loans made to the candidate,  
14 to a person on behalf of the candidate, or to the  
15 candidate's controlled committee shall be deposited in  
16 the account.

17 (d) Any personal funds which will be utilized to  
18 promote the election of the candidate shall be deposited  
19 in the account prior to expenditure.

20 (e) All campaign expenditures shall be made from the  
21 account.

22 (f) Subdivisions (d) and (e) do not apply to a  
23 candidate's payment for a filing fee and statement of  
24 qualifications from his or her personal funds.

25 (g) This section does not apply to a candidate who will  
26 not receive contributions and who makes expenditures  
27 from personal funds of less than one thousand dollars  
28 (\$1,000) in a calendar year to support his or her  
29 candidacy. For purposes of this section, a candidate's  
30 payment for a filing fee and statement of qualifications  
31 shall not be included in calculating the total expenditures  
32 made.

33 (h) Before expending one thousand dollars (\$1,000) or  
34 more in a calendar year, any candidate who does not  
35 establish a campaign contribution account pursuant to  
36 subdivision (g) shall establish one campaign contribution  
37 account at an office of a financial institution located in the  
38 state and file the information required in the manner  
39 prescribed in subdivision (b) with the Secretary of State  
40 within five days of establishing the account.



1 SEC. 6. *Section 2.5 of this bill incorporates*  
2 *amendments to Section 82015 of the Government Code*  
3 *proposed by this bill and SB 124. It shall only become*  
4 *operative if (1) both bills are enacted and become*  
5 *effective on or before January 1, 1998, (2) each bill*  
6 *amends Section 82015 of the Government Code, and (3)*  
7 *this bill is enacted after SB 124, in which case Section*  
8 *82015 of the Government Code, as amended by SB 124,*  
9 *shall remain operative only until the operative date of this*  
10 *bill, at which time Section 2.5 of this bill shall become*  
11 *operative, and Section 2 of this bill shall not become*  
12 *operative.*

13 SEC. 7. No reimbursement is required by this act  
14 pursuant to Section 6 of Article XIII B of the California  
15 Constitution because the only costs that may be incurred  
16 by a local agency or school district will be incurred  
17 because this act creates a new crime or infraction,  
18 eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section  
20 17556 of the Government Code, or changes the definition  
21 of a crime within the meaning of Section 6 of Article  
22 XIII B of the California Constitution.

23 Notwithstanding Section 17580 of the Government  
24 Code, unless otherwise specified, the provisions of this act  
25 shall become operative on the same date that the act  
26 takes effect pursuant to the California Constitution.

27 ~~SEC. 7.—~~

28 SEC. 8. The Legislature finds and declares that the  
29 provisions of this act further the purposes of the Political  
30 Reform Act of 1974 within the meaning of subdivision (a)  
31 of Section 81012 of the Government Code.

