

First Extraordinary Session, 2008

HOUSE BILL NO. 89

BY REPRESENTATIVES RICHARD, ANDERS, ARMES, ARNOLD, AUBERT, AUSTIN  
BADON, BOBBY BADON, BALDONE, BARRAS, BILLIOT, BURFORD,  
HENRY BURNS, BURRELL, CARTER, CAZAYOUX, CHAMPAGNE,  
CHANEY, CONNICK, CORTEZ, CROMER, DANAHAY, DOERGE, DOVE,  
EDWARDS, FOIL, FRANKLIN, GALLOT, GISCLAIR, ELBERT GUILLORY,  
GUINN, HARDY, HARRISON, HAZEL, HENDERSON, HENRY, HINES,  
HOFFMANN, HONEY, HOWARD, HUTTER, GIROD JACKSON, JOHNSON,  
ROSALIND JONES, LABRUZZO, LAMBERT, LEGER, LIGI, LOPINTO,  
LORUSSO, MILLS, MONICA, MONTUCET, MORRELL, NOWLIN,  
PEARSON, PERRY, PETERSON, PONTI, PUGH, RICHARDSON, RICHMOND,  
ROBIDEAUX, ROY, SCHRODER, SIMON, GARY SMITH, JANE SMITH,  
PATRICIA SMITH, ST. GERMAIN, TALBOT, TEMPLET, TRAHAN,  
WADDELL, WHITE, WILLIAMS, WILLMOTT, AND WOOTON

CAMPAIGN FINANCE: Prohibits the use of campaign funds to pay fines, fees, and penalties assessed pursuant to the Campaign Finance Disclosure Act (Item #7)

1 AN ACT

2 To amend and reenact R.S. 18:1505.2(O) and to enact R.S. 18:1505.2(I)(4), relative to  
3 campaign finance; to provide relative to the use of campaign funds; to provide for  
4 the payment of campaign finance fines, fees, and penalties; and to provide for related  
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 18:1505.2(O) is hereby amended and reenacted and R.S.  
8 18:1505.2(I)(4) is hereby enacted to read as follows:

9 §1505.2. Contributions; expenditures; certain prohibitions and limitations

10 \* \* \*

11 I.

12 \* \* \*

13 (4) No candidate, political committee, person required to file reports under  
14 this Chapter, nor any other person shall use a contribution, loan, or transfer of funds



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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law [R.S. 1:13(B)] and do not constitute proof or indicia of legislative intent. [R.S. 24:177(E)]

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Richard

HB No. 89

**Abstract:** Specifies that a fine, fee, or penalty assessed for a campaign finance violation shall be paid only by the person against whom the fine, fee, or penalty was assessed and that such fines, fees, or penalties may be paid only with the personal funds of such person or with contributions. Specifies that no candidate, political committee, or person who files reports under the CFDA, nor any other person, shall use campaign contributions, loans, or transfers of funds, to pay a fine, fee, or penalty imposed under the Code of Governmental Ethics (Chapter 15 of Title 42).

Present law (R.S. 18:1505.2(O)) permits the supervisory committee (ethics board) to prohibit a candidate or elected official from using contributions received by, or other campaign funds of, such candidate or elected official or the principal or a subsidiary campaign committee of such candidate or elected official to pay a fine, fee, or penalty, assessed for a violation of the Campaign Finance Disclosure Act (CFDA) upon a finding that the violation was intentional or egregious. Defines "intentional" as actions which, in the considered opinion of the supervisory committee, were designed to avoid full and accurate compliance with the CFDA. Defines "egregious" as actions which, in the considered opinion of the supervisory committee, significantly injured the public's right to full and accurate disclosure of the financing of election campaigns.

Present law (R.S. 18:1483) defines "person" for purposes of the CFDA as any individual, partnership, limited liability company or corporation, association, labor union, political committee, corporation, or other legal entity, including their subsidiaries.

Proposed law (R.S. 18:1505.2(O)) retains present law and further provides that a fine, fee, or penalty assessed for a violation of the CFDA shall be paid only by the person against whom the fine, fee, or penalty was assessed and CFDA fines, fees, or penalties may be paid only with the personal funds of such person or with contributions in accordance with present law (R.S. 18:1505.2(I)).

Present law (R.S. 18:1505.2(I)) permits a candidate or a political committee to expend campaign contributions for any lawful purpose, but prohibits the use, loan, or pledging of such funds by any person for personal use unrelated to a political campaign, the holding of a public office or party position, or, in the case of a political committee other than a candidate's principal campaign committee or subsidiary committee, the administrative costs or operating expenses of the political committee. However, provides that excess campaign funds may be returned to contributors on a pro rata basis, given as a charitable contribution as provided in federal law (26 U.S.C. 170(c)), given to a charitable organization as defined in federal law (26 U.S.C. 501(c)(3)), expended in support of or in opposition to a proposition, political party, or candidacy of any person, or maintained in a segregated fund for use in future political campaigns or activity related to preparing for future candidacy to elective office. These provisions apply to campaign funds received on or after July 15, 1988. Otherwise provides with respect to personal use of campaign funds. Present law (R.S. 18:1505.2(I)(3)) further prohibits a candidate or his principal or subsidiary campaign committee from expending funds derived from contributions for any purpose so long as the candidate owes a fine, fee, or penalty imposed by a final order of a court or the supervisory committee pursuant to the CFDA and against which all appeal delays have lapsed. Provision is applicable to all contributions regardless of the date received by the candidate or committee. Present law provides that a person who violates present law (relative to such

expenditures when such a fine, fee, or penalty is owed) may be assessed a civil penalty not to exceed 200% of the expenditure or \$1,000, whichever is greater.

Proposed law (R.S. 18:1505.2(I)(4)) retains present law, but provides that no candidate, political committee, or person who files reports under the CFDA, nor any other person, shall use campaign contributions, loans, or transfers of funds, to pay a fine, fee, or penalty imposed under the Code of Governmental Ethics (Chapter 15 of Title 42).

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 18:1505.2(O); Adds R.S. 18:1505.2(I)(4))

#### Summary of Amendments Adopted by House

##### House Floor Amendments to the engrossed bill.

1. Removes provisions that would have prohibited the use of campaign funds to pay fines, fees, and penalties assessed pursuant to the Campaign Finance Disclosure Act (CFDA), provided for penalties, and repealed provisions that authorize the supervisory committee to prohibit the use of campaign funds to pay fines, fees, or penalties assessed for violations of the CFDA.
2. Adds provisions that provide that:
  - (a) A fine, fee, or penalty assessed for a campaign finance violation shall be paid only by the person against whom the fine, fee, or penalty was assessed and that such fines, fees, or penalties may be paid only with the personal funds of such person or with contributions.
  - (b) No candidate, political committee, or person who files reports under the CFDA, nor any other person, shall use campaign contributions, loans, or transfers of funds to pay a fine, fee, or penalty imposed under the Code of Governmental Ethics.
3. Changes effective date from March 1, 2008, to governor's signature.