

Date of Hearing: July 2, 2025

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
SB 42 (Umberg, et al.) – As Amended June 25, 2025

SENATE VOTE: 28-10

SUBJECT: Political Reform Act of 1974: public campaign financing: California Fair Elections Act of 2026.

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. Specifically, **this bill:**

- 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) Permits specified provisions of this bill related to the criteria for qualifying for public financing and the maximum increase in expenditure limits for participating candidates to be amended by the Legislature without voter approval in the same manner that the Political Reform Act (PRA) generally may be amended without voter approval.

- 5) 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.
- 6) Makes various findings and declarations, including the following:
 - a) The increasing costs of political campaigns can force candidates to rely on large contributions from wealthy donors and special interests.
 - b) Such disproportionate influence can undermine the public's trust that public officials are performing their duties in an impartial manner and that government is serving the needs and responding to the wishes of all citizens equally, without regard to their wealth.
 - c) Citizen-funded election programs, in which qualified candidates can receive public funds for the purpose of communicating with voters rather than relying exclusively on private donors, are currently operative in five charter cities in California, as well as numerous other local and state jurisdictions.
 - d) Citizen-funded election programs encourage competition by reducing the financial advantages of incumbency.
 - e) By reducing reliance on wealthy donors and special interests, citizen-funded election programs inhibit improper practices, protect against corruption or the appearance of corruption, and protect the political integrity of our governmental institutions.
 - f) The absolute prohibition on public campaign financing allows special interests to gain disproportionate influence and unfairly favors incumbents. An exception should be created to permit citizen-funded election programs so that elections may be conducted more fairly.
- 7) 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.
- 8) Contains a severability clause.

EXISTING LAW:

- 1) Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the PRA. (Government Code §§83100, 83111)
- 2) Makes violations of the PRA subject to administrative, civil, and criminal penalties. (Government Code §§83116, 91000-91005.5)
- 3) Prohibits public officers from expending, and candidates from accepting, public moneys for the purpose of seeking elective office. (Government Code §85300)

- 4) Prohibits a foreign government or foreign principal from making, directly or through any other person, a contribution, expenditure, or IE in connection with the qualification or support of, or opposition to, a state or local ballot measure, or in connection with the election of a candidate to state or local office, and prohibits a person or a committee from soliciting or accepting such a contribution, as specified. Provides that a person who violates these provisions is guilty of a misdemeanor and shall be fined an amount equal to the amount contributed or expended. (Government Code §85320)
- 5) Permits the PRA to be amended or repealed only through one of the following procedures:
 - a) Amendments to the PRA that further its purposes may be enacted by statute that is passed by a two-thirds vote in each house and signed by the Governor, if the bill in its final form has been delivered to the FPPC for distribution by a specified number of days before passage in each house, as specified; or,
 - b) The PRA may be amended or repealed by a statute that becomes effective only when approved by the electors. (Government Code §81012)

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) This bill would result in one-time 2026-27 General Fund costs to the SOS, in the range of \$738,000 to \$984,000, for printing and mailing costs to place a measure on the ballot in a statewide election. Actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot.
- 2) The FPPC indicates that it would incur first-year costs of \$205,000, and \$198,000 annually thereafter, to implement the provisions of the bill (General Fund). FPPC would require one attorney position to accommodate additional workload resulting from the bill. FPPC further notes that it could incur additional enforcement costs as a result of the bill. The amount is unknown, but potentially significant (General Fund).

COMMENTS:

- 1) **Purpose of the 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.

- 2) **Public Campaign Financing Programs and Previous Legislation:** 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 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, former-Senator Quentin Kopp (who was one of the proponents of Proposition 73) and the Howard Jarvis Taxpayers Association challenged the provisions of SB 1107 related to public campaign financing programs in court, alleging that those changes did not further the purposes of the PRA, and therefore could not be enacted without being approved by voters. In *Howard Jarvis Taxpayers Assn. v. Newsom* (2019) 39 Cal.App.5th 158, the Third District Court of Appeal agreed, finding 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.

The provisions of SB 1107 that authorized public financing programs have not been repealed since the court’s decision in *Howard Jarvis Taxpayers Assn.* Nonetheless, while those provisions remain in statute, and appear to authorize public campaign financing programs, the PRA as enforced by the FPPC continues to prohibit public officers from expending, and candidates from accepting, public moneys for the purpose of seeking elective office.

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.

- 3) **Charter Cities and Counties:** Notwithstanding the PRA's general prohibition on the use of public money for campaign purposes, the California Supreme Court ruled that the prohibition does not apply to charter cities (*Johnson v. Bradley* (1992) 4 Cal. 4th 389). On the other hand, a state appellate court has held that the public financing ban *does* apply to charter counties (*County of Sacramento v. Fair Political Practices Commission* (1990) 222 Cal. App. 3d 687). The California Constitution generally grants charter cities greater autonomy over local affairs than charter counties have, particularly with respect to local elections.

As a result, while charter cities in California can enact public campaign financing programs, general law cities, all counties, all districts, and the state government are covered by the current ban. At least seven charter cities in California (Berkeley, Long Beach, Los Angeles, Oakland, Richmond, Sacramento, and San Francisco) have enacted public campaign funding programs, though the programs have not been funded, and thus were not available, for recent elections in two of those cities (Richmond and Sacramento).

- 4) **Previous Measures to Permit Public Campaign Financing:** On three previous occasions, California voters have rejected ballot measures that would have repealed the prohibition against public funding of campaigns that was included in Proposition 73. In all three cases, however, the ballot measures also proposed to enact specific public campaign financing programs for state elections—something that this bill does not propose.

Proposition 25—an initiative measure that appeared on the March 2000 statewide primary election ballot—would have provided for public financing of campaign media advertisements and voter information packets for qualifying candidates and ballot measure committees that agreed to abide by spending limits and would have repealed the PRA's prohibition against public financing systems, among other provisions. Proposition 25 failed passage, receiving 34.7% of the vote statewide.

Proposition 89—an initiative measure that appeared on the November 2006 statewide general election ballot—would have created a public campaign financing system for candidates for elective state office, and would have repealed the PRA's prohibition against public financing systems. Proposition 89 was defeated by the voters, receiving 25.7% of the vote statewide.

Proposition 15—a measure that was placed on the June 2010 statewide primary election ballot by the Legislature—would have created a public campaign financing pilot project for candidates for SOS, and would have repealed the PRA's prohibition against public financing systems. Proposition 15 was defeated by the voters, receiving 42.7% of the vote statewide.

- 5) **Foreign Campaign Spending Penalties:** Violations of the PRA generally are subject to administrative, civil, and criminal penalties. Civil and criminal enforcement actions are rare, however, and enforcement actions for violations of the PRA typically are brought through the FPPC's administrative enforcement process. The FPPC generally has the authority to levy a monetary penalty of up to \$5,000 per violation through its administrative enforcement process.

Enforcement actions for violations of the provision of the PRA that prohibits campaign contributions and expenditures by foreign entities can be brought under any of the enforcement processes that generally are available for violations of the PRA, but that law also provides an additional enforcement mechanism: misdemeanor charges that include a fine of an amount equal to the amount contributed or expended. Misdemeanor charges are generally available for violations of the PRA, and the maximum fine for such charges is the greater of \$10,000 or three times the amount unlawfully contributed or expended, but those charges are available only for knowing or willful violations of the law. By contrast, the misdemeanor specifically available for violations of the law restricting campaign contributions and expenditures by foreign entities does not expressly provide that such a violation must be knowing or willful, but the maximum fine available for such a misdemeanor is an amount equal to the amount contributed or expended. This bill proposes to increase that maximum fine to an amount equal to three times the amount contributed or expended, which effectively could allow for higher monetary penalties to be imposed in criminal prosecutions for violations of the state's foreign campaign contribution and expenditure ban without a demonstration that the violation was knowing or willful.

6) **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.

7) **Arguments in Opposition:** In opposition to this bill, the California Taxpayers Association writes:

First Amendment Concerns. 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...

Ripe for Abuse and Corruption. 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.

- 8) **Previous Legislation:** AB 270 (Lee) and SB 24 (Umberg), both of 2023-24 session, were substantially similar measures that would have allowed state and local governments to offer public campaign financing programs if approved by the voters. AB 270 was held on the Senate Appropriations Committee's suspense file, and SB 24 was held on the Assembly Appropriations Committee's suspense file.
- 9) **Related Legislation:** AB 953 (Pacheco), which was scheduled to be heard in the Senate Elections & Constitutional Amendments Committee on July 1, 2025, expands the state's ban on campaign contributions and expenditures by foreign entities such that it applies to foreign nationals, except for Deferred Action for Childhood Arrivals recipients. AB 953 was approved by this committee by a 7-0 vote, and was approved on the Assembly Floor by a 71-0 vote.
- 10) **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 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.

REGISTERED SUPPORT / OPPOSITION:

Support

California Clean Money Campaign (Co-Sponsor)
California Common Cause (Co-Sponsor)
League of Women Voters of California (Co-Sponsor)
350 Marin
ACLU California Action
American Federation of State, County and Municipal Employees, AFL-CIO
Asian Law Caucus
Bay Rising Action
California Alliance for Retired Americans (CARA)

California Black Power Network
California Council of Churches IMPACT
California Democratic Council
California Donor Table
California Environmental Voters
California Federation of Labor Unions, AFL-CIO
California Nurses Association
California Working Families Party
Californians for Disability Rights
Catalyst California
CDP Rural Caucus
Cloverdale Democratic Club
Consumer Watchdog
Courage California
Culver City Democratic Club
Democracy Action Marin
Democrats of Rossmoor
Dolores Huerta Foundation
Ella Baker Center for Human Rights
End Citizens United
Endangered Habitats League
Engage San Diego
Fair Rep LA
Green Party of Los Angeles County
Hmong Innovating Politics
Indivisible CA Statestrong
Indivisible California Green Team
Indivisible Marin
Indivisible Novato
Indivisible Sausalito
Indivisible Sonoma County
Indivisible West Marin
Inland Empire United
La Defensa
Los Angeles County Democratic Party
Los Angeles for Democracy Vouchers
Money Out Voters In
Move to Amend – Santa Clara County
NextGen California
Northern California Recycling Association
Oakland Rising
Oakmont Progressives
Orange County Board of Supervisors - Supervisor Vicente Sarmiento
Represent.us
Santa Monica Democratic Club
Silicon Valley Community Foundation
Solidarity Sundays Marin

South Bay Progressive Alliance
Starting Over Strong
Unrig LA
Voters Right to Know
Wellbeing Economy Alliance California
Working Partnerships USA
2 individuals

Opposition

California Taxpayers Association

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