SENATE COMMITTEE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS

Senator Catherine Blakespear, Chair

2023 - 2024 Regular

Bill No:	AB 270	**Hearing Date:**	7/2/24
Author:	Lee		
Version:	4/11/23 As Proposed to be Amended		
Urgency:	No	**Fiscal:**	No
Consultant:	Scott Matsumoto		

Subject: Political Reform Act of 1974: public campaign financing

DIGEST

This bill permits the use of public funds for candidates seeking elective office if certain conditions are met.

ANALYSIS

Existing law:

1) Provides, pursuant to the Political Reform Act of 1974 (PRA) as amended by Proposition 73 of 1988, that no public officer shall spend and no candidate shall accept any public moneys for the purpose of seeking elective office.

2) Provides the PRA may be amended to further its purposes by statute if the measure is passed with a two-thirds vote in each house of the Legislature and signed by the Governor. The PRA may also be amended or repealed by a statute if the Legislature places a measure on the ballot for voter approval.

3) Prohibits a foreign government or foreign principal from making a contribution, expenditure, or independent expenditure in connection with a state or local ballot measure or the election of a candidate to state or local office.

4) Prohibits a person or a committee from soliciting or accepting a contribution from a foreign government or foreign principal and prohibits a foreign government or foreign principal from making a contribution in connection with any state or local ballot measure or the election of a candidate to state or local office. Any person found in violation of is guilty of a misdemeanor and fined an amount equal to the amount contributed or expended.

This bill as proposed to be amended:

1) Permits the use of public funds for candidates seeking elective office if:

   a) Funds for candidates are not otherwise earmarked for education, transportation, or public safety;

b) Candidates abide by expenditure limits and meet a specified criteria to qualify for public funds where the candidate demonstrates broad-based support;

c) Funds received by candidates are not used for legal defense, fines, or for repaying personal loans to their campaign; and

d) Public funds do not discriminate based on party preference or incumbency.

2) Increases the maximum amount of the fine for accepting a contribution from a foreign government or foreign principal and for a foreign government or foreign principal that makes a contribution to three times the amount contributed or expended.

3) Requires the Secretary of State (SOS) to submit the bill's proposed changes to the PRA to the voters for approval at the November 3, 2026, statewide general election.

BACKGROUND

Proposition 68 and Proposition 73. Prior to 1988, there was no limit on the amount of money candidates for California state office could accept or spend. In June 1988 however, voters approved two separate campaign finance reform initiatives: Proposition 68 and Proposition 73. Proposition 73 prohibited the use of public moneys for campaign purposes and limited the amount of contributions candidates, committees, and political parties could accept from all entities on a fiscal year basis ($1,000, $2,500, or $5,000, depending on the source), and also prohibited the transfer of campaign funds between candidates. These same provisions also applied to special elections, but were based on election cycles rather than fiscal years. The competing Proposition 68 was a more comprehensive measure consisting not only of contribution limits, but partial public financing of campaigns for candidates who agreed to an overall limit on campaign spending.

The California State Supreme Court eventually ruled that because the two measures contained conflicting comprehensive regulatory schemes, they could not be merged and only one could be implemented. Since Proposition 73 received more votes than Proposition 68, the Court ordered Proposition 73 to be implemented and invalidated all the provisions of Proposition 68. In 1990, all state and local elections were conducted under the Proposition 73 limits.

Many of the provisions of Proposition 73 however, were ultimately found unconstitutional by the federal courts. The fiscal-year based contribution limits were deemed to discriminate against non-incumbents. The only provisions of Proposition 73 that survived legal challenge were the contribution limits for special elections, some restrictions on the types of mass mailings officeholders may send out at public expense, and the prohibition on the use of public money for campaign purposes.

Proposition 131 of 1990. Proposition 131, an initiative measure which garnered 37.75% of the vote in November 1990 would have, among other numerous provisions, provided partial public campaign financing to candidates for state office who agree to specified campaign expenditure limits. However, this measure also contained a term limits

proposal that received opposition from organizations because it was less restrictive than the competing Proposition 140, which was approved by voters.

Proposition 25 of 2000. Proposition 25, an initiative measure which received 34.7% of the vote in March 2000 would have, among other numerous provisions, provided public financing of campaign media advertisements and voter information packets for qualifying candidates and ballot measure committees.

Proposition 89 of 2006. Proposition 89, which appeared on the November 7, 2006, General Election ballot, was rejected by the 74.27% of the vote. Proposition 89 would have enacted a "clean money" system of campaign financing. Under "clean money," participating candidates would qualify for large amounts of public funds to spend on their campaigns once they collect a threshold amount of small ($5) qualifying contributions. Once qualified, candidates could not raise or spend campaign funds from any other source other than the "clean money" (with limited exceptions). Proposition 89 also lowered the current limit on contributions that non-participating candidates could accept and placed restrictions on direct corporate contributions to initiative campaigns. Proposition 89 would have funded the "clean money" system by raising roughly $200 million per year through an increase in the current income tax on corporations and specified financial institutions.

Proposition 15 of 2010. AB 583 (Hancock), Chapter 735, Statutes of 2008, which was often described as a pared down version of Proposition 89, was signed by Governor Schwarzenegger and appeared on the June 2010 Primary Election ballot as Proposition 15. While it fared better than Proposition 89, it was nevertheless defeated 57.3% to 42.7%. Proposition 15 would have created a pilot project whereby qualifying candidates for Secretary of State could have received public campaign funds for the 2014 and 2018 elections if they agreed not to accept most private contributions. Funding would have come from a hefty increase in the filing fees paid by lobbyists and their employers. State courts in Arizona and Vermont had invalidated lobbyist fees used to fund public financing programs similar to this one. Prior to the election, lawyers for many lobbying organizations filed suit in both state and federal court, but in both instances, the courts ruled the issue was not ripe for review since Proposition 15 had yet to be approved by the voters. With the defeat at the polls, the lawsuit was dropped.

The Current Ban. California and most the state's local governments do not have the option to offer any public funding to campaigns under the existing statewide ban. While charter cities are exempt under autonomy granted by the state Constitution, general law cities, counties, districts, and the state governments are covered by the current state ban. Additionally, after voters in Sacramento County enacted public financing several years ago, the courts struck it down, ruling it was not permitted under Proposition 73.

Recent Legislation. In 2016, the Legislature passed and Governor Brown signed SB 1107 (Allen), Chapter 837, Statutes of 2016. Among the provisions of SB 1107, the bill permitted a public officer or candidate to spend or accept public moneys to seek elective office if the state or a local governmental entity established a dedicated fund for that purpose. However, courts ruled the question must be put before the voters because an initiative, Proposition 73, put those provisions into the PRA.

Foreign Contributions. Under current law, a foreign government or foreign principal is prohibited from making a contribution, expenditure, or independent expenditure in connection with a state or local ballot measure or the election of a candidate to state or local office. A person or a committee is also prohibited from soliciting or accepting a contribution from a foreign government or foreign principal in connection with any state or local ballot measure or the election of a candidate to state or local office.

Any person found in violation of this law is guilty of a misdemeanor and fined an amount equal to the amount contributed or expended. AB 270, if approved by voters, keeps the misdemeanor provisions, but increases the maximum fine to up to three times the amount contributed or expended.

COMMENTS

1) According to the Author: "Californians are rightly concerned that they lack a full voice in elections and government because their small campaign contributions can't compete with large contributions and expenditures from wealthy donors and special interests. Candidates themselves have to spend more time fundraising instead of engaging with voters who can't afford to make substantial contributions.

   "Five charter cities have implemented public funding of campaigns that address these issues and amplify the voices of everyday voters. Unfortunately, general law cities, counties, districts, and the state are banned from providing public funding. Bipartisan supermajorities of the legislature passed SB 1107 in 2016 to repeal the ban, but the courts ruled that the question must be put before the voters."

   "AB 270 will put a measure on the November 2026 ballot allowing voters to choose whether to repeal the ban on public funding of campaigns. The measure does not institute public funding of campaigns anywhere, but it permits any jurisdiction to implement such a system as long as it adheres to specified requirements."

2) Majority Vote by the Legislature and Voters. As previously mentioned, the Legislature can amend the PRA by passing a bill with a two-thirds vote in each house. An alternative way is to submit proposed PRA changes directly to the voters, which is what this bill proposes to do. In this case, since the matter will go on the ballot for the voters to approve or reject, it only requires a majority vote in each house of the Legislature and a Governor's signature on the bill.

RELATED/PRIOR LEGISLATION

SB 24 (Umberg) of 2023 is similar to this bill and was approved by this committee on a 6-1 vote. SB 24 is currently awaiting consideration in the Assembly Committee on Appropriations.

SB 1107 (Allen), Chapter 837, Statutes of 2016, permitted a public officer or candidate to spend or accept public moneys to seek elective office if the state or a local governmental entity established a dedicated fund for that purpose. Courts ruled such a question must be put before the voters.

PRIOR ACTION

Assembly Floor:	59 - 18
Assembly Appropriations Committee:	11 - 4
Assembly Elections Committee:	5 - 2

POSITIONS

Positions listed reflect a prior version of the bill.

Sponsor: California Clean Money Campaign

Support: American Federation of State, County, and Municipal Employees
California Church Impact
California Democratic Party
California Public Interest Research Group
Consumer Watchdog
Courage California
Democracy Policy Network
Endangered Habitats League
Fix Democracy First
Indivisible CA: StateStrong
Initiate Justice
League of California Cities
League of Women Voters in California
MapLight
Money Out Voters In
Northern California Recycling Association
Public Citizen
South Bay Progressive Alliance
Voices for Progress
Voters Right to Know

Oppose: California Taxpayers Association

-- END --

SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS
Senator Catherine Blakespear, Chair
2023 - 2024 Regular

Bill No:	AB 884	**Hearing Date:**	7/2/24
Author:	Low		
Version:	6/25/24		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Scott Matsumoto		

Subject: Elections: language accessibility

DIGEST

This bill requires the Secretary of State (SOS) and county elections officials to provide additional translated election materials and language services.

ANALYSIS

Existing federal law:

1) Requires a state or a political subdivision of a state to provide voting materials in the language of a minority group when that group within the jurisdiction has an illiteracy rate higher than the national illiteracy rate, and the number of United States (US) citizens of voting age in that single language group within the jurisdiction either:

   a) Numbers more than 10,000;

   b) Makes up more than 5% of all voting age citizens; or

   c) On an Indian reservation, exceeds 5% of all reservation residents.

2) Requires a state or political subdivision of a state to provide voting materials in the language of a minority group when:

   a) Over 5% of the voting age citizens were, on November 1, 1972, members of a single language minority group;

   b) Registration and election materials were provided only in English on November 1, 1972; and

   c) Fewer than 50% of the voting age citizens were registered to vote or voted in the 1972 Presidential election.

3) Defines language minorities or language minority groups, for the purposes of the above provisions, to mean people who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.

Existing state law:

1) Declares the intent of the Legislature that non-English-speaking citizens, like other citizens, be encouraged to vote and appropriate efforts should be made to minimize obstacles to voting by citizens who lack sufficient skills in English to vote without assistance.

2) Requires elections officials to make reasonable efforts to recruit poll workers who are fluent in a language if at least 3% of the voting age residents in any precinct are fluent in that language and lack sufficient skills in English to vote without assistance.

3) Requires two facsimile ballots and related instructions required to be available at a polling place in Spanish or other languages in which the SOS has determined at least 3% of the voting age residents in a county or precinct are members of a single language minority and lack sufficient skills in English to vote without assistance. Requires four facsimile ballots and related instructions required to be available at a polling place in Spanish or other languages in which the SOS has determined exceeds 20% of the voting age residents in a county or precinct are members of a single language minority and lack sufficient skills in English to vote without assistance.

4) Requires a county that conducts elections using vote centers pursuant to the California Voter's Choice Act (CVCA) to provide language assistance, translated election materials, and post information regarding the availability of language assistance in all languages required in the jurisdiction. Requires CVCA counties to establish language accessibility advisory committees (LAAC).

5) Provides a county elections official is not required to provide facsimile copies of the ballot in a particular language if they are required to provide translated ballots in that language pursuant to federal law.

6) Requires the SOS to establish a statewide LAAC to help it implement federal and state laws relating to access to the electoral process by limited English proficiency voters.

This bill:

1) Requires the SOS to determine the number of residents of voting age in each county and precinct who are members of a single language minority group who lack sufficient skills in English to vote without assistance by March 1, 2025, and by March 1 every four years thereafter.

2) Requires the SOS to post a list of languages used by single language minority groups on its website.

3) Requires the SOS and county election officials to provide specified election materials, including forms, notices, instructions, and ballots, in an applicable language of the minority group, as well as in English.

4) Requires county election officials to provide information on their internet website on how a voter may request a mail ballot in a language other than English.

5) Permits the SOS to adopt any rules necessary relating to the determination of languages, the posting of languages, and the ability to provide translated election materials.

6) Requires elections officials to consult interested citizens about whether transliteration of candidates' names is appropriate for languages that are not character-based languages.

BACKGROUND

Federal Voting Rights Act of 1965 (VRA). The 15th Amendment to the US Constitution provides, in part, "[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude." Additionally, the 15th Amendment authorizes Congress to enact legislation to enforce its provisions.

Congress determined the existing federal anti-discrimination laws were not sufficient to overcome the resistance by state officials to enforce the 15th Amendment. As a result, Congress passed and President Johnson signed the VRA. The VRA provides, among other provisions, that "[n]o voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge that right of any citizen of the United States to vote on account of race or color."

In 1975, Congress adopted the language minority provisions of Sections 4(f)(4) and 203 of the VRA and extended these provisions in 1982, 1992, and 2006. Sections 4(f)(4) and 203 of the VRA require certain jurisdictions with significant populations of voting age citizens who belong to a language minority community to provide voting materials in a language other than English. These determinations are based on data from the most recent census.

Specifically, Sections 4(f)(4) and 203 provides when a covered state or political subdivision "[p]rovides registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language."

In 2013, the United States Supreme Court in *Shelby County v. Holder (2013) 570 U.S. 529*, invalidated the formula used to determine which jurisdictions are subject to the language requirements in Section 4(f)(4) of the VRA, and the VRA has not been amended since then to create a new formula. As a result, while Section 4(f)(4) remains a part of the VRA, no jurisdictions actually are required to provide language assistance under its provisions. However, the California jurisdictions that likely would have been required to provide language assistance pursuant to Section 4(f)(4) under the prior coverage formula are still required to provide language assistance under Section 203 or under state law to at least some precincts within those jurisdictions.

Recent Census Data. On December 8, 2021, the United States Census Bureau released its most recent determination of minority language requirements under Section 203 of the VRA. Pursuant to Section 203, California is required to provide bilingual voting assistance to Spanish speakers in all elections throughout the state and nine counties (Alameda, Contra Costa, Los Angeles, Orange, Sacramento, San Diego, San Francisco, San Mateo, and Santa Clara) are required to provide voting materials in at least one language other than English and Spanish.

In addition, state law requires the SOS, in each gubernatorial election year, to determine the precincts where 3% or more of the voting age residents are members of a single language minority and lack sufficient skills in English to vote without assistance.

According to a memo from the SOS from December 31, 2021, the office contracted with the California Statewide Database (SWDB) at the University of California, Berkeley to determine which precincts have reached the 3% threshold for single language minorities. According to the memo, due to stricter census privacy disclosure rules, counties saw a major reduction in populations that meet the 3% threshold, meaning ballots and other election materials will need to be translated into fewer languages. The memo encouraged counties to work with community groups to determine if a need exists for any of the previously covered languages before eliminating the use of materials in languages that were previously covered.

On March 1, 2022, the SOS essentially reversed course. The office sent out a new memo reinstating prior precinct minority language determinations, writing in it found sufficient reason to believe it was necessary to reinstate the 2017 and 2020 minority language assistance determinations to ensure communities have access to language assistance services.

California Voting for All Act & Previous Legislation. In 2017, in an effort to reduce barriers and expand and improve language access and assistance for voters who identify as limited-English proficient voters, the Legislature approved and Governor Brown signed AB 918 (Bonta), Chapter 845, Statutes of 2017. AB 918 expanded the availability and accessibility of facsimile ballots in languages other than English in situations where such facsimile ballots are required to be made available pursuant to existing law. Specifically, AB 918:

- Increased the number of translated facsimile ballots and instructions available at polling locations;
- Required county elections to post on their website information identifying polling places in the county with translated facsimile ballots;
- Specified signage at polling places to inform voters of the resources available in other languages;
- Permitted vote by mail voters to request a translated facsimile ballot; and
- Permitted a county elections official to provide a voter with a translated ballot instead of providing the required translated facsimile ballot.

COMMENTS

1) According to the Author: "AB 884 demonstrates California's commitment to an open and accessible electoral process by eliminating barriers to voter participation and ensuring voters have access to election materials in their preferred language."

2) What is Different? This bill expands language services to languages that would otherwise qualify as a Section 203 language but do not qualify because they are not considered an Asian, American Indian, Alaska Native, nor Spanish language. As a result, should this bill become law, languages such as Arabic or Russian will be considered when the new language determinations are released by the SOS.

   Additionally, under current law, county election officials are required to create translated facsimile ballots for voters using language determinations that are more stringent than those used in Section 203. This bill eliminates the facsimile ballot requirement and, replaces it with a requirement that the voter be given a translated ballot to use to cast their vote.

3) Logistical Concerns. When elections officials are required to provide translated materials pursuant to federal law, the officials must translate *all* election related materials, including ballots and voter information guides. When elections officials are required to provide language assistance under state law, the type of assistance required is more limited.

   AB 884 requires elections officials to provide similar levels of translation for languages, but the bill expands the number of election materials that must be translated to include forms, voting notices, and instructions and assistance forms if certain conditions are met.

   Increasing the amount of election materials to be translated and the number of translated languages likely will improve accessibility to the election process, but also creates logistical, timeline, and resource concerns. Since there are a limited number of translation vendors, the SOS and many counties already use the same vendors to prepare translated materials. As a result, getting a translation services contract may be even more challenging and would add more time to an already compressed election calendar if the number of translations and types of materials to be translated are substantially expanded.

4) Vote Center Counties. Under the bill, county election officials would be required to provide translated ballots and other election materials for individual and specific precincts in a language other than English as determined by the SOS. This may work well in counties that use traditional polling locations where a voter has an assigned polling place. However, in counties that conduct elections using the CVCA, voters are not assigned to a specific precinct-based polling location and can choose to vote at any polling location within the county. To provide adequate language services under this bill, a county may need to translate every ballot type for that election in an applicable language because of the voter's ability vote at any voting location within the county, regardless of where they live in the county. Similar to Comment 3, this has the potential to create logistical challenges for counties.

RELATED/PRIOR LEGISLATION

AB 1631 (Cervantes), Chapter 552, Statutes of 2022, requires a county elections official to post on their website a list of all polling places where multilingual poll workers will be present and the language or languages in which they will provide assistance. It also requires county elections officials to use the internet in their efforts to recruit multilingual poll workers.

AB 918 (Bonta), Chapter 845, Statutes of 2017, expanded the availability and accessibility of facsimile ballots in languages other than English in situations where such facsimile ballots are required to be made available pursuant to existing law.

PRIOR ACTION

Assembly Floor:	65 - 0
Assembly Appropriations Committee:	12 - 0
Assembly Elections Committee:	7 - 0

POSITIONS

Sponsor: Asian Americans Advancing Justice – Asian Law Caucus
California Common Cause
Partnership for the Advancement of New Americans

Support: AAPI Equity Alliance
AAPIs for Civic Empowerment
ACLU California Action
Alliance San Diego
American Association of University Women California
American Association of University Women of San Jose
Arlene & Michael Rosen Foundation
Asian Americans Advancing Justice Southern California
California Black Power Network
California Clean Money Campaign
California Environmental Voters
California Immigrant Policy Center
Center for Asian Americans United for Self Empowerment
Center for Empowering Refugees and Immigrants
Chinese for Affirmative Action
Council on American Islamic Relations - CA
CPCA Advocates
Initiate Justice
League of Women Voters of California
Mexican American Legal Defense and Educational Fund
NALEO Educational Fund
North East Medical Services
The Aja Project

Oppose: California Association of Clerks and Election Officials
California State Association of Counties

Rural County Representatives of California
Urban Counties of California
6 individuals

-- END --

SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS
Senator Catherine Blakespear, Chair
2023 - 2024 Regular

Bill No:	AB 996	**Hearing Date:**	7/2/24
Author:	Low		
Version:	6/17/24		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Evan Goldberg		

Subject: Elections: recounts

DIGEST

This bill requires public disclosure of certain contributions made to support a voter-requested recount effort. Separately, the bill creates a mandatory state-funded recount for United States (U.S.) Senate, Congressional, State Senate, and State Assembly races.

ANALYSIS

Existing law related to campaign contribution disclosures:

1) Imposes numerous pre- and post-election campaign finance reporting requirements on candidates, committees supporting candidates, committees supporting and opposing ballot measures, and others.

2) Requires, for state offices and ballot measures, contributions totaling $1,000 made within 90 days of an election to be reported to the Fair Political Practices Commission (FPPC) within 24 hours. Requires this information to be posted online for the public to see, though certain information is required to be redacted.

3) Does not impose any 24-hour reporting requirements on post-election contributions.

Existing law related to election recounts:

1) Allows the Governor – within five days of the Secretary of State (SOS) certifying the election results (which is 38 days after the election) – to order a state-funded manual recount of all votes cast for a statewide office (except for Governor and Superintendent of Public Instruction (SPI)) or a state ballot measure if:

    - In a primary election, the vote difference between the second and third place candidates (or for and against a ballot measure) is 1,000 or fewer votes or less than 0.015% of the number of all votes cast for that office; and
    - In a general election, the vote difference between the top two vote getters (or for and against a ballot measure) is 1,000 or fewer votes or less than 0.015% of the number of all votes cast for that office.

2) Sets different triggers for allowing the Governor to call a recount for SPI.

3) Permits the SOS, instead of the Governor, to order a state-funded manual recount in a race for Governor.

4) Allows any voter to request and pay for a recount pursuant to the following rules:

    - The request must be made within five days of the elections official certifying their results and in the case of a statewide election, the request must be made of the SOS;
    - The requestor can ask to examine "relevant materials," such as vote-by-mail (VBM) ballots and envelopes, provisional ballots, and other materials prior to any ballots actually being recounted;
    - The requestor can specify the precincts they want recounted, the order they want them recounted in, and they can halt the recount at any time;
    - The requestor must, each day, pay to the elections official's office the amount of money the official states is needed to cover the daily cost of the recount; and
    - An election result can only be overturned once the entire jurisdiction has been recounted.

This bill, as it relates to campaign contribution disclosures:

1) Requires any committee, even one registered solely with the Federal Election Commission, that provides any part of a daily deposit for a voter-requested recount to:

    - Disclose any contributions totaling $10,000 or more received during the period of one week before a recount begins and one week after the recount ends. The disclosure must be provided to the elections official where the recount is taking place and must include:

        - The contributor's name;
        - The contributor's street address;
        - The contributor's occupation, if any;
        - The contributor's employer, if any, or if self-employed, the name of the business; and
        - The date and amount received for each contribution of at least $10,000.

    - Report the contributions to the elections official within 24 hours of receipt.

    - Use reasonable efforts to verify whether the contributor is the true source of the contribution or an intermediary. If the contributor is an intermediary, the committee shall use reasonable efforts to identify and disclose the information noted above for the true source of the contribution.

2) Requires the elections official to publish the contribution information on their website within 24 hours of receiving it.

This bill, as it relates to recounts:

1) Requires the Governor – within five days of the SOS certifying the election results (the SOS has up to 38 days after Election Day to certify the results) – to order a state-funded manual recount of all votes cast in a race for State Senate, State Assembly, U.S. Senate, or U.S. House if:

    - In a primary election, the difference in votes between the second and third place candidates is 25 or fewer votes or less than 0.25% of all votes cast for that office; or
    - In a general election, the difference in votes between the top two vote getters is 25 or fewer votes or less than 0.25% of all votes cast for that office.

BACKGROUND

Congressional District 16. The March 5, 2024, Primary Election saw two candidates – State Assemblyman Evan Low and Santa Clara County Supervisor Joe Simitian – finish in a tie for second place in the race for Congressional District (CD) 16.

CD 16 covers portions of Santa Clara and San Mateo counties and under California law, while there is no provision for an automatic recount, any voter can request a recount provided they are willing to pay for it. In this case, a voter named Jonathan Padilla requested the recount and paid the estimated $24,000 a day required by elections officials for a machine recount of the ballots cast in the election.

According to news reports, while Mr. Padilla may have been paying elections officials to cover the cost of the recount, his costs were being financed by a political action committee (PAC) called Count The Vote, a fact that came to light due to federal disclosure requirements that apply to PACs. The total spent on the recount was, according to news reports, approximately $360,000.

During the recount, Santa Clara County awarded 11 additional votes to Assemblymember Low and 7 additional votes to Supervisor Simitian, while San Mateo County awarded 1 additional vote to Assemblyman Low and 0 additional votes to Supervisor Simitian. As a result, Assemblymember Low will advance to the November 5, 2024, General Election.

Not Just A Recount – It Could Also Change What Is Actually Counted. The term "election recount" is, in a sense, a bit of a misnomer because it can be inferred to mean a voter can only request a recount – by machine or by hand – of solely those ballots counted on Election Day and during the canvass process.

The reality is, a person requesting a recount can also ask to examine "relevant materials" to the election. This includes VBM ballots that were not included in the final tally for reasons such as:

- The signature on the VBM envelope did not match the voter's signature on file;
- There was no signature on the envelope;
- The ballot arrived after the deadline; or

- The postmark on the ballot envelope did not clearly indicate it was mailed on or before Election Day.

Other "relevant materials" can include provisional ballots that may have been rejected due to signature-related issues or ballots from first-time voters who may not have provided the required identification.

A recount requestor can challenge an election officials' decision not to include those ballots in the official tally and if the requestor wins the challenge, the ballot is included in the recount.

Following the recount in CD 16, a press release from San Mateo County noted:

> "…the requestor of the recount asked to review relevant materials including ballot envelopes that were not counted due to late arrival, signature mismatch, or missing signatures. [O]f the 586 ballot envelopes reviewed, 28 were challenged by the requestor. Of those 28 challenged ballots, 12 related to signature verification and 16 related to postmark issues. The challenged ballot process resulted in 21 challenges that were rejected and 7 were accepted."

As a result, 7 ballots that hadn't been counted during San Mateo County's canvass process could be counted during the recount.

A press release from Santa Clara County issued following the CD 16 recount noted:

- 45 uncounted ballots were challenged and 7 were accepted for inclusion in the recount;
- 19 uncounted ballots were identified as being erroneously excluded during the canvass, so they were included in the recount; and
- 3 ballots were identified as having been double-counted, so they were subtracted during the recount.

As a result, a net of 23 ballots that hadn't been counted during Santa Clara County's canvass process could be counted during the recount.

Machine Counting vs. Hand Counting -- Accuracy. Numerous studies – in voting and in other fields, such as banking and in the retail sector – have concluded that people counting by hand make far more errors counting than machines do, especially when counting larger and larger numbers:

- In one New Hampshire study conducted by MIT, poll workers who counted ballots by hand were off by 8%, while the error rate for machine counted ballots ran at 0.5%;
- Rice University conducted a study in which people were tasked with counting just two races on 120 ballots. The participants accurately counted the results of the two races only 58% of the time; and
- According to the Voting Rights Lab, officials in Nye County, Nevada, hand counted all the ballots in a 2022 election and experienced an error rate as high as 25%.

Stephen Ansolabehere, a professor of government at Harvard University who has conducted research on hand-counts, said that in his studies, "Machine counting is generally twice as accurate as hand-counting and a much simpler and faster process."

Machine Counting vs. Hand Counting – Cost. The cost of a recount will vary based on a number of different factors, including:

- The number of ballots cast;
- The technology used to conduct the recount (if it's a machine recount);
- The number of people employed to conduct a hand recount;
- The amount of other materials a recount requestor may want to examine;
- How and where the county elections official stores the ballots and the complexity associated with retrieving them; and
- Whether any accommodations – staffing, space, furniture, etc. – need to be made to ensure the recount can be viewed by the interested parties who, by law, have a right to observe the process.

Based on a number of published reports and some information provided by California county elections officials, the cost of a hand recount can be two to four times as expensive as a machine recount – and can take significantly longer.

As noted earlier, media reports put the total cost of the machine recount in CD 16 at approximately $360,000. Each of the two counties (San Mateo and Santa Clara) involved in the recount charged the requestor $12,000 per day to conduct the recount.

COMMENTS

1) According to the Author: "AB 996 will enhance election integrity and transparency in California by mandating recounts in close elections and disclosing significant contributions to recounts. Our goal is to ensure full public transparency of the recount process and improve political processes and laws to foster transparency and confidence in our elections."

2) Privacy Concerns. This bill requires that when anyone makes contributions totaling $10,000 or more, the committee receiving the contribution must report to the elections official the contributor's name, street address, occupation (if any), employer (if any), and if self-employed, the name of the business. The elections official is then required to post this information on their website

   This same information must be reported now when people make contributions of $1,000 or more to candidates or committees 90 days before an election – however, the law requires the SOS to redact the person's street address and building number (if applicable) before posting this information online. The Committee may wish to consider requiring the elections official to redact the filings mandated by this measure in the same manner.

3) Seven Days, Before & After. The bill requires the disclosure of contributions over $10,000 to be made beginning seven days before a voter-requested recount begins,

during the recount period, and for seven days after a recount has concluded. It also ties the start of a recount to within five days of when the SOS certifies the vote – which is generally 38 days after Election Day. As such, it is possible to envision a scenario where someone could decide 30 days after an election, but 8 days before a recount could be requested, to donate $10,000 or more toward a potential recount without triggering the disclosure requirements under this bill.

As such, the Committee may wish to consider whether the trigger for this type of disclosure should be earlier in the process, perhaps as early as Election Day.

4) Avoiding Disclosure. When it comes to drawing a line of demarcation – especially in the world of campaign contribution disclosures – it's virtually impossible to draw a line that can't be avoided.

   For example, under current law, contributions made to candidates and committees of $1,000 or more within 90 days of an election must be reported within 24 hours. Anyone wanting to avoid having to make such a report would simply ask people to donate $999 to their campaigns.

   The same issue exists here – someone wanting to skirt disclosure would simply have to ensure they don't donate more than $9,999 in the aggregate.

   It should be pointed out though that given the high cost of a recount – approximately $360,000 in the case of the CD 16 recount – it would take 36 different people donating $9,999 each to avoid disclosure.

   Also worthy of note is under the law, a candidate may accept contributions after the election to pay for net debts outstanding, which is defined in FPPC regulations to include "Legal fees and expenses incurred directly in connection with monitoring the count of absentee or provisional ballots for the election, or with a ballot recount conducted for the election."

   Put another way, a candidate can accept contributions to their existing campaign account following an election to pay for a recount, among other things, but that information would not be disclosed until the candidate files a post-election spending report, which could be several months after the election and recount are concluded.

5) Hand Count vs. Machine Count. As noted in the "Background" section, numerous studies show machines, not humans, are more reliable when it comes to completing repetitive tasks such as counting. Furthermore, based on data provided by some of California's county elections officials, counting ballots by hand is exponentially more expensive.

   As such, the Committee may wish to consider whether the bill should mandate a state-funded machine recount, not a hand recount.

   Furthermore, the Committee may wish to consider whether in a state-funded recount mandated by this bill, someone should be permitted to examine any of the "relevant materials," such as VBM ballots envelopes, to see if any ballots that were not included in the original count should be included in any recount. As the bill is drafted

now, those relevant materials could not be examined as part of a state-mandated recount – only the ballots that were counted originally could be recounted.

6) Calling Off A Recount. Under current law, when a voter requests and pays for a recount, they can call it off at any time and simply accept the results of the election. It's not uncommon for a voter to, for example, test the waters by paying just to examine the "relevant materials" to see if they believe any ballots that were rejected should have been counted. Or to count a handful of precincts to see if any votes do change, which may lead them to pay to count more precincts.

   This bill does not have any provision to allow for a state-mandated manual recount to be called off, regardless of how it may be proceeding. On the other hand, it's not clear who should be given that authority and if provisions need to be included to prevent that power from being mis-used.

7) Is The 0.25% Trigger Too High? The bill triggers an automatic state-funded manual recount in cases where the top two vote getters (in a general election) or second and third place finishers (in a primary election) are within 25 votes or 0.25% of the votes cast for that office, whichever is greater. Here are some examples where, had this measure been law at the time, a state-funded recount would have been required:

   - March 2024, CD 16. There were 182,188 votes cast for the office. Given 0.25% of 182,188 is just over 455, if this bill were law, an automatic recount would have been triggered if the second and third place finishers were within up to 455 votes of one another. As noted in the background, the second and third place finishers were tied and following an examination of relevant materials (VBM envelopes, etc.) and a machine recount, 19 votes were awarded between the two candidates (12 to Assemblyman Low and 7 to Supervisor Simitian).

   - November 2022, Senate District 16. There were 136,898 votes cast in this two-person general election contest between Senator Melissa Hurtado and challenger David Shepard. Given 0.25% of 136,898 is just over 342, if this bill were law, an automatic recount would have been triggered if the difference between the two candidates was 342 or fewer votes,. Candidate Shepard, who was trailing by 31 votes after the election was certified, did file and pay for a recount. The final margin of victory for Senator Hurtado was officially 22 votes, though it's not clear from news reports whether any of those numbers changed solely due to the ballots being recounted or from the inclusion of ballots that were not included in the original tally.

   - March 2020, Senate District 25. There were 187,168 votes cast in this primary election race, meaning if this bill were law, an automatic recount would have been triggered if the second and third place finishers were 467 or fewer votes apart. The second and third place finishers – two write-in candidates – were 141 votes apart.

   - March 2020, Assembly District 21. There were 55,543 votes cast in this primary election race, meaning if this bill were law, an automatic recount would have been triggered if the second and third place finishers were 138 or fewer votes

apart. The second and third place finishers – two write-in candidates – were 44 votes apart, so an automatic recount would have been triggered had this bill been law in 2020.

- March 2020, Assembly District 13. There were 75,438 votes cast in this primary election race, meaning if this bill were law, an automatic recount would have been triggered if the second and third place finishers were 188 or fewer votes apart. The second and third place finishers were 30 votes apart.

There is certainly no obvious or "magic" number when it comes to deciding when a mandatory recount should be triggered. Current law sets the trigger for when the Governor (or the SOS, if the race in question is for Governor) may (but is not required to) call for a recount for a statewide race at 0.015%. For comparison purposes, in the 2022 General Election race for California Governor, there were 10,933,018 votes cast, meaning had the top two vote getters been within 1,639 of each other, the SOS would have had the option to call for a state-mandated hand recount.

The 0.25% number in this bill is modeled on an ordinance in Santa Clara County, which since 2018, has had a mandatory manual recount requirement for all contests (excluding state and federal races) contained solely within the county. For countywide races or citywide races in San Jose, a machine or a manual recount must be conducted. In a November 2022 general election for County Supervisor District 1, 109,506 ballots were cast, meaning an automatic manual recount would have been triggered it the top two vote getters were within 273 votes of each other. There was no recount in this race.

8) Technically – And More – Speaking. There are a number of amendments that aren't exactly "technical," yet fall short of being truly "substantive" the Committee may wish to ask the author to adopt. They are:

   a) Page 4, Line 22, applies the bill's automatic recount provisions – and higher triggering percentage – to the state's U.S. Senate seats. This U.S. Senate seat is already covered in current law by the optional recount – and lower triggering percentage – rules that apply to all statewide races (except the race for SPI). The Committee may wish to delete this bill's application to the state's U.S. Senate seats.

   b) Page 4, Lines 18-23, trigger a mandatory, state-funded recount if a race for State Senate, State Assembly, U.S. Senate, and U.S. House is within a certain margin. However, that recount couldn't be triggered until up to five days after the SOS certifies the statewide vote – something the SOS has 38 days after Election Day to do.

      This mirrors the provision in current law that refers to statewide races, which makes sense because the SOS must receive and review the canvass reports from 58 counties before certifying a statewide election. However, given this new section applies only to district races, it may be more logical – and timely – to use a trigger similar to the one in Elections Code section 15620, which allows a voter to request a recount five days after a county (in a race contained in a single county) has finished its official canvass. As

such, the Committee may wish to consider replacing the language in the bill with language similar to what is found in Elections Code section 15620.

c) Page 4, Lines 33-36, require the SOS to order a statewide recount in a race for Governor in certain cases. This is somewhat duplicative of current law (found on Page 5, Lines 15-18 of the bill) and refers to a code section to which it could never apply. The Committee may wish to delete the section added by this bill.

d) Move Page 4, Lines 18-32, to Page 5, Line 32, so the new district-related recount provisions added by this bill are placed below all of the provisions of existing law related solely to statewide recounts and re-letter the remaining provisions in this section accordingly.

PRIOR ACTIONS

The prior Assembly votes on this measure are not relevant to the current version of the bill.

POSITIONS

Sponsor: Author

Support: None received

Oppose: None received

-- END --

SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS
Senator Catherine Blakespear, Chair
2023 - 2024 Regular

Bill No:	AB 1784	**Hearing Date:**	7/2/24
Author:	Pellerin		
Version:	6/12/24		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Evan Goldberg		

Subject: Primary elections: candidate withdrawals

DIGEST

This bill clarifies state law prohibits a person from running for more than one office at a primary election. This bill also allows a person who has filed to be a candidate at a primary election to withdraw from the race up until the candidate filing deadline for that office, though this provision does not apply to anyone running for statewide office.

ANALYSIS

Existing law:

1) Prohibits a candidate for state office who filed their declaration of candidacy for any primary election from withdrawing as a candidate from that election.

2) Permits a candidate for city office, district office, school district governing board, community college district governing board, and county board of education to withdraw as a candidate up until the filing deadline.

3) Requires a candidate's name to be printed on the ballot at a primary election if the candidate has declared a candidacy for that election, unless the candidate has died 68 or more days prior to the election.

4) Extends the filing deadline by five days in cases where the incumbent officeholder does not file for re-election.

5) Provides certain state laws related to nominations of candidates at primary elections do not apply to:

   - Recall elections;
   - The presidential primary;
   - The nomination of officers of cities or counties whose charters provide a system for nominating candidates for those offices;
   - The nomination of officers for any district not formed for municipal purposes;
   - The nomination of officers for general law cities; and
   - The nomination of school district officers.

This bill:

1) Clarifies that a person cannot file nomination papers for more than one office at the same primary election.

2) Specifies this does not apply to a political party's county central committee.

3) Requires an elections official to reject as invalid any nomination papers that a person attempts to file for an office at a primary election if the person has already filed – and not withdrawn – nomination papers for another office at the same primary election.

4) Allows a candidate – or their designee – to withdraw nomination documents up until 5:00 p.m. on the deadline for candidates to file nomination documents for a primary election if they:

   - Identify the office for which they previously filed nomination documents;
   - Sign a statement acknowledging their decision to withdraw is irrevocable; and
   - Sign a statement acknowledging they understand they will not appear on the ballot as a candidate for that office.

5) Permits a candidate who withdraws nomination documents pursuant to this procedure to file nomination documents for any other office at the same primary election for which they are eligible.

6) Requires a county elections official who receives a statement of withdrawal from a candidate to:

   - Immediately electronically send a copy of that statement to the Secretary of State (SOS) and to county elections officials in any other affected counties; and
   - Forward the original statement of withdrawal to the SOS within five days.

7) Specifies if an eligible incumbent files nomination documents for an office and subsequently withdraws those documents, the candidate filing deadline for that office is extended in the same manner as if the incumbent had not filed the nomination documents.

8) Repeals obsolete provisions of law related to the independent nomination of candidates.

BACKGROUND

And Then The Earth Cooled… Prior to 1910, California generally did not hold primary elections to determine who would appear on the ballot at the general election. Instead, political parties held conventions to choose their nominees for the general election ballot. A candidate wanting to be elected as an independent candidate, rather than as the nominee of a political party, could do so by collecting a specified number of signatures from voters on nomination papers.

In 1908, California voters approved a constitutional amendment requiring the Legislature to enact laws to allow candidates for public office to be directly nominated at primary elections and the following year the state's primary election system was born. It permitted independent candidates to be on the general election ballot – as long as they hadn't been defeated at a primary election earlier in the year.

Rocket forward to 1913, when the Legislature made various changes to the state's primary election laws, including one banning a person from filing nomination papers for a party nomination and an independent nomination to the same office, or for more than one office at the same election.

These provisions have long been interpreted as preventing any candidates from filing and running for two offices on the same ballot – an interpretation backed by California State Attorney General opinions in 1940 and 1962, and by the California Supreme Court in 1982.

Sacramento Superior Court, 2023. A December 2023 decision by the Sacramento Superior Court interpreted the more than century old state statutes preventing a candidate for running for two different offices on the same ballot in a different way, allowing Assemblyman Vince Fong to run simultaneously for the nomination in Assembly District (AD) 32 and Congressional District (CD) 20 on the same ballot.

Then-Assemblyman Fong had filed nomination documents to run for the Assembly in late November 2023, but 13 days later, after the incumbent in the 20th Congressional District announced he was not going to run for re-election, then-Assemblyman Fong filed nomination documents for CD 20.

On December 15, 2023, the SOS – citing the statutes from the early 1900s – announced she would not include Mr. Fong on the list of certified candidates for CD 20 because he had already filed, and by law was precluded from withdrawing papers to run for office in AD 32.

Mr. Fong took the matter to court and on December 28, 2023, the Sacramento Superior Court ordered the SOS to place Mr. Fong on the ballot in the CD 20 race, regardless of the fact he was already on the ballot in AD 32, writing:

> "The Secretary of State cited a century-old statute (Elections Code section 8003) that on its face applies only to 'independent candidate nominations,' a process that was long ago abandoned by the state in favor of its current 'top two' nomination process. Mr. Fong is not seeking an 'independent nomination' to the House of Representatives (because there is literally no longer a process for that in California). Therefore, section 8003 is wholly inapplicable to him, and the Secretary of State's attempted creative application of that section (to Mr. Fong's voter-nominated candidacy) to bar Mr. Fong from the Congressional ballot must be rejected by this Court."

The Court also noted:

> "The Court notes that it is concerned about the outcome of this Petition, as it may result in voter confusion and the disenfranchisement of voters if Fong is ultimately elected for both offices but does not retain one. Moreover, it somewhat defies common sense to find the law permits a candidate to run for two offices during the same election. However, as stated above, the Court is compelled to interpret the law as it is written by the Legislature …"

The SOS appealed the ruling to the Third District Court of Appeal, but that court upheld the Sacramento decision, concluding:

> "If the Legislature wants to prohibit candidates from running for more than one office at the same election, it is free to do so. Unless and until it does so, however, we must take section 8003 as we find it and enforce it as written."

COMMENTS

1) According to the Author: "AB 1784 will clarify that California law does not permit a person to file nomination documents for more than one office at the same primary election, and that this prohibition is not limited to the independent nomination process. Elections officials would be required to reject a candidate's nomination documents if the candidate attempts to file for more than one office at a primary election, unless the candidate has withdrawn all previously filed nomination papers as permitted by this bill.

   "Finally, AB 1784 will allow a candidate for an office other than statewide office to withdraw nomination documents that were previously filed for an office at a primary election in order to allow the candidate to change plans and run for a different office. If an incumbent who filed for reelection subsequently withdraws, candidate filing for that office would be extended in the same manner as if the incumbent did not file for reelection. This withdrawal procedure is carefully designed to avoid unduly interfering with elections officials' preparations for conducting the election."

2) Making It Clear – Crystal Clear. One of the underlying issues in the 2023 court case involving former Assemblymember Fong is that while – in the eyes of two courts – it wasn't clear a person couldn't run for two offices on the same ballot, it was clear a person who had filed for one office could not withdraw that filing.

   This bill clarifies:

   - A person truly cannot – with the exception of one of the offices being a political party central committee – run for two offices; and
   - A person can withdraw their nomination papers – unless they have been filed for a statewide office – for one office in order to run for another.

3) Wait, I Need More Time! Current law states if an incumbent does not file papers to run for re-election, the filing deadline is extended by five days to allow other would-be candidates to file papers to run for office.

This bill takes that same principal and applies it to cases where an incumbent files for re-election and then withdraws their papers (as this bill allows them to do), so the filing deadline would also be extended by five days in these cases.

4) What About Well-Known Non-Incumbents? The rationale behind the current law filing extension and the one proposed by this bill is to prevent an incumbent from filing to run for re-election, then backing out at the last moment and, hypothetically, telling just one person who could then file for that office and presumably gain an advantage. That advantage would come because many people who may have wanted to run for the seat in question likely wouldn't have given the presence of an incumbent in the race.

   Arguably, this same type of system gaming could take place under the new file-but-withdraw provisions permitted by this bill. A well-known non-incumbent could file papers for a legislative or congressional seat, which may dissuade others from entering the race, then withdraw at the last moment, tipping off one person they want to see win the seat file papers to run.

   On the one hand, such a circumstance is arguably highly unlikely to occur. On the other hand, one could contend it is a matter of equity – and if such a circumstance is highly unlikely to occur, then the burden on county elections officials who would have to deal with any filing extension should be minimal.

   As such, the Committee may wish to consider expanding the five-day extension in current law to any candidate – not just incumbents – who file and then withdraw papers to run for a state or federal office in California (excluding statewide offices).

5) No Return To Sender, Even If Address Is Known. When candidates file for office, they have to pay a filing fee equal to 1% of the first-year's salary of the office for which they are running. This year, the filing fee for a State Assembly seat was $1,226.94. Candidates can choose to submit signature from registered votes in lieu of paying the filing fee – and this year, the in lieu signature requirement for a State Assembly seat was 1,000 signatures.

   This bill states any candidate who files and then withdraws their nominating papers must forfeit any filing fees they may have paid to run for that office. Of course, for the candidate who submitted signatures in lieu of paying filing fees, this is the equivalent of cutting the sleeves off of their vest. They wouldn't lose any money, though they will be out plenty of time, effort and possibly shoe leather.

6) Nothing To See Here, Nothing At All. The longstanding prohibition against candidates filing for more than one office at a primary election is not an absolute prohibition. For instance, the ballot for this year's statewide primary election included the name of a person who was a candidate both for United States Senate and in the American Independent Party's primary for President.

   State law dealing with candidate nominations at primary elections does not apply to presidential primary elections, and candidates for President at primary elections do not file declarations of candidacy, which is why the dual candidacy prohibition did not apply in that situation.

Furthermore, nothing in existing law prohibits a person who is holding one office from running for another office, even where the terms of those two offices overlap. For example, under existing law, a State Senator could run for Congress halfway through their four-year State Senate term without having to resign from the Senate in order to run for the Congressional seat.

Nothing in this bill would change either of those longstanding policies.

PRIOR ACTIONS

Assembly Floor:	65-0
Assembly Appropriations Committee:	14-0
Assembly Elections Committee:	8-0

POSITIONS

Sponsor: Author

Support: League of Women Voters of California
Santa Monica Democratic Club

Oppose: None received

-- END --

SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS
Senator Catherine Blakespear, Chair
2023 - 2024 Regular

Bill No:	AB 2631	**Hearing Date:**	7/2/24
Author:	Mike Fong		
Version:	5/20/24		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Scott Matsumoto		

Subject: Local agencies: ethics training

DIGEST

This bill requires the Fair Political Practices Commission (FPPC) to provide an ethics training course to local officials.

ANALYSIS

Existing law:

1) Requires local agency officials to receive at least two hours of ethics training within their first year of service and at least once every two years thereafter unless certain conditions are met.

2) Requires the FPPC and the Attorney General (AG) to be consulted when local agencies develop ethics training curricula.

3) Permits a local agency or an association of local agencies to offer one or more training courses, or sets of self-study materials with tests, to meet the local ethics training requirements.

4) Requires a local agency to provide information on the availability of ethics training that meets the requirements for local officials.

5) Defines the following terms for the purpose of the local ethics training requirements:

    a) A “local agency” is a city, county, city and county, charter city, charter county, charter city and county, school district, county office of education, charter school, or special district.

    b) A “local agency official” is:

        i) A member of a local agency legislative body or an elected local agency official who receives any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties; or

ii) An employee designated by a local agency governing body to receive ethics training.

iii) A member of the governing board of a school district, a county board of education, or the governing body of a charter school, whether or not they receive any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties.

6) Requires each official of a state agency who is required to file a statement of economic interests (SEI) pursuant to the Political Reform Act of 1974 (PRA) to attend an ethics orientation course within six months after beginning in their position, and then at least once during every two calendar years.

This bill:

1) Requires the FPPC, in consultation with the AG, to create, maintain, and make available an ethics training course for local agency officials.

BACKGROUND

Local Ethics Training History. Since 1999, California has required all state agencies to offer a course on ethics laws governing the conduct of state officials, and has required specified state agency officials to attend this course periodically. In 2005, following a series of incidents related to inappropriate uses of local tax dollars, the Legislature enacted AB 1234 (Salinas), Chapter 700, Statutes of 2005, which established new ethics training requirements for certain local government officials. Specifically, AB 1234 required certain county, city, and special district officials to receive at least two hours of ethics training every two years. The ethics training requirements in AB 1234 applied only to officials at local agencies that provide any type of compensation, salary, or stipend to a member of a legislative body, or provide reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties. Each local official is required to receive at least two hours of training in general ethics principles and ethics laws relevant to the official's public service every two years.

In October 2006, the FPPC launched a free online training program on its website, which allowed local officials to satisfy the requirements of AB 1234. The "AB 1234 Ethics Training for Local Officials" program was developed in coordination with the Institute for Local Government, the County of Monterey, and other state and local agencies. A local official who completes the online training course is provided with a certificate of completion to submit to the official's agency as documentation that they completed the required training. According to the FPPC, it began hosting this local ethics training system without additional resources, and it did not request additional personnel to support the program when it was implemented. The FPPC has continued to offer this online training, and it reports that 13,615 people completed the free online training in 2023.

Last session, the Legislature approved and Governor Newsom signed AB 2158 (Mike Fong), Chapter 279, Statutes of 2022, which extended AB 1234's requirements to all members of the governing board of a school district, county board of education, or the

governing body of a charter school, whether or not the member receives any type of compensation, salary, stipend, or reimbursement of expenses.

COMMENTS

According to the Author: "Access to mandatory ethics training is crucial, and for the last 20 years, the FPPC has played an important role, ensuring that local officials are able to complete this training. As the FPPC's training is free, local agencies are able to save money and resources, as they do not have to create or purchase their own training course. In addition, having the FPPC provide this training is beneficial as they are the body that oversees required political reporting. AB 2631 ensures that this training remains permanent and available."

RELATED/PRIOR LEGISLATION

AB 1234 (Salinas), Chapter 700, Statutes of 2005, required specified officials at counties, cities, and special districts to receive at least two hours of ethics training every two years.

AB 2158 (Mike Fong), Chapter 279, Statutes of 2022, extended the local ethics training requirements of AB 1234 to all members of the governing board of a school district, county board of education, or the governing body of a charter school.

PRIOR ACTION

Assembly Floor:	70 - 0
Assembly Appropriations Committee:	11 - 0
Assembly Elections Committee:	8 - 0

POSITIONS

Sponsor: California Special Districts Association
California State Association of Counties
Fair Political Practices Commission
League of California Cites

Support: City of Camarillo
City of Pleasanton
Mesa Water District

Oppose: None received

-- END --

SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS
Senator Catherine Blakespear, Chair
2023 - 2024 Regular

Bill No:	AB 2724	**Hearing Date:**	7/2/24
Author:	Reyes		
Version:	4/1/24		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Scott Matsumoto		

Subject: High school pupils: voter registration.

DIGEST

This bill requires students to receive information about preregistering to vote at least once before completing the 11th grade.

ANALYSIS

Existing law:

1) Permits a person who is a United States (US) citizen, a resident of California, not imprisoned for the conviction of a felony, and at least 18 years of age at the time of the next election, to register to vote and to vote.

2) Permits a person who is a US citizen, a resident of California, not imprisoned for the conviction of a felony, and at least 16 years of age, to pre-register to vote. A pre-registrant will be automatically registered to vote when they turn 18.

3) Requires the Secretary of State (SOS) to adopt regulations requiring each county to design and implement programs to identify people who are eligible but have not registered to vote, and to register those people to vote. Requires the SOS to adopt regulations prescribing minimum requirements for those programs.

4) Expresses the intent of the Legislature that every eligible high school and college student receive a meaningful opportunity to apply to register to vote. Requires the SOS to annually provide every high school, California community college (CCC), California State University (CSU), and University of California (UC) campus with voter registration forms if requested.

5) Provides it is the intent of the Legislature to establish a State Seal of Civic Engagement (SSCE) to encourage, and create pathways for, elementary and secondary school students to become civically engaged in democratic governmental institutions at the local, state, and national levels. Requires the State Superintendent of Public Instruction (SPI) to recommend to the State Board of Education criteria for awarding a SSCE to pupils who have demonstrated excellence in civics education and participation and have demonstrated an understanding of the US Constitution, the California Constitution, and the democratic system of government.

6) Establishes the last two full weeks in April and the last two full weeks in September as "High School Voter Education Weeks." People who are authorized by the county elections official can, during these weeks, register students and school personnel on any high school campus to vote.

7) Allows the administrator of a high school, or their designee, to appoint one or more high school students to be voter outreach coordinators on their campus. The coordinators can coordinate on campus voter registration activities, including voter registration drives, mock elections, debates, and other election-related student outreach activities.

8) Allows students in grades 6-12 to have one excused absence per year to participate in a civic or political event provided the student notifies the school ahead of the absence.

This bill:

1) Beginning in the 2026-27 school year, requires students to receive information about pre-registering to vote at least once before completing the 11th grade. The information provided shall include, but not necessarily be limited to:

   a) Voting eligibility and guidance published by the SOS;

   b) Services provided and materials published by the county elections office;

   c) The opportunity to register to vote; and

   d) The Student Poll Worker program.

2) Requires the governing board of a school district, a county board of education, a state special school, and the governing body of a charter school, to upon request, ensure any information shared with parents, guardians, and students under this section is handled according to applicable state and federal student privacy laws and regulations.

3) Allows the governing board of a school district, a county board of education, a state special school, and the governing body of a charter school to contract with a third-party nonprofit organization, with demonstrated experience providing nonpartisan youth civic engagement.

BACKGROUND

Only the Young – Youth Turnout. According to the Center for Inclusive Democracy's March 2021 report on the youth (age 18-24) vote during the 2020 general election, the youth eligible turnout was 47.4% - higher than the 36.6% youth eligible turnout rate in the 2016 general election. The difference in the eligible turnout rate between youth and the total population (67.4%) stayed about the same in 2020 compared to 2016 – approximately 20 percentage points. The youth share of California's 2020 general election voters increased to 10.2%, up from 8.9%, which was the highest youth share of

California voters for a statewide general election since 2002. Yet, at 10.2%, youth remained underrepresented at the polls, given their share of the state's eligible voter population at 14.5%, a representation gap of more than 4 percentage points.

Fortnight – High School Voter Education Weeks. The last two full weeks in April and September are known as High School Voter Education Weeks. These weeks provide an opportunity for high schools, students, and county election officials to promote civic education, encourage participation on campus, and foster an environment that cultivates lifelong voters. The first iteration of 2024's High School Voter Education Weeks took place between April 15-26, 2024. According to a letter from the SPI and the SOS, the goal of those weeks is to bring civic awareness to future voters and inspire eligible students to pre-register to vote.

The Best Day – Student Mock Election. On October 8, 2024, California will hold a Student Mock Election for the 2024 general election. The mock election provides middle and high school students with an opportunity to review election materials and cast a mock ballot for contests on the November 2024 general election ballot. The SOS's office provides ballots, student voter information guides, and other materials to participating schools. In 2022, 321 schools registered to participate in the mock election program and 35,135 students cast ballots.

So High School – Preregistration Data. In 2009, the Legislature approved and Governor Schwarzenegger signed AB 30 (Price), Chapter 364, Statutes of 2009, which allowed a person who is 17 years of age to pre-register to vote, provided they otherwise meet all eligibility requirements. In 2014, SB 113 (Jackson), Chapter 619, Statutes of 2014, lowered the pre-registration age to 16-years-old. The implementation of these policies was contingent upon the certification of the statewide voter registration database (VoteCal). In September 2016, the SOS certified VoteCal thereby rendering these policies effective and allowing 16-and 17-year-olds to pre-register to vote.

According to a 2023 annual report to the Legislature on Student Voter Registration, since pre-registration began in 2016, a total of 1,141,476 students have pre-registered to vote. Of the total number of pre-registered voters, 877,917 have since turned 18 and are now registered to vote.

The Manuscript – Paper Voter Registration Forms and Previous Legislation. AB 593 (Ridley-Thomas), Chapter 819, Statutes of 2003, created the Student Voter Registration Act (SVRA) of 2003, which among other things, requires the SOS to provide every high school, CCC, CSU, and UC campus with voter registration forms. The SOS was also required to include information regarding eligibility requirements and tasked with informing each student that they may return the completed form in person or by mail to the elections official of the county in which the student resides.

SB 854 (Ridley-Thomas), Chapter 481, Statutes 2007, which became effective in 2008, changed the law to reduce the number of forms the SOS was required to provide by limiting their distribution to voting age students only. According to the SOS's 2023 report, in 2008, the SOS's office printed and mailed over 2.5 million student voter registration applications to high school and college campuses. Of the over 2.5 million student voter registration applications mailed, less than 1% were completed and returned to the SOS. Consequently, that approach was deemed costly and ineffective.

AB 1446 (Mullin), Chapter 593, Statues of 2014, among other provisions, updated the SVRA and deleted requirement for the SOS to send *every* high school, CCC, CSU, and UC voter registration forms that are consistent with the number of students enrolled at each school who are of voting age or will be of voting age by the end of the year.

According to the SOS's 2023 Student Voter Registration Annual Report, in 2023, the SOS contacted 4,256 high schools and 340 colleges and universities through their Student Voter Registration Project. A total of 642 schools responded to the mailing, which represents a 14% response rate. Of the schools that responded, 450 requested paper voter registration forms (10% of the total number of schools contacted).

COMMENTS

1) According to the Author: "AB 2724 would provide high school students in California the opportunity and resources needed to pre-register to vote by the end of their eleventh grade. Sixteen- and seventeen-year-olds in California have the ability to pre-register to vote and subsequently become registered to vote upon their 18th birthday. However, currently only 11% of sixteen and seventeen-year-olds in California are actually pre-registered to vote. This bill would address the low voter pre-registration rate in California by presenting high school students the opportunity and resources needed to pre-register to vote at their schools."

2) Life is Just a Classroom. Prior to being considered by this committee, the Committee on Education heard and passed AB 2724 on a 5-0 vote.

RELATED/PRIOR LEGISLATION

AB 30 (Price), Chapter 364, Statutes of 2009, allowed a person who is 17 to pre-register to vote, provided they otherwise meet all eligibility requirements.

SB 113 (Jackson), Chapter 619, Statutes of 2014, lowered the pre-registration age to 16-years-old.

PRIOR ACTION

Senate Education Committee:	5 - 0
Assembly Floor:	66 - 2
Assembly Appropriations Committee:	13 - 1
Assembly Elections Committee:	8 - 0
Assembly Education Committee:	6 - 0

POSITIONS

Sponsor: Inland Congregations United for Change

Support: Centro del Inmigrante Inc.
Dolores Huerta Foundation

IE United
Inland Coalition for Immigrant Justice
Inland Empire Labor Council
Inland Empire Prism Collective
PICO California
Power CA Action
Youth Action Project, Inc.

Oppose: 1 individual

-- END --

SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS
Senator Catherine Blakespear, Chair
2023 - 2024 Regular

Bill No:	AB 2803	**Hearing Date:**	7/2/24
Author:	Valencia		
Version:	4/16/24		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Evan Goldberg		

Subject: Campaign expenditures: criminal convictions: fees and costs

DIGEST

This bill prohibits a candidate or elected official from using campaign funds to pay or reimburse themselves or anyone else for a fine, penalty, judgment, settlement, or legal expenses related to a felony conviction for fraud or certain public trust crimes.

ANALYSIS

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) Makes violations of the PRA subject to administrative, civil, and criminal penalties.

3) Provides all contributions deposited into a campaign committee account are deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office.

   All spending from the account must be reasonably related to a political, legislative, or governmental purpose. Any spending that confers a substantial personal benefit on anyone authorized to approve the spending of campaign funds must also be directly related to a political, legislative, or governmental purpose.

4) Provides generally that attorney's fees and other costs related to administrative, civil, or criminal litigation may only be paid with campaign funds if the litigation is directly related to the committee's, elected official's or candidate's official activities, duties, or status.

5) Authorizes state and local candidates and elected officials to establish a separate legal defense account to defray attorney's fees and other related legal costs incurred if they are subject to actions related to their status as a candidate or an elected official.

6) Prohibits campaign funds from being used to pay a fine, penalty, judgment, or settlement relating to campaign spending that was found to be improper because it

resulted in a personal benefit to the candidate or elected official that was not reasonably or directly related to a political, legislative, or governmental purpose.

7) Prohibits campaign funds from being used to pay or reimburse a candidate or elected official for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment. If a candidate or elected official violates this prohibition, they are required to reimburse the campaign for all funds used in connection with those legal costs and expenses

8) Requires an officeholder who is convicted of a felony involving bribery, embezzlement, extortion, perjury or extortion to use their campaign funds solely to pay outstanding campaign debts, the elected officer's expenses, or to return the funds to contributors. Six months after a conviction becomes final, an office holder must forfeit all remaining campaign funds and those funds are deposited into the state's General Fund. This provision does not apply to funds held by a ballot measure committee or in a legal defense fund.

9) Prohibits a person from being considered a candidate for, or from being elected to, any state or local elective office if they have been convicted of certain felony crimes.

This bill:

1) Prohibits campaign funds from being used to pay or reimburse a candidate or elected official for a fine, penalty, judgment, or settlement relating to a conviction involving bribery, embezzlement, extortion, theft, perjury, conspiracy, or any felony involving fraud.

2) Prohibits campaign funds from being used to reimburse expenses for attorney's fees and other costs in connection with the conviction of a candidate or elected official involving bribery, embezzlement, extortion, theft, perjury, conspiracy or any felony involving fraud.

BACKGROUND

Authorized Use of Campaign Funds. The PRA imposes restrictions on whether and how campaign funds can be used by candidates and elected officials for "personal use," requiring all campaign spending to be reasonably related to a political, legislative, or governmental purpose. The restrictions are designed to prevent candidates, elected officials, and others who control campaign spending from privately benefiting from their campaign activities.

The PRA also generally provides campaign funds can be used to pay attorney's fees and other costs related to administrative, civil, or criminal litigation if the litigation stems directly from a candidate's or elected officer's activities, duties, or status as a candidate or elected official. Separately, state and local candidates and elective officials can establish a legal defense account to defray attorney's fees and other related legal costs incurred if they are subject to civil, criminal, or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of their governmental activities and duties. However, campaign funds may

not be used to pay any fines, penalties, judgments, or settlements relating to an improper use of campaign funds.

Recent Examples of Convictions. As evidence of the need for this bill, the author points to incidents that have occurred in the past several years:

- Last year, former Anaheim Mayor Harry Sidhu pled guilty to federal felony charges of obstructing a federal corruption investigation by destroying evidence and for making false statement to FBI agents. Media articles reported Mr. Sidhu used $300,000 of his campaign funds to pay his legal defense expenses.
- In 2016, former State Senator Ron Calderon was sentenced to three-and-a-half years in federal prison after pleading guilty to federal corruption charges and admitting to accepting tens of thousands of dollars in bribes in exchange for performing official acts as a legislator. Media articles reported Mr. Calderon used $35,000 in campaign funds to pay his legal expenses.
- In 2016, former State Senator Leland Yee was sentenced to five years in prison on racketeering conspiracy charges. Media articles reported Mr. Yee spent $128,000 in campaign funds to pay his legal expenses.

COMMENTS

1) According to the Author: "AB 2803 safeguards donor integrity by explicitly prohibiting candidates and elected officials from utilizing campaign funds for convicted felonies involving public crimes or fraud. The purpose of campaign funds is to support candidates and cover reasonable expenses, including election-related litigations. However, convicted felonies represent significant breaches of the public's trust and must be deemed inappropriate for funding through the use of campaign funds. AB 2803 highlights the importance of holding candidates and elected officials accountable for any crimes committed throughout their candidacy or while serving in public office. This will ensure campaign funds are used for their intended purpose, thereby building public trust and greater accountability."

2) To Narrow, Too Broad, or Just Right? This bill stems from the corruption cases noted above and prohibits a candidate or elected official from using campaign funds to pay or reimburse themselves or someone else for a fine, penalty, judgment, settlement – or any attorney's fees – related to a conviction involving bribery, embezzlement, extortion, theft, perjury, or conspiracy.

   The bill goes beyond those felonies and extends the prohibition on using campaign funds to pay a fine, penalty, judgment, settlement – or any attorney's fees – related to any felony conviction involving fraud. As a result, a candidate or elected official charged with, for example, insurance fraud, real estate fraud, financial fraud, or mail fraud would not be able to use campaign funds to pay any penalties or attorney's fees related to the case.

   It's not clear why the bill is restricted to the types of felonies noted above and does not simply apply to all other felony convictions.

   The bill does not alter the current law provisions allowing a candidate or elected official to use their campaign funds to pay for legal expenses to defend themselves

against charges related to their activities, duties, or status as a candidate or elected official. However, candidates and elected officials are still not permitted to use those funds to pay any fines, penalties, judgements, or settlements associated with those charges.

RELATED/PRIOR LEGISLATION

SB 71 (Leyva) of 2019 requires a candidate or elected official to reimburse any campaign funds or legal defense funds for legal expenses related to sexual assault, sexual abuse, or sexual harassment conviction. SB 71 also prohibits using campaign funds or legal defense funds to pay penalties or settlements related to sexual assault, sexual abuse, or sexual harassment claims against a candidate or elected official.

SB 1107 (Allen) of 2016 limits the use of campaign funds that are held by public officials who have been convicted of various public trust crimes, among other provisions.

PRIOR ACTION

Assembly Floor:	71 - 0
Assembly Appropriations Committee:	15 - 0
Assembly Elections Committee:	8 - 0

POSITIONS

Sponsor: Author

Support: California District Attorneys Association
Chispa
City of Orange
City of Santa Ana
Consumer Watchdog
The Kennedy Commission
Orange County Communities Organized for Responsible Development

Oppose: None received

-- END --

SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS
Senator Catherine Blakespear, Chair
2023 - 2024 Regular

Bill No:	AB 2911	**Hearing Date:**	7/2/24
Author:	McKinnor		
Version:	4/16/24		
Urgency:	No	**Fiscal:**	No
Consultant:	Scott Matsumoto		

Subject: Campaign contributions: agency officers

DIGEST

This bill increases, from $250 to $1,500, the threshold at which campaign contributions received by specified public officials can cause those officials to be disqualified from participating in or influencing decisions related to licensing, permitting, and similar entitlements for use.

ANALYSIS

Existing law:

1) Creates the Fair Political Practices Commission (FPPC) and makes it responsible for implementing the Political Reform Act of 1974 (PRA).

2) Prohibits contributions of more than $250 from being given or accepted while a proceeding involving a license, permit, or other entitlement for use is pending, and for 12 months following the date a final decision is rendered.

3) Requires each officer of the agency who received a contribution of more than $250 within the preceding 12 months from a person with business before the agency to disclose that fact. Prohibits an officer of an agency who accepted such a contribution from participating in the decision affecting the person who made the contribution.

4) Permits an officer to participate in the proceeding if they return any prohibited contribution within 30 days.

5) Permits an officer to cure a violation by returning the contribution, or the portion of the contribution in excess of $250, within 14 days in cases where a contribution was accepted during the 12 months after the date a final decision is rendered in the proceeding.

6) Requires a party to a proceeding to disclose any contribution in an amount of more than $250 made within the preceding 12 months by the party or the party's agent.

7) Prohibits a party, or agent to a party, to a proceeding from making a contribution of more than $250 to any officer of that agency during the proceeding and for 12 months following the date a final decision is rendered.

This bill:

Increases, from $250 to $1,500, the threshold at which campaign contributions received by specified public officials can cause those officials to be disqualified from participating in or influencing decisions related to licensing, permitting, and similar entitlements for use if the contributions were received from an entity with a financial interest in that decision.

BACKGROUND

The Levine Act. In 1982, the Legislature passed and Governor Brown signed AB 1040 (Levine), Chapter 1049, Statutes of 1982. AB 1040, also known as the Levine Act, prohibits an elected or appointed officer, alternate, or candidate for office who serves on a specific quasi-judicial board or commission from accepting, soliciting, or directing a contribution of $250 from any person or their agent who has an application for a license, permit, or other entitlement for use pending before the body. The prohibition also extended for three months following the date a decision is rendered on the application or until the end of the officer's term, whichever is longer. Constitutional officers and members of legislative bodies, such as city councils, county boards of supervisors, and the Legislature were excluded from these provisions unless the officer served on a specific board or commission.

SB 1439 (Glazer). In 2022, the Legislature passed and Governor Newsom signed SB 1439 (Glazer), Chapter 848, Statutes of 2022. SB 1439 modified and added to the Levine Act. First, the legislation removed an exemption for local government agencies whose members are directly elected by the voters, meaning it now applies to all locally-elected officials. Second, SB 1439 extended, from 3 months to 12 months, the period of time following the date that an agency renders a final decision in a matter during which an officer is subject to the Levine Act. Finally, SB 1439 provided a process to cure a violation should it occur and if certain conditions are met. Officers who accept a contribution over $250 during the 12 months after the date a final decision is rendered can cure the violation by returning the contribution or the portion exceeding $250 within 14 days.

COMMENTS

1) According to the Author: "Campaign finance transparency is a pillar of a strong democracy. State and local campaign finance laws have evolved over the years to make campaign finance information easier to understand, reflect technological innovations and to increase basic transparency about who contributes to candidate and independent expenditure campaigns. The 2022 amendments to the Levine Act claimed to address a perceived problem with local campaign finance laws, but has ended up increasing the amount of dark money used in state and local elections. The 2022 law's arbitrarily low contribution limit has made it difficult for state and local candidates to communicate directly with voters and has resulted in an increased use of non-candidate controlled independent expenditures financed with dark money. AB 2911 will encourage campaign donors to contribute directly to a candidate, increase the transparency of those donations and discourage the use of dark money in state and local elections. AB 2911 will also save local governments millions of

dollars in compliance, allowing limited local resources to be better spent on essential services for residents."

2) Furthering the Purposes of the PRA? AB 2911 amends the Levine Act by raising the contribution threshold by 500%. Given this vast increase, it is not illogical to wonder if this truly furthers the purpose of the PRA, a requirement that must be met for the Legislature to amend the PRA. As such, the Committee may wish to consider whether the provisions of the bill further the purposes of the PRA.

3) Contribution Threshold. AB 2911 raises the monetary threshold established in the Levine Act from $250 to $1,500. According to an inflation calculator operated by the federal Bureau of Labor Statistics, when adjusted for inflation, $250 in 1982 has approximately the same purchasing power as about $800 today. The Committee may wish to consider whether the $1,500 threshold is appropriate or if the threshold should be a different amount.

4) One Size Fits All or Tiered Approach. Jurisdictions vary in size, so what may seem like a lot of money in a small jurisdiction may not be viewed in the same light in a large jurisdiction, such as Los Angeles County. As such, the Committee may wish to consider, instead of adopting a blanket increase to $1,500 in all jurisdictions, whether a tiered approach that establishes a monetary threshold based on the population of each jurisdiction is more appropriate. For example, one approach would keep the $250 monetary threshold for jurisdictions under a population of 50,000 and raise the monetary threshold to $500 in jurisdictions with a population of 50,000.

   Local jurisdictions will need to be informed about the new monetary thresholds and how best to comply with them. As a result, if a tiered approach is inserted into the bill, the FPPC should be required to calculate the tier each jurisdiction would fall into and inform them of the new Levine Act thresholds permitted by this bill.

RELATED/PRIOR LEGISLATION

SB 1181 (Glazer) of 2024 clarifies when a proceeding is pending and when a person is considered an agent pursuant to the Levine Act. SB 1181 also requires a notice on agendas to include disclosure requirements and contribution limitations pursuant to the Levine Act. This bill is pending in the Assembly Committee on Appropriations.

SB 1243 (Dodd) of 2024 makes a number of changes to the Levine Act, including increasing the size of the maximum contribution amount to $1,000 and adjusting certain definitions and deadlines in the Levine Act. This bill is pending on the Assembly Floor.

PRIOR ACTION

Assembly Floor:	63 - 0
Assembly Elections Committee:	7 - 0

POSITIONS

Sponsor: Author

Support: California Builders Alliance
California Building Industry Association
California Contract Cities Association
City of Norwalk
County of Los Angeles Board of Supervisors
Fresno County Board of Supervisors
League of California Cities
Orange County Board of Supervisors
Sacramento Regional Builders Exchange

Oppose: Ban SUP
California Church Impact
California Clean Money Campaign
California Climate Voters
California Common Cause
Californians for Disability Rights
Clean Earth for Kids
Consumer Watchdog
Contra Costa Moveon
Courage California
Endangered Habitats League
Extinction Rebellion San Francisco
Foothills Community Democrats
Glendale Environmental Coalition
Indivisible Alta Pasadena
Indivisible CA: StateStrong
Indivisible Marin
Indivisible Media City Burbank
Indivisible Sacramento
Indivisible Santa Barbara
Indivisible South Bay LA
Indivisible Ventura
Indivisible Yolo
League of Women Voters of California
Los Angeles for Democracy Vouchers
Money Out People In
Money Out Voters In
Pink Panthers
Progressive Democrats of the Santa Monica Mountains
Recolte Energy
Represent Us, Los-Angeles-San Gabriel Valley Chapter
Rooted in Resistance
RootsAction.org
San Joaquin Valley Democratic Club
Sonoma County Transportation & Land-Use Coalition

Unrig LA
Venice Resistance
350 Conejo

-- END --

SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS
Senator Catherine Blakespear, Chair
2023 - 2024 Regular

Bill No:	AB 2951	**Hearing Date:**	7/2/24
Author:	Cervantes		
Version:	6/27/24 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Evan Goldberg		

Subject: Voter registration: cancellation

DIGEST

This bill reverses – for a period of six months – a portion of a 2022 law requiring county elections officials to notify certain voters 15 days in advance of cancelling their registrations and requires the Secretary of State (SOS) to provide monthly reports to the Legislature.

ANALYSIS

Existing law:

1) Requires, under the federal Help America Vote Act (HAVA) of 2002, each state to maintain a statewide database of registered voters. Here in California, that database is known as VoteCal.

2) Requires the California Department of Corrections and Rehabilitation (CDCR) to provide the SOS with certain information on a weekly basis about people who are in prison for the conviction of a felony and people who have been paroled or who have been released from CDCR.

3) Requires the SOS to provide the CDCR information to county elections officials who would (1) cancel the voter registration of people in prison for the conviction of a felony, or (2) notify those recently paroled or released from CDCR custody that their voting rights had been restored.

4) Requires a county elections official to cancel a voter's registration when:

   - Requested by the voter in writing;
   - The mental incompetency of the person registered is legally established;
   - The person is imprisoned for conviction of a felony;
   - They receive a certified copy of a judgment directing the registration be cancelled;
   - The person has died;
   - The person has not responded to a mailing to confirm their residency, then not voted in two consecutive federal general elections and not had any elections-related activity during that time;
   - They are notified the voter is registered to vote in another state; and

- Receiving proof the person is otherwise ineligible to vote.

5) Allows the SOS to cancel a voter's registration when:

   - The mental incompetency of the person registered is legally established;
   - The person is imprisoned for the conviction of a felony; or
   - The person has died.

6) Requires the county elections official to notify certain voters 15-30 days before cancelling their registrations and giving them the opportunity to avoid cancelation by mailing back a return postage-paid postcard. After receiving information from the SOS, county election officials must send these notices in cases where:

   - The mental incompetency of the person registered is legally established;
   - The person is imprisoned for conviction of a felony;
   - The person has died; or
   - The person has not responded to a residency confirmation postcard, has not voted in two consecutive federal general elections and not had any elections-related activity during that time.

This bill:

1) Allows a county elections official to cancel a voter's registration in cases where the mental incompetency of the person registered is legally established or the person is imprisoned for conviction of a felony only based on information they receive from the SOS.

2) Permits a county elections official – in cases where a person has died – to send a postcard to the voter 15-30 days before or 15 days after cancelling the voter's registration.

3) Permits the "before or after" option in (2) only for the period of January 1, 2025, through June 30, 2025. As of July 1, 2025, county elections officials would be required to send the postcard to these voters 15-30 days before the cancellation, as the law now requires.

4) Requires the SOS to file monthly reports with the relevant Senate and Assembly policy committees and budget subcommittees, as well as the Joint Legislative Audit Committee, on its progress in updating VoteCal to allow county elections officials to comply with the law.

BACKGROUND

The Counties, the State, & the Statewide Voter Registration Database. California's statewide voter registration database, known as VoteCal, was mandated under HAVA in 2002 and California complied with the requirement in 2006.

Loosely speaking, all of California's 58 counties have voter registration databases, which they upload to and synch with VoteCal on a regular basis. VoteCal accepts

information from and sends information to the county voter registration databases to help ensure the voter registration rolls are accurate and up to date in part by comparing data across counties. For example, when VoteCal sees a voter is newly-registered in County B and four data points – name, date of birth, social security number and/or California driver's license – match a voter's record in County A, that is identified as a "high confidence" match in VoteCal and the voter's registration in County A is automatically cancelled.

A "potential match" is one where some of the data points match. In that case, County A would be asked to look at other data – such as the voter's signature on their registration card – to see if there is indeed a match and if there is, County A would cancel that voter's registration.

Making Things More Centralized – Yet Decentralized. SB 504 (Becker, 2022) was sponsored by the California Association of Clerks & Elections Officials (CACEO) and supported by the SOS. Among its many provisions was to make the SOS the single point of contact for CDCR, requiring it to provide the SOS with weekly reports about people who are in prison for the conviction of a felony and people who are on parole or who have been released from CDCR. The SOS must provide the information it gets from CDCR to county elections officials who are required to (1) cancel the voter registration of people in prison for the conviction of a felony, or (2) notify those recently paroled or released from CDCR that their voting rights have been restored. So, while the SOS is the one entity interacting with CDCR, it is still the county elections officials who are responsible for notifying voters and removing or adding them to the voter registration rolls.

Notifying Voters BEFORE Cancelling Their Registrations. AB 2841 (Low, 2022) imposed, as of January 1, 2024, a requirement that county elections officials notify voters falling into any of the four categories below 15-30 days before cancelling their voter registration:

- The mental incompetency of the person registered is legally established;
- The person is imprisoned for conviction of a felony;
- The person has died; or
- The person has not responded to a residency confirmation mailing, has not voted in two consecutive federal general elections and not had any elections-related activity during that time.

The SOS took no formal position on AB 2841, but in its letter supporting this bill, the SOS states it has "… implemented most AB 2841 provisions through a manual process and continues to work toward full implementation by July 2025."

The Current Situation. This bill states that for cases where a voter has died, county elections can sent the notices mandated by AB 2841 15-30 days before cancelling the voter's registration or up to 15 days after cancelling the registration. The voter would be sent a return postage-paid postcard allowing them to inform the county elections official their registration should not be cancelled or should be restored. This "before or after" option would be available to counties from January 1, 2025, to June 30, 2025, after which time the notices would be required to be sent prior to cancellation.

The reason for the change requested by this bill is because the SOS has been unable to modify the VoteCal system to meet the requirements of AB 2841 in this circumstance.

According to county elections officials, VoteCal is automatically cancelling a voter's registration when the system receives notice the voter has passed away, making it impossible for a county elections official to notify the person 15-30 days prior to cancelling the registration.

As for cases where a voter hasn't returned a residency confirmation postcard, has not voted in two consecutive federal general elections and not had any elections-related activity during that time, VoteCal also needs to be adjusted to comply with the law in place today. However, in the interim, the SOS issued a directive to county elections officials on May 24, 2024, to use a manual workaround process to comply with AB 2841's requirement to notify those voters 15-30 days prior to cancelling the registration.

COMMENTS

1) According to the Author: "Assembly Bill 2841, which was enacted in 2022, provided guardrails against erroneous cancellations in voter registration caused by errors in reporting systems and overly aggressive purges of voter rolls. These include sending pre-cancellation notices to voters and providing them with the opportunity to cancel an erroneous cancellation of their voter registration. Since the bill's enactment, the Secretary of State's Office has implemented many of its provisions. However, the Secretary's Office requires additional time to make technological upgrades to VoteCal, the state's centralized voter registration database, in order to have the capacity to send pre-cancellation notices to voters when a court order indicates that their voter registration status has changed due to death or a change of address. Assembly Bill 2951 would provide that time by delaying implementation of those requirements of AB 2841 until July 1, 2025."

2) If You Can't Comply With The Law, Change The Law. While the author states the bill will delay implementation of certain requirements of AB 2841, the SOS has actually been out of compliance with portions of the law for more than six months given AB 2841 took effect on January 1, 2024. This bill turns back the clock relative to one piece of AB 2841 and it is by virtue of this change in law that the SOS will find itself in full compliance with the law as of January 1, 2025.

3) Lawsuit Protection. The rationale for the change proposed by this bill is to give the SOS more time to make the necessary upgrades to VoteCal so it can fully comply with AB 2841 which, under this bill, would kick back in on July 1, 2025. The bill doesn't provide the SOS with additional resources to make this change, but it does – by reversing the law for six months – protect the SOS from lawsuits in 2025 for not being in compliance with all of the provisions of AB 2841.

4) Accountability. The SOS states based on the information it has today and assuming there are "no intervening unforeseen circumstances," it will be able to fully implement AB 2841 by the July 1, 2025, deadline it asked to be placed in this bill.

To ensure the Legislature is kept apprised of the SOS"s progress – and is made aware should the SOS once again be unable to comply with the law – the bill requires the SOS to provide monthly reports to the relevant Senate & Assembly Elections committees, the relevant Senate and Assembly Budget subcommittees, and the Joint Legislative Audit Committee.

5) Black Tie vs. Sport Coat & Slacks. Rather than require the SOS to provide formal monthly "reports" on the office's progress to the committees noted above, the Committee may wish to instead require less formal monthly "updates" from the SOS. This can be accomplished by replacing the word "report" with "update" on Page 5, Line 20 and Page 5, Line 34

RELATED/PRIOR LEGISLATION

AB 2841 (Low, 2022) required the SOS to, beginning January 1, 2024, send information to county elections officials regarding the registration of voters who it believes should be cancelled. The county elections officials in turn are required to send a postcard to those voters at least 15 days before cancelling their registration to give them the opportunity to return the postcard and prevent their registration from being cancelled.

SB 504 (Becker, 2022), among other provisions, required CDCR to provide the SOS with certain information on a weekly basis about people who are in prison for the conviction of a felony and people who are on parole or who have been released from CDCR. The SOS was required to provide the information to county elections officials who would then (1) cancel the voter registrations of people in prison for the conviction of a felony, or (2) notify those recently paroled or released from CDCR custody that their voting rights have been restored.

PRIOR ACTION

The Assembly votes on this measure aren't relevant to the current version of the bill.

POSITIONS

Sponsor: California Secretary of State Shirley N. Weber, Ph.D.

Support: California Association of Clerks and Election Officials

Oppose: None received

-- END --

SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS
Senator Catherine Blakespear, Chair
2023 - 2024 Regular

Bill No:	AB 3123	**Hearing Date:**	7/2/24
Author:	Jones-Sawyer		
Version:	4/25/24		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Evan Goldberg		

Subject: Los Angeles County Metropolitan Transportation Authority: board code of conduct: lobbying rules

DIGEST

This bill repeals a law applying solely to the members of the Los Angeles County Metropolitan Transportation Authority (MTA) and instead requires them to adhere to the laws in the state's Political Reform Act (PRA), including the Levine Act. The bill also revises the code of conduct and lobbying laws that apply exclusively to the MTA.

ANALYSIS

Existing law at it relates to MTA:

1) Creates the MTA Board (Board) consisting of 14 members, 11 of whom are elected officials:

    - The five members of the Los Angeles County Board of Supervisors;
    - The Mayor of Los Angeles;
    - Five other members who are elected mayors or city council members in the county;
    - Two public members appointed by the Mayor Los Angeles; and
    - One nonvoting member appointed by the Governor.

2) Prohibits the Board members, alternate members, employees, or their immediate family members from receiving a campaign contribution over $10 from businesses or their family members who may have – or in the past four years have had – business before the Board.

3) Prohibits the Board members, alternate members, employees, or their immediate family members from accepting employment for three years after leaving the MTA with any company, vendor, or business entity that was awarded a contract in which that person participated.

4) Requires the MTA prior approving any contract, to adopt ordinances that regulate the acceptance of gifts by members and employees of MTA and that regulate lobbying of MTA.

5) Establishes a code of conduct governing the MTA, which:

- Provides for the appointment of an ethics officer;
- Establishes rules of conduct for the MTA board meetings;
- Prohibits board members from directing certain people to make charitable contributions;
- Limits the acceptance of honoraria by board members and their staff; and
- Prohibits board members and their staff from participating in decisions in which they know or have reason to know that they have a financial interest.

Existing law as it relates to the Levine Act:

1) Prohibits an officer of a public agency from accepting, soliciting, or directing a campaign contribution of more than $250 from a party or agent of a party with a license, permit, or other application that is "pending" before the agency and for 12 months after a final decision is rendered in the matter.

2) Requires any of those individuals noted above who received a campaign contribution of more than $250 from a party with a matter pending before the agency involving a license, permit, or application in the 12 months before the proceeding, to disclose the contribution on the record of the proceeding.

3) Prohibits any of those individuals noted above who willfully or knowingly received a campaign contribution of more than $250 from a party or agent of the party with a matter pending before the agency involving a license, permit, or application from making, participating in making, or attempting to influence the decision in the proceeding.

4) Allows an officer to participate in the proceeding if the officer returns the contribution within 30 days of knowing, or the time the officer should have known, of the contribution and the proceeding.

5) Permits an officer who accepts, solicits, or directs a campaign contribution of more than $250 during the 12 months after the date a final decision is rendered in a proceeding involving a license, permit, or other entitlement to cure the violation by returning the contribution or the portion exceeding $250 within 14 days of accepting, soliciting, or directing the contribution, whichever comes latest. Provides an officer is permitted to cure such a violation only if they did not knowingly and willfully accept, solicit, or direct the prohibited contribution, and requires the officer or the officer's controlled committee to maintain records of curing the violation.

6) Requires a party to a proceeding before an agency involving a license, permit, or other entitlement for use to disclose on the record of the proceeding any campaign contribution of more than $250 made within the preceding 12 months by the party, or the party's agent, to any officer of the agency. Prohibits a party to or participant in a proceeding involving a license, permit, or other entitlement for use pending before an agency from making a campaign contribution of more than $250 to an officer of that agency during the proceeding and for 12 months following the date a final decision is rendered by the agency in the proceeding.

This bill:

1) Repeals an MTA-specific law setting a limit on the gifts MTA members can receive and instead requires the state law on gifts and MTA's administrative code on gifts to apply to MTA members.

2) Repeals MTA-specific laws that limit certain campaign contributions to $10 during certain periods, thus defaulting to the Levine Act limitation of $250.

3) Revises and recasts laws regulating lobbying the MTA by making it clear the following types of communications are not considered "lobbying":

    - Attending or participating in a pre-bid or pre-proposal conference;
    - Submitting a response to a solicitation issued by the MTA or an MTA official;
    - Participating in an interview regarding a solicitation at the request of MTA or an MTA official;
    - Responding to a request for information from MTA or an MTA official regarding a solicitation or existing contract;
    - News media representatives and publications that write and/or publish news items, editorials or other commentary, or paid advertisements, that MTA to act in a certain way;
    - Providing oral or written testimony that becomes part of the record of a public hearing, unless the person is otherwise required to register as a lobbyist and is testifying on behalf of a client who they must identify; and
    - A communication from an elected public official acting in their official capacity.

4) Provides a person is considered a "lobbyist" only if they meet both of the following criteria in a three-month period:

    - They have at least one lobbying contact with an MTA official or employee in an attempt to influence an MTA action; and
    - They are paid for at least 15 hours of lobbying activity in connection with attempts to influence MTA action.

5) Repeals the limit on fees that may be charged to lobbyists, lobbying firms, and lobbyist employers to an amount necessary to pay the direct costs of implementing the lobbying laws, and instead allows the MTA ethics officer to determine the amount of the fees.

6) Provides that when a lobbyist employer files a periodic disclosure report disclosing the total amount of payments to lobbyists it employed, those payments may be disclosed in the following ranges: $250 or less, more than $250 to $1,000, more than $1,000 to $10,000, or more than $10,000.

7) Allows the MTA ethics officer to:

    - Require the disclosure of additional information, beyond that required under state law, on lobbying registration and disclosure reports;

- Establish processes for terminating the registration of a lobbyist, lobbyist employer, or lobbying firm;
- Conduct audits of lobbying registration and disclosure reports;
- Impose a late fee of $10 per day, up to a maximum of $300, on any person or entity that fails to file a lobbying registration or disclosure report by the deadline; and
- Issue guidance and advice about MTA's lobbying rules.

8) Provides the MTA ethics officer may be removed if:

   - A two-thirds majority of the members of the MTA board votes for removal; or,
   - The ethics officer violates a federal or state law or regulation, a local ordinance, or a policy or practice of MTA, relative to ethical practices, including, but not limited to, the acceptance of gifts or contributions.

9) Prohibits a Board member or their staff from interfering with or threatening any action against a person acting in good faith to report or otherwise provide information to MTA regarding any activity that may violate state law or MTA's code of conduct.

10) Repeals rules of conduct for Board meetings and instead provides Board shall adopt rules to govern the conduct of meetings.

11) Requires Board members and their staff to exercise caution in accepting a gift from any person or entity that is considering submitting a proposal or a bid for an MTA contract award.

12) Provides the law precluding Board members from directing staff, contractors, and potential contractors to make charitable contributions does not prevent Board members from soliciting charitable contributions, as long as those requests do not meet the definition of behested payments.

13) Repeals a requirement that MTA staff report to the inspector general any attempt by a Board member to communicate with staff to influence an award of a contract.

14) Repeals an MTA-specific law prohibiting Board members and employees from accepting any honoraria, meaning the more general PRA law that applies to all public officials will now apply to Board members and employees.

15) Repeals an MTA-specific law prohibiting Board members and their staff from participating in an MTA decision in which they know or have reason to know they have a financial interest, meaning the more general PRA law that applies to all public officials will now apply to Board members and their staff.

16) Prohibits Board members and their staff from making, participating in, or attempting to influence any MTA decision if they are incapable of providing fair treatment to a matter before the Board due to bias, prejudice, or because they have prejudged a matter.

BACKGROUND

MTA. MTA was created by AB 152 (Katz, 1992) and modified by AB 3547 (Katz, 1992) by consolidating the Los Angeles County Transportation Commission and the Southern California Rapid Transit District.

Among other provisions, the bills required the MTA Board to adopt an ordinance that limited the gifts that could be accepted by MTA officials. The language is similar to the gift limit language in the state's PRA that applies generally to all public officials – including the independently elected members of the Los Angeles County Board of Supervisors, the Mayor of Los Angeles, and the city councilmember, all of whom by virtue of their positions, are also MTA Board members.

That means these officials are subject to two sets of rules – those that govern all elected officials and selected staff, and those that govern MTA Board members and MTA staff.

The Katz bills also require the MTA Board to adopt an ordinance regulating the lobbying of MTA. While the PRA regulates lobbying of the Legislature and state agencies, it does not generally regulate lobbying of local agencies. Instead, local jurisdictions can adopt ordinances that regulate efforts to lobby the members and employees of their jurisdictions. While AB 152 and AB 3547 gave MTA some flexibility over the details of the lobbying ordinance it could adopt, those bills also established a general framework that is loosely based on rules found in the PRA that govern lobbying at the state level.

Shortly after the MTA was created, concerns about its operations were raised and several bills were introduced to address problems and deficiencies in the agency. SB 89 (Hayden, 1997) limited entities seeking contracts with MTA to making campaign contributions of no more than $10 to Board members, employees, and their immediate families. SB 89 also prohibited former Board members and employees from accepting employment with any entity that was awarded certain types of contracts.

That same year, the Legislature enacted AB 584 (Villaraigosa, 1997) to require MTA to appoint an inspector general and the bill established a code of conduct for MTA. The bill also added more rules restricting gifts to Board members and their staff, restricted honoraria, and prohibited board members and their staff from participating in MTA decisions in which they know or have reason to know that they have a financial interest.

The Levine Act and SB 1439 (Glazer) of 2022. The 1982 Levine Act restricts campaign contributions made to officers of state and local agencies by parties to a proceeding pending before those agencies and is narrowly drafted to apply only to proceedings involving licenses, permits, or other entitlements for use. For 40 years, the Levine Act only applied to decisions made by agencies whose members were not directly elected by voters. It did not apply to the judicial branch, local governmental bodies whose members were elected directly by the voters, members of the Legislature or the Board of Equalization, or constitutional officers.

That changed on January 1, 2023, when SB 1439 (Glazer, 2022), took effect. The measure made a number of changes to the Levine Act, the most notable of which for the purposes of AB 3123 is the provision that made the Levine Act applicable to local

agencies whose members are directly elected by the voters. As a result, the restrictions of the Levine Act now apply to every county board of supervisors, city council, and school board in the state, along with special districts that were not previously subject to the law.

Notably, the campaign contribution conflict threshold is considerably lower in the MTA statute ($10) than in The Levine Act ($250). The MTA statutes also restrict campaign contributions over the threshold to MTA employees and the immediate family members of Board members and employees. By contrast, the Levine Act applies only to campaign contributions to agency officers and candidates for agency office, and not to staff or family members.

COMMENTS

1) Purpose of the Bill. According to the author, "With the enactment of Senate Bill 1439 (Glazer), which amended the Levine Act in 2023, the state made its intention clear of having uniform ethics law governing all contract decisions by local and state officials, no matter the makeup of a board or commission. AB 3123 helps bring the Los Angeles County Metro Board into alignment with current state law, the Levine Act, which already applies to the Board in their primary elected positions. This bill will help strengthen the Board's ethics rules and ensure they are consistent with every other agency in the state."

2) Clarity: It's What's For Dinner. The purpose of at least some of AB 3123's provisions is to make it easier for MTA Board members and employees to comply with the law by having one set of rules that apply to them instead of the two (or more) they currently must contend with.

   That clarity is achieved, in some cases, by eliminating many or the laws put in place in 1997 in reaction to a number of documented abuses at MTA. This bill takes the approach that these 27-year-old rules should no longer apply to MTA because since 1997, there have been other laws enacted (most notably, the expansion of the Levine Act to directly elected officials) which cover MTA officials.

   It is important to point out this change will lead to an increase in the amount of money elected officials will be able to accept in the form of campaign contributions and gifts. For example, by eliminating the $289 gift limit that applies to MTA Board members and replacing it with the one set under the PRA by the Fair Political Practices Commission (FPPC), MTA Board members and MTA employees will now be able to accept gifts of up to $590 from any individual source. That number is adjusted for inflation every year or two by the FPPC.

   Secondly, by eliminating the $10 campaign contribution limit for certain entities that have business pending before the MTA Board and replacing it with the one set by the Levine Act, it means MTA Board members will now be able to accept contributions of $250 from those same contributors.

   That $250 number could increase if AB 2911 (McKinnor) or SB 1243 (Dodd) pass the Legislature and are signed into law. AB 2911 proposes to increase the $250 figure to $1,500, while SB 1243 proposes to increase the $250 limit to $1,000.

3) Second Verse, Similar To The First. The Senate Committee on Rules double-referred this bill to the Senate Transportation Committee, where it was approved on a 12-3 vote on June 11, 2024, and second to the Senate Elections & Constitutional Amendments Committee.

RELATED/PRIOR LEGISLATION

AB 2911 (McKinnor, 2024), which is also being heard in this committee today, increases the contribution limit under the Levine Act from $250 to $1,500.

SB 1243 (Dodd, 2024), which passed this committee earlier this year and is pending on the Assembly Floor, makes a number of significant changes to the Levine Act, including one to increase the contribution limit from $250 to $1,000
.
SB 1181 (Glazer, 2024), which passed this committee earlier this year and is pending in the Assembly Appropriations Committee, makes a number of changes to the Levine Act, but does not propose to alter the $250 contribution limit.

PRIOR ACTION

Senate Transportation Committee:	12-3
Assembly Floor:	57-10
Assembly Appropriations Committee:	11-4
Assembly Elections Committee:	6-0
Assembly Transportation Committee:	11-2

POSITIONS

Sponsor: Los Angeles County Metropolitan Transportation Authority

Support: None received

Oppose: None received

-- END --

SENATE COMMITTEE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS

Senator Catherine Blakespear, Chair

2023 - 2024 Regular

Bill No:	AB 3184	**Hearing Date:**	7/2/24
Author:	Berman		
Version:	6/24/24		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Scott Matsumoto		

Subject: Secretary of State: reports of ballot rejections

DIGEST

This bill removes a reporting requirement for the Secretary of State (SOS) to publish data on rejected vote by mail (VBM) ballots for local elections.

ANALYSIS

Existing law:

1) Requires an elections official to mail a ballot to every active registered voter for every election in which the voter is eligible to participate.

2) Requires an elections official to identify and provide to the SOS within 31 days of the election the number of VBM ballots rejected, categorized according to the reason for the rejection. Requires the SOS to provide uniform VBM ballot rejection reason codes for each category of rejection to be used by elections officials for reporting.

3) Requires the SOS, upon receiving the information, to publish a report containing the information for every election, including local special elections, on its internet website.

This bill:

1) Removes a reporting requirement for the SOS to publish data on rejected VBM ballots for local elections.

BACKGROUND

Vote by Mail Ballot Rejection Study and Previous Legislation. In September 2020, the California Voter Foundation in collaboration with Dr. Mindy S. Romeo of the University of Southern California Center for Inclusive Democracy examined demographic and voting methods of voters in Sacramento, Santa Clara, and San Mateo counties whose November 2018 VBM ballots were rejected and the reasons for the rejection. The study found the top three reasons a VBM ballot was rejected were because they arrived late, did not include signatures on VBM ballot identification envelopes, or the signatures on the envelope did not sufficiently match the voter's registration signature on file.

Additionally, the study examined California's VBM process and made a number of recommendations, including:

- Continue improving coordination with the United States Postal Service (USPS), the SOS, and counties to arrange for timely pickup and delivery of ballots around election time and on election night;
- Require the SOS through VoteCal, the statewide voter registration database, to uniformly report the number of ballots rejected and reasons for rejection;
- Standardize the codes used in counties' election management systems to more uniformly designate the reasons why a ballot is rejected;
- Require counties to report in the certification of election results the number of ballots challenged, cured, rejected and the reasons for rejection;
- Require the SOS or counties to notify voters when their ballots are rejected for any reason and the reason for rejection; and
- Advocate for sufficient funding for the USPS to facilitate timely delivery and return of VBM ballots and related materials, and provide ongoing funding to counties to support VBM balloting, education, services, outreach and notification to voters with challenged and rejected ballots.

SB 503 (Becker), Chapter 319, Statutes of 2021, codified select recommendations from the report including ones requiring the SOS to uniformly report the number of ballots rejected and reasons for rejection. SB 503 also required the SOS to publish a report containing the number of VBM ballots rejected and the reason for rejection for every election.

Secretary of State's VBM Ballot Rejection Reports. The SOS began posting the VBM ballot rejection reason reports starting with the June 7, 2022, statewide primary election. This report, the November 2022 general election report, and March 2024 primary election report all found the top three reasons why a VBM ballot was rejected was due to 1) ballot arrived after the deadline, 2) a non-matching signature, and 3) no voter signature. The reports indicate that for the November 2022 statewide general election, 120,609 (1.22%) of VBM ballots were rejected, and for the March 2024 presidential statewide primary election, 108,982 (1.56%) of VBM ballots were rejected.

The SOS also publishes data on ballot rejection rates for local elections, typically local special elections. This data is provided by county election officials to the SOS through VoteCal. In 2022, data was provided for seven local elections. The following year, the SOS reported data from 48 local elections.

COMMENTS

1) According to the Author: "AB 3184 would simply clarify that that the existing requirement that the SOS issue a report on VBM ballot rejection data applies to all elections involving state offices and exclude those for which the SOS does not have the authority to oversee or collect data."

2) Transparency Concerns. According to a letter sponsoring AB 3184, the SOS claims the inclusion of local elections was a drafting error and the SOS does not have the authority or the statutory duties to oversee local elections or to make this data

available. However, this committee does not have any correspondence from the SOS raising concerns about these issues when SB 503 went through the legislative process. More importantly, pursuant to SB 503 and beginning with the June 7, 2022, statewide primary election, the SOS has been making this data available to the public.

Therefore, regardless of whether there was or was not a drafting error in SB 503, the impact of this bill will be to reduce transparency into the elections process and the amount of information currently being made available to the public. The Committee may wish to consider whether removing this data requirement for local elections is appropriate and conflicts with the goal of administering and conducting elections in a transparent manner.

RELATED/PRIOR LEGISLATION

SB 503 (Becker), Chapter 319, Statutes of 2021, among other provisions, required local elections officials to report to the SOS the number of VBM ballots rejected and the reason for rejection for every election.

PRIOR ACTION

Assembly Floor:	71 - 0
Assembly Appropriations Committee:	15 - 0
Assembly Elections Committee:	8 - 0

POSITIONS

Sponsor: Secretary of State Shirley N. Weber, Ph.D.

Support: California Association of Clerks and Election Officials

Oppose: None received

-- END --

SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS
Senator Catherine Blakespear, Chair
2023 - 2024 Regular

Bill No:	AB 3239	**Hearing Date:**	7/2/24
Author:	Wendy Carrillo		
Version:	3/21/24		
Urgency:	No	**Fiscal:**	No
Consultant:	Evan Goldberg		

Subject: Political Reform Act of 1974: campaign funds: disclosures

DIGEST

This bill allows campaign funds to be used to pay or reimburse airline travel expenses related to an emotional support animal belonging to and traveling with a person whose airline travel may be paid for or reimbursed by campaign funds.

ANALYSIS

Existing law:

1) Allows campaign funds to be used to reimburse a candidate, elected official and certain others for money spent on airline travel if the travel is related to a political, legislative, or governmental purpose.

2) Allows campaign funds can also be used to pay or reimburse for travel and accommodation expenses of a member of the candidate's or elected official's household – which includes their spouse, dependent child, or parents who reside with the candidate or elected official.

3) Precludes campaign funds from being used for professional services unless the services are directly related to a political, legislative, or governmental purpose.

4) Defines an emotional support animal as an animal that "provides emotional, cognitive, or other similar support to an individual with a disability, and that does not need to be trained or certified."

5) Prevents a health care practitioner from prescribing an emotional support dog for anyone unless the practitioner meet certain requirements

This bill:

1) Permits campaign funds to be used to reimburse a candidate, elected official, and certain others for the airline travel expenses and necessary accommodations for an emotional support animal, provided the animal is traveling with a person who is allowed to use campaign funds for airline travel expenses.

2) Requires such spending to be reported on the campaign statements candidates, elected officials, and others are required to file.

BACKGROUND

Authorized Use of Campaign Funds. The Political Reform Act (PRA) strictly regulates the use of campaign funds to prevent candidates, elected officials, and others who control the funds from privately benefitting from their campaign activities. Therefore, existing law requires campaign fund spending to be directly or reasonably related to a political, legislative, or governmental purpose.

For instance, campaign funds can be used to pay for travel or accommodations for a candidate or elected official when the spending is directly related to a political, legislative, or governmental purpose. Campaign funds can also be used to pay or reimburse for travel and accommodation expenses of a member of the candidate's or elected official's household, such as a spouse, dependent child, or parents who reside with the candidate or elected official.

Service Animals. Under California law, a "service animal" is a dog that has been trained to do work or help a person with a disability – which includes physical, sensory, psychiatric, intellectual, or other mental disability.

The work service animals can perform includes:

- Helping people who are blind or have low vision with navigation and other tasks;
- Alerting people who are deaf or hard of hearing to the presence of people or sounds;
- Providing nonviolent protection or rescue work;
- Pulling a wheelchair;
- Helping a person during a seizure;
- Alerting people to the presence of allergens;
- Retrieving items such as medicine or the telephone;
- Providing physical support and assistance with balance and stability to people with mobility disabilities; and
- Helping people with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

Emotional Support Animals. Under state law, an "emotional support animal" is not a service animal. Rather, AB 468 (Friedman, 2021) defines an emotional support animal as any animal that provides emotional, cognitive, or other similar support to a person with a disability – and in contrast to a service animal, emotional support animals are not trained to perform any specific acts.

Beyond defining what an emotional support animal is, AB 468 sought to crackdown on the practice of healthcare practitioners essentially "prescribing" an emotional support animal for a person. Prior to changes made by the U.S. Department of Transportation and many airlines, such a prescription could be used to allow an animal to fly free of charge with their owner.

AB 468 prevents a health care practitioner from prescribing an emotional support dog for anyone unless they:

- Possess a valid, active license;
- Are licensed to provide professional services;
- Have a documented, established client-provider relationship with a person for at least 30 days before prescribing an emotional support animal;
- Complete a clinical evaluation of the personal regarding their need for an emotional support animal; and
- Ensure the person knows the penalty for fraudulently representing oneself to be the owner or trainer of any guide, signal, or service dog is a misdemeanor violation of California law.

Airlines and Animals. In 2020, the U.S. Department of Transportation revised its regulation on transporting service animals by air.

Notably, the final rule no longer considers an emotional support animal to be a service animal, meaning airlines can treat an emotional support animal as a pet and can charge an owner who wants their animal to fly with them. Airlines are precluded from charging a person to fly their service animal, provided the animal meets certain requirements.

COMMENTS

1) According to the Author: "According to the National Institutes of Health, there is increasing recognition of the therapeutic function pets can play in relation to mental health. The presence of an emotional support animal can cause calming effects to individuals at work, school, and home. AB 3239 would allow campaign funds to be used to pay or reimburse airline travel expenses related to emotional support animals."

2) Potential For Misuse? This measure allows a candidate or an elected official to spend campaign funds to fly an animal they identify as an emotional support animal just as they are able to spend campaign funds to fly their spouse, dependent child, or parents who reside with them.

   However, given emotional support animals are not trained or certified, the potential for this measure to be misused by a candidate or elected official who simply wants to provide airline travel to the family pet at the expense of their campaign contributors does exist.

   As such, the Committee may wish to consider whether it would be more appropriate to limit this bill's provisions to animals that have prescribed to a person for emotional support pursuant to the policies established by AB 468.

RELATED/PRIOR LEGISLATION

SB 1170 (Menjivar) allows campaign funds to be used to pay or reimburse a non-incumbent candidate for reasonable and necessary mental healthcare expenses if the candidate does not have health insurance or has been denied coverage for mental healthcare expenses by their health insurance. SB 1170 was approved by this

committee on a 6-0 vote on April 30, 2024, and is pending in the Assembly Committee on Appropriations.

AB 2041 (Bonta) expands the ability of a candidate or elected official to spend campaign funds on security-related items. AB 2041 was approved by this committee on a 7-0 vote on June 11, 2024, and is pending on the Senate Committee on Appropriations' suspense file.

PRIOR ACTIONS

Assembly Floor:	56-0
Assembly Elections Committee:	7-0

POSITIONS

Sponsor: Author

Support: None received

Oppose: None received

-- END --