



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

MEMORANDUM

To: Chair Remke and Commissioners Casher, Eskovitz, Wasserman and Wynne
From: Sukhi K. Brar, Senior Commission Counsel and Legislative Coordinator
Subject: Legislative Update
Date: August 5, 2015

The Legislature began the 2015-2016 Legislative session on December 1, 2014. This report includes a summary of the bills currently pending before the Legislature that would impact the Political Reform Act (the Act).

Commission Supported Bills

AB 594 (Gordon)

Introduced: February 24, 2015
Amended: June 29, 2015

Existing Law

The Act provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees.

Currently, committees generally file two semi-annual statements every year covering all campaign activity for a period of six months. In election years, committees also file two pre-election reports as it gets closer to the election that provide an overall picture of that activity for each committee that is involved in the upcoming election. In addition to these reports, committees that make or receive contributions of \$1,000 or more or make independent expenditures of \$1,000 or more in the last 90 days before the election must file an additional report within 24 hours of such activity. Before 2013, this 24-hour reporting period covered only the last 16 days before an election but was expanded to the last 90 days in 2013.

Supplemental preelection reports are also required to be filed at specific times when a candidate or committee makes contributions of \$10,000 or more in connection with an election. In reality, such activity has already been disclosed on the 24-hour reports making the filing of these supplemental preelection reports redundant and therefore unnecessary. Also, contribution limits were imposed after this filing requirement and due to those limits, this report is rarely triggered. Additionally, supplemental independent expenditure reports also are required to be filed when a

candidate or committee has made independent expenditures of \$1,000 or more in a calendar year. Again, the majority of this activity will have already been captured on a 24-hour report, making this report duplicative. By eliminating redundancy, clarifying obligations and providing consistency in reporting, the bill fosters better compliance, which in turn results in greater disclosure.

Proposed Law

The bill proposes the following changes to the Act:

1. Eliminates duplicative reports. The current filing schedules are difficult to understand. This bill eliminates reports that are duplicative in order to streamline the filing requirements without sacrificing disclosure. Specifically, the bill eliminates the requirement to file supplemental preelection reports and supplemental independent expenditure reports. As explained above, the need for supplemental preelection statements and supplemental independent expenditure reports have been eliminated because with the implementation of contribution limits and the extension of the 24-hour reporting period from 16 days to 90 days a few years ago, these statements have become almost entirely duplicative and unnecessary.
2. Clarifies that the 90-day 24-hour reporting period includes the election date itself, in addition to the 90 days before the election, making those provisions consistent throughout the Act.
3. Clarifies requirements for who has to file preelection statements and provides uniform timelines. Currently, the Act's preelection reporting requirements are very complicated and difficult to understand. This bill clarifies which candidates and committees must file these reports before the election, while still maintaining relevant and timely disclosure. The new provisions create a filing timeline for these reports that is uniform in both odd and even years.
4. Raises the recipient committee qualification threshold from \$1,000 to \$2,000 and makes conforming adjustments. This amount has not been changed since 1987. When adjusted for inflation this threshold would be over \$2,000 today. The increased threshold will encourage qualified individuals who plan to engage in the political process and who have very low levels of activity to run for office. This increase in threshold is supported by the Special Districts Association, an organization that works with many of those running in smaller races. The bill is also supported by California Forward an organization dedicated to focusing government agencies on improving results and restoring public trust.

At its April 2015 meeting, the Commission voted to support this bill (4-1).

Status: In Senate Appropriations

Cost Estimate: Minor and absorbable.

Commission Position: Support

Active Bills Pending in the Legislature Amending the Political Reform Act

SB 21 (Hill)

Introduced: December 1, 2014

Existing Law

The Act prohibits public officials from receiving gifts in excess of \$460 from a single source in a calendar year, with exceptions. One exception to this gift limit is for payments made to public officials for travel reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy and paid for by a 501(c)(3) nonprofit organization.

Public officials are required to report travel payments from nonprofits on their Statements of Economic Interests (Form 700). If a donor uses a nonprofit as an intermediary (as defined in Regulation 18945) to make payments to public officials for travel, the donor to the nonprofit is considered to be the true source of the travel gift. In these cases, the public official is required to report the *donor* to the nonprofit and the *nonprofit* on his or her Form 700. The travel gift is also subject to the Act's \$460 gift limit. The true source of the travel payments and the public official are subject to violations for failing to comply with the requirements of this gift limit exception.

Proposed Law

This bill requires a nonprofit organization that makes travel payments of \$10,000 or more a year for elected state officers or local elected officeholders to disclose to the Commission the names of donors responsible for funding the payments if the donation was \$1,000 or more, and the donor knew or had reason to know the donation would be used to pay for travel, which includes conditions when the donor, agent or employee, or representative of the donor accompanies the official on a trip organized by the nonprofit. The bill also requires a person who receives a gift of a travel payment from any source to report the travel destination on his or her Form 700.

While disclosure of true sources of gifts of travel is important, due to the way this bill is currently drafted it may cause greater confusion over how to report gifts of travel and may not provide more disclosure than is already required with some exceptions. The author's office is dedicated to improving the bill and finding ways to fix any loopholes in reporting true sources of travel gifts. Staff is working closely with the author's office to find ways to achieve meaningful reform in this area, and we anticipate significant amendments to this bill in the near future.

Status: In Assembly Appropriations
Cost Estimate: \$178,778

AB 10 (Gatto)

Introduced: December 1, 2014

Amended: July 14, 2015

Existing Law

The Act prohibits a public official at any level of state or local government from making, participating in making, or in any way attempting to use his or her official position to influence a governmental decision in which the public official knows or has reason to know that he or she has a financial interest. A public official has a financial interest in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on a business entity in which the official has a direct or indirect investment worth \$2,000 or more, real property in which the public official has a direct or indirect interest worth \$2,000 or more, and sources of income aggregating \$500 or more in value within 12 months prior to the time when the decision is made. The Act requires certain public officials to file a Statement of Economic Interests (Form 700) disclosing investments, real property interests, and income within specified periods of assuming or leaving office, and annually while holding office. The Act requires the disclosures to include information indicating, within a specified reporting range, the fair market value of the specified financial interests the public official is reporting.

The Act requires elected officers to report behested payments of \$5,000 or more within 30 days.

The Act requires public officials to recuse themselves from making, participating or attempting to influence governmental decisions in which they have conflicts of interest. Certain high level officials are also required to announce a conflict at the public meeting at which the decision is being made prior to recusal and the vote on the item.

Proposed Law

This bill increases the thresholds at which a public official has a disqualifying financial interest in sources of income from \$500 to \$1,000, investments in business entities from \$2,000 to \$5,000, and in interests in real property from \$2,000 to \$10,000. The bill also makes conforming adjustments to the thresholds at which income, investments, and interests in real property must be disclosed on the official's Form 700. The bill revises the dollar amounts associated with the reporting ranges for each of the financial interests to include more ranges from \$100,000 up to \$2,000,000. Additionally, this bill requires certain public officials to disclose information on the official's Form 700 relating to governmental decisions for which the public official had a disqualifying financial interest.

The bill also expands the reporting of behested payments. Current law requires elected officials to file behested payment reports while in office. The bill would also require legislators and those who are elected to statewide office to file behested payment reports for 12 months *after* they leave office when such payments would financially benefit the former officeholder or his or her immediate family, the former officeholder's employer or the employer of a member of his or her immediate family, or an entity with whom the former officeholder or a member of his or her immediate family is negotiating employment.

This bill requires officials who recuse themselves from governmental decisions due to a conflict of interest to disclose each instance of recusal on their Form 700.

As for revising the Form 700 reporting ranges for investments, real property and income to include additional dollar amount ranges, staff believes that the current reporting ranges provide enough information to public officials and the public as to when a public official may have a conflict of interest.

As for requiring public officials to report each instance of recusal due to conflicts on the Form 700, in most cases, this additional reporting will happen many months after the recusal occurs as the form is not due until March or April of the following year. The purpose of the Form 700 is to alert public officials and the public to potential conflicts of interest that *may* occur by disclosing financial interests a public official holds now. To reach this goal, under current law when a public official is required to announce a conflict and recuse him or herself from a governmental decision, this information is recorded in the public meeting minutes of the body the official represents. The existing requirement of reporting the recusal in real time and in public meeting minutes soon after the recusal seems to be timely and sufficient disclosure of this information.

Status: In Senate Appropriations

Cost Estimate: \$341,554 one time, \$130,083 ongoing

AB 700 (Gomez)

Introduced: February 25, 2015

Amended May 21, 2015

Existing Law

The Act imposes a disclosure requirement with respect to advertisements supporting or opposing a ballot measure when a committee pays an individual \$5,000 or more to appear in the advertisement or when the advertisement states or suggests an individual appearing in the advertisement is of a certain occupation. The disclosure statement on such ads must be shown continuously on printed advertisements and televised advertisements. It must be read in a clearly audible format if the advertisement is a radio or telephone message.

Proposed Law

This bill extends the current spokesperson disclosure statement requirements to television or video advertisements, meaning they would apply to internet or other electronic forms of communication.

After speaking with the author's office, staff anticipates significant amendments to this bill.

Status: In Assembly Appropriations

AB 990 (Bonilla)

Introduced: July 2, 2015 (Gut and Amend)

Amended: July 15, 2015

Existing Law:

The Act provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. The Act additionally imposes various disclosure statement requirements with respect to advertisements supporting or opposing a candidate or ballot measure, including a requirement that the disclosure statements be printed clearly and legibly in no less than 10-point type and in a conspicuous manner. The Act also requires that an advertisement supporting or opposing a candidate that is paid for by an independent expenditure include a statement that it was not authorized by a candidate or a committee controlled by a candidate.

Proposed Law:

This bill requires that campaign advertisement disclosure statements be printed in no less than 18-point, bold, sans serif type font. The bill requires that an advertisement supporting or opposing a candidate that is paid for by an independent expenditure include a disclosure statement with specific content, and if the advertisement is mailed, requires that the disclosure statement be located within a quarter of an inch of the recipient's name and address and be contained within a box that meets prescribed criteria for line width and include a contrasting color background to the rest of the mailer. This bill contains an urgency clause, which would make the bill effective immediately upon passage.

Staff recognizes that requiring an 18-point font size will raise constitutional issues of free speech and the Commission would likely be subject to litigation over this requirement. When a law burdens core political speech, the restrictions on speech generally must be narrowly tailored to serve an overriding state interest. (*McIntyre v. Ohio Elections Commission* (1995), 514 US 334.) The 18-point font size requirement could be challenged as an unconstitutional restriction upon the First Amendment right to free speech because opponents could argue the requirement is not narrowly tailored to serve an overriding state interest as a smaller font size would achieve the same purposes and be less burdensome upon the speaker.

Status: In Senate Elections

AB 1083 (Eggman)

Introduced February 27, 2015

Existing Law

Existing law allows the Commission to contract with the County of San Bernardino to provide advice and enforcement of its local campaign rules.

Proposed Law

This bill would allow the Commission to contract with the City of Stockton to provide advice and enforcement of local campaign rules.

The Commission's San Bernardino advice and enforcement program is working well. While staff recognizes the Commission may not be able to take on the task of advising upon or enforcing every city and county's' campaign finance ordinances, special cases like that of the City of Stockton may require outside assistance such as that of the Commission with these tasks.

Status: Headed to Governor's Desk

Cost Estimate: Minor and absorbable.

AB 1200 (Gordon)

Introduced: February 27, 2015

Amended: June 30, 2015

Existing Law

Existing provisions of the Act regulate the activities of lobbyists, lobbying firms, and lobbyist employers in connection with attempts to influence legislative and administrative action and require reporting of such activity. "Administrative action" is defined in the Act to include the proposal, drafting, development, consideration, amendment, enactment or defeat by any state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi legislative proceeding.

Proposed Law

This bill defines "administrative action" to include "governmental procurement." The bill makes the Act's lobbyist reporting requirements applicable to actions that attempt to influence governmental procurement activities. Government procurement under the bill would include the following:

- (1) Preparing the terms, specifications, bid documents, request for proposals, or evaluating criteria for a procurement contract.

- (2) Soliciting for a procurement contract.
- (3) Evaluating a procurement contract.
- (4) Scoring criteria for the procurement contract.
- (5) Awarding, approving, denying, or disapproving a procurement contract.

The bill would exempt bona fide sales persons from its provisions. A bona fide salesperson is defined in the bill as someone whose primary purpose of employment is the sale of an article of procurement and is not to influence the actions of a public officer or state agency with regard to the above listed activities defining government procurement. The bill applies to state contracts valued at \$250,000 or more.

Staff believes there are concerns with implementation and interpretation of the provisions in this bill as currently drafted. Staff has contacted the author's office about such concerns and is continuing to monitor this bill.

Status: Senate Appropriations
Cost Estimate: \$1.2 M

AB 1544 (Cooley)

Introduced: July 15, 2015

Existing Law

A payment made at the behest of a candidate principally for legislative, governmental, or charitable purposes is presumed to be unrelated to a candidate's candidacy and therefore are not limited or required to be reported as a campaign contribution. However, these payments are required to be reported as behested payments. Also, a payment made at the behest of a candidate by a state, local or federal government agency is also presumed to be unrelated to a candidate's candidacy, is not limited and is not considered to be a campaign contribution, but must be reported as a behested payment under certain circumstances. Behested payments are required to be reported if they total \$5,000 or more in the aggregate from a single source in a calendar year. For purposes of the Act, an elected officer retains his or her status as a candidate for that office until the officer has terminated all of his or her committees and no longer holds the office.

Proposed Law

This bill creates a conclusive presumption that a payment made at the behest of a candidate who is an elected officer is unrelated to the elected officer's candidacy and is exempt from the behested payments reporting requirement *if* the payment is made by a state, local, or federal government agency and is principally for legislative or governmental purposes. The payment would be exempt from reporting requirements regardless of who received the payment, meaning the government agency could make the payment to another government agency, a nonprofit or a private third party.

The purpose of the behested payment reporting rule is to inform the public of payments solicited by or made in coordination with state and local elected officers and PUC members that are not contributions, income or gifts, but in which the public would have an interest because of the actual or perceived influence such a payment would have on the official. This bill intends to eliminate the reporting of behested payments when a payment is made by a government agency to anyone including nonprofit organizations. While staff recognizes that payments made by government entities could generally be for purposes related to the public good, staff is concerned this bill is not furthering the purposes behind the Act's behested payment reporting provisions because the entities receiving such payments could have ties to the officials requesting the payments.

Status: Introduced

Two-Year Bills Pending in the Legislature Amending the Political Reform Act

SB 283 (Nielsen)

Introduced: February 19, 2015

Amended: March 26, 2015

Existing Law

The Act requires the Attorney General to prepare a ballot label, title and summary for each statewide ballot measure and to include this summary in the ballot pamphlet.

Proposed Law

This bill would require the Legislative Analyst, instead of the Attorney General prepare the ballot label, title and summary for all measures submitted to voters.

Status: In Senate Elections Committee (2-yr. bill.)

AB 834 (Salas)

Introduced: February 26, 2015

Amended March 26, 2015

Existing Law

The Act prohibits an incumbent from sending a newsletter or other mass mailing at public expense.

Proposed Law

This bill would define a “public advertisement” as an advertisement that is paid for from the funds of a state or local public entity. This bill would prohibit a person or entity from disseminating, broadcasting, or otherwise publishing a public advertisement, within 90 days of an election if the advertisement features, a candidate who will appear on the ballot at that election.

Status: In Assembly Elections Committee (2-yr. bill.)

AB 910 (Harper)

Introduced: February 26, 2015

Amended: March 19, 2015

Existing Law

Existing law allows the Commission to contract with the County of San Bernardino to provide advice and enforcement of its local campaign rules.

Proposed Law

This bill would allow the Commission to contract with any city or county to provide advice and enforcement of local campaign rules.

Status: In Assembly Elections Committee (2-yr. bill.)

AB 1494 (Levine)

Introduced: February 27, 2015

Amended: April 22, 2015

Existing Law

The Act requires a committee that makes an independent expenditure of \$1,000 or more during the 90-day election cycle in connection with a candidate for elective state office or a state ballot measure to disclose that expenditure by filing a report online or electronically with the Secretary of State.

Proposed Law

This bill requires a committee subject to the Act’s independent expenditure disclosure requirements to pay a fee dependent on the amount of independent expenditures the committee plans to make in a two-year period. The bill requires the Secretary of State to establish a fund

with fee revenues and allocate those funds to the Fair Political Practices Commission and local elections offices for the purpose of increasing transparency in political campaigns and voter registration and turnout.

Status: In Assembly Elections Committee (2 yr. bill.)

Government Code Section 1090 Bills Pending in the Legislature

SB 330 (Mendoza)

Introduced: February 23, 2015

Amended: July 7, 2015

Existing Law

Existing law prohibits Members of the Legislature, and state, county, district, judicial district, and city officers or employees from being financially interested in a contract made by them in their official capacity or by any body or board of which they are members, subject to specified exceptions. Existing law identifies certain remote interests that are not subject to this prohibition and other situations in which an official is not deemed to be financially interested in a contract, including, among others, that of a parent in the earnings of his or her minor child for personal services.

Proposed Law

The bill will delete interests of a parent in the earnings of his or her minor children for personal services from the list of remote interests and instead this bill will include within the definition of remote interests that of a public officer who is an elected member of any state or local body, board, or commission, if that public officer's spouse, child, parent, sibling, or the spouse of the child, parent, or sibling, has a financial interest in any contract made by that public officer in his or her official capacity, or by any body, board, or commission of which that public officer is a member.

Staff has been informed by the author's office that further amendments to this bill concerning a knowledge requirement are pending.

Status: In Assembly Appropriations

Cost Estimate: \$210, 934

SB 704 (Gaines)

Introduced on February 27, 2015

Amended: July 8, 2015

Existing Law

Existing law prohibits Members of the Legislature, state, county, district, judicial district, and city officers or employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Existing law identifies certain remote interests that are not subject to this prohibition and other situations in which an official is not deemed to be financially interested in a contract.

Proposed Law

This bill would establish an additional situation in which an official is not financially interested in a contract as applied to an owner or partner of a firm serving as an appointed member of an unelected board or commission to the contracting agency, if the owner or partner recuses himself or herself from providing any advice regarding a project and from all participation in reviewing a project that results from a contract between the firm and the contracting agency. The bill would also include in the definition of “remote interest” the interest of a planner employed by a consulting engineering, architectural, or planning firm.

Status: In Assembly Appropriations

Cost Estimate: Minor and absorbable.

AMENDED IN SENATE JUNE 29, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 594

Introduced by Assembly Member Gordon

February 24, 2015

An act to amend Sections 82013, 82036, 82036.5, 84101, 84103, 84200.6, and 84218 of, to repeal Sections 84200.7, 84202.5, and 84203.5 of, and to repeal and add Section 84200.5 of, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 594, as amended, Gordon. Political Reform Act of 1974: campaign statements.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. The act requires elected officers, candidates, and committees to file various reports, including semiannual reports, preelection statements, and supplemental preelection statements.

This bill would recast the requirements for filing preelection statements and would repeal other reporting requirements, including supplemental preelection statements and supplemental independent expenditure reports.

The act defines "committee" to include a person or combination of persons who receives contributions or makes independent expenditures of \$1,000 or more in a calendar year. The act defines "late

contributions” and “late independent expenditures” for purposes of the act to include certain contributions and independent expenditures, respectively, that are made within 90 days before the date of the election.

This bill would revise the definition of “committee” by increasing the qualifying monetary threshold to \$2,000 for contributions received by a person or combination of persons.

This bill would revise the definitions of “late contributions” and “late independent expenditures” to specify that those terms also include contributions and independent expenditures that are made on the date of the election.

The bill would also make conforming changes.

A violation of the act’s provisions is punishable as a misdemeanor. By expanding the scope of a crime, this 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 2/3 vote of each house and compliance with specified procedural requirements.

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

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

- 1 SECTION 1. Section 82013 of the Government Code is
- 2 amended to read:
- 3 82013. “Committee” means any person or combination of
- 4 persons who directly or indirectly does any of the following:
- 5 (a) Receives contributions totaling ~~one~~ two thousand dollars
- 6 (~~\$1,000~~) (\$2,000) or more in a calendar year.
- 7 (b) Makes independent expenditures totaling one thousand
- 8 dollars (\$1,000) or more in a calendar year; or
- 9 (c) Makes contributions totaling ten thousand dollars (\$10,000)
- 10 or more in a calendar year to or at the behest of candidates or
- 11 committees.

1 A person or combination of persons that becomes a committee
2 shall retain its status as a committee until such time as that status
3 is terminated pursuant to Section 84214.

4 ~~SECTION 1.~~

5 *SEC. 2.* Section 82036 of the Government Code is amended
6 to read:

7 82036. “Late contribution” means any of the following:

8 (a) A contribution, including a loan, that totals in the aggregate
9 one thousand dollars (\$1,000) or more and is made to or received
10 by a candidate, a controlled committee, or a committee formed or
11 existing primarily to support or oppose a candidate or measure
12 during the 90-day period preceding the date of the election, or on
13 the date of the election, at which the candidate or measure is to be
14 voted on. For purposes of the Board of Administration of the Public
15 Employees’ Retirement System and the Teachers’ Retirement
16 Board, “the date of the election” is the deadline to return ballots.

17 (b) A contribution, including a loan, that totals in the aggregate
18 one thousand dollars (\$1,000) or more and is made to or received
19 by a political party committee, as defined in Section 85205, within
20 90 days before the date of a state election or on the date of the
21 election.

22 ~~SEC. 2.~~

23 *SEC. 3.* Section 82036.5 of the Government Code is amended
24 to read:

25 82036.5. “Late independent expenditure” means an independent
26 expenditure that totals in the aggregate one thousand dollars
27 (\$1,000) or more and is made for or against a specific candidate
28 or measure involved in an election during the 90-day period
29 preceding the date of the election or on the date of the election.
30 For purposes of the Board of Administration of the Public
31 Employees’ Retirement System and the Teachers’ Retirement
32 Board, “the date of the election” is the deadline to return ballots.

33 ~~SEC. 3.~~

34 *SEC. 4.* Section 84101 of the Government Code is amended
35 to read:

36 84101. (a) A committee that is a committee by virtue of
37 subdivision (a) of Section 82013 shall file a statement of
38 organization. The committee shall file the original of the statement
39 of organization with the Secretary of State and shall also file a
40 copy of the statement of organization with the local filing officer,

1 if any, with whom the committee is required to file the originals
2 of its campaign reports pursuant to Section 84215. The original
3 and copy of the statement of organization shall be filed within 10
4 days after the committee has qualified as a committee. The
5 Secretary of State shall assign a number to each committee that
6 files a statement of organization and shall notify the committee of
7 the number. The Secretary of State shall send a copy of statements
8 filed pursuant to this section to the county elections official of each
9 county that he or she deems appropriate. A county elections official
10 who receives a copy of a statement of organization from the
11 Secretary of State pursuant to this section shall send a copy of the
12 statement to the clerk of each city in the county that he or she
13 deems appropriate.

14 (b) In addition to filing the statement of organization as required
15 by subdivision (a), if a committee qualifies as a committee under
16 subdivision (a) of Section 82013 before the date of an election in
17 connection with which the committee is required to file preelection
18 statements, but after the closing date of the last campaign statement
19 required to be filed before the election pursuant to Section 84200.8
20 or 84200.9, the committee shall file, by facsimile transmission,
21 online transmission, guaranteed overnight delivery, or personal
22 delivery within 24 hours of qualifying as a committee, the
23 information required to be reported in the statement of organization.
24 The information required by this subdivision shall be filed with
25 the filing officer with whom the committee is required to file the
26 originals of its campaign reports pursuant to Section 84215.

27 (c) If an independent expenditure committee qualifies as a
28 committee pursuant to subdivision (a) of Section 82013 during the
29 time period described in Section 82036.5 and makes independent
30 expenditures of one thousand dollars (\$1,000) or more to support
31 or oppose a candidate or candidates for office, the committee shall
32 file, by facsimile transmission, online transmission, guaranteed
33 overnight delivery, or personal delivery within 24 hours of
34 qualifying as a committee, the information required to be reported
35 in the statement of organization. The information required by this
36 section shall be filed with the filing officer with whom the
37 committee is required to file the original of its campaign reports
38 pursuant to Section 84215, and shall be filed at all locations
39 required for the candidate or candidates supported or opposed by

1 the independent expenditures. The filings required by this section
2 are in addition to filings that may be required by Section 84204.

3 (d) For purposes of this section, in calculating whether ~~one~~ *two*
4 thousand dollars ~~(\$1,000)~~ (\$2,000) in contributions has been
5 received, payments for a filing fee or for a statement of
6 qualifications to appear in a sample ballot shall not be included if
7 these payments have been made from the candidate's personal
8 funds.

9 ~~SEC. 4.~~

10 *SEC. 5.* Section 84103 of the Government Code is amended
11 to read:

12 84103. (a) If there is a change in any of the information
13 contained in a statement of organization, an amendment shall be
14 filed within 10 days to reflect the change. The committee shall file
15 the original of the amendment with the Secretary of State and shall
16 also file a copy of the amendment with the local filing officer, if
17 any, with whom the committee is required to file the originals of
18 its campaign reports pursuant to Section 84215.

19 (b) In addition to filing an amendment to a statement of
20 organization as required by subdivision (a), a committee as defined
21 in subdivision (a) of Section 82013 shall, by facsimile transmission,
22 online transmission, guaranteed overnight delivery, or personal
23 delivery within 24 hours, notify the filing officer with whom it is
24 required to file the originals of its campaign reports pursuant to
25 Section 84215 if the change requiring the amendment occurs before
26 the date of the election in connection with which the committee
27 is required to file a preelection statement, but after the closing date
28 of the last preelection statement required to be filed for the election
29 pursuant to Section 84200.8, if any of the following information
30 is changed:

31 (1) The name of the committee.

32 (2) The name of the treasurer or other principal officers.

33 (3) The name of any candidate or committee by which the
34 committee is controlled or with which it acts jointly.

35 The notification shall include the changed information, the date
36 of the change, the name of the person providing the notification,
37 and the committee's name and identification number.

38 A committee may file a notification online only if the appropriate
39 filing officer is capable of receiving the notification in that manner.

1 ~~SEC. 5.~~

2 ~~SEC. 6.~~ Section 84200.5 of the Government Code is repealed.

3 ~~SEC. 6.~~

4 ~~SEC. 7.~~ Section 84200.5 is added to the Government Code, to
5 read:

6 84200.5. In addition to the campaign statements required by
7 Section 84200, elected officers, candidates, and committees shall
8 file preelection statements as follows:

9 (a) All candidates appearing on the ballot to be voted on at the
10 next election, their controlled committees, and committees
11 primarily formed to support or oppose an elected officer, candidate,
12 or a measure appearing on the ballot to be voted on at the next
13 election shall file the applicable preelection statements specified
14 in Section 84200.8.

15 (b) All elected state officers and candidates for elective state
16 office who are not appearing on the ballot at the next statewide
17 primary or general election, and who, during the preelection
18 reporting periods covered by Section 84200.8, contribute to any
19 committee required to report receipts, expenditures, or
20 contributions pursuant to this title, or make an independent
21 expenditure of five hundred dollars (\$500) or more in connection
22 with the statewide primary or general election, shall file the
23 applicable preelection statements specified in Section 84200.8.

24 (c) A state or county general purpose committee formed pursuant
25 to subdivision (a) of Section 82013, other than a political party
26 committee as defined in Section 84205, shall file the applicable
27 preelection statements specified in Section 84200.8 if it makes
28 contributions or independent expenditures totaling five hundred
29 dollars (\$500) or more in connection with the statewide primary
30 or general election during the period covered by the preelection
31 statements. However, a state or county general purpose committee
32 formed pursuant to subdivision (b) or (c) of Section 82013 is not
33 required to file the preelection statements specified in Section
34 84200.8.

35 (d) A political party committee as defined in Section 84205
36 shall file the applicable preelection statements specified in Section
37 84200.8 in connection with a state election if the committee
38 receives contributions totaling one thousand dollars (\$1,000) or
39 more, or if it makes contributions or independent expenditures

1 totaling five hundred dollars (\$500) or more, in connection with
2 the election during the period covered by the preelection statement.

3 (e) A city general purpose committee formed pursuant to
4 subdivision (a) of Section 82013 shall file the applicable
5 preelection statements specified in Section 84200.8 if it makes
6 contributions or independent expenditures totaling five hundred
7 dollars (\$500) or more in connection with a city election in the
8 committee's jurisdiction during the period covered by the
9 preelection statements. However, a city general purpose committee
10 formed pursuant to subdivision (b) or (c) of Section 82013 is not
11 required to file the preelection statements specified in Section
12 84200.8.

13 (f) During an election period for the Board of Administration
14 of the Public Employees' Retirement System or the Teachers'
15 Retirement Board:

16 (1) All candidates for these boards, their controlled committees,
17 and committees primarily formed to support or oppose the
18 candidates shall file the preelection statements specified in Section
19 84200.9.

20 (2) A state or county general purpose committee formed
21 pursuant to subdivision (a) of Section 82013 shall file the
22 preelection statements specified in Section 84200.9 if it makes
23 contributions or independent expenditures totaling five hundred
24 dollars (\$500) or more during the period covered by the preelection
25 statement to support or oppose a candidate, or a committee
26 primarily formed to support or oppose a candidate on the ballot
27 for the Board of Administration of the Public Employees'
28 Retirement System or the Teachers' Retirement Board.

29 (3) However, a general purpose committee formed pursuant to
30 subdivision (b) or (c) of Section 82013 is not required to file the
31 statements specified in Section 84200.9.

32 ~~SEC. 7:~~

33 *SEC. 8.* Section 84200.6 of the Government Code is amended
34 to read:

35 84200.6. In addition to the campaign statements required by
36 Sections 84200 and 84200.5, all candidates and committees shall
37 file the following special statements and reports:

38 (a) Late contribution reports, when required by Section 84203.

39 (b) Late independent expenditure reports, when required by
40 Section 84204.

1 ~~SEC. 8.~~

2 *SEC. 9.* Section 84200.7 of the Government Code is repealed.

3 ~~SEC. 9.~~

4 *SEC. 10.* Section 84202.5 of the Government Code is repealed.

5 ~~SEC. 10.~~

6 *SEC. 11.* Section 84203.5 of the Government Code is repealed.

7 ~~SEC. 11.~~

8 *SEC. 12.* Section 84218 of the Government Code is amended

9 to read:

10 84218. (a) A slate mailer organization shall file semiannual
11 campaign statements no later than July 31 for the period ending
12 June 30, and no later than January 31 for the period ending
13 December 31.

14 (b) In addition to the semiannual statements required by
15 subdivision (a), a slate mailer organization which produces a slate
16 mailer supporting or opposing candidates or measures being voted
17 on in an election shall file the statements specified in Section
18 84200.8 if, during the period covered by the preelection statement,
19 the slate mailer organization receives payments totaling five
20 hundred dollars (\$500) or more from any person for the support
21 of or opposition to candidates or ballot measures in one or more
22 slate mailers, or expends five hundred dollars (\$500) or more to
23 produce one or more slate mailers.

24 (c) A slate mailer organization shall file two copies of its
25 campaign reports with the clerk of the county in which it is
26 domiciled. A slate mailer organization is domiciled at the address
27 listed on its statement of organization unless it is domiciled outside
28 California, in which case its domicile shall be deemed to be Los
29 Angeles County for purposes of this section.

30 In addition, slate mailer organizations shall file campaign reports
31 as follows:

32 (1) A slate mailer organization which produces one or more
33 slate mailers supporting or opposing candidates or measures voted
34 on in a state election, or in more than one county, shall file
35 campaign reports in the same manner as state general purpose
36 committees pursuant to subdivision (a) of Section 84215.

37 (2) A slate mailer organization which produces one or more
38 slate mailers supporting or opposing candidates or measures voted
39 on in only one county, or in more than one jurisdiction within one
40 county, shall file campaign reports in the same manner as county

1 general purpose committees pursuant to subdivision (c) of Section
2 84215.

3 (3) A slate mailer organization which produces one or more
4 slate mailers supporting or opposing candidates or measures voted
5 on in only one city shall file campaign reports in the same manner
6 as city general purpose committees pursuant to subdivision (d) of
7 Section 84215.

8 (4) Notwithstanding the above, no slate mailer organization
9 shall be required to file more than the original and one copy, or
10 two copies, of a campaign report with any one county or city clerk
11 or with the Secretary of State.

12 ~~SEC. 12.~~

13 *SEC. 13.* No reimbursement is required by this act pursuant
14 to Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

22 ~~SEC. 13.~~

23 *SEC. 14.* The Legislature finds and declares that this bill
24 furthers the purposes of the Political Reform Act of 1974 within
25 the meaning of subdivision (a) of Section 81012 of the Government
26 Code.

Introduced by Senator HillDecember 1, 2014

An act to amend Sections 87207 and 89506 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 21, as introduced, Hill. Political Reform Act of 1974: gifts of travel.

The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing and related matters, including the reporting of gifts, as defined. The act prohibits specified officers from receiving gifts in excess of \$440 in value from a single source in a calendar year. The act exempts gift payments for the actual costs of specified types of travel that are reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, from the annual limit on the value of gifts from a single source.

This bill would require a nonprofit organization that pays for these types of travel for an elected state officer or local elected officeholder to disclose the names of donors responsible for funding the payments, as specified. The bill would require a person who receives a gift of a travel payment from any source to report the travel destination on his or her statement of economic interests.

A violation of the Act's provisions is punishable as a misdemeanor. By expanding the scope of an existing crime, this 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 and compliance with specified procedural requirements.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 87207 of the Government Code is
2 amended to read:

3 87207. (a) ~~When~~*If* income is required to be reported under
4 this article, the statement shall contain, except as provided in
5 subdivision (b):

6 (1) The name and address of each source of income aggregating
7 five hundred dollars (\$500) or more in value, or fifty dollars (\$50)
8 or more in value if the income was a gift, and a general description
9 of the business activity, if any, of each source.

10 (2) A statement whether the aggregate value of income from
11 each source, or in the case of a loan, the highest amount owed to
12 each source, was at least five hundred dollars (\$500) but did not
13 exceed one thousand dollars (\$1,000), whether it was in excess of
14 one thousand dollars (\$1,000) but was not greater than ten thousand
15 dollars (\$10,000), whether it was greater than ten thousand dollars
16 (\$10,000) but not greater than one hundred thousand dollars
17 (\$100,000), or whether it was greater than one hundred thousand
18 dollars (\$100,000).

19 (3) A description of the consideration, if any, for which the
20 income was received.

21 (4) In the case of a gift, the amount and the date on which the
22 gift was received, *and the travel destination for purposes of a gift*
23 *that is a travel payment, advance, or reimbursement.*

24 (5) In the case of a loan, the annual interest rate, the security,
25 if any, given for the loan, and the term of the loan.

26 (b) ~~When~~*If* the filer's pro rata share of income to a business
27 entity, including income to a sole proprietorship, is required to be
28 reported under this article, the statement shall contain:

1 (1) The name, address, and a general description of the business
2 activity of the business entity.

3 (2) The name of every person from whom the business entity
4 received payments if the filer's pro rata share of gross receipts
5 from that person was equal to or greater than ten thousand dollars
6 (\$10,000) during a calendar year.

7 (c) ~~When~~*If* a payment, including an advance or reimbursement,
8 for travel is required to be reported pursuant to this section, it may
9 be reported on a separate travel reimbursement schedule which
10 shall be included in the filer's statement of economic interest. A
11 filer who chooses not to use the travel schedule shall disclose
12 payments for travel as a gift, unless it is clear from all surrounding
13 circumstances that the services provided were equal to or greater
14 in value than the payments for the travel, in which case the travel
15 may be reported as income.

16 SEC. 2. Section 89506 of the Government Code is amended
17 to read:

18 89506. (a) Payments, advances, or reimbursements; for travel,
19 including actual transportation and related lodging and subsistence
20 that is reasonably related to a legislative or governmental purpose,
21 or to an issue of state, national, or international public policy, are
22 not prohibited or limited by this chapter if either of the following
23 ~~apply~~ *applies*:

24 (1) The travel is in connection with a speech given by the elected
25 state officer, local elected officeholder, candidate for ~~elected~~
26 *elective* state office or local ~~elected~~, *elective* office, an individual
27 specified in Section 87200, member of a state board or commission,
28 or designated employee of a state or local government agency, the
29 lodging and subsistence expenses are limited to the day
30 immediately preceding, the day of, and the day immediately
31 following the speech, and the travel is within the United States.

32 (2) The travel is provided by a government, a governmental
33 agency, a foreign government, a governmental authority, a bona
34 fide public or private educational institution, as defined in Section
35 203 of the Revenue and Taxation Code, a nonprofit organization
36 that is exempt from taxation under Section 501(c)(3) of the Internal
37 Revenue Code, or by a person domiciled outside the United States
38 ~~which~~ *who* substantially satisfies the requirements for tax-exempt
39 status under Section 501(c)(3) of the Internal Revenue Code.

1 (b) Gifts of travel not described in subdivision (a) are subject
2 to the limits in Section 89503.

3 (c) Subdivision (a) applies only to travel that is reported on the
4 recipient's statement of economic interests.

5 (d) For purposes of this section, a gift of travel does not include
6 any of the following:

7 (1) Travel that is paid for from campaign funds, as permitted
8 by Article 4 (commencing with Section 89510), or that is a
9 contribution.

10 (2) Travel that is provided by the agency of a local elected
11 officeholder, an elected state officer, member of a state board or
12 commission, an individual specified in Section 87200, or a
13 designated employee.

14 (3) Travel that is reasonably necessary in connection with a
15 bona fide business, trade, or profession and that satisfies the criteria
16 for federal income tax deduction for business expenses in Sections
17 162 and 274 of the Internal Revenue Code, unless the sole or
18 predominant activity of the business, trade, or profession is making
19 speeches.

20 (4) Travel that is excluded from the definition of a gift by any
21 other provision of this title.

22 (e) This section does not apply to payments, advances, or
23 reimbursements for travel and related lodging and subsistence
24 permitted or limited by Section 170.9 of the Code of Civil
25 Procedure.

26 (f) (1) *A nonprofit organization that makes payments, advances,
27 or reimbursements that total more than ten thousand dollars
28 (\$10,000) in a calendar year, or that total more than five thousand
29 dollars (\$5,000) in a calendar year for a single person, for travel
30 by an elected state officer or local elected officeholder as described
31 in subdivision (a) shall disclose to the Commission the names of
32 the donors responsible for funding those payments, advances, or
33 reimbursements. The disclosure of donor names shall be limited
34 to donors who donated one thousand dollars (\$1,000) or more to
35 the nonprofit organization in a calendar year and who knew or
36 had reason to know that the donation would be used for a payment,
37 advance, or reimbursement for travel by an elected state officer
38 or local elected officeholder as described in subdivision (a).*

1 (2) A donor knows or has reason to know that his or her
2 donation will be used in the manner described in paragraph (1)
3 under any of the following conditions:

4 (A) The donor directed the nonprofit organization to use the
5 donation to make a payment, advance, or reimbursement for travel
6 by an elected state officer or local elected officeholder as described
7 in subdivision (a).

8 (B) The donor made the donation in response to a message or
9 solicitation for donations for the stated purpose of making a
10 payment, advance, or reimbursement for travel by an elected state
11 officer or local elected officeholder as described in subdivision
12 (a).

13 (C) The donor, or an agent, employee, or representative of the
14 donor, accompanied an elected state officer or local elected
15 officeholder for any portion of travel as described in subdivision
16 (a).

17 (3) For purposes of Sections 87103, 87207, and 89503, a
18 nonprofit organization that makes payments, advances, or
19 reimbursements for travel by an elected state officer or local
20 elected officeholder as described in subdivision (a) is the source
21 of the gift unless the nonprofit organization is acting as an
22 intermediary or agent of the donor. If the nonprofit organization
23 is acting as an intermediary or agent of the donor, all of the
24 following apply:

25 (A) The donor to the nonprofit organization is the source of the
26 gift.

27 (B) The donor shall be identified as a financial interest under
28 Section 87103.

29 (C) The gift shall be reported as required by Section 87207.

30 (D) The gift shall be subject to the limitations on gifts specified
31 in Section 89503.

32 SEC. 3. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within
39 the meaning of Section 6 of Article XIII B of the California
40 Constitution.

1 SEC. 4. The Legislature finds and declares that this bill furthers
2 the purposes of the Political Reform Act of 1974 within the
3 meaning of subdivision (a) of Section 81012 of the Government
4 Code.

O

AMENDED IN SENATE JULY 14, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 10

Introduced by Assembly Member Gatto

December 1, 2014

An act to amend Sections 82015, 82033, 82034, 87103, 87206, and 87207 of, and to add Sections 87206.5 and 87211 to, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 10, as amended, Gatto. Political Reform Act of 1974: behested payments and economic interest disclosures.

(1) The Political Reform Act of 1974 requires elected officers, candidates, and committees to file semiannual campaign statements that include, among other things, the total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received. The act provides that contributions include a payment made at the behest of a candidate unless full and adequate consideration is received from the candidate or it is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The act provides that a payment made principally for legislative, governmental, or charitable purposes is presumed to be made for purposes unrelated to a candidate's candidacy for elective office and is neither a gift nor a contribution. The act requires a payment of this type made at the behest of a candidate who is an elected officer to be reported within 30 days following the date on which the payment or payments

equal or exceed \$5,000 in the aggregate from the same source in the same calendar year in which the payments are made.

~~This bill would also require candidates who are required to file campaign statements, and elected officers~~ *a Member of the Legislature or a person elected to a statewide elective office*, for one year after ~~they leave~~ *he or she leaves* elective office, to report within 30 days following the date on which a behested payment or payments are made for legislative, governmental, or charitable purposes that equal or exceed \$5,000 in the aggregate from the same source in the same calendar year in which the payments are made. *The bill would only require a Member of the Legislature or a person elected to a statewide elective office to report the behested payment or payments, as described above, if the behested payment or payments would financially benefit the former officerholder or his or her immediate family, the former officeholder's employer or the employer of a member of his or her immediate family, or an entity with whom the former officeholder or a member of his or her immediate family is negotiating employment.*

(2) The Political Reform Act of 1974 prohibits a public official at any level of state or local government from making, participating in making, or in any way attempting to use his or her official position to influence a governmental decision in which the public official knows or has reason to know that he or she has a financial interest. A public official has a financial interest in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on a business entity in which the public official has a direct or indirect investment worth \$2,000 or more, real property in which the public official has a direct or indirect interest worth \$2,000 or more, and sources of income aggregating \$500 or more in value within 12 months ~~prior to~~ *before* the time when the decision is made.

The Political Reform Act of 1974 requires persons holding specified public offices to file disclosures of investments, real property interests, and income within specified periods of assuming or leaving office, and annually while holding the office. The act requires the disclosures to include a statement indicating, within a specified value range, the fair market value of investments or interests in real property and the aggregate value of income received from a source.

This bill would increase the thresholds at which a public official has a disqualifying financial interest in sources of income from \$500 to

\$1,000, in investments in business entities from \$2,000 to \$5,000, and in interests in real property from \$2,000 to \$10,000.

~~The~~ *This* bill would make conforming adjustments to the thresholds at which income, investments, and interests in real property must be disclosed on a public official’s statement of economic interests. The bill would also revise the dollar amounts associated with the value ranges for reporting the value of economic interests.

This bill would require certain public officials to disclose information on the official’s statement of economic interests relating to governmental decisions for which the public official had a disqualifying financial interest, as specified.

Existing law makes a knowing or willful violation of the act a misdemeanor and subjects offenders to criminal penalties.

By creating additional crimes, this bill would impose a state-mandated local program.

(3) 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.

(4) 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 2/3 vote of each house and compliance with specified procedural requirements.

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

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 82015 of the Government Code is
2 amended to read:

3 82015. (a) “Contribution” means a payment, a forgiveness of
4 a loan, a payment of a loan by a third party, or an enforceable
5 promise to make a payment except to the extent that full and
6 adequate consideration is received, unless it is clear from the
7 surrounding circumstances that it is not made for political purposes.

8 (b) (1) A payment made at the behest of a committee, as defined
9 in subdivision (a) of Section 82013, is a contribution to the

1 committee unless full and adequate consideration is received from
2 the committee for making the payment.

3 (2) A payment made at the behest of a candidate is a contribution
4 to the candidate unless the criteria in either subparagraph (A) or
5 (B) are satisfied:

6 (A) Full and adequate consideration is received from the
7 candidate.

8 (B) It is clear from the surrounding circumstances that the
9 payment was made for purposes unrelated to his or her candidacy
10 for elective office. The following types of payments are presumed
11 to be for purposes unrelated to a candidate's candidacy for elective
12 office:

13 (i) A payment made principally for personal purposes, in which
14 case it may be considered a gift under Section 82028. Payments
15 that are otherwise subject to the limits of Section 86203 are
16 presumed to be principally for personal purposes.

17 (ii) A payment made by a state, local, or federal governmental
18 agency or by a nonprofit organization that is exempt from taxation
19 under Section 501(c)(3) of the Internal Revenue Code.

20 (iii) *(I)* A payment not covered by clause (i), made principally
21 for legislative, governmental, or charitable purposes, in which case
22 it is neither a gift nor a contribution. However, payments of this
23 type that are made at the behest of a candidate ~~who is required to~~
24 ~~file a campaign statement, a candidate who is an elected officer,~~
25 ~~or an elected officer for one year after he or she leaves elective~~
26 ~~office, who is an elected officer~~ shall be reported within 30 days
27 following the date on which the payment or payments equal or
28 exceed five thousand dollars (\$5,000) in the aggregate from the
29 same source in the same calendar year in which they are made.
30 The report shall be ~~filed, for a candidate who is required to file a~~
31 ~~campaign statement, with the officials and agencies he or she is~~
32 ~~required to file his or her campaign statement, for an elected officer,~~
33 ~~filed with the elected officer's agency, and for an elected officer~~
34 ~~for the one year after he or she has left elective office, with the~~
35 ~~agency the elected officer was required to file the statement when~~
36 ~~he or she was an elected officer.~~ *agency.* The report shall be a
37 public record subject to inspection and copying pursuant to Section
38 81008. The report shall contain the following information: name
39 of payor, address of payor, amount of the payment, date or dates
40 the payment or payments were made, the name and address of the

1 payee, a brief description of the goods or services provided or
2 purchased, if any, and a description of the specific purpose or event
3 for which the payment or payments were made. Once the
4 five-thousand-dollar (\$5,000) aggregate threshold from a single
5 source has been reached for a calendar year, all payments for the
6 calendar year made by that source shall be disclosed within 30
7 days after the date the threshold was reached or the payment was
8 made, whichever occurs later. Within 30 days after receipt of the
9 report, state agencies shall forward a copy of these reports to the
10 ~~Commission~~, *commission*, and local agencies shall forward a copy
11 of these reports to the officer with whom ~~candidates for, and~~ elected
12 officers ~~of, of~~ that agency file their campaign statements.

13 *(II) A Member of the Legislature or a person elected to a*
14 *statewide elective office, as defined in Section 82053, shall report*
15 *behested payments of the type described in subclause (I) for one*
16 *year after he or she leaves the Legislature or the statewide elective*
17 *office. The report shall be made in accordance with the*
18 *requirements of subclause (I). A Member of the Legislature or a*
19 *person elected to a statewide elective office shall only report a*
20 *payment pursuant to this subclause if the payment would financially*
21 *benefit the former officeholder or a member of his or her immediate*
22 *family, the former officeholder's employer or the employer of a*
23 *member of his or her immediate family, or an entity with whom*
24 *the former officeholder or a member of his or her immediate family*
25 *is negotiating employment.*

26 (C) For purposes of subparagraph (B), a payment is made for
27 purposes related to a candidate's candidacy for elective office if
28 all or a portion of the payment is used for election-related activities.
29 For purposes of this subparagraph, "election-related activities"
30 shall include, but are not limited to, the following:

31 (i) Communications that contain express advocacy of the
32 nomination or election of the candidate or the defeat of his or her
33 opponent.

34 (ii) Communications that contain reference to the candidate's
35 candidacy for elective office, the candidate's election campaign,
36 or the candidate's or his or her opponent's qualifications for
37 elective office.

38 (iii) Solicitation of contributions to the candidate or to third
39 persons for use in support of the candidate or in opposition to his
40 or her opponent.

- 1 (iv) Arranging, coordinating, developing, writing, distributing,
2 preparing, or planning of any communication or activity described
3 in clause (i), (ii), or (iii).
- 4 (v) Recruiting or coordinating campaign activities of campaign
5 volunteers on behalf of the candidate.
- 6 (vi) Preparing campaign budgets.
- 7 (vii) Preparing campaign finance disclosure statements.
- 8 (viii) Communications directed to voters or potential voters as
9 part of activities encouraging or assisting persons to vote if the
10 communication contains express advocacy of the nomination or
11 election of the candidate or the defeat of his or her opponent.
- 12 (D) A contribution made at the behest of a candidate for a
13 different candidate or to a committee not controlled by the
14 behesting candidate is not a contribution to the behesting candidate.
- 15 (3) A payment made at the behest of a member of the Public
16 Utilities Commission, made principally for legislative,
17 governmental, or charitable purposes, is not a contribution.
18 However, payments of this type shall be reported within 30 days
19 following the date on which the payment or payments equal or
20 exceed five thousand dollars (\$5,000) in the aggregate from the
21 same source in the same calendar year in which they are made.
22 The report shall be filed by the member with the Public Utilities
23 Commission and shall be a public record subject to inspection and
24 copying pursuant to Section 81008. The report shall contain the
25 following information: name of payor, address of payor, amount
26 of the payment, date or dates the payment or payments were made,
27 the name and address of the payee, a brief description of the goods
28 or services provided or purchased, if any, and a description of the
29 specific purpose or event for which the payment or payments were
30 made. Once the five-thousand-dollar (\$5,000) aggregate threshold
31 from a single source has been reached for a calendar year, all
32 payments for the calendar year made by that source shall be
33 disclosed within 30 days after the date the threshold was reached
34 or the payment was made, whichever occurs later. Within 30 days
35 after receipt of the report, the Public Utilities Commission shall
36 forward a copy of these reports to the Fair Political Practices
37 Commission.
- 38 (c) "Contribution" includes the purchase of tickets for events
39 such as dinners, luncheons, rallies, and similar fundraising events;
40 the candidate's own money or property used on behalf of his or

1 her candidacy, other than personal funds of the candidate used to
2 pay either a filing fee for a declaration of candidacy or a candidate
3 statement prepared pursuant to Section 13307 of the Elections
4 Code; the granting of discounts or rebates not extended to the
5 public generally or the granting of discounts or rebates by television
6 and radio stations and newspapers not extended on an equal basis
7 to all candidates for the same office; the payment of compensation
8 by any person for the personal services or expenses of any other
9 person if the services are rendered or expenses incurred on behalf
10 of a candidate or committee without payment of full and adequate
11 consideration.

12 (d) "Contribution" further includes any transfer of anything of
13 value received by a committee from another committee, unless
14 full and adequate consideration is received.

15 (e) "Contribution" does not include amounts received pursuant
16 to an enforceable promise to the extent those amounts have been
17 previously reported as a contribution. However, the fact that those
18 amounts have been received shall be indicated in the appropriate
19 campaign statement.

20 (f) (1) Except as provided in paragraph (2) or (3), "contribution"
21 does not include a payment made by an occupant of a home or
22 office for costs related to any meeting or fundraising event held
23 in the occupant's home or office if the costs for the meeting or
24 fundraising event are five hundred dollars (\$500) or less.

25 (2) "Contribution" includes a payment made by a lobbyist or a
26 cohabitant of a lobbyist for costs related to a fundraising event
27 held at the home of the lobbyist, including the value of the use of
28 the home as a fundraising event venue. A payment described in
29 this paragraph shall be attributable to the lobbyist for purposes of
30 Section 85702.

31 (3) "Contribution" includes a payment made by a lobbying firm
32 for costs related to a fundraising event held at the office of the
33 lobbying firm, including the value of the use of the office as a
34 fundraising event venue.

35 (g) Notwithstanding the foregoing definition of "contribution,"
36 the term does not include volunteer personal services or payments
37 made by ~~any~~ *an* individual for his or her own travel expenses if
38 the payments are made voluntarily without any understanding or
39 agreement that they shall be, directly or indirectly, repaid to him
40 or her.

1 (h) “Contribution” further includes the payment of public
2 moneys by a state or local governmental agency for a
3 communication to the public that satisfies both of the following:

4 (1) The communication expressly advocates the election or
5 defeat of a clearly identified candidate or the qualification, passage,
6 or defeat of a clearly identified measure, or, taken as a whole and
7 in context, unambiguously urges a particular result in an election.

8 (2) The communication is made at the behest of the affected
9 candidate or committee.

10 (i) “Contribution” further includes a payment made by a person
11 to a multipurpose organization as defined and described in Section
12 84222.

13 SEC. 2. Section 82033 of the Government Code is amended
14 to read:

15 82033. “Interest in real property” includes any leasehold,
16 beneficial or ownership interest or an option to acquire such an
17 interest in real property located in the jurisdiction owned directly,
18 ~~indirectly~~ *indirectly*, or beneficially by the public official, or other
19 filer, or his or her immediate family if the fair market value of the
20 interest is ten thousand dollars (\$10,000) or more. Interests in real
21 property of an individual includes a pro rata share of interests in
22 real property of any business entity or trust in which the individual
23 or immediate family owns, directly, ~~indirectly~~ *indirectly*, or
24 beneficially, a 10-percent interest or greater.

25 SEC. 3. Section 82034 of the Government Code is amended
26 to read:

27 82034. “Investment” means any financial interest ~~in~~ *in*, or
28 security issued ~~by~~ *by*, a business entity, including, but not limited
29 to, common stock, preferred stock, rights, warrants, options, debt
30 instruments, and any partnership or other ownership interest owned
31 directly, indirectly, or beneficially by the public official, or other
32 filer, or his or her immediate family, if the business entity or any
33 parent, subsidiary, or otherwise related business entity has an
34 interest in real property in the jurisdiction, ~~or~~ does business or
35 plans to do business in the jurisdiction, or has done business within
36 the jurisdiction at any time during the two years ~~prior to~~ *before*
37 the time any statement or other action is required under this title.
38 An asset shall not be deemed an investment unless its fair market
39 value equals or exceeds five thousand dollars (\$5,000). The term
40 “investment” does not include a time or demand deposit in a

1 financial institution, shares in a credit union, any insurance policy,
2 interest in a diversified mutual fund registered with the Securities
3 and Exchange Commission under the Investment Company Act
4 of 1940 (15 U.S.C. *Sec.* 80a-1 et seq.) or in a common trust fund
5 created pursuant to Section 1585 of the Financial Code, interest
6 in a government defined-benefit pension plan, or any bond or other
7 debt instrument issued by ~~any~~ a government or government agency.
8 Investments of an individual includes a pro rata share of
9 investments of any business entity, mutual fund, or trust in which
10 the individual or immediate family owns, directly, indirectly, or
11 beneficially, a 10-percent interest or greater. The term “parent,
12 ~~subsidiary~~ subsidiary, or otherwise related business entity” shall
13 be specifically defined by regulations of the ~~Commission~~.
14 *commission*.

15 SEC. 4. Section 87103 of the Government Code is amended
16 to read:

17 87103. A public official has a financial interest in a decision
18 within the meaning of Section 87100 if it is reasonably foreseeable
19 that the decision will have a material financial effect,
20 distinguishable from its effect on the public generally, on the
21 official, a member of his or her immediate family, or on any of
22 the following:

23 (a) Any business entity in which the public official has a direct
24 or indirect investment worth five thousand dollars (\$5,000) or
25 more.

26 (b) Any real property in which the public official has a direct
27 or indirect interest worth ten thousand dollars (\$10,000) or more.

28 (c) Any source of income, except gifts or loans by a commercial
29 lending institution made in the regular course of business on terms
30 available to the public without regard to official status, aggregating
31 one thousand dollars (\$1,000) or more in value provided ~~or to,~~
32 promised to, *or* received ~~by,~~ *by* the public official within 12 months
33 before the time when the decision is made.

34 (d) Any business entity in which the public official is a director,
35 officer, partner, trustee, employee, or holds any position of
36 management.

37 (e) Any donor of, or any intermediary or agent for a donor of,
38 a gift or gifts aggregating two hundred fifty dollars (\$250) or more
39 in value provided to, received by, or promised to the public official
40 within 12 months before the time when the decision is made. The

1 amount of the value of gifts specified by this subdivision shall be
2 adjusted biennially by the commission to equal the same amount
3 determined by the commission pursuant to subdivision (f) of
4 Section 89503.

5 For purposes of this section, indirect investment or interest means
6 any investment or interest owned by the spouse or dependent child
7 of a public official, by an agent on behalf of a public official, or
8 by a business entity or trust in which the official, the official's
9 agents, spouse, and dependent children own directly, indirectly,
10 or beneficially a 10-percent interest or greater.

11 SEC. 5. Section 87206 of the Government Code is amended
12 to read:

13 87206. If an investment is required to be disclosed under this
14 article, the statement shall contain all of the following:

15 (a) A statement of the nature of the investment.

16 (b) (1) The name of the business entity in which each
17 investment is held, and a general description of the business activity
18 in which the business entity is engaged. If a filer is required to
19 report on his or her statement of economic interests a business
20 entity investment in which the filer is a director, officer, partner,
21 or trustee, *except as provided in paragraph (2)*, the filer shall
22 provide a thorough and detailed description of the business entity's
23 activities and disclose the names of all business partners who share
24 a financial interest in the business entity, based on criteria
25 established by the ~~Commission~~ *commission*.

26 (2) *A filer is not required to provide a thorough and detailed*
27 *description of the business entity's activities and is not required*
28 *to disclose the names of all business partners who share a financial*
29 *interest in the business entity if the business entity is publicly*
30 *traded.*

31 (c) A statement indicating which of the following represents
32 the fair market value of the investment:

33 (1) At least five thousand dollars (\$5,000) but not greater than
34 ten thousand dollars (\$10,000).

35 (2) Greater than ten thousand dollars (\$10,000) but not greater
36 than one hundred thousand dollars (\$100,000).

37 (3) Greater than one hundred thousand dollars (\$100,000) but
38 not greater than two hundred fifty thousand dollars (\$250,000).

39 (4) Greater than two hundred fifty thousand dollars (\$250,000)
40 but not greater than five hundred thousand dollars (\$500,000).

1 (5) Greater than five hundred thousand dollars (\$500,000) but
2 not greater than one million dollars (\$1,000,000).

3 (6) Greater than one million dollars (\$1,000,000) but not greater
4 than two million dollars (\$2,000,000).

5 (7) Greater than two million dollars (\$2,000,000).

6 (d) In the case of a statement filed under Section 87203 or
7 87204, if the investment was partially or wholly acquired or
8 disposed of during the period covered by the statement, the date
9 of acquisition or disposal.

10 SEC. 6. Section 87206.5 is added to the Government Code, to
11 read:

12 87206.5. (a) If an interest in real property is required to be
13 disclosed under this article, the statement shall contain all of the
14 following:

15 (1) A statement of the nature of the interest.

16 (2) The address or other precise location of the real property.

17 (3) A statement indicating which of the following represents
18 the fair market value of the interest in real property:

19 (A) At least ten thousand dollars (\$10,000) but not greater than
20 two hundred fifty thousand dollars (\$250,000).

21 (B) Greater than two hundred fifty thousand dollars (\$250,000)
22 but not greater than five hundred thousand dollars (\$500,000).

23 (C) Greater than five hundred thousand dollars (\$500,000) but
24 not greater than seven hundred fifty thousand dollars (\$750,000).

25 (D) Greater than seven hundred fifty thousand dollars (\$750,000)
26 but not greater than one million dollars (\$1,000,000).

27 (E) Greater than one million dollars (\$1,000,000) but not greater
28 than two million dollars (\$2,000,000).

29 (F) Greater than two million dollars (\$2,000,000).

30 (4) In the case of a statement filed under Section 87203 or
31 87204, if the interest in real property was partially or wholly
32 acquired or disposed of during the period covered by the statement,
33 the date of acquisition or disposal.

34 (b) For purposes of disclosure under this article, “interest in real
35 property” does not include the principal residence of the filer or
36 any other property that the filer uses exclusively as the personal
37 residence of the filer.

38 SEC. 7. Section 87207 of the Government Code is amended
39 to read:

1 87207. (a) Except as provided in subdivision (b), if income is
 2 required to be reported under this article, the statement shall contain
 3 all of the following:

4 (1) The name and address of each source of income aggregating
 5 one thousand dollars (\$1,000) or more in value, or fifty dollars
 6 (\$50) or more in value if the income was a gift, and a general
 7 description of the business activity, if any, of each source.

8 (2) A statement indicating which of the following represents
 9 the aggregate value of income from each source, or in the case of
 10 a loan, the highest amount owed to each source:

11 (A) At least one thousand dollars (\$1,000) but not greater than
 12 ten thousand dollars (\$10,000).

13 (B) Greater than ten thousand dollars (\$10,000) but not greater
 14 than one hundred thousand dollars (\$100,000).

15 (C) Greater than one hundred thousand dollars (\$100,000) but
 16 not greater than two hundred fifty thousand dollars (\$250,000).

17 (D) Greater than two hundred fifty thousand dollars (\$250,000)
 18 but not greater than five hundred thousand dollars (\$500,000).

19 (E) Greater than five hundred thousand dollars (\$500,000).

20 (3) A description of the consideration, if any, for which the
 21 income was received.

22 (4) In the case of a gift, the amount and the date on which the
 23 gift was received.

24 (5) In the case of a loan, the annual interest rate, the security,
 25 if any, given for the loan, and the term of the loan.

26 (b) When the filer’s pro rata share of income to a business entity,
 27 including income to a sole proprietorship, is required to be reported
 28 under this article, the statement shall contain the following:

29 (1) (A) The name, address, ~~and~~ *and, except as provided in*
 30 *subparagraph (B)*, a thorough and detailed description of the
 31 business activity of the business entity based on criteria established
 32 by the ~~Commission~~ *commission*.

33 (B) *A filer is not required to provide a thorough and detailed*
 34 *description of the business activity of the business entity if the*
 35 *business entity is publicly traded.*

36 (2) The name of every person from whom the business entity
 37 received payments if the filer’s pro rata share of gross receipts
 38 from that person was equal to or greater than ten thousand dollars
 39 (\$10,000) during a calendar year.

1 (c) When a payment, including an advance or reimbursement,
2 for travel is required to be reported pursuant to this section, it may
3 be reported on a separate travel reimbursement schedule, which
4 shall be included in the filer's statement of economic interest. A
5 filer who chooses not to use the travel schedule shall disclose
6 payments for travel as a gift, unless it is clear from all surrounding
7 circumstances that the services provided were equal to or greater
8 in value than the payments for the travel, in which case the travel
9 may be reported as income.

10 SEC. 8. Section 87211 is added to the Government Code, to
11 read:

12 87211. (a) A public official who holds an office specified in
13 Section 87200 shall disclose on his or her statement of economic
14 interests each governmental decision for which a financial interest
15 resulted in the public official's disqualification from making,
16 participating in making, or in any way attempting to use his or her
17 official position to influence that governmental decision pursuant
18 to Section 87100 or, for a Member of the Legislature, Section
19 87102.5. The disclosure shall identify the governmental decision,
20 the date that the governmental decision was made or considered,
21 the financial interest that created the conflict of interests, and any
22 other relevant information that the ~~Commission~~ *commission* deems
23 appropriate.

24 (b) The disclosures required by this section are in addition to
25 any other required disclosures, including, but not limited to, the
26 requirements of Section 87105.

27 SEC. 9. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

36 SEC. 10. The Legislature finds and declares that this bill
37 furthers the purposes of the Political Reform Act of 1974 within

- 1 the meaning of subdivision (a) of Section 81012 of the Government
- 2 Code.

O

AMENDED IN ASSEMBLY MAY 21, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 700

Introduced by Assembly Members Gomez and Levine

February 25, 2015

An act to amend Section 84511 of the Government Code, relating to the Political Reform Act of 1974, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 700, as amended, Gomez. Political Reform Act of 1974: advertisement disclosures.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. Existing law additionally imposes a disclosure statement requirement with respect to advertisements supporting or opposing a candidate or ballot measure paid for by a committee that makes an expenditure of \$5,000 or more.

This bill would require that if the advertisement is a television or video advertisement, the disclosure statement shall be shown continuously.

This bill would also state the intent of the Legislature to enact legislation that would implement a California Disclose Act.

Because a violation of the act is punishable as a misdemeanor, this 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 2/3 vote of each house and compliance with specified procedural requirements.

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

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. It is the intent of the Legislature to enact
 2 legislation that would implement a California Disclose Act to
 3 ensure that advertisements that seek to persuade voters to cast a
 4 vote in favor or against ballot measures do not mislead voters as
 5 to who is funding the campaign that paid for the advertisement.

6 SEC. 2. Section 84511 of the Government Code is amended
 7 to read:

8 84511. (a) This section applies to a committee that does either
 9 of the following:

10 (1) Makes an expenditure of five thousand dollars (\$5,000) or
 11 more to an individual for his or her appearance in an advertisement
 12 that supports or opposes the qualification, passage, or defeat of a
 13 ballot measure.

14 (2) Makes an expenditure of any amount to an individual for
 15 his or her appearance in an advertisement that supports or opposes
 16 the qualification, passage, or defeat of a ballot measure and that
 17 states or suggests that the individual is a member of an occupation
 18 that requires licensure, certification, or other specialized,
 19 documented training as a prerequisite to engage in that occupation.

20 (b) A committee described in subdivision (a) shall file, within
 21 10 days of the expenditure, a report that includes all of the
 22 following:

1 (1) An identification of the measure that is the subject of the
2 advertisement.

3 (2) The date of the expenditure.

4 (3) The amount of the expenditure.

5 (4) The name of the recipient of the expenditure.

6 (5) For a committee described in paragraph (2) of subdivision
7 (a), the occupation of the recipient of the expenditure.

8 (c) An advertisement paid for by a committee described in
9 paragraph (1) of subdivision (a) shall include a disclosure statement
10 stating “(spokesperson’s name) is being paid by this campaign or
11 its donors” in highly visible roman font shown continuously if the
12 advertisement consists of printed or televised material, or spoken
13 in a clearly audible format if the advertisement is a radio broadcast
14 or telephonic message. If the advertisement is a television or video
15 advertisement, the statement shall be shown continuously.

16 (d) (1) An advertisement paid for by a committee described in
17 paragraph (2) of subdivision (a) shall include a disclosure statement
18 stating “Persons portraying members of an occupation in this
19 advertisement are compensated spokespersons not necessarily
20 employed in those occupations” in highly visible roman font shown
21 continuously if the advertisement consists of printed or televised
22 material, or spoken in a clearly audible format if the advertisement
23 is a radio broadcast or telephonic message.

24 (2) A committee may omit the disclosure statement required by
25 this subdivision if all of the following are satisfied with respect to
26 each individual identified in the report filed pursuant to subdivision
27 (b) for that advertisement:

28 (A) The occupation identified in the report is substantially
29 similar to the occupation portrayed in the advertisement.

30 (B) The committee maintains credible documentation of the
31 appropriate license, certification, or other training as evidence that
32 the individual may engage in the occupation identified in the report
33 and portrayed in the advertisement and makes that documentation
34 immediately available to the Commission upon request.

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

4 SEC. 4. The Legislature finds and declares that this bill furthers
5 the purposes of the Political Reform Act of 1974 within the
6 meaning of subdivision (a) of Section 81012 of the Government
7 Code.

8 SEC. 5. *This act is an urgency statute necessary for the*
9 *immediate preservation of the public peace, health, or safety within*
10 *the meaning of Article IV of the Constitution and shall go into*
11 *immediate effect. The facts constituting the necessity are:*

12 *In order to protect the interests of Californians who are*
13 *empowered with the right to vote, it is appropriate that they be*
14 *duly informed and that their constitutional right to instruct their*
15 *representative be protected. This purpose is best served by an*
16 *informed electorate and an informed press. The need for greater*
17 *transparency of campaign contributions and advertisement*
18 *disclosures is vital to the interests of the State such that this act*
19 *must take effect immediately.*

AMENDED IN SENATE JULY 15, 2015

AMENDED IN SENATE JULY 2, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 990

**Introduced by Assembly Member Bonilla
(Coauthor: Assembly Member Gordon)**

February 26, 2015

An act to amend Sections 84506.5 and 84507 of the Government Code, relating to the Political Reform Act of 1974, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 990, as amended, Bonilla. Political Reform Act of 1974: advertisement disclosures.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. The act additionally imposes various disclosure statement requirements with respect to advertisements supporting or opposing a candidate or ballot measure, including a requirement that the disclosure statements be printed clearly and legibly in no less than 10-point type and in a conspicuous manner, as specified. The act also requires that an advertisement supporting or opposing a candidate that is paid for by an independent expenditure include a statement that it was not authorized by a candidate or a committee controlled by a candidate.

This bill would require that disclosure statements be printed in no less than 18-point, bold, sans serif type font. The bill would require that an advertisement supporting or opposing a candidate that is paid for by an independent expenditure include a disclosure statement with specific content, and *content and*, if the advertisement is mailed, would require that the disclosure statement be located within a quarter of an inch of the recipient’s name and address and be contained within a box that meets prescribed criteria.

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 2/3 vote of each house and compliance with specified procedural requirements.

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

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

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

- 1 SECTION 1. Section 84506.5 of the Government Code is
- 2 amended to read:
- 3 84506.5. (a) An advertisement supporting or opposing a
- 4 candidate that is paid for by an independent expenditure must
- 5 include the following statement: This advertisement was not
- 6 authorized or paid for by the candidate or a committee controlled
- 7 by the candidate.
- 8 (b) In addition to the requirements of Section 84507, a mailed
- 9 advertisement subject to this section shall also comply with each
- 10 of the following:
- 11 (1) The disclosure statement in subdivision (a) shall be located
- 12 within one quarter of an inch of the recipient’s name and address
- 13 as printed on the advertisement.
- 14 (2) The text of the disclosure statement shall be contained in a
- 15 box with an outline that has a line weight of at least 5.25 pt. The

1 background color of the box shall be in a contrasting color to the
2 background of the advertisement. The outline of the box shall be
3 in a contrasting color to both the background color of the
4 advertisement and the background color of the box. The color of
5 the text shall be in a contrasting color to the background color of
6 the box.

7 SEC. 2. Section 84507 of the Government Code is amended
8 to read:

9 84507. Any disclosure statement required by this article shall
10 be printed clearly and legibly in no less than 18-point, bold, sans
11 serif type font and in a conspicuous manner as defined by the
12 commission or, if the communication is broadcast, the information
13 shall be spoken so as to be clearly audible and understood by the
14 intended public and otherwise appropriately conveyed for the
15 hearing impaired.

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

25 SEC. 4. The Legislature finds and declares that this bill furthers
26 the purposes of the Political Reform Act of 1974 within the
27 meaning of subdivision (a) of Section 81012 of the Government
28 Code.

29 *SEC. 5. This act is an urgency statute necessary for the*
30 *immediate preservation of the public peace, health, or safety within*
31 *the meaning of Article IV of the Constitution and shall go into*
32 *immediate effect. The facts constituting the necessity are:*

33 *In order to protect the interests of Californians who are*
34 *empowered with the right to vote, it is appropriate that they be*
35 *duly informed and that their constitutional right to instruct their*
36 *representatives be protected. This purpose is best served by an*
37 *informed electorate. The need for greater transparency of*

- 1 *advertisement disclosures is vital to the interests of the State such*
- 2 *that this act must take effect immediately.*

O

ASSEMBLY BILL

No. 1083

Introduced by Assembly Member Eggman

February 27, 2015

An act to amend Section 83123.5 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1083, as introduced, Eggman. Political Reform Act of 1974: local campaign reform.

The Political Reform Act of 1974 establishes the Fair Political Practices Commission (Commission), which has the primary responsibility for the impartial, effective administration and implementation of the act. The act authorizes, upon mutual agreement between the Commission and the Board of Supervisors of the County of San Bernardino (board), the Commission to assume primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance reform ordinance passed by the board. Under the act, the Commission may be the civil prosecutor responsible for civil enforcement of that local campaign finance reform ordinance.

This bill would make technical, nonsubstantive changes to this provision of law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 83123.5 of the Government Code is
2 amended to read:

3 83123.5. (a) Upon mutual agreement between the Commission
4 and the Board of Supervisors of the County of San Bernardino,
5 the Commission ~~is authorized to~~ *may* assume primary responsibility
6 for the impartial, effective administration, implementation, and
7 enforcement of a local campaign finance reform ordinance passed
8 by the Board of Supervisors of the County of San Bernardino. The
9 Commission ~~is authorized to~~ *may* be the civil prosecutor
10 responsible for the civil enforcement of that local campaign finance
11 reform ordinance in accordance with this title. As the civil
12 prosecutor of the County of San Bernardino’s local campaign
13 finance reform ordinance, the Commission may do both of the
14 following:

15 (1) Investigate possible violations of the local campaign finance
16 reform ordinance.

17 (2) Bring administrative actions in accordance with this title
18 and Chapter 5 (commencing with Section 11500) of Part 1 of
19 Division 3 of Title 2.

20 (b) Any local campaign finance reform ordinance of the County
21 of San Bernardino enforced by the Commission pursuant to this
22 section shall comply with this title.

23 (c) The Board of Supervisors of the County of San Bernardino
24 shall consult with the Commission prior to adopting and amending
25 any local campaign finance reform ordinance that is subsequently
26 enforced by the Commission pursuant to this section.

27 (d) (1) The Board of Supervisors of the County of San
28 Bernardino and the Commission may enter into any agreements
29 necessary and appropriate to carry out the provisions of this section,
30 including agreements pertaining to any necessary reimbursement
31 of state costs with county funds for costs incurred by the
32 Commission in administering, implementing, or enforcing a local
33 campaign finance reform ordinance pursuant to this section.

34 (2) An agreement entered into pursuant to this subdivision shall
35 not contain any form of a cancellation fee, a liquidated damages
36 provision, or other financial disincentive to the exercise of the
37 right to terminate the agreement pursuant to subdivision (e), except
38 that the Commission may require the Board of Supervisors of the

1 County of San Bernardino to pay the Commission for services
2 rendered and any other expenditures reasonably made by the
3 Commission in anticipation of services to be rendered pursuant to
4 the agreement in the event that the Board of Supervisors of the
5 County of San Bernardino terminates the agreement.

6 (e) The Board of Supervisors of the County of San Bernardino
7 or the Commission may, at any time, by ordinance or resolution,
8 terminate any agreement made pursuant to this section for the
9 Commission to administer, implement, or enforce a local campaign
10 finance reform ordinance or any provision thereof.

11 (f) If an agreement is entered into pursuant to this section, the
12 Commission shall report to the Legislature regarding the
13 performance of that agreement on or before January 1, 2017, and
14 shall submit that report in compliance with Section 9795. The
15 Commission shall develop the report in consultation with the
16 County of San Bernardino. The report shall include, but not be
17 limited to, all of the following:

18 (1) The status of the agreement.

19 (2) The estimated annual cost savings, if any, for the County of
20 San Bernardino.

21 (3) A summary of relevant annual performance metrics,
22 including measures of utilization, enforcement, and customer
23 satisfaction.

24 (4) Any public comments submitted to the Commission or the
25 County of San Bernardino relative to the operation of the
26 agreement.

27 (5) Any legislative recommendations.

28 (g) This section shall remain in effect only until January 1, 2018,
29 and as of that date is repealed, unless a later enacted statute, that
30 is enacted before January 1, 2018, deletes or extends that date.

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN ASSEMBLY MAY 19, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1200

Introduced by Assembly Member Gordon

February 27, 2015

An act to amend Section 82002 of, and to add Section 86205.5 to, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1200, as amended, Gordon. Political Reform Act of 1974: lobbying: procurement contracts.

Existing provisions of the Political Reform Act of 1974 regulate the activities of lobbyists, lobbying firms, and lobbyist employers, as defined, in connection with attempts to influence legislative and administrative action by legislative and other state officials, including requirements that lobbyists, lobbying firms, and lobbyist employers register and file periodic reports with the Secretary of State. The act also prohibits a lobbyist or lobbying firm from engaging in certain activities, including, among others, accepting any payment that is contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action. For purposes of these provisions, "administrative action" is defined to include the proposal, drafting, development, consideration, amendment, enactment, or defeat by any state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding.

This bill would additionally define the term “administrative action” to include governmental procurement, which would be defined to include various actions regarding a state procurement contract for which the total estimated cost exceeds \$250,000, thereby making the above-described lobbying requirements applicable to actions that attempt to influence governmental procurement. The bill would also exclude certain actions from the definition of “government procurement,” including, *among others*, submitting a ~~bid~~, *bid or fee proposal*, testifying at a public hearing relating to a procurement contract, or any activity undertaken by a ~~bona fide salesperson~~, *as salesperson or a placement agent, as those terms are defined*.

This bill would also authorize a lobbyist, *other than a placement agent*, to be compensated on a commission basis for lobbying activities related to influencing administrative action relating to governmental procurement, as specified.

Because a willful violation of the act’s provisions is punishable as a misdemeanor, this 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 and compliance with specified procedural requirements.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

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

- 1 SECTION 1. Section 82002 of the Government Code is
- 2 amended to read:
- 3 82002. (a) “Administrative action” means any of the following:
- 4 (1) The proposal, drafting, development, consideration,
- 5 amendment, enactment, or defeat by any state agency of any rule,
- 6 regulation, or other action in any ratemaking proceeding or any
- 7 quasi-legislative proceeding, which shall include any proceeding

1 governed by Chapter 3.5 (commencing with Section 11340) of
2 Part 1 of Division 3 of Title 2.

3 (2) With regard only to placement agents, the decision by any
4 state agency to enter into a contract to invest state public retirement
5 system assets on behalf of a state public retirement system.

6 (3) Governmental procurement.

7 (b) “Ratemaking proceeding” means, for purposes of a
8 proceeding before the Public Utilities Commission, any proceeding
9 in which it is reasonably foreseeable that a rate will be established,
10 including, but not limited to, general rate cases, performance-based
11 ratemaking, and other ratesetting mechanisms.

12 (c) “Quasi-legislative proceeding” means, for purposes of a
13 proceeding before the Public Utilities Commission, any proceeding
14 that involves consideration of the establishment of a policy that
15 will apply generally to a group or class of persons, including, but
16 not limited to, rulemakings and investigations that may establish
17 rules affecting an entire industry.

18 (d) (1) “Governmental procurement” means any of the
19 following with respect to a state procurement contract for which
20 the total estimated cost exceeds two hundred fifty thousand dollars
21 (\$250,000):

22 (A) Preparing the terms, specifications, bid documents, request
23 for proposals, or evaluation criteria for the procurement contract.

24 (B) Soliciting for the procurement contract.

25 (C) Evaluating the procurement contract.

26 (D) *Scoring criteria for the procurement contract.*

27 ~~(D)~~

28 (E) Awarding, approving, denying, or disapproving the
29 procurement contract.

30 ~~(E)~~

31 (F) Approving or denying an assignment, amendment, other
32 than an amendment authorized and payable under the terms of the
33 procurement contract as the procurement contract was finally
34 awarded or approved, renewal, or extension of the procurement
35 contract, or any other material change in the procurement contract
36 resulting in financial benefit to the offeror.

37 (2) “Governmental procurement” does not include any of the
38 following with respect to a state procurement contract for which
39 the total estimated cost exceeds two hundred fifty thousand dollars
40 (\$250,000):

1 (A) Submitting a bid or fee proposal on the state procurement
 2 ~~contract.~~ *contract that does not involve any activity described in*
 3 *paragraph (1), including attending a bidders’ conference or*
 4 *responding to requests for information; or responding to a*
 5 *competitive selection process based on qualifications.*

6 (B) Testifying at a public hearing regarding the state
 7 procurement contract.

8 ~~(C) Any activity, including those described in paragraph (1),~~
 9 *activity undertaken by a bona fide salesperson of an article of*
 10 *procurement. For purposes of this subparagraph, a “bona fide*
 11 *salesperson” is an individual who satisfies each all of the following:*

12 (i) ~~The primary purpose of the individual’s employment is to~~
 13 ~~cause or promote the sale of, or to influence or induce another to~~
 14 ~~make a purchase of, an article of procurement.~~

15 (ii) ~~The primary purpose of the individual’s employment is not~~
 16 ~~to influence the actions of a public officer or state agency in regards~~
 17 ~~to selecting vendors to supply articles of procurement under a state~~
 18 ~~procurement contract.~~ *agency, as described in paragraph (1).*

19 (iii) The individual does not engage in any other activity that
 20 would qualify him or her as a lobbyist.

21 (D) *Any activity undertaken by a placement agent, as that term*
 22 *is defined in Section 82047.3.*

23 (E) *Any activity relating to a contract awarded by the state*
 24 *through the California Multiple Award Schedule (CMAS) or a*
 25 *contract awarded through government multi-jurisdiction*
 26 *purchasing schedules.*

27 SEC. 2. Section 86205.5 is added to the Government Code, to
 28 read:

29 86205.5. Notwithstanding Section 86205, a ~~lobbyist~~ *lobbyist,*
 30 *other than a placement agent,* may be compensated on a
 31 commission basis only with respect to lobbying activities related
 32 to influencing administrative action for governmental procurement,
 33 as defined in subdivision (d) of Section 82002.

34 SEC. 3. No reimbursement is required by this act pursuant to
 35 Section 6 of Article XIII B of the California Constitution because
 36 the only costs that may be incurred by a local agency or school
 37 district will be incurred because this act creates a new crime or
 38 infraction, eliminates a crime or infraction, or changes the penalty
 39 for a crime or infraction, within the meaning of Section 17556 of
 40 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.
3 SEC. 4. The Legislature finds and declares that this bill furthers
4 the purposes of the Political Reform Act of 1974 within the
5 meaning of subdivision (a) of Section 81012 of the Government
6 Code.

O

ASSEMBLY BILL

No. 1544

Introduced by Assembly Members Cooley and Jones

July 15, 2015

An act to amend Section 82015 of the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1544, as introduced, Cooley. Political Reform Act of 1974: behested payments.

The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing and related matters, including campaign contributions, as defined. Under existing law, a payment made at the behest of a candidate for elective office is considered a contribution unless the payment is made for purposes unrelated to the candidate's candidacy. Under the act, a payment made by a government agency or an exempt nonprofit organization is presumed to be unrelated to a candidate's candidacy. Likewise, a payment made principally for legislative, governmental, or charitable purposes is presumed to be unrelated to a candidate's candidacy, and such payments are required to be reported by a candidate who is an elected officer if they total \$5,000 or more in the aggregate from a single source in a calendar year. For purposes of the act, an elected officer retains his or her status as a candidate for that office until the officer has terminated all of his or her committees and no longer holds the office, as specified.

This bill would create a conclusive presumption that a payment made at the behest of a candidate who is an elected officer by a state, local, or federal governmental agency that is made principally for legislative

or governmental purposes is unrelated to the elected officer’s candidacy and would exempt the payment from the reporting requirement for behested payments.

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 2/3 vote of each house and compliance with specified procedural requirements.

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

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 2/3 vote of each house and compliance with specified procedural requirements.

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

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

- 1 SECTION 1. Section 82015 of the Government Code is
- 2 amended to read:
- 3 82015. (a) “Contribution” means a payment, a forgiveness of
- 4 a loan, a payment of a loan by a third party, or an enforceable
- 5 promise to make a payment except to the extent that full and
- 6 adequate consideration is received, unless it is clear from the
- 7 surrounding circumstances that it is not made for political purposes.
- 8 (b) (1) A payment made at the behest of a committee, as defined
- 9 in subdivision (a) of Section 82013, is a contribution to the
- 10 committee unless full and adequate consideration is received from
- 11 the committee for making the payment.
- 12 (2) A payment made at the behest of a candidate is a contribution
- 13 to the candidate unless the criteria in either subparagraph (A) or
- 14 (B) are satisfied:
- 15 (A) Full and adequate consideration is received from the
- 16 candidate.
- 17 (B) It is clear from the surrounding circumstances that the
- 18 payment was made for purposes unrelated to his or her candidacy
- 19 for elective office. The following types of payments are presumed

1 to be for purposes unrelated to a candidate’s candidacy for elective
2 office:

3 (i) A payment made principally for personal purposes, in which
4 case it may be considered a gift under the provisions of Section
5 82028. Payments that are otherwise subject to the limits of Section
6 86203 are presumed to be principally for personal purposes.

7 (ii) A payment made by a state, local, or federal governmental
8 agency or by a nonprofit organization that is exempt from taxation
9 under Section 501(c)(3) of the Internal Revenue Code. *The*
10 *presumption is conclusive for, and the reporting requirement*
11 *described in clause (iii) does not apply to, a payment by a state,*
12 *local, or federal governmental agency that is made principally for*
13 *legislative or governmental purposes at the behest of a candidate*
14 *who is an elected officer.*

15 (iii) A payment not covered by clause (i), made principally for
16 legislative, governmental, or charitable purposes, in which case it
17 is neither a gift nor a contribution. However, payments of this type
18 that are made at the behest of a candidate who is an elected officer
19 shall be reported within 30 days following the date on which the
20 payment or payments equal or exceed five thousand dollars
21 (\$5,000) in the aggregate from the same source in the same
22 calendar year in which they are made. The report shall be filed by
23 the elected officer with the elected officer’s agency and shall be
24 a public record subject to inspection and copying pursuant to
25 subdivision (a) of Section 81008. The report shall contain the
26 following information: name of payor, address of payor, amount
27 of the payment, date or dates the payment or payments were made,
28 the name and address of the payee, a brief description of the goods
29 or services provided or purchased, if any, and a description of the
30 specific purpose or event for which the payment or payments were
31 made. Once the five-thousand-dollar (\$5,000) aggregate threshold
32 from a single source has been reached for a calendar year, all
33 payments for the calendar year made by that source shall be
34 disclosed within 30 days after the date the threshold was reached
35 or the payment was made, whichever occurs later. Within 30 days
36 after receipt of the report, state agencies shall forward a copy of
37 these reports to the Commission, and local agencies shall forward
38 a copy of these reports to the officer with whom elected officers
39 of that agency file their campaign statements.

1 (C) For purposes of subparagraph (B), a payment is made for
2 purposes related to a candidate's candidacy for elective office if
3 all or a portion of the payment is used for election-related activities.
4 For purposes of this subparagraph, "election-related activities"
5 shall include, but are not limited to, the following:

6 (i) Communications that contain express advocacy of the
7 nomination or election of the candidate or the defeat of his or her
8 opponent.

9 (ii) Communications that contain reference to the candidate's
10 candidacy for elective office, the candidate's election campaign,
11 or the candidate's or his or her opponent's qualifications for
12 elective office.

13 (iii) Solicitation of contributions to the candidate or to third
14 persons for use in support of the candidate or in opposition to his
15 or her opponent.

16 (iv) Arranging, coordinating, developing, writing, distributing,
17 preparing, or planning of any communication or activity described
18 in clause (i), (ii), or (iii).

19 (v) Recruiting or coordinating campaign activities of campaign
20 volunteers on behalf of the candidate.

21 (vi) Preparing campaign budgets.

22 (vii) Preparing campaign finance disclosure statements.

23 (viii) Communications directed to voters or potential voters as
24 part of activities encouraging or assisting persons to vote if the
25 communication contains express advocacy of the nomination or
26 election of the candidate or the defeat of his or her opponent.

27 (D) A contribution made at the behest of a candidate for a
28 different candidate or to a committee not controlled by the
29 behesting candidate is not a contribution to the behesting candidate.

30 (3) A payment made at the behest of a member of the Public
31 Utilities Commission, made principally for legislative,
32 governmental, or charitable purposes, is not a contribution.
33 However, payments of this type shall be reported within 30 days
34 following the date on which the payment or payments equal or
35 exceed five thousand dollars (\$5,000) in the aggregate from the
36 same source in the same calendar year in which they are made.
37 The report shall be filed by the member with the Public Utilities
38 Commission and shall be a public record subject to inspection and
39 copying pursuant to subdivision (a) of Section 81008. The report
40 shall contain the following information: name of payor, address

1 of payor, amount of the payment, date or dates the payment or
2 payments were made, the name and address of the payee, a brief
3 description of the goods or services provided or purchased, if any,
4 and a description of the specific purpose or event for which the
5 payment or payments were made. Once the five-thousand-dollar
6 (\$5,000) aggregate threshold from a single source has been reached
7 for a calendar year, all payments for the calendar year made by
8 that source shall be disclosed within 30 days after the date the
9 threshold was reached or the payment was made, whichever occurs
10 later. Within 30 days after receipt of the report, the Public Utilities
11 Commission shall forward a copy of these reports to the Fair
12 Political Practices Commission.

13 (c) "Contribution" includes the purchase of tickets for events
14 such as dinners, luncheons, rallies, and similar fundraising events;
15 the candidate's own money or property used on behalf of his or
16 her candidacy, other than personal funds of the candidate used to
17 pay either a filing fee for a declaration of candidacy or a candidate
18 statement prepared pursuant to Section 13307 of the Elections
19 Code; the granting of discounts or rebates not extended to the
20 public generally or the granting of discounts or rebates by television
21 and radio stations and newspapers not extended on an equal basis
22 to all candidates for the same office; the payment of compensation
23 by any person for the personal services or expenses of any other
24 person if the services are rendered or expenses incurred on behalf
25 of a candidate or committee without payment of full and adequate
26 consideration.

27 (d) "Contribution" further includes any transfer of anything of
28 value received by a committee from another committee, unless
29 full and adequate consideration is received.

30 (e) "Contribution" does not include amounts received pursuant
31 to an enforceable promise to the extent those amounts have been
32 previously reported as a contribution. However, the fact that those
33 amounts have been received shall be indicated in the appropriate
34 campaign statement.

35 (f) (1) Except as provided in paragraph (2) or (3), "contribution"
36 does not include a payment made by an occupant of a home or
37 office for costs related to any meeting or fundraising event held
38 in the occupant's home or office if the costs for the meeting or
39 fundraising event are five hundred dollars (\$500) or less.

1 (2) “Contribution” includes a payment made by a lobbyist or a
 2 cohabitant of a lobbyist for costs related to a fundraising event
 3 held at the home of the lobbyist, including the value of the use of
 4 the home as a fundraising event venue. A payment described in
 5 this paragraph shall be attributable to the lobbyist for purposes of
 6 Section 85702.

7 (3) “Contribution” includes a payment made by a lobbying firm
 8 for costs related to a fundraising event held at the office of the
 9 lobbying firm, including the value of the use of the office as a
 10 fundraising event venue.

11 (g) Notwithstanding the foregoing definition of “contribution,”
 12 the term does not include volunteer personal services or payments
 13 made by any individual for his or her own travel expenses if the
 14 payments are made voluntarily without any understanding or
 15 agreement that they shall be, directly or indirectly, repaid to him
 16 or her.

17 (h) “Contribution” further includes the payment of public
 18 moneys by a state or local governmental agency for a
 19 communication to the public that satisfies both of the following:

20 (1) The communication expressly advocates the election or
 21 defeat of a clearly identified candidate or the qualification, passage,
 22 or defeat of a clearly identified measure, or, taken as a whole and
 23 in context, unambiguously urges a particular result in an election.

24 (2) The communication is made at the behest of the affected
 25 candidate or committee.

26 (i) “Contribution” further includes a payment made by a person
 27 to a multipurpose organization as defined and described in Section
 28 84222.

29 SEC. 2. The Legislature finds and declares that this bill furthers
 30 the purposes of the Political Reform Act of 1974 within the
 31 meaning of subdivision (a) of Section 81012 of the Government
 32 Code.

33 SEC. 3. This act is an urgency statute necessary for the
 34 immediate preservation of the public peace, health, or safety within
 35 the meaning of Article IV of the Constitution and shall go into
 36 immediate effect. The facts constituting the necessity are:

37 It is a core principle of representative government that an elected
 38 official’s duties include advocacy of government agencies in favor
 39 of expenditures that benefit constituents or public purposes
 40 generally. It is also well-established that a government agency

1 may not expend public funds for purposes unrelated to the business
2 of that agency. To that end, government expenditures are subject
3 to a myriad of laws designed to protect the public interest and
4 promote transparency, including laws relating to open meetings,
5 the appropriate use of public resources, conflicts of interests, and
6 disbursement practices. Therefore, it is necessary that this act take
7 effect immediately in order to provide clarity for elected officials,
8 in conformity with the Legislature's intent when it enacted Chapter
9 450 of the Statutes of 1997 that reporting requirements for behested
10 payments not apply with respect to the payments made by a
11 government agency at the behest of an elected official for a
12 legislative or governmental purpose.

O

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE JUNE 1, 2015

SENATE BILL

No. 330

Introduced by Senator Mendoza

February 23, 2015

An act to amend, repeal, and add Section ~~1091.5~~ of, and to add Section ~~1091.7~~ to, *1091* of the Government Code, relating to public officers.

LEGISLATIVE COUNSEL'S DIGEST

SB 330, as amended, Mendoza. Public officers: contracts: financial interest.

(1) Existing law prohibits Members of the Legislature, and state, county, district, judicial district, and city officers or employees from being financially interested in a contract, as specified, made by them in their official capacity or by any body or board of which they are members, subject to specified exceptions. *Existing law identifies certain remote interests that are not subject to this prohibition and other situations in which an official is not deemed to be financially interested in a contract, including, among others, that of a parent in the earnings of his or her minor child for personal services. Existing law makes a willful violation of this prohibition a crime.*

This bill would, on and after January 1, 2017, ~~expand these prohibitions to deem that a public officer, as specified, who is an elected member of any state or local body, board, or commission has a prohibited financial interest in a contract pursuant to these provisions, if that public officer's spouse, child, parent, sibling, or the spouse of the child, parent, or sibling has a financial interest in any contract made by that public officer in his or her official capacity, or by any body,~~

~~board, or commission of which that public officer is a member~~ *instead include within the definition of remote interests that of a public officer who is an elected member of any state or local body, board, or commission, if that public officer’s spouse, child, parent, sibling, or the spouse of the child, parent, or sibling, has a financial interest in any contract made by that public officer in his or her official capacity, or by any body, board, or commission of which that public officer is a member.*

(2) Existing law imposes a criminal penalty for every officer or person who willfully violates the prohibitions against making or being financially interested in contracts, as specified.

By expanding these prohibitions, this bill would create a new crime, and thus, would impose a state-mandated local program.

(3) 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 1091 of the Government Code is amended
2 to read:

3 1091. (a) An officer shall not be deemed to be interested in a
4 contract entered into by a body or board of which the officer is a
5 member within the meaning of this article if the officer has only
6 a remote interest in the contract and if the fact of that interest is
7 disclosed to the body or board of which the officer is a member
8 and noted in its official records, and thereafter the body or board
9 authorizes, approves, or ratifies the contract in good faith by a vote
10 of its membership sufficient for the purpose without counting the
11 vote or votes of the officer or member with the remote interest.

12 (b) As used in this article, “remote interest” means any of the
13 following:

14 (1) That of an officer or employee of a nonprofit entity exempt
15 from taxation pursuant to Section 501(c)(3) of the Internal Revenue
16 Code (26 U.S.C. Sec. 501(c)(3)), pursuant to Section 501(c)(5) of
17 the Internal Revenue Code (26 U.S.C. Sec. 501(c)(5)), or a

1 nonprofit corporation, except as provided in paragraph (8) of
2 subdivision (a) of Section 1091.5.

3 (2) That of an employee or agent of the contracting party, if the
4 contracting party has 10 or more other employees and if the officer
5 was an employee or agent of that contracting party for at least three
6 years prior to the officer initially accepting his or her office and
7 the officer owns less than 3 percent of the shares of stock of the
8 contracting party; and the employee or agent is not an officer or
9 director of the contracting party and did not directly participate in
10 formulating the bid of the contracting party.

11 For purposes of this paragraph, time of employment with the
12 contracting party by the officer shall be counted in computing the
13 three-year period specified in this paragraph even though the
14 contracting party has been converted from one form of business
15 organization to a different form of business organization within
16 three years of the initial taking of office by the officer. Time of
17 employment in that case shall be counted only if, after the transfer
18 or change in organization, the real or ultimate ownership of the
19 contracting party is the same or substantially similar to that which
20 existed before the transfer or change in organization. For purposes
21 of this paragraph, stockholders, bondholders, partners, or other
22 persons holding an interest in the contracting party are regarded
23 as having the “real or ultimate ownership” of the contracting party.

24 (3) That of an employee or agent of the contracting party, if all
25 of the following conditions are met:

26 (A) The agency of which the person is an officer is a local public
27 agency located in a county with a population of less than 4,000,000.

28 (B) The contract is competitively bid and is not for personal
29 services.

30 (C) The employee or agent is not in a primary management
31 capacity with the contracting party, is not an officer or director of
32 the contracting party, and holds no ownership interest in the
33 contracting party.

34 (D) The contracting party has 10 or more other employees.

35 (E) The employee or agent did not directly participate in
36 formulating the bid of the contracting party.

37 (F) The contracting party is the lowest responsible bidder.

38 (4) That of a parent in the earnings of his or her minor child for
39 personal services.

40 (5) That of a landlord or tenant of the contracting party.

1 (6) That of an attorney of the contracting party or that of an
2 owner, officer, employee, or agent of a firm that renders, or has
3 rendered, service to the contracting party in the capacity of
4 stockbroker, insurance agent, insurance broker, real estate agent,
5 or real estate broker, if these individuals have not received and
6 will not receive remuneration, consideration, or a commission as
7 a result of the contract and if these individuals have an ownership
8 interest of 10 percent or more in the law practice or firm, stock
9 brokerage firm, insurance firm, or real estate firm.

10 (7) That of a member of a nonprofit corporation formed under
11 the Food and Agricultural Code or a nonprofit corporation formed
12 under the Corporations Code for the sole purpose of engaging in
13 the merchandising of agricultural products or the supplying of
14 water.

15 (8) That of a supplier of goods or services when those goods or
16 services have been supplied to the contracting party by the officer
17 for at least five years prior to his or her election or appointment
18 to office.

19 (9) That of a person subject to the provisions of Section 1090
20 in any contract or agreement entered into pursuant to the provisions
21 of the California Land Conservation Act of 1965.

22 (10) Except as provided in subdivision (b) of Section 1091.5,
23 that of a director of, or a person having an ownership interest of,
24 10 percent or more in a bank, bank holding company, or savings
25 and loan association with which a party to the contract has a
26 relationship of borrower or depositor, debtor or creditor.

27 (11) That of an engineer, geologist, or architect employed by a
28 consulting engineering or architectural firm. This paragraph applies
29 only to an employee of a consulting firm who does not serve in a
30 primary management capacity, and does not apply to an officer or
31 director of a consulting firm.

32 (12) That of an elected officer otherwise subject to Section 1090,
33 in any housing assistance payment contract entered into pursuant
34 to Section 8 of the United States Housing Act of 1937 (42 U.S.C.
35 Sec. 1437f) as amended, provided that the housing assistance
36 payment contract was in existence before Section 1090 became
37 applicable to the officer and will be renewed or extended only as
38 to the existing tenant, or, in a jurisdiction in which the rental
39 vacancy rate is less than 5 percent, as to new tenants in a unit

1 previously under a Section 8 contract. This section applies to any
2 person who became a public official on or after November 1, 1986.

3 (13) That of a person receiving salary, per diem, or
4 reimbursement for expenses from a government entity.

5 (14) That of a person owning less than 3 percent of the shares
6 of a contracting party that is a for-profit corporation, provided that
7 the ownership of the shares derived from the person's employment
8 with that corporation.

9 (15) That of a party to litigation involving the body or board of
10 which the officer is a member in connection with an agreement in
11 which all of the following apply:

12 (A) The agreement is entered into as part of a settlement of
13 litigation in which the body or board is represented by legal
14 counsel.

15 (B) After a review of the merits of the agreement and other
16 relevant facts and circumstances, a court of competent jurisdiction
17 finds that the agreement serves the public interest.

18 (C) The interested member has recused himself or herself from
19 all participation, direct or indirect, in the making of the agreement
20 on behalf of the body or board.

21 (16) That of a person who is an officer or employee of an
22 investor-owned utility that is regulated by the Public Utilities
23 Commission with respect to a contract between the investor-owned
24 utility and a state, county, district, judicial district, or city body or
25 board of which the person is a member, if the contract requires the
26 investor-owned utility to provide energy efficiency rebates or other
27 type of program to encourage energy efficiency that benefits the
28 public when all of the following apply:

29 (A) The contract is funded by utility consumers pursuant to
30 regulations of the Public Utilities Commission.

31 (B) The contract provides no individual benefit to the person
32 that is not also provided to the public, and the investor-owned
33 utility receives no direct financial profit from the contract.

34 (C) The person has recused himself or herself from all
35 participation in making the contract on behalf of the state, county,
36 district, judicial district, or city body or board of which he or she
37 is a member.

38 (D) The contract implements a program authorized by the Public
39 Utilities Commission.

1 (c) This section is not applicable to any officer interested in a
2 contract who influences or attempts to influence another member
3 of the body or board of which he or she is a member to enter into
4 the contract.

5 (d) The willful failure of an officer to disclose the fact of his or
6 her interest in a contract pursuant to this section is punishable as
7 provided in Section 1097. That violation does not void the contract
8 unless the contracting party had knowledge of the fact of the remote
9 interest of the officer at the time the contract was executed.

10 (e) *This section shall be repealed on January 1, 2017.*

11 *SEC. 2. Section 1091 is added to the Government Code, to*
12 *read:*

13 *1091. (a) An officer shall not be deemed to be interested in a*
14 *contract entered into by a body or board of which the officer is a*
15 *member within the meaning of this article if the officer has only a*
16 *remote interest in the contract and if the fact of that interest is*
17 *disclosed to the body or board of which the officer is a member*
18 *and noted in its official records, and thereafter the body or board*
19 *authorizes, approves, or ratifies the contract in good faith by a*
20 *vote of its membership sufficient for the purpose without counting*
21 *the vote or votes of the officer or member with the remote interest.*

22 (b) *As used in this article, "remote interest" means any of the*
23 *following:*

24 (1) *That of an officer or employee of a nonprofit entity exempt*
25 *from taxation pursuant to Section 501(c)(3) of the Internal Revenue*
26 *Code (26 U.S.C. Sec. 501(c)(3)), pursuant to Section 501(c)(5) of*
27 *the Internal Revenue Code (26 U.S.C. Sec. 501(c)(5)), or a*
28 *nonprofit corporation, except as provided in paragraph (8) of*
29 *subdivision (a) of Section 1091.5.*

30 (2) *That of an employee or agent of the contracting party, if the*
31 *contracting party has 10 or more other employees and if the officer*
32 *was an employee or agent of that contracting party for at least*
33 *three years prior to the officer initially accepting his or her office*
34 *and the officer owns less than 3 percent of the shares of stock of*
35 *the contracting party; and the employee or agent is not an officer*
36 *or director of the contracting party and did not directly participate*
37 *in formulating the bid of the contracting party.*

38 *For purposes of this paragraph, time of employment with the*
39 *contracting party by the officer shall be counted in computing the*
40 *three-year period specified in this paragraph even though the*

1 *contracting party has been converted from one form of business*
2 *organization to a different form of business organization within*
3 *three years of the initial taking of office by the officer. Time of*
4 *employment in that case shall be counted only if, after the transfer*
5 *or change in organization, the real or ultimate ownership of the*
6 *contracting party is the same or substantially similar to that which*
7 *existed before the transfer or change in organization. For purposes*
8 *of this paragraph, stockholders, bondholders, partners, or other*
9 *persons holding an interest in the contracting party are regarded*
10 *as having the “real or ultimate ownership” of the contracting*
11 *party.*

12 *(3) That of an employee or agent of the contracting party, if all*
13 *of the following conditions are met:*

14 *(A) The agency of which the person is an officer is a local public*
15 *agency located in a county with a population of less than*
16 *4,000,000.*

17 *(B) The contract is competitively bid and is not for personal*
18 *services.*

19 *(C) The employee or agent is not in a primary management*
20 *capacity with the contracting party, is not an officer or director*
21 *of the contracting party, and holds no ownership interest in the*
22 *contracting party.*

23 *(D) The contracting party has 10 or more other employees.*

24 *(E) The employee or agent did not directly participate in*
25 *formulating the bid of the contracting party.*

26 *(F) The contracting party is the lowest responsible bidder.*

27 *(4) That of a public officer who is an elected member of any*
28 *state or local body, board, or commission, if that public officer’s*
29 *spouse, child, parent, sibling, or the spouse of the child, parent,*
30 *or sibling, has a financial interest in any contract made by that*
31 *public officer in his or her official capacity, or by any body, board,*
32 *or commission of which that public officer is a member.*

33 *(5) That of a landlord or tenant of the contracting party.*

34 *(6) That of an attorney of the contracting party or that of an*
35 *owner, officer, employee, or agent of a firm that renders, or has*
36 *rendered, service to the contracting party in the capacity of*
37 *stockbroker, insurance agent, insurance broker, real estate agent,*
38 *or real estate broker, if these individuals have not received and*
39 *will not receive remuneration, consideration, or a commission as*
40 *a result of the contract and if these individuals have an ownership*

1 *interest of 10 percent or more in the law practice or firm, stock*
2 *brokerage firm, insurance firm, or real estate firm.*

3 *(7) That of a member of a nonprofit corporation formed under*
4 *the Food and Agricultural Code or a nonprofit corporation formed*
5 *under the Corporations Code for the sole purpose of engaging in*
6 *the merchandising of agricultural products or the supplying of*
7 *water.*

8 *(8) That of a supplier of goods or services when those goods or*
9 *services have been supplied to the contracting party by the officer*
10 *for at least five years prior to his or her election or appointment*
11 *to office.*

12 *(9) That of a person subject to the provisions of Section 1090*
13 *in any contract or agreement entered into pursuant to the*
14 *provisions of the California Land Conservation Act of 1965.*

15 *(10) Except as provided in subdivision (b) of Section 1091.5,*
16 *that of a director of, or a person having an ownership interest of,*
17 *10 percent or more in a bank, bank holding company, or savings*
18 *and loan association with which a party to the contract has a*
19 *relationship of borrower or depositor, debtor or creditor.*

20 *(11) That of an engineer, geologist, or architect employed by a*
21 *consulting engineering or architectural firm. This paragraph*
22 *applies only to an employee of a consulting firm who does not*
23 *serve in a primary management capacity, and does not apply to*
24 *an officer or director of a consulting firm.*

25 *(12) That of an elected officer otherwise subject to Section 1090,*
26 *in any housing assistance payment contract entered into pursuant*
27 *to Section 8 of the United States Housing Act of 1937 (42 U.S.C.*
28 *Sec. 1437f) as amended, provided that the housing assistance*
29 *payment contract was in existence before Section 1090 became*
30 *applicable to the officer and will be renewed or extended only as*
31 *to the existing tenant, or, in a jurisdiction in which the rental*
32 *vacancy rate is less than 5 percent, as to new tenants in a unit*
33 *previously under a Section 8 contract. This section applies to any*
34 *person who became a public official on or after November 1, 1986.*

35 *(13) That of a person receiving salary, per diem, or*
36 *reimbursement for expenses from a government entity.*

37 *(14) That of a person owning less than 3 percent of the shares*
38 *of a contracting party that is a for-profit corporation, provided*
39 *that the ownership of the shares derived from the person's*
40 *employment with that corporation.*

1 (15) That of a party to litigation involving the body or board of
2 which the officer is a member in connection with an agreement in
3 which all of the following apply:

4 (A) The agreement is entered into as part of a settlement of
5 litigation in which the body or board is represented by legal
6 counsel.

7 (B) After a review of the merits of the agreement and other
8 relevant facts and circumstances, a court of competent jurisdiction
9 finds that the agreement serves the public interest.

10 (C) The interested member has recused himself or herself from
11 all participation, direct or indirect, in the making of the agreement
12 on behalf of the body or board.

13 (16) That of a person who is an officer or employee of an
14 investor-owned utility that is regulated by the Public Utilities
15 Commission with respect to a contract between the investor-owned
16 utility and a state, county, district, judicial district, or city body
17 or board of which the person is a member, if the contract requires
18 the investor-owned utility to provide energy efficiency rebates or
19 other type of program to encourage energy efficiency that benefits
20 the public when all of the following apply:

21 (A) The contract is funded by utility consumers pursuant to
22 regulations of the Public Utilities Commission.

23 (B) The contract provides no individual benefit to the person
24 that is not also provided to the public, and the investor-owned
25 utility receives no direct financial profit from the contract.

26 (C) The person has recused himself or herself from all
27 participation in making the contract on behalf of the state, county,
28 district, judicial district, or city body or board of which he or she
29 is a member.

30 (D) The contract implements a program authorized by the Public
31 Utilities Commission.

32 (c) This section is not applicable to any officer interested in a
33 contract who influences or attempts to influence another member
34 of the body or board of which he or she is a member to enter into
35 the contract.

36 (d) The willful failure of an officer to disclose the fact of his or
37 her interest in a contract pursuant to this section is punishable as
38 provided in Section 1097. That violation does not void the contract
39 unless the contracting party had knowledge of the fact of the remote
40 interest of the officer at the time the contract was executed.

1 (e) This section shall become operative on January 1, 2017.

2 SEC. 3. No reimbursement is required by this act pursuant to
 3 Section 6 of Article XIII B of the California Constitution because
 4 the only costs that may be incurred by a local agency or school
 5 district will be incurred because this act creates a new crime or
 6 infraction, eliminates a crime or infraction, or changes the penalty
 7 for a crime or infraction, within the meaning of Section 17556 of
 8 the Government Code, or changes the definition of a crime within
 9 the meaning of Section 6 of Article XIII B of the California
 10 Constitution.

11 SECTION 1. ~~Section 1091.5 of the Government Code is~~
 12 ~~amended to read:~~

13 ~~1091.5. (a) An officer or employee shall not be deemed to be~~
 14 ~~interested in a contract if his or her interest is any of the following:~~

15 ~~(1) The ownership of less than 3 percent of the shares of a~~
 16 ~~corporation for profit, provided that the total annual income to him~~
 17 ~~or her from dividends, including the value of stock dividends, from~~
 18 ~~the corporation does not exceed 5 percent of his or her total annual~~
 19 ~~income, and any other payments made to him or her by the~~
 20 ~~corporation do not exceed 5 percent of his or her total annual~~
 21 ~~income.~~

22 ~~(2) That of an officer in being reimbursed for his or her actual~~
 23 ~~and necessary expenses incurred in the performance of official~~
 24 ~~duties.~~

25 ~~(3) That of a recipient of public services generally provided by~~
 26 ~~the public body or board of which he or she is a member, on the~~
 27 ~~same terms and conditions as if he or she were not a member of~~
 28 ~~the body or board.~~

29 ~~(4) That of a landlord or tenant of the contracting party if the~~
 30 ~~contracting party is the federal government or any federal~~
 31 ~~department or agency, this state or an adjoining state, any~~
 32 ~~department or agency of this state or an adjoining state, any county~~
 33 ~~or city of this state or an adjoining state, or any public corporation~~
 34 ~~or special, judicial, or other public district of this state or an~~
 35 ~~adjoining state unless the subject matter of the contract is the~~
 36 ~~property in which the officer or employee has the interest as~~
 37 ~~landlord or tenant in which event his or her interest shall be deemed~~
 38 ~~a remote interest within the meaning of, and subject to, the~~
 39 ~~provisions of Section 1091.~~

1 ~~(5) That of a tenant in a public housing authority created~~
2 ~~pursuant to Part 2 (commencing with Section 34200) of Division~~
3 ~~24 of the Health and Safety Code in which he or she serves as a~~
4 ~~member of the board of commissioners of the authority or of a~~
5 ~~community development commission created pursuant to Part 1.7~~
6 ~~(commencing with Section 34100) of Division 24 of the Health~~
7 ~~and Safety Code.~~

8 ~~(6) That of a spouse of an officer or employee of a public agency~~
9 ~~in his or her spouse's employment or officeholding if his or her~~
10 ~~spouse's employment or officeholding has existed for at least one~~
11 ~~year prior to his or her election or appointment.~~

12 ~~(7) That of a nonsalaried member of a nonprofit corporation,~~
13 ~~provided that this interest is disclosed to the body or board at the~~
14 ~~time of the first consideration of the contract, and provided further~~
15 ~~that this interest is noted in its official records.~~

16 ~~(8) That of a noncompensated officer of a nonprofit, tax-exempt~~
17 ~~corporation, which, as one of its primary purposes, supports the~~
18 ~~functions of the body or board or to which the body or board has~~
19 ~~a legal obligation to give particular consideration, and provided~~
20 ~~further that this interest is noted in its official records.~~

21 ~~For purposes of this paragraph, an officer is "noncompensated"~~
22 ~~even though he or she receives reimbursement from the nonprofit,~~
23 ~~tax-exempt corporation for necessary travel and other actual~~
24 ~~expenses incurred in performing the duties of his or her office.~~

25 ~~(9) That of a person receiving salary, per diem, or reimbursement~~
26 ~~for expenses from a government entity, unless the contract directly~~
27 ~~involves the department of the government entity that employs the~~
28 ~~officer or employee, provided that the interest is disclosed to the~~
29 ~~body or board at the time of consideration of the contract, and~~
30 ~~provided further that the interest is noted in its official record.~~

31 ~~(10) That of an attorney of the contracting party or that of an~~
32 ~~owner, officer, employee, or agent of a firm which renders, or has~~
33 ~~rendered, service to the contracting party in the capacity of~~
34 ~~stockbroker, insurance agent, insurance broker, real estate agent,~~
35 ~~or real estate broker, if these individuals have not received and~~
36 ~~will not receive remuneration, consideration, or a commission as~~
37 ~~a result of the contract and if these individuals have an ownership~~
38 ~~interest of less than 10 percent in the law practice or firm, stock~~
39 ~~brokerage firm, insurance firm, or real estate firm.~~

1 ~~(11) Except as provided in subdivision (b), that of an officer or~~
2 ~~employee of, or a person having less than a 10-percent ownership~~
3 ~~interest in, a bank, bank holding company, or savings and loan~~
4 ~~association with which a party to the contract has a relationship~~
5 ~~of borrower, depositor, debtor, or creditor.~~

6 ~~(12) That of (A) a bona fide nonprofit, tax-exempt corporation~~
7 ~~having among its primary purposes the conservation, preservation,~~
8 ~~or restoration of park and natural lands or historical resources for~~
9 ~~public benefit, which corporation enters into an agreement with a~~
10 ~~public agency to provide services related to park and natural lands~~
11 ~~or historical resources and which services are found by the public~~
12 ~~agency, prior to entering into the agreement or as part of the~~
13 ~~agreement, to be necessary to the public interest to plan for,~~
14 ~~acquire, protect, conserve, improve, or restore park and natural~~
15 ~~lands or historical resources for public purposes and (B) any officer,~~
16 ~~director, or employee acting pursuant to the agreement on behalf~~
17 ~~of the nonprofit corporation. For purposes of this paragraph,~~
18 ~~“agreement” includes contracts and grants, and “park,” “natural~~
19 ~~lands,” and “historical resources” shall have the meanings set forth~~
20 ~~in subdivisions (d), (g), and (i) of Section 5902 of the Public~~
21 ~~Resources Code. Services to be provided to the public agency may~~
22 ~~include those studies and related services, acquisitions of property~~
23 ~~and property interests, and any activities related to those studies~~
24 ~~and acquisitions necessary for the conservation, preservation,~~
25 ~~improvement, or restoration of park and natural lands or historical~~
26 ~~resources.~~

27 ~~(13) That of an officer, employee, or member of the Board of~~
28 ~~Directors of the California Housing Finance Agency with respect~~
29 ~~to a loan product or programs if the officer, employee, or member~~
30 ~~participated in the planning, discussions, development, or approval~~
31 ~~of the loan product or program and both of the following two~~
32 ~~conditions exist:~~

33 ~~(A) The loan product or program is or may be originated by any~~
34 ~~lender approved by the agency.~~

35 ~~(B) The loan product or program is generally available to~~
36 ~~qualifying borrowers on terms and conditions that are substantially~~
37 ~~the same for all qualifying borrowers at the time the loan is made.~~

38 ~~(14) That of a party to a contract for public services entered into~~
39 ~~by a special district that requires a person to be a landowner or a~~
40 ~~representative of a landowner to serve on the board of which the~~

1 officer or employee is a member, on the same terms and conditions
2 as if he or she were not a member of the body or board. For
3 purposes of this paragraph, “public services” includes the powers
4 and purposes generally provided pursuant to provisions of the
5 Water Code relating to irrigation districts, California water districts,
6 water storage districts, or reclamation districts.

7 (b) ~~An officer or employee shall not be deemed to be interested
8 in a contract made pursuant to competitive bidding under a
9 procedure established by law if his or her sole interest is that of
10 an officer, director, or employee of a bank or savings and loan
11 association with which a party to the contract has the relationship
12 of borrower or depositor, debtor or creditor.~~

13 (e) ~~This section shall be repealed on January 1, 2017.~~

14 SEC. 2. ~~Section 1091.5 is added to the Government Code, to
15 read:~~

16 ~~1091.5. (a) An officer or employee shall not be deemed to be
17 interested in a contract if his or her interest is any of the following:~~

18 (1) ~~The ownership of less than 3 percent of the shares of a
19 corporation for profit, provided that the total annual income to him
20 or her from dividends, including the value of stock dividends, from
21 the corporation does not exceed 5 percent of his or her total annual
22 income, and any other payments made to him or her by the
23 corporation do not exceed 5 percent of his or her total annual
24 income.~~

25 (2) ~~That of an officer in being reimbursed for his or her actual
26 and necessary expenses incurred in the performance of official
27 duties.~~

28 (3) ~~That of a recipient of public services generally provided by
29 the public body or board of which he or she is a member, on the
30 same terms and conditions as if he or she were not a member of
31 the body or board.~~

32 (4) ~~That of a landlord or tenant of the contracting party if the
33 contracting party is the federal government or any federal
34 department or agency, this state or an adjoining state, any
35 department or agency of this state or an adjoining state, any county
36 or city of this state or an adjoining state, or any public corporation
37 or special, judicial, or other public district of this state or an
38 adjoining state unless the subject matter of the contract is the
39 property in which the officer or employee has the interest as
40 landlord or tenant in which event his or her interest shall be deemed~~

1 a remote interest within the meaning of, and subject to, the
2 provisions of Section 1091.

3 (5) ~~That of a tenant in a public housing authority created~~
4 ~~pursuant to Part 2 (commencing with Section 34200) of Division~~
5 ~~24 of the Health and Safety Code in which he or she serves as a~~
6 ~~member of the board of commissioners of the authority or of a~~
7 ~~community development commission created pursuant to Part 1.7~~
8 ~~(commencing with Section 34100) of Division 24 of the Health~~
9 ~~and Safety Code.~~

10 (6) ~~Except as provided in Section 1091.7, that of a spouse of an~~
11 ~~officer or employee of a public agency in his or her spouse's~~
12 ~~employment or officeholding if his or her spouse's employment~~
13 ~~or officeholding has existed for at least one year prior to his or her~~
14 ~~election or appointment.~~

15 (7) ~~That of a nonsalaried member of a nonprofit corporation,~~
16 ~~provided that this interest is disclosed to the body or board at the~~
17 ~~time of the first consideration of the contract, and provided further~~
18 ~~that this interest is noted in its official records.~~

19 (8) ~~That of a nonecompensated officer of a nonprofit, tax-exempt~~
20 ~~corporation, which, as one of its primary purposes, supports the~~
21 ~~functions of the body or board or to which the body or board has~~
22 ~~a legal obligation to give particular consideration, and provided~~
23 ~~further that this interest is noted in its official records.~~

24 For purposes of this paragraph, an officer is "nonecompensated"
25 even though he or she receives reimbursement from the nonprofit,
26 tax-exempt corporation for necessary travel and other actual
27 expenses incurred in performing the duties of his or her office.

28 (9) ~~That of a person receiving salary, per diem, or reimbursement~~
29 ~~for expenses from a government entity, unless the contract directly~~
30 ~~involves the department of the government entity that employs the~~
31 ~~officer or employee, provided that the interest is disclosed to the~~
32 ~~body or board at the time of consideration of the contract, and~~
33 ~~provided further that the interest is noted in its official record.~~

34 (10) ~~That of an attorney of the contracting party or that of an~~
35 ~~owner, officer, employee, or agent of a firm which renders, or has~~
36 ~~rendered, service to the contracting party in the capacity of~~
37 ~~stockbroker, insurance agent, insurance broker, real estate agent,~~
38 ~~or real estate broker, if these individuals have not received and~~
39 ~~will not receive remuneration, consideration, or a commission as~~
40 ~~a result of the contract and if these individuals have an ownership~~

1 interest of less than 10 percent in the law practice or firm, stock
2 brokerage firm, insurance firm, or real estate firm.

3 (11) Except as provided in subdivision (b), that of an officer or
4 employee of, or a person having less than a 10-percent ownership
5 interest in, a bank, bank holding company, or savings and loan
6 association with which a party to the contract has a relationship
7 of borrower, depositor, debtor, or creditor.

8 (12) That of (A) a bona fide nonprofit, tax-exempt corporation
9 having among its primary purposes the conservation, preservation,
10 or restoration of park and natural lands or historical resources for
11 public benefit, which corporation enters into an agreement with a
12 public agency to provide services related to park and natural lands
13 or historical resources and which services are found by the public
14 agency, prior to entering into the agreement or as part of the
15 agreement, to be necessary to the public interest to plan for,
16 acquire, protect, conserve, improve, or restore park and natural
17 lands or historical resources for public purposes and (B) any officer,
18 director, or employee acting pursuant to the agreement on behalf
19 of the nonprofit corporation. For purposes of this paragraph,
20 “agreement” includes contracts and grants, and “park,” “natural
21 lands,” and “historical resources” shall have the meanings set forth
22 in subdivisions (d), (g), and (i) of Section 5902 of the Public
23 Resources Code. Services to be provided to the public agency may
24 include those studies and related services, acquisitions of property
25 and property interests, and any activities related to those studies
26 and acquisitions necessary for the conservation, preservation,
27 improvement, or restoration of park and natural lands or historical
28 resources.

29 (13) That of an officer, employee, or member of the Board of
30 Directors of the California Housing Finance Agency with respect
31 to a loan product or programs if the officer, employee, or member
32 participated in the planning, discussions, development, or approval
33 of the loan product or program and both of the following two
34 conditions exist:

35 (A) The loan product or program is or may be originated by any
36 lender approved by the agency.

37 (B) The loan product or program is generally available to
38 qualifying borrowers on terms and conditions that are substantially
39 the same for all qualifying borrowers at the time the loan is made.

1 ~~(14) That of a party to a contract for public services entered into~~
2 ~~by a special district that requires a person to be a landowner or a~~
3 ~~representative of a landowner to serve on the board of which the~~
4 ~~officer or employee is a member, on the same terms and conditions~~
5 ~~as if he or she were not a member of the body or board. For~~
6 ~~purposes of this paragraph, “public services” includes the powers~~
7 ~~and purposes generally provided pursuant to provisions of the~~
8 ~~Water Code relating to irrigation districts, California water districts,~~
9 ~~water storage districts, or reclamation districts.~~

10 ~~(b) An officer or employee shall not be deemed to be interested~~
11 ~~in a contract made pursuant to competitive bidding under a~~
12 ~~procedure established by law if his or her sole interest is that of~~
13 ~~an officer, director, or employee of a bank or savings and loan~~
14 ~~association with which a party to the contract has the relationship~~
15 ~~of borrower or depositor, debtor or creditor.~~

16 ~~(c) This section shall become operative on January 1, 2017.~~

17 ~~SEC. 3. Section 1091.7 is added to the Government Code, to~~
18 ~~read:~~

19 ~~1091.7. (a) Subject to the provisions of this article, a public~~
20 ~~officer who is an elected member of any state or local body, board,~~
21 ~~or commission shall be deemed to have a financial interest in a~~
22 ~~contract pursuant to this article, if that public officer’s spouse,~~
23 ~~child, parent, sibling, or the spouse of the child, parent, or sibling~~
24 ~~has a financial interest in any contract made by that public officer~~
25 ~~in his or her official capacity, or by any body, board, or commission~~
26 ~~of which that public officer is a member.~~

27 ~~(b) (1) The determination of a financial interest with respect to~~
28 ~~any person described in this section shall be made according to~~
29 ~~the same standards as those set forth in this article with respect to~~
30 ~~the public officer, as applicable.~~

31 ~~(2) For purposes of determining a financial interest pursuant to~~
32 ~~this section, an individual lobbying on behalf of a contracting party~~
33 ~~shall be construed to be an agent of that contracting party.~~

34 ~~(c) For purposes of this section, only a member of the governing~~
35 ~~entity deemed to have a financial interest pursuant to subdivision~~
36 ~~(a) shall be subject to the prohibition and enforcement of this~~
37 ~~article.~~

38 ~~(d) This section shall become operative on January 1, 2017.~~

39 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
40 ~~Section 6 of Article XIII B of the California Constitution because~~

1 ~~the only costs that may be incurred by a local agency or school~~
2 ~~district will be incurred because this act creates a new crime or~~
3 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
4 ~~for a crime or infraction, within the meaning of Section 17556 of~~
5 ~~the Government Code, or changes the definition of a crime within~~
6 ~~the meaning of Section 6 of Article XIII B of the California~~
7 ~~Constitution.~~

O

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN SENATE APRIL 30, 2015

AMENDED IN SENATE APRIL 22, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 704

Introduced by Senator Gaines

February 27, 2015

An act to amend Section 1091 of the Government Code, relating to ~~public officers~~; *officers and employees*.

LEGISLATIVE COUNSEL'S DIGEST

SB 704, as amended, Gaines. Public officers and employees: conflict of ~~interest~~; *interest; contracts*.

Existing law prohibits Members of the Legislature, state, county, district, judicial district, and city officers or employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Existing law identifies certain remote interests *in contracts* that are not subject to this prohibition and other situations in which an official is not deemed to be financially interested in a contract. Existing law makes a willful violation of this prohibition a crime.

This bill would include in the definition of "remote interest" the interest of a person who is an owner or partner of a firm serving ~~on~~ *as an advisory appointed member of an unelected* board or commission ~~to~~ *of* the contracting agency, ~~if the duties of the advisory board or commission do not include providing advice with respect to seeking or awarding contracts, and if the owner or partner recuses himself or herself from providing any advice to the contracting agency regarding the~~

contract between the firm and the contracting agency, and from all participation in reviewing a project that results from a contract between the firm and the contracting agency. that contract. The bill would also include in the definition of “remote interest” the interest of a planner employed by a consulting engineering, architectural, or planning firm.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 1091 of the Government Code is amended
2 to read:

3 1091. (a) An officer shall not be deemed to be interested in a
4 contract entered into by a body or board of which the officer is a
5 member within the meaning of this article if the officer has only
6 a remote interest in the contract and if the fact of that interest is
7 disclosed to the body or board of which the officer is a member
8 and noted in its official records, and thereafter the body or board
9 authorizes, approves, or ratifies the contract in good faith by a vote
10 of its membership sufficient for the purpose without counting the
11 vote or votes of the officer or member with the remote interest.

12 (b) As used in this article, “remote interest” means any of the
13 following:

14 (1) That of an officer or employee of a nonprofit entity exempt
15 from taxation pursuant to Section 501(c)(3) of the Internal Revenue
16 Code (26 U.S.C. Sec. 501(c)(3)), pursuant to Section 501(c)(5) of
17 the Internal Revenue Code (26 U.S.C. Sec. 501(c)(5)), or a
18 nonprofit corporation, except as provided in paragraph (8) of
19 subdivision (a) of Section 1091.5.

20 (2) That of an employee or agent of the contracting party, if the
21 contracting party has 10 or more other employees and if the officer
22 was an employee or agent of that contracting party for at least three
23 years prior to the officer initially accepting his or her office and
24 the officer owns less than 3 percent of the shares of stock of the
25 contracting party; and the employee or agent is not an officer or
26 director of the contracting party and did not directly participate in
27 formulating the bid of the contracting party.

28 For purposes of this paragraph, time of employment with the
29 contracting party by the officer shall be counted in computing the
30 three-year period specified in this paragraph even though the

1 contracting party has been converted from one form of business
2 organization to a different form of business organization within
3 three years of the initial taking of office by the officer. Time of
4 employment in that case shall be counted only if, after the transfer
5 or change in organization, the real or ultimate ownership of the
6 contracting party is the same or substantially similar to that which
7 existed before the transfer or change in organization. For purposes
8 of this paragraph, stockholders, bondholders, partners, or other
9 persons holding an interest in the contracting party are regarded
10 as having the “real or ultimate ownership” of the contracting party.

11 (3) That of an employee or agent of the contracting party, if all
12 of the following conditions are met:

13 (A) The agency of which the person is an officer is a local public
14 agency located in a county with a population of less than 4,000,000.

15 (B) The contract is competitively bid and is not for personal
16 services.

17 (C) The employee or agent is not in a primary management
18 capacity with the contracting party, is not an officer or director of
19 the contracting party, and holds no ownership interest in the
20 contracting party.

21 (D) The contracting party has 10 or more other employees.

22 (E) The employee or agent did not directly participate in
23 formulating the bid of the contracting party.

24 (F) The contracting party is the lowest responsible bidder.

25 (4) That of a parent in the earnings of his or her minor child for
26 personal services.

27 (5) That of a landlord or tenant of the contracting party.

28 (6) That of an attorney of the contracting party or that of an
29 owner, officer, employee, or agent of a firm that renders, or has
30 rendered, service to the contracting party in the capacity of
31 stockbroker, insurance agent, insurance broker, real estate agent,
32 or real estate broker, if these individuals have not received and
33 will not receive remuneration, consideration, or a commission as
34 a result of the contract and if these individuals have an ownership
35 interest of 10 percent or more in the law practice or firm, stock
36 brokerage firm, insurance firm, or real estate firm.

37 (7) That of a member of a nonprofit corporation formed under
38 the Food and Agricultural Code or a nonprofit corporation formed
39 under the Corporations Code for the sole purpose of engaging in

1 the merchandising of agricultural products or the supplying of
2 water.

3 (8) That of a supplier of goods or services when those goods or
4 services have been supplied to the contracting party by the officer
5 for at least five years prior to his or her election or appointment
6 to office.

7 (9) That of a person subject to the provisions of Section 1090
8 in any contract or agreement entered into pursuant to the provisions
9 of the California Land Conservation Act of 1965.

10 (10) Except as provided in subdivision (b) of Section 1091.5,
11 that of a director of, or a person having an ownership interest of,
12 10 percent or more in a bank, bank holding company, or savings
13 and loan association with which a party to the contract has a
14 relationship of borrower or depositor, debtor or creditor.

15 (11) That of an engineer, geologist, ~~or~~ architect, *or planner*
16 employed by a consulting ~~engineering or engineering~~, architectural,
17 *or planning* firm. This paragraph applies only to an employee of
18 a consulting firm who does not serve in a primary management
19 capacity, and does not apply to an officer or director of a consulting
20 firm.

21 (12) That of an elected officer otherwise subject to Section 1090,
22 in any housing assistance payment contract entered into pursuant
23 to Section 8 of the United States Housing Act of 1937 (42 U.S.C.
24 Sec. 1437f) as amended, provided that the housing assistance
25 payment contract was in existence before Section 1090 became
26 applicable to the officer and will be renewed or extended only as
27 to the existing tenant, or, in a jurisdiction in which the rental
28 vacancy rate is less than 5 percent, as to new tenants in a unit
29 previously under a Section 8 contract. This section applies to any
30 person who became a public official on or after November 1, 1986.

31 (13) That of a person receiving salary, per diem, or
32 reimbursement for expenses from a government entity.

33 (14) That of a person owning less than 3 percent of the shares
34 of a contracting party that is a for-profit corporation, provided that
35 the ownership of the shares derived from the person's employment
36 with that corporation.

37 (15) That of a party to litigation involving the body or board of
38 which the officer is a member in connection with an agreement in
39 which all of the following apply:

1 (A) The agreement is entered into as part of a settlement of
2 litigation in which the body or board is represented by legal
3 counsel.

4 (B) After a review of the merits of the agreement and other
5 relevant facts and circumstances, a court of competent jurisdiction
6 finds that the agreement serves the public interest.

7 (C) The interested member has recused himself or herself from
8 all participation, direct or indirect, in the making of the agreement
9 on behalf of the body or board.

10 (16) That of a person who is an officer or employee of an
11 investor-owned utility that is regulated by the Public Utilities
12 Commission with respect to a contract between the investor-owned
13 utility and a state, county, district, judicial district, or city body or
14 board of which the person is a member, if the contract requires the
15 investor-owned utility to provide energy efficiency rebates or other
16 type of program to encourage energy efficiency that benefits the
17 public when all of the following apply:

18 (A) The contract is funded by utility consumers pursuant to
19 regulations of the Public Utilities Commission.

20 (B) The contract provides no individual benefit to the person
21 that is not also provided to the public, and the investor-owned
22 utility receives no direct financial profit from the contract.

23 (C) The person has recused himself or herself from all
24 participation in making the contract on behalf of the state, county,
25 district, judicial district, or city body or board of which he or she
26 is a member.

27 (D) The contract implements a program authorized by the Public
28 Utilities Commission.

29 (17) That of an owner or partner of a firm serving ~~on~~ as an
30 ~~advisory~~ *appointed member of an unelected* board or commission
31 ~~to~~ of the contracting agency ~~if the duties of the advisory board or~~
32 ~~commission do not include providing advice with respect to seeking~~
33 ~~or awarding contracts and if the owner or partner recuses himself~~
34 ~~or herself from~~ *providing any advice to the contracting agency*
35 *regarding the contract between the firm and the contracting agency*
36 *and from all participation in reviewing a project that results from*
37 ~~a contract between the firm and the contracting agency. that~~
38 *contract.*

39 (c) This section is not applicable to any officer interested in a
40 contract who influences or attempts to influence another member

1 of the body or board of which he or she is a member to enter into
2 the contract.

3 (d) The willful failure of an officer to disclose the fact of his or
4 her interest in a contract pursuant to this section is punishable as
5 provided in Section 1097. That violation does not void the contract
6 unless the contracting party had knowledge of the fact of the remote
7 interest of the officer at the time the contract was executed.

O