

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1820

Introduced by Assembly Member Galgiani

January 18, 2008

~~An act to amend Section 8920 of the Government Code, relating to conflict of interest. An act to amend Sections 15201 and 15202 of the Government Code, relating to counties.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1820, as amended, Galgiani. ~~Conflict of interest: public officers. Counties: homicide trials: reimbursement.~~

Existing law authorizes a county that is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide to apply to the Controller for reimbursement of a portion of the costs incurred by the county, as specified.

This bill would limit the authorization to a county that is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide that was committed on or after January 1, 2005. The bill would also revise the definition of "costs incurred by the county" to mean, among other things, court appointed expert witness fees and expenses.

~~Under existing law, a Member of the Legislature, state elective or appointive officer, or judge or justice may not, while serving in his or her public office, have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction, or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her statutory responsibilities, as specified. Existing law also~~

~~prohibits a Member of the Legislature from engaging in specified conduct, including accepting or agreeing to accept any employment, fee, or other thing of monetary value in consideration of appearing, agreeing to appear, or taking any other action on behalf of another person before any state board or agency.~~

~~This bill would make technical, nonsubstantive changes to these provisions:~~

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

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

1 SECTION 1. Section 15201 of the Government Code is
 2 amended to read:

3 15201. As used in this chapter, “costs incurred by the county”
 4 means all costs, except normal salaries and expenses, incurred by
 5 the county in bringing to trial or trials, including the trial or trials
 6 of, a person or persons for the offense of homicide, including costs,
 7 except normal salaries and expenses, incurred by the district
 8 attorney in investigation and prosecution, by the sheriff in
 9 investigation, by the public defender or court-appointed attorney
 10 or attorneys in investigation and defense, and all other costs, except
 11 normal salaries and expenses, incurred by the county in connection
 12 with bringing the person or persons to trial including the trial itself,
 13 which includes extraordinary expenses for such services as witness
 14 fees and expenses, court-appointed expert ~~witnesses~~ *witness fees*
 15 *and expenses*, reporter fees, and costs in preparing transcripts.
 16 Trial costs shall also include all pretrials, hearings, and
 17 postconviction proceedings, if any. “Costs incurred by the county”
 18 do not include any costs paid by the superior court or for which
 19 the superior court is responsible.

20 SEC. 2. Section 15202 of the Government Code is amended to
 21 read:

22 15202. (a) A county that is responsible for the cost of a trial
 23 or trials or any hearing of a person for the offense of homicide *that*
 24 *was committed on or after January 1, 2005*, may apply to the
 25 Controller for reimbursement of the costs incurred by the county
 26 in excess of the amount of money derived by the county from a
 27 tax of 0.0125 of 1 percent of the full value of property assessed
 28 for purposes of taxation within the county.

1 (b) The Controller shall not reimburse any county for costs that
2 exceed the California Victim Compensation and Government
3 Claims Board's standards for travel and per diem expenses. The
4 Controller may reimburse extraordinary costs in unusual cases if
5 the county provides sufficient justification of the need for these
6 expenditures. Nothing in this section shall permit the
7 reimbursement of costs for travel in excess of 1,000 miles on any
8 single round trip, without the prior approval of the Attorney
9 General.

10 SECTION 1. Section 8920 of the Government Code is amended
11 to read:

12 ~~8920. (a) No Member of the Legislature, state elective or~~
13 ~~appointive officer, or judge or justice shall, while serving in his~~
14 ~~or her public office, have any interest, financial or otherwise, direct~~
15 ~~or indirect, or engage in any business or transaction or professional~~
16 ~~activity, or incur any obligation of any nature, which is in~~
17 ~~substantial conflict with the proper discharge of his or her duties~~
18 ~~in the public interest and of his or her responsibilities as prescribed~~
19 ~~in the laws of this state.~~

20 (b) No Member of the Legislature shall do any of the following:

21 (1) ~~Accept other employment which he or she has reason to~~
22 ~~believe will either impair his or her independence of judgment as~~
23 ~~to his or her official duties or require him or her, or induce him or~~
24 ~~her, to disclose confidential information acquired by him or her~~
25 ~~in the course of and by reason of his or her official duties.~~

26 (2) ~~Willfully and knowingly disclose, for pecuniary gain, to any~~
27 ~~other person, confidential information acquired by him or her in~~
28 ~~the course of and by reason of his or her official duties or use that~~
29 ~~information for the purpose of pecuniary gain.~~

30 (3) (i) ~~Accept or agree to accept, or be in partnership with any~~
31 ~~person who accepts or agrees to accept, any employment, fee, or~~
32 ~~other thing of monetary value, or portion thereof, in consideration~~
33 ~~of his or her appearing, agreeing to appear, or taking any other~~
34 ~~action on behalf of another person before any state board or agency.~~

35 (ii) ~~This subdivision shall not be construed to prohibit a Member~~
36 ~~who is an attorney at law from practicing in that capacity before~~
37 ~~any court or before the Workers' Compensation Appeals Board~~
38 ~~and receiving compensation therefor. This subdivision shall not~~
39 ~~act to prohibit a Member from acting as an advocate without~~
40 ~~compensation or making inquiry for information on behalf of a~~

1 constituent before a state board or agency, or from engaging in
2 activities on behalf of another which require purely ministerial
3 acts by the board or agency and which in no way require the board
4 or agency to exercise any discretion, or from engaging in activities
5 involving a board or agency which are strictly on his or her own
6 behalf. The prohibition contained in this subdivision shall not
7 apply to a partnership or firm of which the Member of the
8 Legislature is a member if the Member of the Legislature does not
9 share directly or indirectly in the fee, less any expenses attributable
10 to that fee, resulting from the transaction. The prohibition contained
11 in this subdivision as it read immediately prior to January 1, 1983,
12 shall not apply in connection with any matter pending before any
13 state board or agency on or before January 2, 1967, if the affected
14 Member of the Legislature was an attorney of record or
15 representative in the matter prior to January 2, 1967. The
16 prohibition contained in this subdivision, as amended and operative
17 on January 1, 1983, shall not apply to any activity of any Member
18 in connection with a matter pending before any state board or
19 agency on January 1, 1983, which was not prohibited by this
20 section prior to that date, if the affected Member of the Legislature
21 was an attorney of record or representative in the matter prior to
22 January 1, 1983.

23 (4) ~~Receive or agree to receive, directly or indirectly, any~~
24 ~~compensation, reward, or gift from any source except the State of~~
25 ~~California for any service, advice, assistance or other matter related~~
26 ~~to the legislative process, except fees for speeches or published~~
27 ~~works on legislative subjects and except, in connection therewith,~~
28 ~~reimbursement of expenses for actual expenditures for travel and~~
29 ~~reasonable subsistence for which no payment or reimbursement~~
30 ~~is made by the State of California.~~

31 (5) ~~Participate, by voting or any other action, on the floor of~~
32 ~~either house, in committee, or elsewhere, in the passage or defeat~~
33 ~~of legislation in which he or she has a personal interest, except as~~
34 ~~follows:~~

35 (i) ~~If, on the vote for final passage by the house of which he or~~
36 ~~she is a Member, of the legislation in which he or she has a~~
37 ~~personal interest, he or she first files a statement, which shall be~~
38 ~~entered verbatim on the journal, stating in substance that he or she~~
39 ~~has a personal interest in the legislation to be voted on and,~~
40 ~~notwithstanding that interest, he or she is able to cast a fair and~~

1 ~~objective vote on that legislation, he or she may cast his or her~~
2 ~~vote without violating any provision of this article.~~

3 ~~(ii) If the Member believes that, because of his or her personal~~
4 ~~interest, he or she should abstain from participating in the vote on~~
5 ~~the legislation, he or she shall so advise the presiding officer prior~~
6 ~~to the commencement of the vote and shall be excused from voting~~
7 ~~on the legislation without any entry on the journal of the fact of~~
8 ~~his or her personal interest. In the event a rule of the house~~
9 ~~requiring that each Member who is present vote aye or nay is~~
10 ~~invoked, the presiding officer shall order the Member excused~~
11 ~~from compliance and shall order entered on the journal a simple~~
12 ~~statement that the Member was excused from voting on the~~
13 ~~legislation pursuant to law.~~

14 ~~(e) The provisions of this section do not apply to persons who~~
15 ~~are members of the state civil service as defined in Article VII of~~
16 ~~the California Constitution.~~