

AMENDED IN SENATE JUNE 14, 2016

AMENDED IN ASSEMBLY MAY 31, 2016

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
(Coauthor: Assembly Member Gonzalez)**

February 19, 2016

An act to amend and repeal Sections 35177 and 72029 of the Education Code, ~~and to amend and repeal Sections 10003, 10202, and 10544 of, and to add Part 7 (commencing with Section 10800) to Division 10 of,~~ of the Elections Code, *and to add Sections 82039.8, 85301.5, and 85702.5 to the Government 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, commencing January 1, 2018, instead 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, which includes a community college district,~~ *district* to impose a limitation that is different from the limitation imposed by this bill. 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.

The act makes a violation of its provisions punishable as a misdemeanor and subject to specified penalties.

This bill would ~~make a violation of~~ *add* the contribution limitation imposed by the bill *to the act's provisions, thereby making a violation of the limitation* punishable as a misdemeanor and subject to a specified civil fine ~~administered by the district attorney, as specified. This~~ *penalties. However, the bill would specify that a violation of a limitation imposed by a local government is not subject to the act's enforcement provisions. The 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,~~ *government agency,* including administrative, civil, or criminal penalties. ~~By creating a new crime, this expanding the scope of an existing crime with regard to a violation of a contribution limitation imposed by the bill,~~ *the 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.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: ~~majority~~ $\frac{2}{3}$. 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.

6 (b) Most local governments in this state have not independently
7 imposed limitations on contributions to candidates for local elective
8 offices.

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

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

18 (e) A system allowing unlimited contributions to a candidate
19 for local elective office creates the risk and the perception that
20 local elected officials are beholden to their contributors and will
21 act in the best interest of those contributors at the expense of the
22 people.

23 (f) This state has a statewide interest in preventing actual
24 corruption and the appearance of corruption at all levels of state
25 government.

1 (g) This act establishes a limitation on contributions to a
2 candidate for local elective office in a jurisdiction in which the
3 local government has not established a limitation. However, a local
4 government may establish a different limitation that is more
5 precisely tailored to the needs of its communities.

6 SEC. 2. Section 35177 of the Education Code is amended to
7 read:

8 35177. (a) The governing board of a district may by resolution
9 limit campaign expenditures or contributions in elections to district
10 offices.

11 (b) This section shall remain in effect only until January 1, 2018,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before January 1, 2018, deletes or extends that date.

14 SEC. 3. Section 72029 of the Education Code is amended to
15 read:

16 72029. (a) The governing board of a community college district
17 may by resolution limit campaign expenditures or contributions
18 in elections to district offices.

19 (b) This section shall remain in effect only until January 1, 2018,
20 and as of that date is repealed, unless a later enacted statute, that
21 is enacted before January 1, 2018, deletes or extends that date.

22 SEC. 4. Section 10003 of the Elections Code is amended to
23 read:

24 10003. (a) A county may by ordinance or resolution limit
25 campaign contributions in county elections.

26 (b) This section shall remain in effect only until January 1, 2018,
27 and as of that date is repealed, unless a later enacted statute, that
28 is enacted before January 1, 2018, deletes or extends that date.

29 SEC. 5. Section 10202 of the Elections Code is amended to
30 read:

31 10202. (a) A city may, by ordinance or resolution, limit
32 campaign contributions in municipal elections.

33 (b) This section shall remain in effect only until January 1, 2018,
34 and as of that date is repealed, unless a later enacted statute, that
35 is enacted before January 1, 2018, deletes or extends that date.

36 SEC. 6. Section 10544 of the Elections Code is amended to
37 read:

38 10544. (a) A governing body of a district may, by resolution,
39 limit campaign contributions in elections to district offices.

1 (b) This section shall remain in effect only until January 1, 2018,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2018, deletes or extends that date.

4 SEC. 7. ~~Part 7 (commencing with Section 10800) is added to~~
5 ~~Division 10 of the Elections Code, to read:~~

6
7 ~~PART 7. LOCAL LIMITATIONS ON CONTRIBUTIONS~~

8
9 ~~10800. For purposes of this part, the following terms have the~~
10 ~~following meanings:~~

11 (a) ~~“Candidate” has the same meaning as set forth in Section~~
12 ~~82007 of the Government Code.~~

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

15 (c) ~~“Contribution” has the same meaning as set forth in Section~~
16 ~~82015 of the Government Code.~~

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

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

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

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

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

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

30 (j) ~~“Special district” has the same meaning as set forth in Section~~
31 ~~82048.5 of the Government Code.~~

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

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

1 ~~(e) This section does not apply to a candidate's contributions~~
2 ~~of his or her personal funds to his or her own campaign.~~

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

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

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

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

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

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

29 ~~(c) (1) Except as provided in paragraph (2), the district attorney~~
30 ~~of the county in which the contribution made in violation of Section~~
31 ~~10801 is required to be reported by the candidate pursuant to~~
32 ~~Section 84215 of the Government Code is responsible for enforcing~~
33 ~~the civil and criminal penalties in this section.~~

34 ~~(2) If the candidate who violated Section 10801 is the district~~
35 ~~attorney or a candidate for the office of district attorney, the district~~
36 ~~attorney shall refer the matter to the Attorney General who shall~~
37 ~~be responsible for enforcing the civil and criminal penalties in this~~
38 ~~section for that matter.~~

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

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

7 ~~10804. This part shall become operative on January 1, 2018.~~

8 *SEC. 7. Section 82039.8 is added to the Government Code, to*
9 *read:*

10 *82039.8. "Local elective office" means a local government*
11 *agency office that is filled at an election.*

12 *SEC. 8. Section 85301.5 is added to the Government Code, to*
13 *read:*

14 *85301.5. (a) A person shall not make to a candidate for local*
15 *elective office, and a candidate for local elective office shall not*
16 *accept from a person, a contribution totaling more than the amount*
17 *set forth in subdivision (a) of Section 85301, as that amount is*
18 *adjusted by the Fair Political Practices Commission pursuant to*
19 *Section 83124.*

20 *(b) A contribution shall not be deemed received for purposes*
21 *of this section if it is returned to the contributor within 14 days of*
22 *receipt.*

23 *(c) This section does not apply to a candidate's contributions*
24 *of his or her personal funds to his or her own campaign.*

25 *(d) This section shall become operative on January 1, 2018.*

26 *SEC. 9. Section 85702.5 is added to the Government Code, to*
27 *read:*

28 *85702.5. (a) Except as provided in subdivision (b) of this*
29 *section and subdivision (a) of Section 85703, a local government*
30 *agency may, by ordinance or resolution, impose a limitation on*
31 *contributions to a candidate for local elective office. The limitation*
32 *may also be imposed by means of a local initiative measure.*

33 *(b) A local government agency shall not impose additional*
34 *requirements on a person pursuant to subdivision (a) if the*
35 *requirements prevent the person from complying with this act.*

36 *(c) A local government agency that establishes a contribution*
37 *limitation pursuant to subdivision (a) may adopt enforcement*
38 *standards for a violation of that limitation, which may include*
39 *administrative, civil, or criminal penalties.*

1 (d) Section 85301.5 and Chapter 11 (commencing with Section
2 91000) do not apply in a jurisdiction in which the local government
3 imposes a contribution limitation pursuant to subdivision (a).

4 (e) This section shall become operative on January 1, 2018.

5 ~~SEC. 8.~~

6 SEC. 10. A local government limitation on contributions to a
7 candidate for local elective office that is in effect on the effective
8 date of this act shall be deemed to be a limitation imposed pursuant
9 to Section ~~10802~~ 85702.5 of the ~~Elections~~ Government Code.

10 ~~SEC. 9.~~

11 SEC. 11. This act shall be liberally construed to accomplish
12 its purposes.

13 ~~SEC. 10.~~

14 SEC. 12. The provisions of this act are severable. If any
15 provision of this act or its application is held invalid, that invalidity
16 shall not affect other provisions or applications that can be given
17 effect without the invalid provision or application.

18 ~~SEC. 11.~~

19 SEC. 13. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

28 SEC. 14. The Legislature finds and declares that this bill
29 furthers the purposes of the Political Reform Act of 1974 within
30 the meaning of subdivision (a) of Section 81012 of the Government
31 Code.