

AMENDED IN ASSEMBLY MAY 21, 2001

AMENDED IN ASSEMBLY APRIL 5, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1325**

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**Introduced by Assembly Member Negrete McLeod**

February 23, 2001

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An act to amend Sections 82002, 82039, and 82045 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1325, as amended, Negrete McLeod. Political Reform Act of 1974: lobbyists: Public Utilities Commission: payments to influence legislative or administrative action.

Existing provisions of the Political Reform Act of 1974 generally define “administrative action,” to mean, among other things, the proposal, enactment, or defeat of a state agency regulation in any ~~rate-making~~ *ratemaking* proceeding or any quasi-legislative proceeding.

This bill would define ~~“rate-making”~~ “*ratemaking*” and “quasi-legislative proceeding,” as specified, for purposes of proceedings before the Public Utilities Commission (PUC).

Existing provisions of the act generally define a “lobbyist” as an individual who receives \$2,000 or more in a calendar month or whose principal duties are to communicate directly or through agents with an elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action.

This bill would provide that a proceeding before the PUC constitutes “administrative action” for purposes of this provision if the proceeding is a ~~“rate-making~~ “ratemaking proceeding” or a “quasi-legislative proceeding” as defined by this bill, except as specified.

Existing provisions of the act define a “payment to influence legislative or administrative action” as including specified types of payment.

This bill would include a payment for the purpose of influencing a ~~rate-making~~ ratemaking or quasi-legislative proceeding, as defined by this bill, before the Public Utilities Commission within the definition of payments to influence legislative or administrative action ~~if only in circumstances where the payment meets the type of payment specified by existing law~~ is made to or for attorneys for their time spent appearing as counsel and preparing to appear as counsel, or to or for witnesses for their time spent testifying and preparing to testify, in this type of Public Utilities Commission proceeding.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these penalties on persons who violate the provisions of this bill.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes with a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements. Proposition 208, an initiative measure approved by the voters at the November 5, 1996, statewide general election, makes the amendment provisions of the Political Reform Act applicable to the amendment of that initiative measure. Proposition 208, however, has been generally superseded by Proposition 34, approved by the voters at the November 7, 2000, statewide general election, with the exception of certain provisions, one of which is amended by this bill.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974 and Proposition 208, would therefore require a  $\frac{2}{3}$  vote.

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: <sup>2</sup>/<sub>3</sub>. 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 the proposal,  
4 drafting, development, consideration, amendment, enactment or  
5 defeat by any state agency of any rule, regulation or other action  
6 in any ~~rate-making~~ *ratemaking* proceeding or any quasi-legislative  
7 proceeding, which shall include any proceeding governed by  
8 Chapter 3.5 (commencing with Section 11340) of Part 1 of  
9 Division 3 of Title 2.

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

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

22 SEC. 2. Section 82039 of the Government Code is amended  
23 to read:

24 82039. (a) “Lobbyist” means any individual who receives  
25 two thousand dollars (\$2,000) or more in economic consideration  
26 in a calendar month, other than reimbursement for reasonable  
27 travel expenses, or whose principal duties as an employee are, to  
28 communicate directly or through his or her agents with any  
29 elective state official, agency official, or legislative official for the  
30 purpose of influencing legislative or administrative action. An  
31 individual is not a lobbyist by reason of activities described in  
32 Section 86300.

33 (b) For the purposes of subdivision (a), a proceeding before the  
34 Public Utilities Commission constitutes “administrative action”  
35 if it meets any of the definitions set forth in subdivision (b) or (c)



1 of Section 82002. However, a communication made for the  
2 purpose of influencing this type of Public Utilities Commission  
3 proceeding is not within subdivision (a) if the communication is  
4 made at a public hearing, public workshop or other public forum  
5 that is part of the proceeding, or if the communication is included  
6 in the official record of the proceeding.

7 SEC. 3. Section 82045 of the Government Code is amended  
8 to read:

9 82045. (a) “Payment to influence legislative or  
10 administrative action” means any of the following types of  
11 payment:

12 (1) Direct or indirect payment to a lobbyist whether for salary,  
13 fee, compensation for expenses, or any other purpose, by a person  
14 employing or contracting for the services of the lobbyist separately  
15 or jointly with other persons.

16 (2) Payment in support or assistance of a lobbyist or his  
17 activities, including but not limited to the direct payment of  
18 expenses incurred at the request or suggestion of the lobbyist.

19 (3) Payment which directly or indirectly benefits any elective  
20 state official, legislative official or agency official or a member of  
21 the immediate family of any such official.

22 (4) Payment, including compensation, payment or  
23 reimbursement for the services, time or expenses of an employee,  
24 for or in connection with direct communication with any elective  
25 state official, legislative official or agency official.

26 (5) Payment for or in connection with soliciting or urging other  
27 persons to enter into direct communication with any elective state  
28 official, legislative official or agency official.

29 ~~(b) A payment made for the purpose of influencing any~~  
30 ~~rate making or quasi-legislative proceeding before the Public~~  
31 ~~Utilities Commission, as defined in subdivision (b) or (c),~~  
32 ~~respectively, of Section 82002, is a “payment to influence~~  
33 ~~legislative or administrative action” if the payment meets the~~  
34 ~~requirements of any provision in subdivision (a).~~

35 *(b) Notwithstanding subdivision (a), a payment made for the*  
36 *purpose of influencing any ratemaking or quasi-legislative*  
37 *proceeding before the Public Utilities Commission, as defined in*  
38 *subdivision (b) or (c), respectively, of Section 82002, is a*  
39 *“payment to influence legislative or administrative action” only*  
40 *if the payment is made to or for attorneys for their time spent*



1 *appearing as counsel and preparing to appear as counsel, or to or*  
2 *for witnesses for their time spent testifying and preparing to testify,*  
3 *in this type of Public Utilities Commission proceeding.*

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

13 SEC. 5. The Legislature finds and declares that the provisions  
14 of this act further the purposes of both the Political Reform Act of  
15 1974 and Proposition 208 of the 1996 statewide general election  
16 within the meaning of subdivision (a) of Section 81012 of the  
17 Government Code and Section 45 of that measure.

