

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON ELECTIONS  
Gail Pellerin, Chair  
AB 2803 (Valencia) – As Amended April 16, 2024

**SUBJECT:** Campaign expenditures: criminal convictions: fees and costs.

**SUMMARY:** Prohibits a candidate or elected officer from using campaign funds to pay or reimburse a fine, penalty, judgment, or settlement, or legal expenses if the candidate or elected officer has been convicted of a felony involving fraud or certain public trust crimes, as specified. Specifically, **this bill:**

- 1) Prohibits a candidate or elected officer from using campaign funds to pay or reimburse a fine, penalty, judgment, or settlement relating to a conviction for a felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes, or for a felony involving fraud. Requires a candidate or elected officer who uses campaign funds for other legal costs and expenses related to claims of those criminal acts and is convicted, to reimburse the campaign for all funds used in connection with those other legal costs and expenses.
- 2) Prohibits campaign funds from being used to reimburse expenditures for attorney's fees and other costs in connection with criminal litigation if the litigation results in a conviction of the candidate or elected officer for a felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes, or for a felony involving fraud.

**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) Makes violations of the PRA subject to administrative, civil, and criminal penalties. (Government Code §§83116, 91000-91005.5)
- 3) Provides that all contributions deposited into a campaign committee account are deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office. Provides that an expenditure to seek or hold office is within the lawful execution of this trust if it is reasonably related to a political, legislative, or governmental purpose. 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.)

- 4) Provides generally that attorney's fees and other costs related to administrative, civil, or criminal litigation may only be paid with campaign funds if the litigation is directly related to activities of the committee that are consistent with its primary objectives or arises directly out of a committee's activities or out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount. (Government Code §89514)
- 5) Authorizes state and local candidates and elective officers to establish a separate account (a legal defense account) to defray attorney's fees and other related legal costs incurred if they are subject to civil, criminal, or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of their governmental activities and duties. (Government Code §§85304, 85304.5)
- 6) Prohibits an expenditure of campaign funds to pay a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that was found to be improper because the expenditure resulted in either of the following:
  - a) A personal benefit to the candidate or officer, and the expenditure was not reasonably related to a political, legislative, or governmental purpose; or,
  - b) A substantial personal benefit to the candidate or officer, and the expenditure was not directly related to a political, legislative, or governmental purpose. (Government Code §89513(c)(1))
- 7) Prohibits campaign funds from being used to pay or reimburse a candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment, as defined, filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. Requires, if a candidate or elected officer uses campaign funds for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, to reimburse the campaign for all funds used in connection with those other legal costs and expenses. (Government Code §89513(h))
- 8) Requires a candidate, elected officer, and committee to file specified campaign statements. (Government Code §§84200-84226)
- 9) Requires an officeholder who is convicted of a felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes, and whose conviction has become final, to use funds held by the officeholder's candidate controlled committee only for payments of outstanding campaign debts or elected officer's expenses or the repayment of contributions. Requires an officeholder, six months after the conviction becomes final, to forfeit any remaining funds and deposit the funds into the General Fund. Provides that these provisions do not apply to funds held by a ballot measure committee or in a legal defense fund. (Government Code §89519.5)

- 10) Prohibits a person from being considered a candidate for, or from being elected to, any state or local elective office if the person has been convicted of a felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes. (Elections Code §20)

**FISCAL EFFECT:** Unknown. State-mandated local program; contains a crimes and infractions disclaimer.

**COMMENTS:**

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

AB 2803 safeguards donor integrity by explicitly prohibiting candidates and elected officials from utilizing campaign funds for convicted felonies involving public crimes or fraud. The purpose of campaign funds is to support candidates and cover reasonable expenses, including election-related litigations. However, convicted felonies represent significant breaches of the public's trust and must be deemed inappropriate for funding through the use of campaign funds. AB 2803 highlights the importance of holding candidates and elected officials accountable for any crimes committed throughout their candidacy or while serving in public office. This will ensure campaign funds are used for their intended purpose, thereby building public trust and greater accountability.

- 2) **Authorized Use of Campaign Funds and Previous Legislation:** The PRA strictly regulates the use of campaign funds, and contributions deposited into a campaign account are deemed to be held in trust for expenses associated with the election of a candidate or for expenses associated with holding office. PRA provisions restricting the "personal use" of campaign funds are designed to prevent candidates, elected officials, and others who control the expenditures of campaign funds from benefiting privately from their campaign activities. Therefore, existing law requires expenditures of campaign funds to be 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.

Additionally, the PRA generally provides that attorney's fees and other costs related to administrative, civil, or criminal litigation may be paid with campaign funds if the litigation arises *directly* out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including an action to halt defamation, defense of an action to halt defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, litigation to secure a place on the ballot, or an election recount. The PRA additionally allows state and local candidates and elective officers to establish a separate account (a legal defense account) to defray attorney's fees and other related legal costs incurred if they are subject to civil, criminal, or administrative proceedings arising *directly* out of the conduct of an election campaign, the electoral process, or the performance of their governmental activities and duties. However, campaign funds may not be used to pay

for fines, penalties, judgments, of settlements relating to an improper use of campaign funds.

SB 71 (Leyva), Chapter 564, Statutes of 2019, further restricted the use of campaign funds. Specifically, SB 71 requires a candidate or elected officer to reimburse any campaign funds or legal defense funds for legal expenses related to a claim of sexual assault, sexual abuse, or sexual harassment against the candidate or officer if the candidate or officer is held liable for the violation. Additionally, SB 71 prohibits the use of campaign funds or legal defense funds to pay penalties or settlements related to a claim of sexual assault, sexual abuse, or sexual harassment by a candidate or elected officer.

This bill adds additional restrictions to the use of campaign funds and prohibits a candidate or elected officer from using campaign funds to pay or reimburse for a fine, penalty, judgement, or settlement, or attorney's fees and other legal costs in connection with litigation that results in a felony conviction involving fraud, or a conviction for a felony involving certain public trust crimes, such as accepting or giving, or offering to give, a bribe; the embezzlement of public money; extortion of theft of public money; perjury; or conspiracy to commit any of those crimes. According to the author, the lack of restrictions related to these type of crimes do not align with the reasonable expectations campaign donors have when it comes to the use of those donations.

3) **Recent Examples of Convictions:** As evidence of the need for this bill, the author points to the following incidents, as reported in the media:

- Last year, Harry Sidhu, former Mayor of Anaheim, pled guilty to federal felony charges for obstructing a Federal Bureau of Investigation (FBI) public corruption investigation by destroying evidence and for making false statement to FBI agents. Specifically, Mr. Sidhu was charged with one count of obstruction of justice, one count of wire fraud, and two counts of making false statements to FBI and the Federal Aviation Administration. Media articles report that Mr. Sidhu used \$300,000 of his campaign funds to pay his legal defense expenses.
- In 2016, former State Senator Ronald S. Calderon was sentenced to 3.5 years in federal prison after pleading guilty to federal corruption charge and admitting to accepting tens of thousands of dollars in bribes in exchange for performing official acts as a legislator. Media articles reported that \$35,000 of campaign funds went to pay fees for his legal expenses.
- In 2016, former State Senator Leland Yee was sentenced to five years in prison on racketeering conspiracy charges. Media reported that \$128,000 of campaign funds were spent on attorney's fees when he was initially indicted on federal corruption charges.

4) **Other Crimes:** As mentioned above, this bill requires a candidate or elected official to reimburse campaign funds used to pay for legal expenses if they are convicted of a felony involving certain public trust crimes or fraud. However, if a candidate or elected official is convicted of a felony involving other crimes they theoretically would not be required to reimburse the campaign funds they used to pay for their legal expenses if the litigation arose

directly from their activities, duties, or status as a candidate or elected officer.

Additionally, there are many fraud-related felonies in existing law, such as insurance fraud, real estate fraud, financial fraud, and mail fraud. The author may wish to consider narrowing the bill to apply to certain types of felony-related fraud.

- 5) **Arguments in Support:** In support of a prior version of this bill, Consumer Watchdog wrote:

Campaign donations should not fund unethical or fraudulent conduct, and public officials should not have the expectation that they will be able to rely on campaign donations made in good faith by members of the public to pay to defend illegal actions.

Examples of this outrageous use of campaign monies can unfortunately be found across the state. Former Anaheim Mayor Harry Sidhu, Senator Ron Calderon from Los Angeles County, and State Senator Leland Yee of San Francisco were all convicted on bribery related charges and used campaign dollars to pay for their legal defense.

Public trust in elections and government is damaged with each new story of political corruption, and when public officials use campaign funds to subsidize that corruption it's another twist of the knife. While political reform laws rightly allow campaign funds to be used for defense when a public official's legal troubles arise from performing their official duties, this allowance should not extend to the defense of crimes that betray the integrity of the office.

- 6) **Previous Legislation:** SB 1107 (Allen), Chapter, Statutes of 2016, limits the use of campaign funds that are held by public officials who have been convicted of various public trust crimes, among other provisions.
- 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

California District Attorneys Association (prior version)

Chispa (prior version)

City of Orange (prior version)

City of Santa Ana (prior version)

Consumer Watchdog (prior version)

Orange County Communities Organized for Responsible Development (prior version)

The Kennedy Commission (prior version)

**Opposition**

None on file.

**Analysis Prepared by:** Nichole Becker / ELECTIONS / (916) 319-2094