

Date of Hearing: March 29, 2023

ASSEMBLY COMMITTEE ON ELECTIONS
Isaac G. Bryan, Chair
AB 37 (Bonta) – As Introduced December 5, 2022

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, if those security expenses are reasonably related to the candidate or elected officer's status as a 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 and 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.
- 3) Deletes provisions of 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) Repeals provisions of existing law that require any expenditures for the costs of the electronic security system to be reported to the Fair Political Practices Commission (FPPC), and that require the candidate or officer to reimburse the campaign fund for the costs of the equipment upon the sale of the property on which the equipment is installed.

EXISTING LAW:

- 1) Creates the 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))

FISCAL EFFECT: Unknown

COMMENTS:

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

I am introducing AB 37 in response to the rising tide of political violence in California and in the United States. As public servants, there is a lot we sacrifice to serve, this includes spending time with family and our privacy. However, the 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 are serving the constituents who elected us to office.

The political rhetoric across the country is becoming increasingly alarming, with lawmakers across the country from local school boards to congressional leaders constantly receiving threats. When Trump took office as President and spewed 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.

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. Holding public office is about serving your community, but we never signed up for violence, and our families and children must be protected.

- 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 or 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 eliminates the \$5,000 cap and the requirement for the threats to be reported and verified by law enforcement when campaign funds are used for security expenses. 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.

Furthermore, this bill repeals an existing requirement that threats against a candidate or elected official must have been reported to and verified by an appropriate law enforcement agency before the candidate or official may use campaign funds for security expenses. The committee may wish to consider whether this type of verification requirement is an important component to retain in the law to protect against improper expenditures of campaign funds. Is there evidence to demonstrate that the existing verification requirement is too onerous?

Moreover, this bill deletes provisions of law that require a 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. With the repeal of these provisions, there

would be no remedy in law to address what happens to the security equipment once a person is no longer an elected officer or candidate. The committee may wish to consider reinstating prior provisions of law or adding new reimbursement requirements to address this question.

- 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 US Capitol on January 6, 2021 to block certification of the presidential election and the 2022 October break-in at US Speaker Nancy Pelosi's San Francisco home. 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) **Arguments in Support:** In support of this bill, the League of California Cities writes:

Unfortunately, city officials know all too well why this bill is necessary. The list of examples of recent incidents of attacks and harassment of local elected officials is unfortunately long. According to the National League of Cities, in a survey of local public officials, 87 percent observed an increase in attacks on public officials in recent years, while 81 percent reported having experienced harassment, threats, and violence themselves. These could be in the form of personal attacks, physical assaults, and cyberbullying directed at themselves or their children... [This] bill would...make it easier for those interested in serving their community and running for local office to do so knowing they have more options when it comes to protecting themselves, their family, and their staff.

- 6) **Previous Legislation:** AB 1043 (Irwin), Chapter 46, Statutes of 2019, permits campaign funds to be used for costs related to the cybersecurity of electronic devices of a candidate, elected officer, or campaign worker.

- 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

League of California Cities
Todd Spitzer, Orange County District Attorney

Opposition

One individual

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