

SENATE THIRD READING
SB 42 (Umberg, et al.)
As Amended June 25, 2025
Majority vote

SUMMARY

Allows the state and local governments to offer public campaign financing programs. Triples the maximum potential fine for criminal violations of the ban on campaign contributions and expenditures by foreign entities. Makes this bill operative only upon voter approval in November 2026.

Major Provisions

- 1) Permits a public officer or candidate to expend or accept public funds for the purpose of seeking elective office if the following conditions are met:
 - a) The public funds are not earmarked for education, transportation, or public safety.
 - b) Public funding programs do not discriminate based on party, or according to whether a candidate is a challenger or an incumbent.
 - c) Candidates receiving public funds abide by expenditure limits and meet criteria that demonstrate broad-based support in the district in which they are running, as specified. Such criteria may include a requirement to receive small-dollar contributions or vouchers from a specified number of voting-age residents.
 - d) Public funds are not used for legal defense fees or fines or to repay a personal loan from the candidate to their campaign, and a candidate who receives public funds does not use any source of funds to repay a personal loan to their campaign after the campaign ends.
- 2) Permits a public financing program adopted in accordance with this bill to increase the expenditure limits for participating candidates, provided that any increased limit does not exceed a specified amount that takes into account spending by other candidates for the same office and independent expenditures (IEs) related to candidates for the same office.
- 3) Provides that the Fair Political Practices Commission (FPPC) is not responsible for administering or enforcing a local agency's system of public financing of candidates, unless the FPPC agrees to do so.
- 4) Increases the potential fine for a criminal violation of the state's ban on campaign contributions or expenditures by specified foreign entities from an amount equal to the amount contributed or expended, to an amount at least equal to the amount contributed or expended and up to three times that amount.
- 5) Requires the Secretary of State (SOS) to submit this bill's provisions to the voters for approval at the November 3, 2026, statewide general election.

COMMENTS

In June 1974, California voters passed an initiative—Proposition 9—that created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders and lobbyists. That initiative is commonly known as the Political Reform Act (PRA).

In 1988, voters approved two separate initiatives that sought to regulate campaign financing by amending the PRA: Proposition 68 and Proposition 73. Proposition 68 proposed a system of public funding and expenditure limits for state legislative races, and passed with 53% of the vote. Proposition 73 prohibited public funding of campaigns and set contribution limits for state and local elections, and passed with 58% of the vote. The California Supreme Court subsequently ruled in *Taxpayers to Limit Campaign Spending v. FPPC* (1990) 51 Cal. 3d 744, that because the two measures contained conflicting comprehensive regulatory schemes they could not be merged and only one could be implemented. As such, since Proposition 73 received more affirmative votes than Proposition 68, the Court ordered the implementation of Proposition 73 and declared all provisions of Proposition 68 invalid.

In an effort to authorize public campaign financing programs subject to certain conditions, in 2016, the Legislature approved and Governor Brown signed SB 1107 (Allen), Chapter 837, Statutes of 2016. SB 1107 did not create any public financing programs, but instead authorized the creation of such programs by state or local governmental entities through separate actions by those entities. Because SB 1107 sought to amend a provision of Proposition 73, which itself amended and became part of the PRA, the provisions of SB 1107 were subject to rules governing legislation that seeks to amend the PRA. SB 1107 contained legislative findings and declarations that the bill furthered the purposes of the PRA, and was enacted in a manner that complied with various procedural requirements for bills that seek to amend the PRA without the approval of voters.

Following the enactment of SB 1107, the Third District Court of Appeal determined in *Howard Jarvis Taxpayers Assn. v. Newsom* (2019) 39 Cal.App.5th 158 that SB 1107 "directly conflicts with a primary purpose and mandate of the [PRA], as amended by subsequent voter initiatives, to prohibit public funding of political campaigns." In its decision, the court affirmed a judgment by the Sacramento County Superior Court that enjoined the FPPC from enforcing the public financing related provisions of SB 1107.

This bill proposes to repeal the provisions of SB 1107 that sought to authorize public campaign financing programs, and proposes to authorize state and local governments to offer public campaign financing programs, subject to certain conditions. Unlike SB 1107, this bill provides that it would become effective only upon approval of the voters.

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 by the Legislature must further the purposes of the proposition and require a two-thirds vote of each house of the Legislature, or the Legislature may propose amendments to the proposition that do not further the purposes of the act by a majority vote, but such amendments must be approved by the voters to take effect. This bill would take effect only if approved by the voters.

Please see the policy committee analysis for a full discussion of this bill.

According to the Author

"Currently, local jurisdictions such as counties, districts, and general law cities, do not have the option to set up [a] public fund for campaign financing, despite the policy's popularity among voters, as voters in several charter cities have overwhelmingly approved public campaign financing measures in recent years. Unfortunately, other local governments do not have the option to enact these same policies. In 2016, bipartisan supermajorities of the legislature passed, and Governor Jerry Brown signed, SB 1107 (Allen), which would have removed the ban and given local governments and the state this option. However, the courts ruled that the question must be put before the voters. SB [42] will restore control to local governments and the state by giving counties, districts, general law cities, and the state the same option that charter cities currently have to enact public financing of campaigns. If passed, this measure will be placed on the November 2026 ballot for voter approval."

Arguments in Support

In a coalition letter, supporters of this bill write, "Voters are increasingly concerned about the problem of money in politics...Public financing of campaigns addresses these concerns by increasing the power of small donors and ordinary voters to participate in campaigns and have their voices heard. Also, it reduces the barriers to entry for running for office which diversifies the candidate pool by helping qualified candidates from all walks of life represent their communities...Unfortunately, such programs are prohibited in California jurisdictions other than charter cities by the Political Reform Act of 1974 under a provision enacted by Proposition 73 in 1988 that had virtually all of its other provisions invalidated by the courts...SB 42 will allow voters to...restore control to local governments and the state by placing the California Fair Elections Act on the November 2026 ballot to repeal the ban while requiring that no public moneys earmarked for education, transportation, or public safety be eligible to fund public financing."

Arguments in Opposition

In opposition to this bill, the California Taxpayers Association writes, "This measure raises several First Amendment issues by creating a scenario in which taxpayers would be forced to finance political speech they do not wish to support. SB 42 sets vague parameters for the authority that governments would have to determine which candidates qualify for public financing. It is possible that governments would be able to arbitrarily prohibit certain candidates from receiving funding to limit the speech of some candidates for the political benefit of others... SB 42 establishes a taxpayer-financed campaign system similar to a New York City program that has been abused by public officials to funnel tax dollars into their campaigns...While SB 42 establishes penalties for public officials who fraudulently receive public campaign funds, the bill would create a new threat of campaign violations, and it lacks a central oversight body to ensure that fraud and abuse are not occurring. The state is dipping into rainy day reserves and is projected to continue having structural deficits, and many municipalities are experiencing significant budget pressure due to inflation. The government should prioritize prudent fiscal policies to make the most of the tax dollars received from hardworking Californians."

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) One-time costs of approximately \$1.1 million to the SOS for printing and mailing expenses associated with placing the measure on the ballot at the next statewide general election (General Fund (GF)). The SOS estimates this bill will require approximately nine pages be added to the November 3, 2026, General Election Voter Information Guide at an average cost of approximately \$123,000 per page. Actual costs for this bill will depend on the length of the title and summary, analysis by the Legislative Analyst's Office, proponent and opponent arguments, and text of the proposal for publication in the Voter Information Guide.
- 2) This bill requires the redirection of public funds, except those earmarked for education, transportation, or public safety, for public campaign financing, which is, in itself, a significant fiscal effect resulting in GF cost pressures.
- 3) Costs of approximately \$205,000 in the first year and \$198,000 annually thereafter to the FPPC for one additional attorney position to accommodate an increase in advice requests related to the implementation of public financing programs and how such programs would impact existing campaign finance reporting and rules (GF).
- 4) The FPPC also anticipates additional enforcement costs of an unknown amount. Although this bill provides that the FPPC is not responsible for the administration or enforcement of a local public financing program, it is possible that a local agency itself may be subject to FPPC enforcement for improperly administering its local program. In such instances, especially if the FPPC needed to audit the jurisdiction's financial records, enforcement costs may be significant.

VOTES

SENATE FLOOR: 28-10-2

YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

NO: Alvarado-Gil, Choi, Dahle, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares

ABS, ABST OR NV: Hurtado, Reyes

ASM ELECTIONS: 5-2-0

YES: Pellerin, Bennett, Berman, Solache, Stefani

NO: Macedo, Tangipa

ASM APPROPRIATIONS: 11-4-0

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache

NO: Sanchez, Dixon, Ta, Tangipa

UPDATED

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