

Date of Hearing: April 1, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 2320 (Fong) – As Introduced: February 21, 2014

SUBJECT: Political Reform Act of 1974: campaign funds.

SUMMARY: Prohibits a spouse or domestic partner of an elected officer or a candidate for elective office from receiving, in exchange for services rendered, compensation from campaign funds held by a controlled committee of the elected officer or candidate for elective office.

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).
- 2) Prohibits a spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation from campaign funds held by a controlled committee of the elected officer or candidate for elective office for services rendered in connection with fundraising for the benefit of the elected officer or candidate for elective office.
- 3) Prohibits the use of campaign funds for an expenditure that confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure unless the expenditure is directly related to a political, legislative, or governmental purpose.
- 4) Prohibits the use of campaign funds to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.
- 5) Provides that any person who knowingly or willfully violates the PRA is guilty of a misdemeanor.

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

COMMENTS:

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

The Political Reform Act (PRA), among other provisions, places restrictions on the use of campaign funds for state and local candidates and elected officers. For example, the PRA prohibits the use of campaign funds for gifts or personal purposes unless they are directly related to a political, legislative, or governmental purpose. Furthermore, the PRA prohibits campaign funds from being used to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

In 2009, the Legislature passed and the Governor signed SB 739 (Strickland), which prohibits a spouse or domestic partner of an elected officer or a candidate from receiving compensation from campaign funds for services rendered in connection with fundraising for the benefit of the elected officer or candidate.

Despite these restrictions, ethical concerns may continue to arise, because existing law allows a candidate or officeholder to pay a spouse for services other than fundraising services that are rendered to, and paid by, the campaign. Under such circumstances, a candidate or officeholder can personally benefit financially from contributions received by his or her campaign.

AB 2320 improves transparency and strengthens campaign integrity by prohibiting a candidate or officeholder from paying his or her spouse or domestic partner from campaign funds for providing services to the campaign.

- 2) Background: Candidates and officeholders both within and outside of California often find themselves the subject of scrutiny and controversy for paying a spouse or other family member for professional services rendered to, and paid by, their campaign committees.

Consequently, in 2009 the Legislature passed and the Governor signed SB 739 (Strickland), Chapter 360, Statutes of 2009, which prohibits a spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation from campaign funds held by a controlled committee of the elected officer or candidate for services rendered in connection with fundraising for the benefit of the officeholder or candidate.

However, as mentioned above in the author's statement, ethical concerns continue to come up because existing law allows a candidate or officeholder to pay a spouse for services other than fundraising services that are rendered to, and paid by, the campaign. Under California's community property laws, any income earned by a married person while living with his or her spouse generally is considered to be community property, which is jointly held by both spouses. As a result, when a candidate pays his or her spouse for professional services rendered to the candidate's campaign committee, the campaign committee's payment indirectly becomes the candidate's personal property. These arrangements are controversial because they allow candidates to personally benefit from the contributions that their campaigns seek and accept. Under such circumstances, a candidate or officeholder can personally benefit financially from contributions received by his or her campaign.

In fact, California law already recognizes that ethical concerns may arise when a candidate can personally benefit financially from contributions received by his or her campaign. For that reason, the PRA prohibits campaign funds from being used to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes. Along the same lines, the PRA limits the amount of money that a candidate may loan to his or her own campaign. Those limits were put into place due to concerns that money raised by a candidate subsequent to an election to repay that candidate's personal loan to his or her campaign committee would go into the candidate's own pocket, indirectly resulting in campaign contributions becoming a candidate's personal funds.

This bill expands on the prohibitions already in current law by eliminating provisions of law that allow the spouse or domestic partner of an officeholder or candidate to receive compensation from campaign funds for services rendered for purposes other than fundraising for the benefit of the elected officer or candidate.

- 3) 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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