

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM: 3.3**  
**(ID # 13170)**

**MEETING DATE:**  
Tuesday, August 04, 2020

**FROM:** SUPERVISOR KEVIN JEFFRIES AND SUPERVISOR CHUCK WASHINGTON:

**SUBJECT:** SUPERVISOR KEVIN JEFFRIES and SUPERVISOR CHUCK WASHINGTON:  
Implementing a Campaign Finance Ordinance for Riverside County

**RECOMMENDED MOTION:** That the Board of Supervisors Direct County Counsel to Develop a Campaign Finance Ordinance for the Board of Supervisors to Consider at a Future Board Meeting to Be Implemented Prior to January 1, 2021

**ACTION:** Policy

  
Supervisor Kevin Jeffries, Supervisor 1st. District 7/29/2020

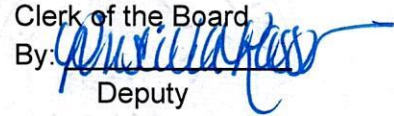
  
Supervisor Chuck Washington, Supervisor 3rd District 7/30/2020

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Jeffries, seconded by Supervisor Washington and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
Nays: None  
Absent: None  
Date: August 4, 2020  
xc: Supvr. Jeffries, Supvr. Washington, CoCo

Kecia R. Harper  
Clerk of the Board  
By:   
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

**BACKGROUND:**

On October 8, 2019, Governor Gavin Newsom signed Assembly Bill 571 into law. Among other provisions (complete text and analysis attached, but excerpted below), AB 571 would:

- 1) Prohibit a person from making to a candidate for elective county or city office, and prohibits a candidate for elective county or city office from accepting from a person, a contribution totaling more than the limit on contributions to AB 571 Page 3 candidates for state Senate and Assembly from persons other than small contributor committees and political party committees, as adjusted by the FPPC, as specified. The current limit under this provision is \$4,700 per contributor per election. Provides that these limits become effective January 1, 2021.
- 2) Permit a county or city, by ordinance or resolution, to impose a limit on contributions to a candidate for elective county or city office which prevails over the limit otherwise imposed by this bill, and allows the county or city to adopt enforcement standards for violations, which may include administrative, civil, or criminal penalties. Permits the limitation to be imposed by a local initiative measure. Provides that the FPPC is not responsible for the administration or enforcement of such a county or city ordinance or resolution. Provides that local contribution limits that are in effect on January 1, 2021, shall prevail over the default contribution limits imposed by this bill."

Riverside County is currently one of over 40 counties (out of 58) in California that has no campaign contribution limits, but will be subject to the state rules if the Board does not pass an ordinance before January 1<sup>st</sup>. Several counties have previously adopted limits that match the state legislative number (including San Bernardino County), some have adopted significantly lower limits (as low as \$250), and Alameda County has adopted the highest limits, at \$20,000 per contributor per campaign. The new state law makes it clear that adopting an ordinance that simply continues the policy of no limits is not an acceptable pre-emption of AB 571, and that some appropriate limitation must be established if it is to supplement the new state rules.

Due to the US Supreme Court decision "Citizens United vs FEC" in 2010, this new state law and any county ordinance to be considered by this Board cannot legally place any limits on independent expenditures from large corporations, Super PACs, labor unions, or wealthy individuals. Nor can it prevent wealthy candidates from supporting their own campaign with unlimited donations. Both of these exemptions create an unfair playing field for candidates who are not personally wealthy or backed by powerful special interest groups, as they can be limited to the contribution limits, while their opponents benefit from six figure donations from their own deep pockets or from unaccountable independent expenditure campaigns that historically have utilized their independent status to run extremely negative campaigns that are legally required to be outside the control of the actual candidates in the race.

A brief survey of some recent high-profile campaigns in Riverside County show that individual contributions to a Supervisor campaign have exceeded \$200,000, a single organization donated \$1 million to a county-wide candidate, and an independent expenditure committee spent over \$1 million to support a state legislative candidate (and run negative ads against his opponent). Limiting direct contributions to \$4,700 per candidate would almost certainly drive more of the large direct contributions to be spent as independent expenditures instead, reducing the accountability of the campaigns, and taking away control and responsibility from the candidate.



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To rectify this unfairness, this proposal would initiate a two-pronged ordinance, applying to all candidates for county offices, that would replace the forthcoming state limits with our own limit of \$20,000 per donor per election cycle, but would also establish that if a candidate either contributes more than \$20,000 to their own campaign or is the beneficiary of an independent expenditure campaign in excess of \$20,000, that other candidates in that race would be exempted from the campaign contribution limits for that election cycle as well. This would prevent a candidate from being put at a competitive disadvantage by their opponent's access to deep pockets that fall outside the legal jurisdiction of the ordinance. Amendments made in 2013 to Riverside County's existing campaign finance Ordinance 913

([http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Ordinances/Counties/R\\_Riverside.pdf](http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Ordinances/Counties/R_Riverside.pdf)) require rapid online reporting (24 hours within an election cycle, 10 days outside of an election cycle) of contributions and independent expenditures on behalf of candidates over \$1,000, which will continue to provide transparency of donations and expenditures that fall within or outside this proposed new ordinance.

**Impact to Residents and Businesses:** Campaign contribution limits that also provide an exemption for candidates facing deep pockets opponents will help put elections on a more even footing, while providing transparency into who is contributing to campaigns, as well as those operating independent campaigns.

## Assembly Bill No. 571

### CHAPTER 556

An act to amend and repeal Sections 10003 and 10202 of the Elections Code, and to amend Section 85301 of, to amend, repeal, and add Sections 85305, 85306, 85307, 85315, 85316, 85317, and 85318 of, and to add Section 85702.5 to, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor October 8, 2019. Filed with Secretary  
of State October 8, 2019.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 571, Mullin. Political Reform Act of 1974: contribution limits.

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

Existing law authorizes a county, city, or district to limit campaign contributions in local elections. Existing law authorizes the governing board of a school district or of a community college district to limit campaign expenditures or contributions in elections to district offices. The act specifies that it does not prevent the Legislature or any other state or local agency from imposing additional requirements on a person if the requirements do not prevent the person from complying with the act, and that the act does not nullify contribution limitations or prohibitions by any local jurisdiction that apply to elections for local elective office, as specified.

This bill, commencing January 1, 2021, instead would prohibit a person from making to a candidate for elective county or city office, and would prohibit a candidate for elective county or city office from accepting from a person, a contribution totaling more than the amount set forth in the act for limitations on contributions to a candidate for elective state office. This bill would also authorize a county or city to impose a limitation that is different from the limitation imposed by this bill. This bill would make specified provisions of the act relating to contribution limitations applicable to a candidate for a elective county or city office, except as specified.

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



This bill would add the contribution limitation imposed by the bill to the act's provisions, thereby making a violation of the limitation punishable as a misdemeanor and subject to specified penalties. However, the bill would specify that a violation of a limitation imposed by a local government is not subject to the act's enforcement provisions. The bill would authorize a local government that imposes a limitation that is different from the limitation imposed by this bill to adopt enforcement standards for a violation of the limitation imposed by the local government agency, including administrative, civil, or criminal penalties. By expanding the scope of an existing crime with regard to a violation of a contribution limitation imposed by the bill, the bill would impose a state-mandated local program.

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

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

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

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Most states impose limitations on contributions to candidates for elective county and city offices. California is among the minority of states without these contribution limitations.

(b) Most counties and cities in this state have not independently imposed limitations on contributions to candidates for elective offices in those jurisdictions.

(c) In counties and cities in this state that have not imposed limitations on contributions, candidates for elective offices in those jurisdictions often receive contributions that would exceed the limitations for a state Senate campaign, even though most counties and cities contain far fewer people than the average state Senate district.

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

(e) A system allowing unlimited contributions to a candidate for elective county or city office creates the risk and the perception that elected officials in those jurisdictions are beholden to their contributors and will act in the best interest of those contributors at the expense of the people.

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



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

SEC. 2. Section 10003 of the Elections Code is amended to read:

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

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 3. Section 10202 of the Elections Code is amended to read:

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

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 4. Section 85301 of the Government Code is amended to read:

85301. (a) A person, other than a small contributor committee or political party committee, shall not make to a candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office other than a candidate for statewide elective office shall not accept from a person, a contribution totaling more than three thousand dollars (\$3,000) per election.

(b) Except to a candidate for Governor, a person, other than a small contributor committee or political party committee, shall not make to a candidate for statewide elective office, and except a candidate for Governor, a candidate for statewide elective office shall not accept from a person other than a small contributor committee or a political party committee, a contribution totaling more than five thousand dollars (\$5,000) per election.

(c) A person, other than a small contributor committee or political party committee, shall not make to a candidate for Governor, and a candidate for Governor shall not accept from any person other than a small contributor committee or political party committee, a contribution totaling more than twenty thousand dollars (\$20,000) per election.

(d) (1) A person shall not make to a candidate for elective county or city office, and a candidate for elective county or city office shall not accept from a person, a contribution totaling more than the amount set forth in subdivision (a) per election, as that amount is adjusted by the Commission pursuant to Section 83124. This subdivision does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(2) This subdivision shall become operative on January 1, 2021.

(e) The provisions of this section do not apply to a candidate's contributions of the candidate's personal funds to the candidate's own campaign.

SEC. 5. Section 85305 of the Government Code is amended to read:



85305. (a) A candidate for elective state office or committee controlled by that candidate shall not make any contribution to any other candidate for elective state office in excess of the limits set forth in subdivision (a) of Section 85301.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 6. Section 85305 is added to the Government Code, to read:

85305. (a) A candidate for elective state, county, or city office or committee controlled by that candidate shall not make a contribution to any other candidate for elective state, county, or city office in excess of the limits set forth in subdivision (a) of Section 85301. This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(b) This section shall become operative on January 1, 2021.

SEC. 7. Section 85306 of the Government Code is amended to read:

85306. (a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state office of the same candidate. Contributions transferred shall be attributed to specific contributors using a “last in, first out” or “first in, first out” accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor may not exceed the limits set forth in Section 85301 or 85302.

(b) Notwithstanding subdivision (a), a candidate for elective state office, other than a candidate for statewide elective office, who possesses campaign funds on January 1, 2001, may use those funds to seek elective office without attributing the funds to specific contributors.

(c) Notwithstanding subdivision (a), a candidate for statewide elective office who possesses campaign funds on November 6, 2002, may use those funds to seek elective office without attributing the funds to specific contributors.

(d) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 8. Section 85306 is added to the Government Code, to read:

85306. (a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state, county, or city office of the same candidate. Contributions transferred shall be attributed to specific contributors using a “last in, first out” or “first in, first out” accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor shall not exceed the limits set forth in Section 85301 or 85302.

(b) Notwithstanding subdivision (a), a candidate for elective state office, other than a candidate for statewide elective office, who possesses campaign funds on January 1, 2001, may use those funds to seek elective office without attributing the funds to specific contributors.

(c) Notwithstanding subdivision (a), a candidate for statewide elective office who possesses campaign funds on November 6, 2002, may use those funds to seek elective office without attributing the funds to specific contributors.

(d) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(e) This section shall become operative on January 1, 2021.

SEC. 9. Section 85307 of the Government Code is amended to read:

85307. (a) The provisions of this article regarding loans apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) Notwithstanding subdivision (a), a candidate for elective state office shall not personally loan to the candidate's campaign, including the proceeds of a loan obtained by the candidate from a commercial lending institution, an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$100,000). A candidate shall not charge interest on any loan the candidate made to the candidate's campaign.

(c) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 10. Section 85307 is added to the Government Code, to read:

85307. (a) The provisions of this article regarding loans apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) Notwithstanding subdivision (a), a candidate for elective state, county, or city office shall not personally loan to the candidate's campaign, including the proceeds of a loan obtained by the candidate from a commercial lending institution, an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$100,000). A candidate shall not charge interest on any loan the candidate made to the candidate's campaign. This subdivision does not apply to a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(c) This section shall become operative on January 1, 2021.

SEC. 11. Section 85315 of the Government Code is amended to read:

85315. (a) Notwithstanding any other provision of this chapter, an elected state officer may establish a committee to oppose the qualification of a recall measure, and the recall election. This committee may be established when the elected state officer receives a notice of intent to recall pursuant to Section 11021 of the Elections Code. An elected state officer may accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contributions limits set forth in this chapter. The voluntary



expenditure limits do not apply to expenditures made to oppose the qualification of a recall measure or to oppose the recall election.

(b) After the failure of a recall petition or after the recall election, the committee formed by the elected state officer shall wind down its activities and dissolve. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days after the failure of the recall petition or after the recall election for a purpose specified in subdivision (b) of Section 89519.

(c) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 12. Section 85315 is added to the Government Code, to read:

85315. (a) Notwithstanding any other provision of this chapter, an elected state, county, or city officer may establish a committee to oppose the qualification of a recall measure, and the recall election. This committee may be established when the elected state, county, or city officer receives a notice of intent to recall pursuant to Section 11021 of the Elections Code. An elected state, county, or city officer may accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contribution limits set forth in this chapter. The voluntary expenditure limits do not apply to expenditures made to oppose the qualification of a recall measure or to oppose the recall election.

(b) After the failure of a recall petition or after the recall election, the committee formed by the elected state, county, or city officer shall wind down its activities and dissolve. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days after the failure of the recall petition or after the recall election for a purpose specified in subdivision (b) of Section 89519.

(c) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(d) This section shall become operative on January 1, 2021.

SEC. 13. Section 85316 of the Government Code is amended to read:

85316. (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) A person shall not make, and an elected state officer shall not receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:



(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) An elected state officer shall not receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that the candidate may seek during the term of office to which the candidate is currently elected, including, but not limited to, reelection to the office the candidate currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The Commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(c) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 14. Section 85316 is added to the Government Code, to read:

85316. (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state, county, or city office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) A person shall not make, and an elected state officer shall not receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:



(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) An elected state officer shall not receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that the candidate may seek during the term of office to which the candidate is currently elected, including, but not limited to, reelection to the office the candidate currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. The expenditures made by elected state officers pursuant to this subdivision shall not be subject to the voluntary expenditure limitations in Section 85400.

(4) The Commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(c) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(d) This section shall become operative on January 1, 2021.

SEC. 15. Section 85317 of the Government Code is amended to read:

85317. (a) Notwithstanding subdivision (a) of Section 85306, a candidate for elective state office may carry over contributions raised in connection with one election for elective state office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state office.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 16. Section 85317 is added to the Government Code, to read:

85317. (a) Notwithstanding subdivision (a) of Section 85306, a candidate for elective state, county, or city office may carry over contributions raised in connection with one election for elective state, county, or city office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state, county, or city office. This section does not apply

in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(b) This section shall become operative on January 1, 2021.

SEC. 17. Section 85318 of the Government Code is amended to read:

85318. (a) A candidate for elective state office may raise contributions for a general election before the primary election, and for a special general election before a special primary election, for the same elective state office if the candidate sets aside these contributions and uses these contributions for the general election or special general election. If the candidate for elective state office is defeated in the primary election or special primary election, or otherwise withdraws from the general election or special general election, the general election or special general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election or special general election contributions. Notwithstanding Section 85201, candidates for elective state office may establish separate campaign contribution accounts for the primary and general elections or special primary and special general elections.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 18. Section 85318 is added to the Government Code, to read:

85318. (a) A candidate for elective state, county, or city office may raise contributions for a general election before the primary election, and for a special general election before a special primary election, for the same elective state, county, or city office if the candidate sets aside these contributions and uses these contributions for the general election or special general election. If the candidate for elective state, county, or city office is defeated in the primary election or special primary election, or otherwise withdraws from the general election or special general election, the general election or special general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election or special general election contributions. Notwithstanding Section 85201, candidates for elective state, county, or city office may establish separate campaign contribution accounts for the primary and general elections or special primary and special general elections.

(b) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(c) This section shall become operative on January 1, 2021.

SEC. 19. Section 85702.5 is added to the Government Code, to read:

85702.5. (a) A county or city may, by ordinance or resolution, impose a limit on contributions to a candidate for elective county or city office that is different from the limit set forth in subdivision (d) of Section 85301. The limitation may also be imposed by means of a county or city initiative measure.



(b) A county or city that establishes a contribution limit pursuant to subdivision (a) may adopt enforcement standards for a violation of that limit, which may include administrative, civil, or criminal penalties.

(c) The Commission is not responsible for the administration or enforcement of a contribution limit adopted pursuant to subdivision (a).

(d) This section shall become operative on January 1, 2021. A county or city's limit on contributions to a candidate for elective county or city office that is in effect on the operative date of this section shall be deemed to be a limit imposed pursuant to subdivision (a).

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

SEC. 21. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

## SENATE RULES COMMITTEE

AB 571

Office of Senate Floor Analyses

(916) 651-1520 Fax: (916) 327-4478

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### THIRD READING

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Bill No: AB 571  
Author: Mullin (D), et al.  
Amended: 4/2/19 in Assembly  
Vote: 27

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SENATE ELECTIONS & C.A. COMMITTEE: 4-0, 7/2/19

AYES: Umberg, Hertzberg, Leyva, Stern

NO VOTE RECORDED: Nielsen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/30/19

AYES: Portantino, Bradford, Durazo, Hill, Wieckowski

NOES: Bates, Jones

ASSEMBLY FLOOR: 65-13, 5/29/19 - See last page for vote

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**SUBJECT:** Political Reform Act of 1974: contribution limits

**SOURCE:** Author

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**DIGEST:** This bill establishes default campaign contribution limits for county and city office at the same level as the limit on contributions from individuals to candidates for Senate and Assembly, effective January 1, 2021. This bill permits a county or city to establish its own contribution limits, which would prevail over these default limits.

#### **ANALYSIS:**

Existing law:

- 1) Permits a county or city to limit campaign contributions in its local elections. Permits a special district, school district, or community college district to limit campaign contributions in elections to district offices.



- 2) Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).
- 3) Requires any local government agency that has enacted, enacts, amends, or repeals an ordinance or other provision of law affecting campaign contributions and expenditures to file a copy of the action with the FPPC.
- 4) Prohibits a local government agency from enacting a campaign finance ordinance that imposes campaign reporting requirements that are additional to or different from those set forth in the PRA for elections held in its jurisdiction unless the additional or different requirements apply only to the candidates seeking election in that jurisdiction, their controlled committees or committees formed or existing primarily to support or oppose their candidacies, and to committees formed or existing primarily to support or oppose a candidate or to support or oppose the qualification or passage of a local ballot measure which is being voted on only in that jurisdiction, and to city or county general purpose committees active only in that city or county, respectively.
- 5) Provides that nothing in the PRA shall nullify contribution limitations or prohibitions of any local jurisdiction that apply to elections for local elective office, except that these limitations and prohibitions may not conflict with a specified provision of the PRA dealing with "member communications."
- 6) Allows the governing body of any local government agency with a population of three million to contract with the FPPC for the administration, implementation, and enforcement of a local campaign finance or government ethics law, as specified.
- 7) Prohibits a person, other than a small contributor committee or political party committee, from making any contribution totaling more than \$4,700 to any candidate for elective state office other than statewide elective office, and prohibits candidates from accepting a contribution that exceeds that amount. Requires the FPPC to adjust this limit in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index, and requires those adjustments to be rounded to the nearest \$100.

This bill:

- 1) Prohibits a person from making to a candidate for elective county or city office, and prohibits a candidate for elective county or city office from accepting from a person, a contribution totaling more than the limit on contributions to



candidates for state Senate and Assembly from persons other than small contributor committees and political party committees, as adjusted by the FPPC, as specified. The current limit under this provision is \$4,700 per contributor per election. Provides that these limits become effective January 1, 2021.

- 2) Permits a county or city, by ordinance or resolution, to impose a limit on contributions to a candidate for elective county or city office which prevails over the limit otherwise imposed by this bill, and allows the county or city to adopt enforcement standards for violations, which may include administrative, civil, or criminal penalties. Permits the limitation to be imposed by a local initiative measure. Provides that the FPPC is not responsible for the administration or enforcement of such a county or city ordinance or resolution. Provides that local contribution limits that are in effect on January 1, 2021, shall prevail over the default contribution limits imposed by this bill.
- 3) Prohibits a candidate for any elective state, county, or city office, or a committee controlled by such a candidate, from making a contribution to any other candidate for elective state, county, or city office in an amount greater than the limit on contributions to candidates for state Senate and Assembly from persons other than small contributor committees and political party committees, as adjusted by the FPPC, as specified, beginning January 1, 2021. A similar prohibition currently applies to contributions made by candidates for elective state office (or their controlled committees) to other candidates for elective state office. Provides that this restriction does not apply in a jurisdiction in which the county or city imposes its own limits on campaign contributions.
- 4) Makes conforming changes to various state laws related to contribution limits, including rules governing the transfer of campaign funds from one controlled committee to another controlled committee for the same candidate; the acceptance of campaign contributions for an election after that election has occurred; the carryover of contributions raised in connection with one election for an elective office to pay campaign expenditures incurred in connection with a subsequent election to the same office; the acceptance of campaign contributions for a general election prior to the primary election; and personal loans made by a candidate to the candidate's campaign committee.
- 5) Provides that the contribution limits in this bill do not apply to contributions made to oppose a recall against a county or city elected official, as specified.



- 6) Makes various findings and declarations as well as corresponding and technical changes.

## **Background**

*History of local contribution limits.* In 1988, voters approved Proposition 73, a campaign finance initiative that prohibited public funding of campaigns and established contribution limits for state and local elections, among other provisions. Under Proposition 73, contributions from a person to a candidate for state or local office were limited to \$1,000 per fiscal year, while political parties and certain political committees could give higher amounts.

Many of the provisions of Proposition 73, including the campaign contribution limits, were ultimately ruled unconstitutional by federal courts. Because Proposition 73 limited the amount that a contributor could give in each fiscal year, rather than limiting the amount that a contributor could give in each election, the courts found that the contribution limits discriminated in favor of incumbents, since incumbents were much more likely than challengers to fundraise in non-election years.

The federal case ended in 1993 when the United States Supreme Court denied certiorari in *Service Employees International Union v. FPCC*. The only provisions of Proposition 73 to survive legal challenge were contribution limits for special elections (those limits were on a per-election basis, rather than a per-year basis), limits on gifts and honoraria to state and local elected officials, restrictions on certain mass mailings by officeholders, and a prohibition on the use of public money for campaign purposes. State and local elections were conducted under the Proposition 73 contribution limits for most of the 1990 election cycle, though the limits were struck down for the last six weeks before the 1990 general election.

In 1996, California voters approved Proposition 208, which proposed significant changes to the PRA, including establishing new contribution limits for state and local elections. Proposition 208 prohibited any person other than a political party or a small contributor committee from making contributions of more than \$100 per election to candidates in small local districts (less than 100,000 residents); \$250 per election for Senate, Assembly, Board of Equalization and large local districts; and \$500 per election for statewide office. These limits were increased to \$250, \$500, and \$1,000, respectively, for candidates who agreed to abide by specified voluntary expenditure limits.

On January 6, 1998, the United States District Court for the Eastern District of California entered a preliminary injunction barring the enforcement of Proposition



208. The Legislature subsequently placed Proposition 34 on the November 2000 ballot through passage of SB 1223 (Burton, Chapter 102, Statutes of 2000). The proposition, which passed with 60.1% of the vote, revised state laws on political campaigns for state elective offices and ballot propositions, and repealed almost all of Proposition 208, which was still enjoined from enforcement.

While Proposition 34 established new campaign contribution limits for elections to state office, it did not contain contribution limits for elections to local office. The limits on contributions by individuals contained in Proposition 34 ranged from \$3,000 (for candidates for Assembly and Senate) to \$20,000 per election (for candidates for Governor), and are required to be adjusted for inflation every two years. For 2019 and 2020, these limits range from \$4,700 per election for candidates for Assembly and Senate to \$31,000 for candidates for Governor. While local governments have the authority to adopt contribution limits for elections to local offices in their jurisdictions, state law does not impose limits on contributions to candidates for local office.

*Local campaign ordinances.* Under existing law, local government agencies have the ability to adopt campaign ordinances that apply to elections within their jurisdictions, though the PRA imposes certain limited restrictions on those local ordinances. For instance, SB 726 (McCorquodale, Chapter 1456, Statutes of 1985), limited the ability of local jurisdictions to impose campaign filing requirements that differed from those in the PRA, while AB 1430 (Garrick, Chapter 708, Statutes of 2007), prohibits local governments from adopting rules governing member communications that are different than the rules that govern member communications at the state level.

Aside from these restrictions, however, local government agencies generally have a significant amount of latitude when developing local campaign finance ordinances that apply to elections in those agencies' jurisdictions. Any jurisdiction that adopts or amends a local campaign finance ordinance is required to file a copy of that ordinance with the FPPC, and the FPPC posts those ordinances on its Web site. The FPPC's Web site currently includes campaign finance ordinances from 22 counties, 148 cities, and two special districts.

The campaign ordinances adopted by local governments in California vary significantly in terms of their scope. Some local ordinances are very limited, while others are much more extensive. In some cases, the ordinances include campaign contribution limits, reporting and disclosure requirements that supplement the requirements of the PRA, and voluntary public financing of local campaigns, among other provisions. In many cases, local campaign finance ordinances are



enforced by the district attorney of the county or by the city attorney. In at least a few cases, however, local jurisdictions have set up independent boards or commissions to enforce the local campaign finance laws.

According to a 2016 report prepared by California Common Cause, approximately 23 percent of cities and 28 percent of counties in the state have adopted local campaign contribution limits. Of the 124 local jurisdictions identified in the report as having adopted local campaign contribution limits, only one (Alameda County) has a limit on campaign contributions from individuals that is higher than the \$4,700 per election limit that would be imposed by this bill. More than 90 percent of the cities that have adopted contribution limits have limits of \$1,000 or less. By contrast, about half of the counties that adopted contribution limits have limits of \$1,000 or less.

### **Comments**

According to the author, currently, there is no limit on contributions to candidates for local office in 78 percent of cities and 72 percent of counties. In these jurisdictions, contributors can give unlimited amounts to candidates for local office. A single donor may give tens to hundreds of thousands of dollars to a candidate for city council or county board – far exceeding the amount that even state legislators can legally accept.

In recent years, there have been examples of \$50,000, \$100,000, and even \$244,000 contributions to candidates for local office from donors with business before that local government. Such massive campaign contributions create a serious risk of actual or perceived corruption.

For this reason, state law prevents a donor from contributing more than \$4,700 to candidates for the state Assembly or Senate. Outside California, 34 other states have also established limits on contributions to candidates for local office.

AB 571 sets default local campaign contribution limits for local city and county elections, setting a new standard for these local elections. This bill respects local control in the sense that it would not prevent local jurisdictions from adopting a higher or lower limit threshold. AB 571 takes an important step in establishing a more widespread application of campaign contribution limit to prevent undue influence in local elections.

### **Related/Prior Legislation**

AB 1089 (Mullin, 2017), which was held on the Assembly Appropriations Committee's suspense file, would have imposed default contribution limits for all

levels of local government (including school district and special districts). AB 1089 was substantially similar to the final version of AB 2523 (Mullin, 2016). AB 2523 failed passage on the Senate Floor on a 25-14 vote. Because AB 2523 proposed to amend the PRA without being submitted to voters for their approval, it required a two-thirds vote of each house of the Legislature for passage (27 votes in the case of the Senate).

AB 2880 (Harper, Chapter 394, Statutes of 2018) authorized the FPPC to administer and enforce a local campaign finance ordinance or government ethics law upon mutual agreement between the FPPC and a local agency with a population of less than three million people, as specified. As a result of AB 2880, any local jurisdiction that wants to establish campaign contribution limits but that does not want to create its own mechanism for enforcement of those limits has the option of contracting with the FPPC (subject to the agreement of the FPPC) for that purpose.

**FISCAL EFFECT:** Appropriation: No      Fiscal Com.: Yes      Local: Yes

According to the Senate Appropriations Committee, the FPPC indicates that it would incur first-year costs of \$920,000, and \$878,000 annually thereafter, to implement the provisions of this bill (General Fund).

**SUPPORT:** (Verified 8/30/19)

California Clean Money Campaign  
California Common Cause  
California League of Conservation Voters  
Fair Political Practices Commission  
League of Women Voters of California  
RepresentUs

**OPPOSITION:** (Verified 8/30/19)

None received

**ARGUMENTS IN SUPPORT:** In a letter supporting AB 571, the League of Women Voters of California stated, in part:

While existing law allows California counties and cities to limit the size of campaign contributions, considerably less than a third do so. For example, a recent study by California Common Cause found that 78 percent of California cities have no limit on campaign contributions. Moreover, many local contributions exceed the size of contributions allowed for state elected officials,



and in some cases, candidates may be dependent on just a few large donors to fund their campaigns. Very large contributions can damage the public's trust in the democratic process by deepening the perception or the possibility that candidates will be more responsive to their financial backers than to their constituents.

This bill would establish a realistic default limit on contributions in local campaigns, set at the same level as for state legislative campaigns. It would not affect jurisdictions that have adopted their own local contribution limits and would not prevent a local government from adopting a higher or lower limit.

ASSEMBLY FLOOR: 65-13, 5/29/19

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner  
Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooper,  
Cunningham, Daly, Eggman, Frazier, Friedman, Gabriel, Cristina Garcia,  
Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra,  
Kamlager-Dove, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mayes,  
McCarty, Medina, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Petrie-  
Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez,  
Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Weber,  
Wicks, Wood, Rendon

NOES: Bigelow, Brough, Chen, Choi, Dahle, Diep, Flora, Fong, Gallagher,  
Mathis, Melendez, Patterson, Waldron

NO VOTE RECORDED: Cooley, Eduardo Garcia

Prepared by: Darren Chesin / E. & C.A. / (916) 651-4106  
9/1/19 11:04:05

\*\*\*\* END \*\*\*\*