

AMENDED IN SENATE JUNE 2, 2010  
AMENDED IN ASSEMBLY APRIL 20, 2010  
AMENDED IN ASSEMBLY APRIL 8, 2010  
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2672**

---

---

**Introduced by Assembly Member Cook**

February 19, 2010

---

---

An act to amend ~~Section 1771 of, and to add Section 1770.5 to, Sections 1770 and 1771 of the Government Code, relating to local government.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2672, as amended, Cook. Public officers and employees: removal from office.

Under existing law, an office becomes vacant on the occurrence of certain events. Existing law specifies that when a public officer is removed, declared insane, or convicted of a felony or offense involving a violation of his or her official duty, or when his or her election or appointment is declared void, the body or person before whom the proceedings are had is required to give notice thereof to the officer empowered to fill the vacancy.

This bill would provide that an appointed *or ex officio* individual also vacates an office where the individual has been debarred, suspended, disqualified, or otherwise excluded from participating in federal "covered transactions," as prescribed under federal 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. It is the intent of the Legislature to provide a~~  
 2 ~~county transportation commission, a special act agency, or any~~  
 3 ~~other entity whose membership composition is prescribed by~~  
 4 ~~statute, with the authority to immediately remove an individual~~  
 5 ~~who is debarred, suspended, disqualified, or otherwise excluded~~  
 6 ~~from participating in a federal covered transaction pursuant to~~  
 7 ~~federal law, including, but not limited to, Part 180 (commencing~~  
 8 ~~with Section 180.5) of Chapter I and Part 215 (commencing with~~  
 9 ~~Section 215.0) of Chapter II of Subtitle A of Title 2 of the Code~~  
 10 ~~of Federal Regulations. It is the further intent of the Legislature~~  
 11 ~~that this authority be limited to requiring a debarred, suspended,~~  
 12 ~~disqualified, or other excluded individual to vacate his or her~~  
 13 ~~respective seat in the commission, agency, or the committee of a~~  
 14 ~~commission or agency, and not to eliminate the representative seat~~  
 15 ~~or position that the terminated individual held.~~

16     ~~SEC. 2. Section 1770.5 is added to the Government Code, to~~  
 17 ~~read:~~

18     ~~1770.5. (a) For appointed individuals, the vacating of office~~  
 19 ~~pursuant to subdivision (h) of Section 1770 shall include an~~  
 20 ~~individual who has been debarred, suspended, disqualified, or~~  
 21 ~~otherwise excluded from participating in federal “covered~~  
 22 ~~transactions” pursuant to federal law, including, but not limited~~  
 23 ~~to, Part 180 (commencing with Section 180.5) of Chapter I and~~  
 24 ~~Part 215 (commencing with Section 215.0) of Chapter II of Subtitle~~  
 25 ~~A of Title 2 of the Code of Federal Regulations.~~

26     ~~(b) For purposes of this section, “appointed individual” means~~  
 27 ~~an individual appointed to an agency, board, commission,~~  
 28 ~~committee, or any other governing body by a legislative body of~~  
 29 ~~a city or county.~~

30     ~~(c) This section shall not apply if either of the following occurs:~~

31     ~~(1) A federal agency grants an appointed individual subject to~~  
 32 ~~subdivision (a) an exception in writing to participate in a particular~~  
 33 ~~covered transaction, but only to the extent the exception makes~~  
 34 ~~the individual eligible to participate in federal covered transactions.~~

35     ~~(2) An appointed individual subject to subdivision (a) is removed~~  
 36 ~~from the federal Excluded Parties List System.~~

37     ~~SECTION 1. It is the intent of the Legislature to require an~~  
 38 ~~individual to vacate any appointed or ex officio office that~~

1 *individual holds on the governing body of any local agency that*  
2 *is, or may reasonably be expected to be, a participant or principal*  
3 *in a federally covered transaction, when that individual is*  
4 *debarred, suspended, disqualified, or otherwise excluded from*  
5 *participating in a federally covered transaction, pursuant to federal*  
6 *law. It is not the intent of the Legislature to eliminate any office,*  
7 *seat, or position that becomes vacant pursuant to the provisions*  
8 *of this act.*

9 *SEC. 2. Section 1770 of the Government Code is amended to*  
10 *read:*

11 1770. An office becomes vacant on the happening of any of  
12 the following events before the expiration of the term:

13 (a) The death of the incumbent.

14 (b) An adjudication pursuant to a quo warranto proceeding  
15 declaring that the incumbent is physically or mentally incapacitated  
16 due to disease, illness, or accident and that there is reasonable  
17 cause to believe that the incumbent will not be able to perform the  
18 duties of his or her office for the remainder of his or her term. This  
19 subdivision shall not apply to offices created by the California  
20 Constitution nor to federal or state legislators.

21 (c) His or her resignation.

22 (d) His or her removal from office.

23 (e) His or her ceasing to be an inhabitant of the state, or if the  
24 office be local and one for which local residence is required by  
25 law, of the district, county, or city for which the officer was chosen  
26 or appointed, or within which the duties of his or her office are  
27 required to be discharged.

28 (f) His or her absence from the state without the permission  
29 required by law beyond the period allowed by law.

30 (g) His or her ceasing to discharge the duties of his or her office  
31 for the period of three consecutive months, except when prevented  
32 by sickness, or when absent from the state with the permission  
33 required by law.

34 (h) His or her conviction of a felony or of any offense involving  
35 a violation of his or her official duties. An officer shall be deemed  
36 to have been convicted under this subdivision when trial court  
37 judgment is entered. For the purposes of this subdivision, “trial  
38 court judgment” means a judgment by the trial court either  
39 sentencing the officer or otherwise upholding and implementing  
40 the plea, verdict, or finding.

1 (i) His or her refusal or neglect to file his or her required oath  
2 or bond within the time prescribed.

3 (j) The decision of a competent tribunal declaring void his or  
4 her election or appointment.

5 (k) The making of an order vacating his or her office or declaring  
6 the office vacant when the officer fails to furnish an additional or  
7 supplemental bond.

8 (l) His or her commitment to a hospital or sanitarium by a court  
9 of competent jurisdiction as a drug addict, dipsomaniac, inebriate,  
10 or stimulant addict; but in that event the office shall not be deemed  
11 vacant until the order of commitment has become final.

12 (m) (1) *The incumbent is listed in the Excluded Parties List*  
13 *System and all of the following apply:*

14 (A) *The office is one that the incumbent holds ex officio, by*  
15 *virtue of holding another office, or as an appointee.*

16 (B) *The office is on the governing board of a local agency that*  
17 *is, or may reasonably be expected to be, a participant or principal*  
18 *in a covered transaction, pursuant to federal law.*

19 (C) *A federal agency head or designee has not granted the*  
20 *incumbent an exception, in writing, permitting the incumbent to*  
21 *participate in a particular covered transaction in which the local*  
22 *agency is, or may reasonably be expected to be, a participant or*  
23 *principal.*

24 (2) *For purposes of this subdivision, the following terms have*  
25 *the following meanings:*

26 (A) *“Excluded Parties List System” means the list maintained*  
27 *and disseminated by the federal General Services Administration*  
28 *containing names of, and other information about, persons who*  
29 *are debarred, suspended, disqualified, or otherwise excluded from*  
30 *participating in a covered transaction, pursuant to federal law.*

31 (B) *“Local agency” includes, but is not limited to, a county,*  
32 *whether general law or chartered, city, whether general law or*  
33 *chartered, city and county, school district, municipal corporation,*  
34 *district, political subdivision, or any board, commission, or agency*  
35 *of one of these entities.*

36 (C) *“Federal law” includes, but is not limited to, federal*  
37 *regulations adopted pursuant to Section 2455 of Public Law*  
38 *103-355 (108 Stat. 3327), Executive Order No. 11738, Executive*  
39 *Order No. 12549, and Executive Order No. 12689.*

40 (3) *This subdivision shall not apply to an elective office.*

1 SEC. 3. Section 1771 of the Government Code is amended to  
2 read:

3 1771. (a) When an officer is removed, declared insane, or  
4 convicted of a felony or offense involving a violation of his or her  
5 official duty, or when his or her election or appointment is declared  
6 void, ~~or when an appointed individual vacates office pursuant to~~  
7 ~~Section 1770.5~~, the body or person before whom the proceedings  
8 are had shall give notice thereof to the officer or body empowered  
9 to fill the vacancy.

10 (b) *When an officer vacates office pursuant to subdivision (m)*  
11 *of Section 1770, the local agency on which the vacancy occurs*  
12 *shall give notice of that vacancy to the officer or body authorized*  
13 *to fill the vacancy.*

O