
**SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**
Senator Steven Glazer, Chair
2023 - 2024 Regular

Bill No: SB 24 **Hearing Date:** 4/18/23
Author: Umberg
Version: 3/30/23
Urgency: No **Fiscal:** No
Consultant: Scott Matsumoto

Subject: Political Reform Act of 1974: public campaign financing

DIGEST

This bill submits a proposal to voters that would permit a public officer or candidate to expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity established a dedicated fund for this purpose, as specified.

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) Provides, pursuant to the PRA as amended by Proposition 73 of 1988, that no public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office.
- 3) Provides that the PRA may be amended to further its purposes by statute, passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring and signed by the Governor, if at least 12 days prior to passage in each house the bill in its final form has been delivered to the commission for distribution to the news media and to every person who has requested the FPPC to send copies of such bills to that person.
- 4) Provides that the PRA may be amended or repealed by a statute that becomes effective only when approved by the electors. The Legislature may place a PRA amendment on the ballot by majority vote in each house and signed by the Governor.

This bill:

- 1) Permits a public officer or candidate to expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity establishes a dedicated fund for this purpose by statute, ordinance, resolution, or charter, and both of the following are true:

- a) Public moneys held in the fund are available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference.
 - b) The state or local governmental entity has established criteria for determining a candidate's qualification by statute, ordinance, resolution, or charter.
- 2) Provides that no public moneys for the dedicated fund described may be taken from public moneys that are earmarked for education, transportation, or public safety and does not apply to charter cities, as specified.
 - 3) Requires the Secretary of State to submit the bill's proposed changes to the PRA to the voters for approval at the November 5, 2024, statewide general election.

BACKGROUND

Political Reform Act of 1974. In 1974, California voters passed Proposition 9, an initiative commonly known as the PRA. Proposition 9 created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. The Legislature is permitted to amend the PRA, but the amendments must further the purposes of the PRA and requires a two-thirds vote of both houses of the Legislature. The PRA also permits amendments to the PRA by submitting them to voters for approval.

Proposition 68 and Proposition 73. Prior to 1988 there were no limits on the amount of money candidates for California state office could accept or spend. In June of 1988 however, voters approved two separate campaign finance reform initiatives: Proposition 68 and Proposition 73. 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 affirmative votes than Proposition 68, the Court ordered the implementation of Proposition 73 and proclaimed all the provisions of Proposition 68 invalid. In 1990, all state and local elections were conducted under the Proposition 73 limits.

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 expenditures.

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 type 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 only 37.75% of the vote in November 1990 would have, among other numerous provisions, provided partial public campaign financing for candidates to state office who agree to specified campaign expenditure limits. However, it should be noted that this measure also contained a term limits proposal that term limits advocates opposed because it was less restrictive than the competing Proposition 140, which was approved by the voters.

Proposition 25 of 2000. Proposition 25, an initiative measure which received only 34.7% of the vote in March of 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 voters by an almost 3-1 margin. 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 expend 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 may 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 of 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 for lobbyists and their employers. State courts in Arizona and Vermont had invalidated lobbyist fees that were used to fund public financing programs similar to this one. Prior to the election, lobbyists’ lawyers filed suit in both state and federal court but in both instances, the courts held that the issue was not yet 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 electoral 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 under Proposition 73. Proponents of these programs describe them as intended to provide candidates with an alternative to relying on large campaign contributions and amplify the voices of Californians who make small donations. Other local governments are prohibited from offering public campaign funding, due to a provision of Proposition 73 of 1988.

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 expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity established a dedicated fund for that purpose. However, courts ruled that the question must be put before the voters because an initiative, Proposition 73, put those provisions into the PRA.

COMMENTS

- 1) According to the author: Currently, local jurisdictions such as counties, districts, and general law cities do not have the option to set up public fund for campaign financing, despite the policy's popularity among voters, as voters in several charter cities have overwhelmingly approved public campaign financing measures in recent years. Unfortunately, other local governments do not have the option to enact these same policies. In 2016, bipartisan supermajorities of the legislature passed, and Governor Jerry Brown signed, SB 1107 (Allen), which would have removed the ban and given local governments and the state this option. However, the courts ruled that the question must be put before the voters. SB 24 will restore control to local governments and the state by giving counties, districts, general law cities, and the state the same option that charter cities currently have to enact public financing of campaigns.
- 2) Majority Vote by Legislature and Voters. As previously mentioned, the Legislature can pass amendments to the PRA with a two-thirds vote. An alternative way is to submit proposed amendments to the PRA to voters. If that latter approach is taken, as this bill does, it requires a majority vote of the Legislature, the Governor signature on the bill, and a majority approval by voters.
- 3) Argument in Support. In a letter supporting SB 24, a coalition of organizations stated, in part, the following:

SB 24 will allow voters to ratify the will of the legislature and restore control to local governments and the state by placing a measure on the November 2024 ballot to repeal the ban on campaign public financing while requiring that no public moneys be used that are earmarked for education, transportation, or public safety.

Public moneys used would be required to come from a dedicated fund that must be available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference, and following criteria established for qualification by statute, ordinance, resolution, or charter.

Every California jurisdiction deserves the same opportunity that charter cities have to enact systems of public financing of campaigns that work for them. For these reasons, the organizations and individuals below SUPPORT SB 24 and respectfully request your AYE vote.

- 4) Argument in Opposition. In a letter opposing SB 24, Election Integrity Project California, Inc., stated, in part, the following:

SB 24 would laudably make public funds available for bona fide candidates who are at a financial and name-recognition disadvantage, BUT that benefit is cancelled out by the fact that incumbents would have equal access to those funds. This would enable them to add to their financial advantage with money they do not need. The financial differential between incumbents and candidates with special interest backing and up-and-coming challengers would remain the same.

The bill does nothing to eliminate or even reduce the influence of special interest money on politics and political campaigns.

Unless public funds are the ONLY source of campaign financing allowed, and distributed equally among all candidates meeting reasonable standards of viability, those the bill purports to incentivize and assist would be fighting the same financial disadvantage as before dipping into the public largess. There would be no change to the status quo.

RELATED/PRIOR LEGISLATION

AB 270 (Lee) of 2023 is nearly identical to this bill. AB 270 is currently awaiting consideration in the Assembly Committee on Elections.

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

POSITIONS

Sponsor: California Clean Money Campaign

Support: All Rise Alameda
 Building the Base Face to Face
 California Church IMPACT
 Calpirg, California Public Interest Research Group
 Change Begins With ME
 Cloverdale Indivisible
 Consumer Watchdog
 Contra Costa MoveOn
 Courage California
 Defending Our Future: Indivisible in CA 52nd District
 East Valley Indivisibles
 El Cerrito Progressives
 Endangered Habitats League
 Feminists in Action Los Angeles

Hillcrest Indivisible
Indi Squared
Indivisible 30/Keep Sherman Accountable
Indivisible 36
Indivisible 41
Indivisible Auburn CA
Indivisible Beach Cities
Indivisible CA-3
Indivisible CA-7
Indivisible CA-25 Simi Valley Porter Ranch
Indivisible CA-29
Indivisible CA-33
Indivisible CA-37
Indivisible CA-39
Indivisible CA-43
Indivisible CA: StateStrong
Indivisible Claremont/Inland Valley
Indivisible Colusa County
Indivisible East Bay
Indivisible El Dorado Hills
Indivisible Elmwood
Indivisible Euclid
Indivisible Lorin
Indivisible Los Angeles
Indivisible Manteca
Indivisible Marin
Indivisible Media City Burbank
Indivisible Mendocino
Indivisible Normal Heights
Indivisible North Oakland Resistance
Indivisible North San Diego County
Indivisible OC 46
Indivisible OC 48
Indivisible Petaluma
Indivisible Sacramento
Indivisible San Bernardino
Indivisible San Jose
Indivisible San Pedro
Indivisible Santa Barbara
Indivisible Santa Cruz County
Indivisible Sausalito
Indivisible Sebastopol
Indivisible SF
Indivisible SF Peninsula and CA-14
Indivisible Sonoma County
Indivisible South Bay LA
Indivisible Stanislaus
Indivisible Suffragists
Indivisible Ventura
Indivisible Windsor

Indivisible Yolo
Indivisible: San Diego Central
Indivisibles of Sherman Oaks
League of Women Voters of California
Livermore Indivisible
MapLight
Mill Valley Community Action Network
Money Out Voters In
Mountain Progressives
Nothing Rhymes With Orange
Orchard City Indivisible
Orinda Progressive Action Alliance
Our Revolution Long Beach
Public Citizen, Inc.
RiseUp
Rooted in Resistance
San Diego Indivisible Downtown
SFV Indivisible
Tehama Indivisible
The Resistance Northridge
Together We Will Contra Costa
Together We Will/Indivisible - Los Gatos
Vallejo-Benicia Indivisible
Venice Resistance
Voices for Progress
Women's Alliance Los Angeles
Yalla Indivisible

Oppose: Election Integrity Project California, Inc.

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