

CONCURRENCE IN SENATE AMENDMENTS

AB 1367 (Low)

As Amended July 13, 2021

2/3 vote

SUMMARY

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

Senate Amendments

Lower the increased penalties for egregious personal use of campaign funds, compared to the Assembly-approved version of this bill, from three times the amount of unlawful expenditure to two times the amount of the unlawful expenditure.

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 Fair Political Practices Commission (FPPC) found that a former local public official unlawfully used campaign funds for personal use 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 two 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 encourage the lawful use and accounting of campaign funds, aid in the effective enforcement of the campaign finance laws, and 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 Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

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

ASSEMBLY FLOOR: 78-0-0

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

SENATE FLOOR: 39-0-1

YES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Stern

UPDATED

VERSION: July 13, 2021

CONSULTANT: Nichole Becker / ELECTIONS / (916) 319-2094

FN: 0001090