

Date of Hearing: March 20, 2024

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 2041 (Bonta) – As Amended March 13, 2024

SUBJECT: Political Reform Act of 1974: campaign funds: security expenses.

SUMMARY: Authorizes campaign funds to be used for costs related to security expenses, as defined, to protect a candidate, elected officer, or the immediate family or staff of a candidate or elected officer, as specified. Specifically, **this bill:**

- 1) Authorizes campaign funds to be used to pay, or reimburse the state, for security expenses to protect a candidate, an elected officer, or the immediate family or staff of a candidate or elected officer for a potential threat to safety that arises from a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, or from staff's position as staff of the candidate or elected officer.
- 2) Defines "security expenses" to mean the reasonable costs of installing and monitoring a home or office electronic security system and the reasonable costs of providing personal security to a candidate, elected officer, or the immediate family or staff of a candidate or elected officer. Provides that "security expenses" do not include payments to a relative, within the third degree of consanguinity, of a candidate or elected officer, unless the relative owns or operates a professional personal security business and the cost of the service is no greater than the relative would otherwise charge. Provides that "security expenses" do not include payments for a firearm.
- 3) Deletes provisions of existing law that allows up to \$5,000 in campaign funds to be used to pay, or reimburse the state, for the costs of installing and monitoring a home or office electronic security system only if all of the following circumstances are met: (1) the candidate or elected officer has received threats to their physical safety, (2) the threats arise from their activities, duties or status as a candidate or elected officer, and (3) the threats have been reported to and verified by law enforcement.
- 4) Requires a security system or any other tangible item related to security to be returned or reimbursed to the committee that paid for it. Requires the return or reimbursement to be due within one year of when the elected office leaves the office for which the security system or other tangible item related to security was purchased, or when the candidate is no longer a candidate for the office for which the security system or other item was purchased, or if applicable, upon sale of the property on which the security system is installed, whichever occurs sooner.
- 5) Provides that if there is a continuing threat to the physical safety of the candidate or elected officer, the threat arises from the candidate's or elected officer's activities, duties, or status as a candidate or elected officer, and the threat has been reported to and verified by an appropriate law enforcement agency, the return or reimbursement is due within one year of when the threat verified by the law enforcement agency ceases, or upon sale of the property

on which the security system is installed, whichever occurs sooner.

- 6) Requires the reimbursement for the fair market value of the security system or other tangible item related to security for a candidate or elected officer to be made by that candidate or officer. Permits reimbursement for the fair market value of the security system or other tangible item related to security for immediate family or staff to be made by either the candidate or elected officer, or by the immediate family or staff, as specified.
- 7) Provides that immediate family or staff of the candidate or elected officer are not personally liable for reimbursement for expenditures for security expenses pursuant to this bill.
- 8) Requires a candidate or elected officer, as part of recordkeeping requirements, to maintain detailed accounts, records, bills, and receipts relating to an expenditure or reimbursement related to security expenses, including records providing evidence of the threat or potential threat to safety that gave rise to the need for the expenditure.
- 9) Makes conforming changes.
- 10) Contains an urgency clause, allowing this bill to take effect immediately upon enactment.

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 §§81000 et seq.)
- 2) Requires expenditures of campaign funds to be reasonably related to a political, legislative, or governmental purpose. Requires an expenditure of campaign funds that confers a substantial personal benefit on any individual with authority to approve the expenditure of campaign funds to be directly related to a political, legislative, or governmental purpose. (Government Code §§89510 et seq.)
- 3) Authorizes campaign funds to be used to pay, or reimburse the state, for the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to the candidate's or elected officer's physical safety, provided that the threats arise from the candidate's or elected officer's activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency, as specified. (Government Code §89517.5)
- 4) Requires a candidate or elected officer to report any expenditure of campaign funds made for the costs or reimbursement of installing or monitoring an electronic security system to the FPPC. Requires the report to include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. Provides that no more than \$5,000 in campaign funds may be used, cumulatively, by a candidate or elected officer, and requires the candidate or elected officer to reimburse the campaign fund account for the costs of the

security system upon sale of the property where the security equipment is installed, based on the fair market value of the security equipment at the time the property is sold. (Government Code §89517.5)

- 5) Requires campaign funds under the control of a former candidate or elected officer, upon the 90th day after leaving an elective office, or the 90th day following the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, to be considered surplus campaign funds and to be disclosed, as specified. Requires surplus campaign funds to be used only for certain purposes, including the payment of outstanding campaign debts or elected officer's expenses. (Government Code §89519(a)(1))
- 6) Provides that the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to the candidate's or elected officer's physical safety shall be deemed an outstanding campaign debt or elected officer's expense, provided that the threats arise from the candidate's or elected officer's activities, duties, or status as a candidate or elected officer and the threats have been reported to and verified by an appropriate law enforcement agency, as specified. (Government Code §89519(c))
- 7) Requires a candidate, elected officer, and committee to file specified campaign statements. (Government Code §§84200-84226)
- 8) Requires each candidate, treasurer, principal officer, and elected officer to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to otherwise comply with the provisions of existing law. (Government Code §84104)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Purpose of the Bill:** According to the author:

As public servants, we sacrifice so much to serve, including time with our families and our privacy. However, one thing we should never be willing or expected to give up is our sense of safety. Unfortunately, we have seen an increase in threats against public officials, especially women, and harassment against legislative staff who serve the constituents who elected us to office. This is the premise for why I am authoring AB 2041.

The political rhetoric across the country is becoming increasingly alarming, with lawmakers from local school boards to congressional leaders constantly receiving threats. Further we are witnessing a disproportionate rise in threats made against women running for office. When Trump took office as President and spread lie after lie about how the election was stolen, his radicalized followers took it upon themselves to confront public officials, and even their family members, by any means necessary, with the Big Lie justifying the violence.

Ensuring the safety of candidates and elected officials is essential to protecting our democracy. Political violence is never the answer. When reactionary elements fan the flames of violence, they are putting candidates and elected officials squarely in their sights. It is an honor to hold a public office and serve our community. But this honor should never be overshadowed by the harassment and threats against ourselves, our families and our children.

- 2) **Authorized Use of Campaign Funds:** The PRA strictly regulates the use of campaign funds by candidates, elected officials, and others who control the expenditure of those funds. Existing law generally 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. A substantial personal benefit means an expenditure of campaign funds which results in a direct personal benefit with a value of more than \$200.

In recognition of the fact that public officials may face threats to their security due to their political, legislative, or governmental activities, current law includes a specific exception to the otherwise generally-applicable rules governing the expenditure of campaign funds. A candidate or elected official may use up to \$5,000 in campaign funds to pay, or reimburse the state, for the costs of installing and monitoring a home or office electronic security system if the following circumstances are met: (1) the candidate or elected officer has received threats to their physical safety, (2) the threats arise from their activities, duties, or status as a candidate or elected officer, and (3) the threats have been reported to and verified by law enforcement.

This bill significantly broadens the types of security expenses that can be paid for with campaign funds by allowing a candidate and elected officer to spend those funds on personal security, and by allowing campaign funds to be spent on personal security for the immediate family and staff of a candidate or elected official. Additionally, this bill requires reimbursement or *return* of the security system equipment and any tangible security-related items purchased with campaign funds. According to the author's office, the intention for adding tangible security-related items was to allow expenditures to be made to purchase security tools such as pepper spray or a taser. However the bill explicitly excludes firearms from permitted expenditures.

Additionally, this bill eliminates the \$5,000 cap and certain verification requirements. Specifically, this bill deletes verification requirements that permit campaign funds to be used for security systems only if the candidate or elected officer receives threats to their physical safety and the threats have been reported to and verified by law enforcement. Instead the bill allows campaign funds to be used for security expenses when threats arise from their activities, duties, or status as a candidate or elected officer, and expands the law to include staff in their position as a staff of a candidate or elected officer.

The author's concern about an increase in political violence and threats against public officials and the families and staff of those officials may warrant a reconsideration of the \$5,000 cap on the use of campaign funds for security expenses. The committee may wish to

consider, however, whether it would be more prudent to increase the monetary cap rather than eliminate it.

- 3) **News Articles:** According to a 2022 TIME article, there has been a surge of harassment, attacks, and violent threats targeting civic and public officials and their families in the United States (US). Some episodes of violence have made national headlines, including the insurrection in the United States (US) Capitol on January 6, 2021 to block certification of the presidential election and the 2022 October break-in at the San Francisco home of then-Speaker of the US House of Representatives Nancy Pelosi. While these episodes of violence are dramatic examples of the threats that public officials and their families and staff can face, the article notes that many episodes of harassment of public officials are constitutionally protected free speech, leaving it to officials with limited resources to comb through angry threats to decipher which ones are true threats to their safety, or the safety of their families and staff. The article also notes that analysts say that officials who are women or people of color are disproportionately targeted by these threats.

Additionally, the TIME article reported that the spike in violent threats has strained state and local budgets, forcing public officials to take steps like hiring armed guards for their homes, installing bulletproof glass in local government offices, investing in trauma counseling for staff, and devoting time and resources to things like active-shooter trainings and monitoring emails and phone calls for menacing messages that might have to be reported to law enforcement.

- 4) **Recent Research:** According to a 2022 news article, researchers at Princeton University and the Anti-Defamation League are building the first-ever national database that tracks incidents of threats and harassment against government officials. The researchers spent two years searching public sources of information to build a central repository of threat reports. According to the article, the baseline research findings show that women officials are targeted 3.4 times more often than men; threats of death and gun violence are more than twice as common as any other form of threat, while intimidation is the top form of harassment, and the states accounting for the highest share of incidents against poll workers and election officials are all likely to be 2024 battleground states.
- 5) **Previous Legislation:** AB 37 (Bonta) of 2023, which was similar to this bill, would have authorized campaign funds to be used for costs related to security expenses, as defined, to protect a candidate, elected officer, or the immediate family or staff of a candidate or elected officer, as specified. AB 37 was approved by this committee on a 7-0 vote, and was approved by the Assembly by a 75-0 vote. Governor Newsom vetoed AB 37 stating, “While I support the author's intention, the bill as drafted does not clearly define 'security expenses.' Without more guidance on what would or would not be allowed as a legitimate use of campaign funds, this bill could have unintended consequences and could lead to use of political donations for expenditures far beyond what any reasonable donor would expect. We must ensure political donations are utilized in a manner consistent with their intended purpose.”
- 6) **Arguments in Support:** In support of this bill, Courage California, writes:

The current political climate across the nation is fraught with escalating rhetoric and instances of violence, posing significant risks to individuals at all levels of government. Female elected officials, in particular, face disproportionate levels of harassment and intimidation, as evidenced by the alarming statistics outlined in the 2023 report by the California Women's List.

It is deeply troubling that nearly two-thirds of women candidates have experienced harassment during their campaigns, with even higher rates among women of color and LGBTQ+ women. These threats not only undermine our democratic principles but also deter qualified individuals from seeking public office, thus weakening the diversity and representation within our government.

AB 2041 presents a comprehensive solution to address these challenges by expanding access to security measures and removing existing barriers. By allowing for the reimbursement of personal security expenses and eliminating the outdated \$5,000 lifetime cap, this bill ensures that candidates and elected officials have the resources they need to protect themselves and their families.

Moreover, extending eligibility to include family members and staff recognizes the interconnected nature of these threats and the importance of safeguarding those closest to public servants. The removal of the requirement for law enforcement verification streamlines the process, empowering individuals to take proactive steps towards their own safety without unnecessary bureaucratic hurdles.

- 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

Courage California
League of California Cities (Cal Cities)
Orange County District Attorney Todd Spitzer (prior version)

Opposition

None on file.

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