

AMENDED IN ASSEMBLY APRIL 19, 2016

AMENDED IN ASSEMBLY APRIL 6, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2523

Introduced by Assembly Member Mullin

February 19, 2016

An act to repeal Sections 35177 and 72029 of the Education Code, and to add Part 7 (commencing with Section 10800) to Division 10 of, and to repeal Sections 10003, 10202, and 10544 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2523, as amended, Mullin. Local elective offices: contribution limitations.

The Political Reform Act of 1974 prohibits a person, other than a small contributor committee or political party committee, from making to a candidate for elective state office, for statewide elective office, or for office of the Governor, and prohibits those candidates from accepting from a person, a contribution totaling more than a specified amount per election. For a candidate for elective state office other than a candidate for statewide elective office, the limitation on contributions is \$3,000 per election, as that amount is adjusted by the Fair Political Practices Commission in January of every odd-numbered year.

Existing law authorizes a county, city, or district to limit campaign contributions in local elections. *Existing law authorizes the governing board of a school district or of a community college district to limit campaign expenditures or contributions in elections to district offices.*

The act specifies that it does not prevent the Legislature or any other state or local agency from imposing additional requirements on a person if the requirements do not prevent the person from complying with the act, and that the act does not nullify contribution limitations or prohibitions by any local jurisdiction that apply to elections for local elective office, as specified.

This bill would prohibit a person from making to a candidate for local elective office, and would prohibit a candidate for local elective office from accepting from a person, a contribution totaling more than the amount set forth for limitations on contributions to a candidate for elective state office. This bill would authorize a county, city, special district, or school ~~district~~ *district, which includes a community college district*, to impose a limitation that *is* different from the limitation imposed by this bill. ~~This~~ *This bill would repeal the authorization for the governing board of a school district or of a community college district to limit campaign expenditures in elections to district offices.*

This bill would make a violation of the contribution limitation imposed by the bill punishable as a misdemeanor and subject to a specified civil fine administered by the district attorney of the county in which the violation occurs. This bill would also authorize a local government that imposes a limitation that is different from the limitation imposed by this bill to adopt enforcement standards for a violation of the limitation imposed by the local government, including administrative, civil, or criminal penalties. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Most states impose limitations on contributions to candidates
- 4 for local elective offices. California is among the minority of states
- 5 without these contribution limitations.

1 (b) Most local governments in this state have not independently
2 imposed limitations on contributions to candidates for local elective
3 offices.

4 (c) In local jurisdictions in this state that have not imposed
5 limitations on contributions, candidates for local elective offices
6 often receive contributions that would exceed the limitations for
7 a state Senate campaign, even though most local jurisdictions
8 contain far fewer people than the average state Senate district.

9 (d) In local jurisdictions in this state that have not imposed
10 limitations on contributions, candidates for local elective office
11 sometimes raise 40 percent or more of their total campaign funds
12 from a single contributor.

13 (e) A system allowing unlimited contributions to a candidate
14 for local elective office creates the risk and the perception that
15 local elected officials are beholden to their contributors and will
16 act in the best interest of those contributors at the expense of the
17 people.

18 (f) This state has a statewide interest in preventing actual
19 corruption and the appearance of corruption at all levels of state
20 government.

21 (g) This act establishes a limitation on contributions to candidate
22 for local elective office in a jurisdiction in which the local
23 government has not established a limitation. However, a local
24 government may establish a different limitation that is more
25 precisely tailored to the needs of its communities.

26 *SEC. 2. Section 35177 of the Education Code is repealed.*

27 ~~35177. The governing board of a district may by resolution
28 limit campaign expenditures or contributions in elections to district
29 offices.~~

30 *SEC. 3. Section 72029 of the Education Code is repealed.*

31 ~~72029. The governing board of a community college district
32 may by resolution limit campaign expenditures or contributions
33 in elections to district offices.~~

34 ~~SEC. 2.~~

35 *SEC. 4. Section 10003 of the Elections Code is repealed.*

36 ~~SEC. 3.~~

37 *SEC. 5. Section 10202 of the Elections Code is repealed.*

38 ~~SEC. 4.~~

39 *SEC. 6. Section 10544 of the Elections Code is repealed.*

1 ~~SEC. 5.~~

2 *SEC. 7.* Part 7 (commencing with Section 10800) is added to
3 Division 10 of the Elections Code, to read:

4

5 PART 7. LOCAL LIMITATIONS ON CONTRIBUTIONS

6

7 10800. For purposes of this part, the following terms have the
8 following meanings:

9 (a) “Candidate” has the same meaning as set forth in Section
10 82007 of the Government Code.

11 (b) “City” has the same meaning as set forth in Section 82008
12 of the Government Code.

13 (c) “Contribution” has the same meaning as set forth in Section
14 82015 of the Government Code.

15 (d) “County” has the same meaning as set forth in Section 82017
16 of the Government Code.

17 (e) “Election” means a primary, general, special, runoff, or recall
18 election in a county, city, special district, or school district.
19 Primary, general, special, and runoff elections are each a separate
20 election for purposes of this part.

21 (f) “Local elective office” means a county, city, special district,
22 or school district office that is filled at an election.

23 (g) “Local government” means a county, city, special district,
24 or school district that has a local elective office.

25 (h) “Person” has the same meaning as set forth in Section 82047
26 of the Government Code.

27 (i) “School district” includes a community college district.

28 (j) “Special district” has the same meaning as set forth in Section
29 82048.5 of the Government Code.

30 10801. (a) A person shall not make to a candidate for local
31 elective office, and a candidate for local elective office shall not
32 accept from a person, a contribution totaling more than the amount
33 set forth in subdivision (a) of Section 85301 of the Government
34 Code, as that amount is adjusted by the Fair Political Practices
35 Commission pursuant to Section 83124 of the Government Code.

36 (b) A contribution shall not be deemed received for purposes
37 of this part if it is returned to the contributor within 14 days of
38 receipt.

39 (c) This section does not apply to a candidate’s contributions
40 of his or her personal funds to his or her own campaign.

1 10802. (a) Except as provided in subdivision (b) of this section
2 and subdivision (a) of Section 85703 of the Government Code, a
3 local government may, by ordinance or resolution, impose a
4 limitation on contributions to a candidate for local elective office.
5 The limitation may also be imposed by means of a local initiative
6 measure.

7 (b) A local government shall not impose additional requirements
8 on a person pursuant to subdivision (a) if the requirements prevent
9 the person from complying with this part or the Political Reform
10 Act of 1974 (Title 9 (commencing with Section 81000) of the
11 Government Code).

12 (c) A local government that establishes a contribution limitation
13 pursuant to subdivision (a) may adopt enforcement standards for
14 a violation of that limitation, which may include administrative,
15 civil, or criminal penalties.

16 (d) Sections 10801 and 10803 do not apply in a jurisdiction in
17 which the local government imposes a contribution limitation
18 pursuant to subdivision (a).

19 10803. (a) A person who intentionally or negligently violates
20 Section 10801 shall be subject to a civil fine for an amount up to
21 five thousand dollars (\$5,000) or three times the amount that was
22 contributed or accepted in excess of the contribution limitation,
23 whichever is greater.

24 (b) In addition to the penalty set forth in subsection (a), a person
25 who knowingly or willfully violates Section 10801 is guilty of a
26 misdemeanor.

27 (c) The district attorney of the county in which a violation occurs
28 is responsible for enforcing the civil and criminal penalties in this
29 section.

30 (d) Whether a violation of Section 10801 is inadvertent,
31 negligent, or deliberate, and the presence or absence of good faith,
32 shall be considered in applying the penalties in this section.

33 (e) A civil action for, or a criminal prosecution for, violation of
34 Section 10801 must be commenced within four years after the date
35 on which the violation occurred.

36 *SEC. 8. A local government limitation on contributions to a*
37 *candidate for local elective office that is in effect on the effective*
38 *date of this act shall be deemed to be a limitation imposed pursuant*
39 *to Section 10802 of the Elections Code.*

1 ~~SEC. 6.~~

2 ~~SEC. 9.~~ This act shall be liberally construed to accomplish its
3 purposes.

4 ~~SEC. 7.~~

5 ~~SEC. 10.~~ The provisions of this act are severable. If any
6 provision of this act or its application is held invalid, that invalidity
7 shall not affect other provisions or applications that can be given
8 effect without the invalid provision or application.

9 ~~SEC. 8.~~

10 ~~SEC. 11.~~ No reimbursement is required by this act pursuant
11 to Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.