

Date of Hearing: July 16, 2025

ASSEMBLY COMMITTEE ON ELECTIONS

Gail Pellerin, Chair

SB 760 (Allen) – As Amended April 22, 2025

As Proposed to be Amended

SENATE VOTE: 39-0

SUBJECT: Behested payments: public appeal for payment.

SUMMARY: Provides that payments resulting from a general public appeal by an elected officer or member of the Public Utilities Commission (PUC) do not trigger behested payment reporting, except as specified. Specifically, **this bill**:

- 1) Provides that an elected officer or PUC member is not required to file a behested payment report for a payment that resulted from a public appeal by any of the following means:
 - a) Television.
 - b) Radio.
 - c) Billboard.
 - d) A public message on an online platform.
 - e) A public speech, excluding a speech at an event held for raising funds for the recipient organization, as specified.
- 2) Provides that the exception from behested payment reporting outlined above in 1) does not apply in either of the following circumstances:
 - a) To the extent that the elected officer or PUC member knows that they, or a member of their immediate family, campaign staff, or officeholder staff, holds a position with the recipient organization other than a governmental agency, including any of the following:
 - i) Any decision-making capacity within the organization, such as a board member or executive officer position.
 - ii) Salaried employment at the organization.
 - iii) Status as a founding member of the organization.
 - iv) A position on an honorary or advisory board of the organization.
 - b) Where the behesting officer or PUC member knows that the payment was made in response to the officer or member's public appeal.

EXISTING LAW:

- 1) Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA). (Government Code §§83100, 83111)
- 2) Requires an elected officer or PUC member to disclose specified information about a payment made by a third party for a charitable, legislative, or governmental purpose if the payment is made at the behest of the officer or PUC member, as specified. Requires these types of payments, commonly known as “behested payments,” to be reported within 30 days following the date on which payments made by a single source add up to \$5,000 or more in a calendar year. Requires this report to be filed with the elected officer's or member's agency. Provides that a payment is “made at the behest of” a person for these purposes when the payment is made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of the person. (Government Code §§82004.5, 82041.3, 84224)

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

- 1) **Author’s Amendments:** After the committee's deadline for pre-committee author's amendments, the author proposed amendments that modify the circumstances under which a payment resulting from a general public appeal by an elected officer or PUC member would not trigger behested payment reporting. Specifically, the author proposed the following amendment to the language on page 3, lines 21-29 of the bill:

(E) A public ~~speech to a group of 100 or more individuals.~~ speech, excluding any event that the officer or member knows is being held for the purpose of raising funds for the recipient organization and at which the officer or member consents in advance to be a speaker, consents to be featured in a solicitation, or makes a public solicitation of contributions to the recipient organization.

(2) Paragraph (1) does not apply if either of the following conditions is satisfied:

~~(A) It is reasonably foreseeable that a payment made in response to a public appeal will have a material financial effect, distinguishable from its effect on the public generally, on the behesting officer or member of the Public Utilities Commission, or a member of their immediate family.~~

(A) To the extent that the elected officer or member of the Public Utilities Commission knows that they, or a member of their immediate family, campaign staff, or officeholder staff, holds a position with the payee organization—other than a governmental agency—including any of the following:

(i) Any decision-making capacity within the organization, such as a board member or executive officer position.

(ii) Salaried employment at the organization.

(iii) Status as a founding member of the organization.

(iv) A position on an honorary or advisory board of the organization.

This analysis reflects these proposed author's amendments.

2) Purpose of the Bill: According to the author:

In the wake of the 2025 wildfires in Los Angeles, non-profit organizations activated to aid in the immediate response and long term recovery of fire victims. Elected officials in the region could have played a valuable role by using their platforms to support and amplify charitable efforts in the community during this time. However, they were discouraged from making public statements that encouraged contributions to these organizations for fear of violating behested payment disclosure requirements.

Under current law, a contribution is considered a behest if it is made in coordination with or at the request or suggestion of an elected official. If an elected official were to make a comment on social media or during a television broadcast appealing to the public to consider supporting a non-profit that is aiding wildfire victims, any contribution could be considered a behest. This is true even if the elected official does not know if a contribution was made as a result of that public appeal, does not know if a contribution exceeds the threshold, or did not coordinate directly with any of the potential viewers of that communication.

SB 760 gives elected officials more flexibility to make public appeals promoting and encouraging support of charitable organizations without triggering reporting requirements while maintaining transparency with protections against potential abuses.

3) Behested Payments Background: In 1996, the FPPC amended its regulatory definition of the term "contribution" to include any payment made "at the behest" of a candidate, regardless of whether that payment was for a political purpose. As a result, payments made by a third party at the request or direction of an elected officer were required to be reported as campaign contributions, even if those payments were made for governmental or charitable purposes.

The change in regulations by the FPPC, along with a number of advice letters issued by the FPPC interpreting the new definition of "contribution," limited the ability of elected officers to co-sponsor governmental and charitable events. In one advice letter, the FPPC concluded that a member of the Legislature would be deemed to have accepted a campaign contribution if, at the member's behest, a third party paid for the airfare and lodging for witnesses to testify at a legislative hearing.

In response to the FPPC's modified definition of "contribution," the Legislature enacted SB 124 (Karnette), Chapter 450, Statutes of 1997, which provided that a payment made at the behest of a candidate for purposes unrelated to the candidate's candidacy for elective office is not a contribution. SB 124 specifically provided that a payment made at the behest of a candidate principally for a legislative, governmental, or charitable purpose is not considered a contribution or a gift. However, SB 124 also required that such payments made at the behest of a candidate who is also an elected officer, when aggregating \$5,000 or more in a calendar year from a single source, be reported to the elected officer's agency. The elected officer must report such a payment within 30 days.

Examples of payments made at the behest of an elected officer that have to be reported under this provision of law include charitable donations made in response to a solicitation sent out by an elected officer or donations of supplies and refreshments made by a third party for a health fair that was sponsored by an elected officer.

- 4) **General Public Appeals and Behested Payment Reporting:** The purpose of the behested payment reporting requirements is to provide public disclosure of payments that are not contributions or gifts to officials, but are payments in which the public may have an interest due to the potential for influence over a public official. One of the challenges to public officials for complying with behested payment reporting rules, however, is that the payments covered by those rules are not made by nor necessarily received by the elected official or the official's agent. In fact, payments with very little involvement by a public official may nonetheless trigger behested payment reporting.

For instance, under state law, a payment is considered to be made at the behest of a public official if the payment is made *at the suggestion of* the official. Even if the public official does not *know* that the payment was made at the official's suggestion, it may nonetheless trigger a requirement to file a behested payment report. That's true even where the public official does not have the details necessary to make that report—details, for example, about the timing of the payment, the amount of the payment, or even the entities making or receiving the payment.

As a result, public officials may be wary about making general appeals to the public for donations to charitable causes due to concerns about the official's inability to comply with behested payment reporting rules. For example, if a Legislator gave an interview to the news media during a natural disaster in the Legislator's district, and that member encouraged the public to make donations to the Red Cross to support disaster relief, payments made by members of the public who viewed that interview could be reportable behested payments even if the Legislator did not know that the payments were made or the identities of the individuals who made them.

To the extent that a public official is unaware of a payment that was made at that official's behest, as that term is defined for the purpose of the PRA, it is not clear how the payment could influence the public official. Accordingly, requiring public officials to file reports in those circumstances seems inconsistent with the purpose of behested payment reporting requirements generally.

This bill proposes a narrow exception to the behested payment reporting requirements to exclude certain payments that result from a public appeal made by an elected officer. To the extent that the elected officer *knows* about a payment that was made in response to such a public appeal, that payment would still be reportable under this bill as long as it meets the other requirements for reportable behested payments under existing law.

- 5) **Knowledge of Payments and Suggested Amendments:** Under this bill, it is possible that a payment made in response to a public appeal would not be reportable at the time it was made, but subsequently could *become* a reportable behested payment if the officer at whose behest it was made is later informed that the payment was made at the officer's behest. Such a possibility presents potential complications that are not currently addressed by this bill.

For instance, because the deadline for reporting a behested payment is based on the date on which the payment was *made*, it is unclear how that deadline would apply in a situation where an officer becomes aware that the payment was made at the officer's behest only after that deadline has passed. Relatedly, it is unclear whether it would be practical for a person to comply with the behested payment reporting requirement if the person only becomes aware many years later that the payment was made at that person's behest.

To address these issues, committee staff recommends the following amendments to the language on page 3, lines 30-32 of the bill:

(B) The behesting officer or member of the Public Utilities Commission knows within two years of the payment that a specific payment was made in response to the officer or member's public appeal. If the officer or member of the Public Utilities Commission did not know at the time the payment was made that it was in response to the officer or member's public appeal, the deadline for reporting that payment pursuant to subdivision (a) shall apply as if the payment was made on the date the officer or member first knows that it was made in response to that public appeal.

- 6) **Related Legislation:** AB 775 (Fong), which is pending in the Senate Appropriations Committee, requires behested payment disclosure reports to be filed using an electronic filing system developed by the FPPC, except as specified, and modifies the deadline for reporting behested payments. AB 775 was approved by this committee on a 7-0 vote, and was approved on the Assembly Floor on a 79-0 vote.
- 7) **Political Reform Act of 1974:** 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.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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