

POLITICAL CONTRIBUTIONS BY PAYROLL DEDUCTION. CONTRIBUTIONS TO CANDIDATES. INITIATIVE STATUTE.

- Prohibits unions from using payroll-deducted funds for political purposes. Applies same use prohibition to payroll deductions, if any, by corporations or government contractors.
- Permits voluntary employee contributions to employer-sponsored committee or union if authorized yearly, in writing.
- Prohibits unions and corporations from contributing directly or indirectly to candidates and candidate-controlled committees.
- Other political expenditures remain unrestricted, including corporate expenditures from available resources not limited by payroll deduction prohibition.
- Prohibits government contractor contributions to elected officers or officer-controlled committees.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:

- Increased costs to state and local government—potentially exceeding \$1 million annually—to implement and enforce the measure’s requirements.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Political Reform Act. California’s Political Reform Act of 1974, an initiative adopted by the voters, established the state’s campaign finance and disclosure laws. The act applies to state and local candidates, ballot measures, and officials, but does not apply to federal candidates or officials. The state’s Fair Political Practices Commission (FPPC) (1) enforces the requirements of the act, including investigating alleged violations, and (2) provides administrative guidance to the public by issuing advice and opinions regarding FPPC’s interpretation of the act.

Local Campaign Finance Laws. In addition to the requirements established by the act, some local governments have campaign finance and disclosure requirements for local candidates, ballot measures, and officials. These ordinances are established and enforced by the local government.

Political Spending. Many individuals, groups, and businesses spend money to support or oppose state and local candidates or ballot measures. This political spending can take different forms, including contributing money to candidates or committees, donating services to campaigns, and producing ads to communicate opinions. Under state campaign finance laws, there are three types of political spending:

- **Political Contributions.** The term political “contribution” generally includes giving money, goods, or services (1) directly to a candidate, (2) at the request of a candidate, or (3) to a committee that uses these resources to support or oppose a candidate or ballot measure. Current law limits the amount of political contributions that individuals, groups, and businesses may give to a state candidate (or to committees that give money to a state candidate). In 2012, for example, an individual, group, or business could contribute up to \$26,000 to a candidate for Governor and up to \$3,900 to a candidate for a legislative office. In addition, current law requires political contributions to be disclosed to state or local election officials.
- **Independent Expenditures.** Money spent to communicate support or opposition of a candidate or ballot measure generally is considered an independent expenditure if the funds are spent in a way that is not coordinated with (1) a candidate or (2) a committee established to support or oppose a candidate or a ballot measure. For example, developing a television commercial urging voters to “vote for” a candidate is an independent expenditure if the commercial is made without coordination with the candidate’s campaign. Current law does not limit the amount of money individuals, groups, and businesses may spend on independent expenditures. These expenditures, however, must be disclosed to election officials.

- **Other Political Spending.** Some political spending is not considered a political contribution or an independent expenditure. This broad category includes “member communications”—spending by an organization to communicate political endorsements to its members, employees, or shareholders. This spending is not limited by state law and need not be disclosed to election officials.

Payroll Deductions. Under limited circumstances, employers may withhold money from an employee’s paycheck. The withheld funds are called “payroll deductions.” Some common payroll deductions include deductions for Social Security, income taxes, medical plans, and voluntary charitable contributions.

Union Dues and Fees. Approximately 2.5 million workers in California are represented by a labor union. Unions represent employees in the collective bargaining process, by which they negotiate terms and conditions of employment with employers. Generally, unions pay for their activities with money raised from (1) dues charged to union members and (2) fair share fees paid by non-union members who the union represents in the collective bargaining process. In many cases, employers automatically deduct these dues and fees from their employees’ paychecks and transfer the money to the unions.

Payroll Deductions Used to Finance Political Spending. Many unions use some of the funds that they receive from payroll deductions to support activities not directly related to the collective bargaining process. These expenditures may include political contributions and independent expenditures—as well as spending to communicate political views to union members. Non-union members may opt out from having their fair share fees used to pay for this political spending and other spending not related to collective bargaining. Other than unions, relatively few organizations currently use payroll deductions to finance political spending in California.

PROPOSAL

The measure changes state campaign finance laws to restrict state and local campaign spending by:

- Public and private sector labor unions.
- Corporations.
- Government contractors.

These restrictions do not affect campaign spending for federal offices such as the President of the United States and members of Congress.

Bans Use of Payroll Deductions to Finance Spending for Political Purposes. The measure prohibits unions, corporations, government contractors, and state and local government employers from spending money deducted from an employee’s paycheck for “political purposes.” Under the measure, this term would include political contributions, independent expenditures, member communications related to campaigns, and other expenditures to influence voters. This measure would not affect unions’ existing authority to use payroll deductions to pay for other activities, including collective bargaining and political spending in federal campaigns.

Prohibits Political Contributions by Corporations and Unions. The measure prohibits corporations and unions from making political contributions to candidates. That is, they could not make contributions (1) directly to candidates or (2) to committees that then make contributions to candidates. This prohibition, however, does not affect a corporation or union’s ability to spend money on independent expenditures.

Limits Authority of Government Contractors to Contribute to Elected Officials. The measure prohibits government contractors (including public sector labor unions with collective bargaining contracts) from making contributions to elected officials who play a role in awarding their contracts. Specifically, government contractors could not make contributions to these elected officials from the time their contract is being considered until the date their contract expires.

FISCAL EFFECTS

The state would experience increased costs to investigate alleged violations of the law and to respond to requests for advice. In addition, state and local governments would experience some other increased administrative costs. Combined, these costs could exceed **\$1 million annually**.

benefit, health, life, death or disability insurance, or other similar benefit, nor shall it apply to an employee's voluntary deduction for the benefit of a charitable organization organized under Section 501(c)(3) of Title 26 of the United States Code.

85152. For purposes of this article, the following definitions apply:

(a) "Corporation" means every corporation organized under the laws of this state, any other state of the United States, or the District of Columbia, or under an act of the Congress of the United States.

(b) "Government contractor" means any person, other than an employee of a government employer, who is a party to a contract between the person and a government employer to provide goods, real property, or services to a government employer. Government contractor includes a public employee labor union that is a party to a contract with a government employer.

(c) "Government employer" means the State of California or any of its political subdivisions, including, but not limited to, counties, cities, charter counties, charter cities, charter city and counties, school districts, the University of California, special districts, boards, commissions, and agencies, but not including the United States government.

(d) "Labor union" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(e) "Political purposes" means a payment made to influence or attempt to influence the action of voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure; or any payment received by or made at the behest of a candidate, a controlled committee, a committee of a political party, including a state central committee, and county central committee, or an organization formed or existing primarily for political purposes, including, but not limited to, a political action committee established by any membership organization, labor union, public employee labor union, or corporation.

(f) "Public employee labor union" means a labor union in which the employees participating in the labor union are employees of a government employer.

(g) All other terms used this article that are defined by the Political Reform Act of 1974, as amended (Title 9 (commencing with Section 81000)), or by regulation enacted by the Fair Political Practices Commission, shall have the same meaning as provided therein, as they existed on January 1, 2011.

SEC. 3. Implementation

(a) If any provision of this measure, or part of it, or the application of any such provision or part to any person, organization, or circumstance, is for any reason held to be invalid or unconstitutional, then the remaining provisions, parts, and applications shall remain in effect without the invalid provision, part, or application.

(b) This measure is not intended to interfere with any existing contract or collective bargaining agreement. Except as governed by the National Labor Relations Act, no new or

amended contract or collective bargaining agreement shall be valid if it violates this measure.

(c) This measure shall be liberally construed to further its purposes. In any legal action brought by an employee or union member to enforce the provisions of this act, the burden shall be on the employer or labor union to prove compliance with the provisions herein.

(d) Notwithstanding Section 81012 of the Government Code, the provisions of this measure may not be amended by the Legislature. This measure may only be amended or repealed by a subsequent initiative measure or pursuant to subdivision (c) of Section 10 of Article II of the California Constitution.

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City of San Leandro

Meeting Date: September 17, 2012

Resolution - Council

File Number: 12-452

Agenda Section: ACTION ITEMS

Agenda Number: 10.C.

TO: City Council

FROM: Chris Zapata
City Manager

BY: Stephen H. Cassidy
Mayor

FINANCE REVIEW: Not Applicable

TITLE: ADOPT: Resolution Opposing Proposition 32 on the November 2012 Ballot (opposes the proposition to prohibit unions and corporations from using payroll-deducted funds for political purposes and from contributing to candidates and candidate-controlled committees)

WHEREAS, thousands of San Leandrans and 2.5 million workers throughout California are represented by a labor union, and San Leandro is the home to several union training facilities and administrative offices; and

WHEREAS, unions represent employees in the collective bargaining process, by which they negotiate terms and conditions of employment with employers; and

WHEREAS, unions pay for their activities with money raised from dues charged to union members. In many cases, employers automatically deduct these dues and fees from their employees' paychecks and transfer the money to the unions; and

WHEREAS, many unions use some of the funds that they receive from payroll deductions to support activities not directly related to the collective bargaining process. These expenditures may include contributions to candidates seeking public office as well as spending to communicate political views to union members; and

WHEREAS, Proposition 32, the "Political Contributions by Payroll Deduction, Contributions to Candidates, Initiative Statute," prohibits unions from using payroll-deducted funds for political purposes and applies the same prohibition to corporations; and

WHEREAS, other than unions, very few organizations use payroll deductions to finance political spending in California; and

WHEREAS, Proposition 32 also prohibits unions and corporations from contributing to candidates and candidate-controlled committees. However, current law does not limit the amount of money that individuals, groups, and businesses may spend in political campaigns

through independent expenditure committees. Proposition 32 places no restriction on donations from sources other than payroll deductions to independent expenditure committees; and

WHEREAS, the California Labor Federation states that Proposition 32 “would severely restrict union members in both the public and private sector from having a voice in our political process;” and

WHEREAS, non-partisan groups like the California League of Women Voters, California Common Cause, and Public Citizen have urged voters to reject Proposition 32; and

WHEREAS, Public Citizen states that Proposition 32 is “a partisan attack against organized labor,” observing that “corporations do not take deductions from paychecks to finance their political activity. Instead, corporations dip directly into the corporate till for their political money, and this measure proposes nothing to stop that. It would just straddle a critical fundraising tool for unions;” and

WHEREAS, Common Cause notes that Proposition 32 “effectively bans the current practice of payroll deductions, thus eliminating a major funding source of labor unions, while leaving ample room for indirect political spending by corporations from their corporate treasuries. This initiative would result in significant undue advantages for one set of interests over another that we believe will do more harm to California's democracy than good;” and

WHEREAS, the editorial board of the Mercury News has labeled Proposition 32 a “scam,” commenting that while the initiative bans “corporations as well as unions from using paycheck deductions for political purposes, corporations don't do that. Their political donations come straight from the treasury or executives. By contrast, paycheck deductions are the primary method California's 2.5 million union members use to fund political spending from making direct donations to politicians;” and

WHEREAS, the Mercury News editors added, “The real elephant in the room for campaign reforms is super PACs, which can raise unlimited money, some anonymously, and which increasingly dominate political spending. Without paycheck deductions, unions would have no way of participating, but billionaires and businesses could still spend freely.”

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of San Leandro supports the rights of workers in San Leandro and throughout California represented by a labor union to make their voices heard in the political process; and

BE IT FURTHER RESOLVED that the City Council of the City of San Leandro does not support Proposition 32 and urges voters to vote “no” on Proposition 32 in the November 2012 election.