

**ASSEMBLY BILL**

**No. 2842**

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**Introduced by Assembly Member Leno**

February 20, 2004

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An act to amend Section 85307 of, and to add Sections 85303.3, 85303.4, and 85303.5 to, the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2842, as introduced, Leno. Political Reform Act of 1974.

(1) The Political Reform Act of 1974 limits the total amount per election that may be contributed by a person to a candidate for elective state office, and to committees who make contributions and expenditures in support of the candidate. Under existing law, Member of the Legislature is an elective state office. Under existing law, contributions of personal funds by a candidate to his or her own campaign are excepted from the contribution limits.

This bill would authorize a legislative candidate to accept contributions at twice the limit if the total amount of personal funds contributed by an opposing candidate to his or her own campaign exceeds the total amount of campaign contributions raised by the candidate, not including amounts contributed from the candidate's personal funds, by more than \$300,000, but less than \$600,000. The bill would allow contributions to be accepted at 3 times the limit if the total amount of personal funds contributed by an opposing candidate to his or her own campaign exceeds the total amount of campaign contributions raised by the candidate, not including amounts contributed from the candidate's personal funds, \$600,000 or more, but

less than \$900,000, and would remove the limits if the total amount of personal funds contributed by an opposing candidate to his or her own campaign exceeds the total amount of campaign contributions raised by the candidate, not including amounts contributed from the candidate's personal funds, by \$900,000 or more. The bill would prohibit the amount raised by the candidate under the increased levels from exceeding the amount of personal funds contributed by the opposing candidate to his or her own campaign. The bill would require a legislative candidate that intends to use personal funds for his or her campaign to file a statement that includes the amount the candidate intends to spend at the time the candidate files his or her statement of intention to be a candidate, as specified.

(2) Existing law prohibits a candidate for elective state office from personally loaning to his or her campaign an amount that would have an outstanding balance in excess of \$100,000.

This bill would state that included in this amount are the proceeds of a loan obtained by the candidate from a commercial lending institution. The bill would also prohibit a candidate for elective state office from contributing personal funds to his or her controlled committee 30 days prior to an election.

(3) Under existing law, a violation of the Political Reform Act of 1974 is subject to administrative, civil, and criminal penalties. This bill would impose a state-mandated local program by imposing these penalties on persons who violate the provisions of the bill.

(4) 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.

(5) 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  $2/3$  vote of each house and compliance with specified procedural requirements. This bill, which would declare that it furthers the purposes of the act, would therefore require a  $2/3$  vote.

(6) The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $2/3$ . 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 85303.3 is added to the Government  
2 Code, to read:

3 85303.3. (a) For each election, if the total amount of personal  
4 funds contributed by an opposing candidate to his or her own  
5 campaign exceeds the total amount of campaign contributions  
6 raised by a candidate, not including amounts contributed from the  
7 candidate's personal funds, by more than three hundred thousand  
8 dollars (\$300,000), but less than six hundred thousand dollars  
9 (\$600,000), the contribution limitations set forth in Section 85301  
10 shall be doubled for the candidate.

11 (b) For each election, if the total amount of personal funds  
12 contributed by the opposing candidate to his or her own campaign  
13 exceeds the total amount of campaign contributions raised by a  
14 candidate, not including amounts contributed from the candidate's  
15 personal funds, by six hundred thousand dollars (\$600,000), but  
16 less than nine hundred thousand dollars (\$900,000), the  
17 contribution limitations set forth in Section 85301 shall be tripled  
18 for the candidate.

19 (c) For each election, if the total amount of personal funds  
20 contributed by the opposing candidate to his or her own campaign  
21 exceeds the total amount of campaign contributions raised by a  
22 candidate, not including amounts contributed from the candidate's  
23 personal funds, by nine hundred thousand dollars (\$900,000) or  
24 more, the contribution limitations set forth in Section 85301 shall  
25 not apply to the candidate.

26 (d) For each election, the amount raised by the candidate under  
27 the increased levels may not exceed the amount of personal funds  
28 contributed by the opposing candidate to his or her own campaign.

29 (e) A candidate shall provide an initial notification to all other  
30 candidates by guaranteed overnight mail or personal delivery  
31 within 24 hours of the time that the candidate has contributed  
32 personal funds to his or her campaign that, in the aggregate, exceed  
33 three hundred thousand dollars (\$300,000). Thereafter, the  
34 candidate shall provide notification in this manner when he or she  
35 continues personal funds to his or her campaign that, in the  
36 aggregate, exceed six hundred thousand dollars (\$600,000) and  
37 nine hundred thousand dollars (\$900,000). Upon notification, any  
38 candidate who is entitled to accept contributions under the



1 increased contribution limits may begin accepting contributions at  
2 the increased limits. The candidate shall also file the notification  
3 within the 24-hour timeframe with the Secretary of State by  
4 facsimile transmission, guaranteed overnight mail, or personal  
5 delivery.

6 (f) For the purposes of this section, “personal funds” includes  
7 any amount derived from any of the following:

8 (1) Any asset that a candidate has legal right of access to or  
9 control over, and with respect to which the candidate has either of  
10 the following:

11 (A) Legal and rightful title.

12 (B) An equitable interest.

13 (2) Any payment to the candidate, including, but not limited to,  
14 all of the following:

15 (A) Salary, commission, or income derived by the candidate  
16 through contract from any source.

17 (B) Dividends and proceeds from the sale of the candidate’s  
18 stocks or investments.

19 (C) Bequests to the candidate.

20 (D) Income from trusts established before the beginning of the  
21 election cycle.

22 (E) Income from trusts established by bequest after the  
23 beginning of the election cycle of which the candidate is a  
24 beneficiary.

25 (F) Gifts to the candidate.

26 (G) Proceeds from lotteries and similar games of chance.

27 (H) The candidate’s share of community property.

28 (I) Any loan made to the candidate, including, notwithstanding  
29 subdivision (a) of Section 85307, the proceeds of a loan made to  
30 a candidate by a commercial lending institution for which the  
31 candidate is personally liable.

32 (g) This section applies only to legislative candidates.

33 SEC. 2. Section 85303.4 is added to the Government Code, to  
34 read:

35 85303.4. Every legislative candidate that intends to use  
36 personal funds for his or her campaign shall file a statement of this  
37 intent at the time he or she files the statement of intention specified  
38 in Section 85200. The candidate shall indicate in the statement  
39 which of the following amounts he or she intends to spend:

40 (a) Less than three hundred thousand dollars (\$300,000).



1 (b) Three hundred thousand dollars (\$300,000) or more, but  
2 less than six hundred thousand dollars (\$600,000).

3 (c) Six hundred thousand dollars (\$600,000) or more, but less  
4 than nine hundred thousand dollars (\$900,000).

5 (d) Nine hundred thousand dollars (\$900,000) or more.

6 SEC. 3. Section 85303.5 is added to the Government Code, to  
7 read:

8 85303.5. No candidate for elective state office may contribute  
9 personal funds to his or her controlled committee 30 days prior to  
10 an election.

11 SEC. 4. Section 85307 of the Government Code is amended  
12 to read:

13 85307. ~~(a) The provisions of this article regarding loans~~  
14 ~~apply to extensions of credit, but do not apply to loans made to a~~  
15 ~~candidate by a commercial lending institution in the lender's~~  
16 ~~regular course of business on terms available to members of the~~  
17 ~~general public for which the candidate is personally liable.~~

18 ~~(b)~~ A candidate for elective state office may not personally loan  
19 to his or her campaign an amount, *including the proceeds of a loan*  
20 *obtained by the candidate from a commercial lending institution,*  
21 the outstanding balance of which exceeds one hundred thousand  
22 dollars (\$100,000). A candidate may not charge interest on any  
23 loan he or she made to his or her campaign.

24 SEC. 5. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.

33 SEC. 6. The Legislature finds and declares that the provisions  
34 of this act further the purposes of the Political Reform Act of 1974  
35 within the meaning of subdivision (a) of Section 81012 of the  
36 Government Code.

37 SEC. 7. This act is an urgency statute necessary for the  
38 immediate preservation of the public peace, health, or safety  
39 within the meaning of Article IV of the Constitution and shall go  
40 into immediate effect. The facts constituting the necessity are:



1 In order to ensure that the November 2, 2004 statewide general  
2 election is conducted in a fair and impartial manner, and to clarify  
3 the law regarding candidate loans to the candidate's committee in  
4 light of the ruling in *Camp v. Schwarzenegger* (Super. Ct.  
5 Sacramento County, 2004, No. 03AS05478), it is necessary that  
6 this bill go into immediate effect.

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