

ASSEMBLY THIRD READING

AB 1367 (Low)

As Amended April 21, 2021

2/3 vote

SUMMARY

Increases penalties for egregious personal use of campaign funds to three times the amount of the unlawful expenditure, as specified.

Major Provisions

- 1) Provides that any person who uses campaign funds in a manner that violates existing law and results in an egregious personal benefit is liable in an administrative or civil action brought by the Fair Political Practices Commission (FPPC) for an amount of up to three times the amount of the unlawful expenditure.
- 2) Defines "egregious personal benefit" to mean a direct personal benefit with a total value of \$10,000 or more to a candidate, elected officer, or individual or individuals with authority to approve the expenditure of campaign funds held by a committee.

COMMENTS

In general, existing law requires expenditures of campaign funds to be either reasonably related to a political, legislative, or governmental purpose, or directly related to a political, legislative, or governmental purpose in situations where the expenditure confers a substantial personal benefit on any individual with authority to approve the expenditure of campaign funds. The Political Reform Act (PRA) defines "substantial personal benefit" for these purposes to mean an expenditure of campaign funds that results in a direct personal benefit with a value of more \$200 to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee.

When a public official uses campaign funds for personal purposes, it is a serious violation of the PRA that erodes public confidence in the political process by creating the appearance that lawful campaign contributions are personal gifts to the public official. This erosion of public confidence is amplified when the value of the personal use is especially high.

According to background materials provided to the committee, in a 2019 enforcement case, the FPPC found that a former local public official unlawfully used campaign funds for personal uses on multiple occasions, including making a disbursement from a committee's money market account to the public official's checking account in the amount of \$35,000, and using campaign funds in excess of \$36,000 for personal travel expenses for a vacation to another country that was not directly related to any political, legislative, or governmental purpose of the committee.

A violation of the PRA is generally subject to a maximum administrative penalty of \$5,000, as specified, and a violation involving unlawful personal use of campaign funds is subject to this maximum administrative penalty. Existing law, however, authorizes higher penalties for violations of certain provisions. For instance, a person who violates certain advertisement disclosure requirements is liable in a civil or administrative action for up to three times the cost of the advertisement and a person who makes or receives an honorarium, gift, or expenditure in

violation of certain requirements relating to campaign funds is liable in a civil action for up to three times the amount of the unlawful honorarium, gift, or expenditure, as specified.

California voters passed an initiative, Proposition 9, in 1974 that created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders and lobbyists. That initiative is commonly known as the PRA. Amendments to the PRA that are not submitted to the voters, such as those contained in this bill, must further the purposes of the initiative and require a two-thirds vote of both houses of the Legislature.

According to the Author

"AB 1367 will increase transparency and compliance and discourage unlawful use of campaign funds to ensure public confidence in our political process."

Arguments in Support

The sponsor of this bill, the FPPC, writes: "AB 1367 would...increase the penalties for unlawful personal use of campaign funds to an amount of up to three times the amount of the unlawful expenditure when that use results in a direct personal benefit with a value of \$10,000 or more. Currently, a violation of the Act involving unlawful personal use of campaign funds is subject to a maximum administrative penalty of \$5,000.

"This bill would...give the [FPPC] additional penalty authority when an individual egregiously uses campaign funds to personally enrich themselves. In doing so, AB 1367 would also increase public confidence that the state's campaign finance laws are being followed and enforced."

Arguments in Opposition

None received.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, FPPC costs are minor and absorbable.

VOTES

ASM ELECTIONS: 7-0-0

YES: Berman, Seyarto, Bennett, Low, Mayes, Mullin, Blanca Rubio

ASM APPROPRIATIONS: 16-0-0

YES: Lorena Gonzalez, Bigelow, Calderon, Carrillo, Chau, Megan Dahle, Davies, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Holden, Akilah Weber, Berman

UPDATED

VERSION: April 21, 2021

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FN: 0000340