

AMENDED IN SENATE JUNE 20, 2011

AMENDED IN ASSEMBLY APRIL 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 873

**Introduced by Assembly Member Furutani
(Coauthor: Assembly Member Allen)**

February 17, 2011

An act to add Sections 87408, 87409, and 87410 to the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 873, as amended, Furutani. Political Reform Act of 1974: postgovernment employment restrictions.

The Public Employees' Retirement Law creates the Public Employees' Retirement Fund, which is a trust fund created and administered solely for the benefit of the members and retired members of this system and their survivors and beneficiaries. The Board of Administration of the Public Employees' Retirement System (PERS) has the exclusive control of the administration and investment of the retirement fund.

The Teachers' Retirement Law establishes the State Teachers' Retirement System (STRS) in order to provide a financially sound plan for the retirement, with adequate retirement allowances, for teachers in public schools of the state, teachers in schools supported by the state, and other persons employed in connection with the schools. The plan and the system are administered by the Teachers' Retirement Board.

The Political Reform Act of 1974 imposes specified restrictions on the postgovernment employment activities of elected state officers and designated employees of state administrative agencies, including

prohibiting those individuals from representing another person, by means of an appearance or communication, before a state administrative agency for the purpose of influencing specified actions for a period of one year after leaving state service.

This bill would prohibit members of the Board of Administration of PERS, members of the Teachers' Retirement Board, and specified officers and employees of PERS and STRS from engaging in certain employment activities after leaving service with PERS or STRS. Specifically, the bill would prohibit those individuals from representing another person, by means of an appearance or communication, before PERS or STRS for the purpose of influencing specified actions for a period of 4 years after leaving service with PERS or STRS. The bill would also prohibit those individuals from *aiding, advising, consulting with, or* assisting a business entity, for a period of 2 years after leaving service with PERS or STRS, ~~to perform, implement, or execute a contract if the individuals participated in awarding, negotiating, or administering a contract of greater than \$10,000,000 with that business entity within 2 years prior to leaving service with PERS or STRS in obtaining the award of, or in negotiating, a contract or contract amendment with PERS or STRS.~~ In addition, the bill would prohibit those individuals from accepting compensation for providing services as a placement agent, for a period of 10 years after leaving service with PERS or STRS, in connection with investments or other business of PERS or STRS.

Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties.

This bill would impose a state-mandated local program by creating additional crimes.

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 87408 is added to the Government Code,
2 to read:
3 87408. (a) A member of the Board of Administration of the
4 Public Employees' Retirement System, an individual in a position
5 designated in subdivision (a) or (e) of Section 20098 ~~or in an~~
6 ~~equivalent senior management position~~, or an information
7 technology or health benefits manager with a career executive
8 assignment designation with the Public Employees' Retirement
9 System, for a period of four years after leaving that office or
10 position, shall not, for compensation, act as an agent or attorney
11 for, or otherwise represent, any other person, except the state, by
12 making a formal or informal appearance before, or an oral or
13 written communication to, the Public Employees' Retirement
14 System, or an officer or employee thereof, if the appearance or
15 communication is made for the purpose of influencing
16 administrative or legislative action, or influencing an action or
17 proceeding involving the issuance, amendment, awarding, or
18 revocation of a permit, license, grant, or contract, or the sale or
19 purchase of goods or property.
20 (b) A member of the Teachers' Retirement Board, an individual
21 in a position designated in subdivision (a) or (d) of Section 22212.5
22 of the Education Code, or an information technology manager with
23 a career executive assignment designation with the State Teachers'
24 Retirement System, for a period of four years after leaving that
25 office or position, shall not, for compensation, act as an agent or
26 attorney for, or otherwise represent, any other person, except the
27 state, by making a formal or informal appearance before, or an
28 oral or written communication to, the State Teachers' Retirement
29 System, or an officer or employee thereof, if the appearance or
30 communication is made for the purpose of influencing
31 administrative or legislative action, or influencing an action or
32 proceeding involving the issuance, amendment, awarding, or
33 revocation of a permit, license, grant, or contract, or the sale or
34 purchase of goods or property.

1 SEC. 2. Section 87409 is added to the Government Code, to
2 read:

3 87409. (a) A member of the Board of Administration of the
4 Public Employees' Retirement System, an individual in a position
5 designated in subdivision (a) or (e) of Section 20098 ~~or in an~~
6 ~~equivalent senior management position~~, or an information
7 technology or health benefits manager with a career executive
8 assignment designation with the Public Employees' Retirement
9 System, for a period of two years after leaving that office or
10 position, shall not, *for compensation, aid, advise, consult with, or*
11 ~~assist a business entity to perform, implement, or execute a contract~~
12 ~~if, during the period of two years prior to leaving that office or~~
13 ~~position, the individual participated, as an official or employee of~~
14 ~~the Public Employees' Retirement System, in the award,~~
15 ~~negotiation, or administration of a contract, or an amendment to~~
16 ~~a contract, that has or had a value of greater than ten million dollars~~
17 ~~(\$10,000,000) and to which that business entity is or was a party.~~
18 *in obtaining the award of, or in negotiating, a contract or contract*
19 *amendment with the Public Employees' Retirement System.*

20 (b) A member of the Teachers' Retirement Board, an individual
21 in a position designated in subdivision (a) or (d) of Section 22212.5
22 of the Education Code, or an information technology manager with
23 a career executive assignment designation with the State Teachers'
24 Retirement System, for a period of two years after leaving that
25 office or position, shall not, *for compensation, aid, advise, consult*
26 *with, or* assist a business entity ~~to perform, implement, or execute~~
27 ~~a contract if, during the period of two years prior to leaving that~~
28 ~~office or position, the individual participated, as an official or~~
29 ~~employee of the State Teachers' Retirement System, in the award,~~
30 ~~negotiation, or administration of a contract, or an amendment to~~
31 ~~a contract, that had a value of greater than ten million dollars~~
32 ~~(\$10,000,000) and to which that business entity was or is a party.~~
33 *in obtaining the award of, or in negotiating, a contract or contract*
34 *amendment with the State Teachers' Retirement System.*

35 (c) For purposes of this section:

36 (1) ~~"Administration of a contract" means the management,~~
37 ~~direction, or oversight of a contract, including evaluation of the~~
38 ~~contractor's performance.~~

1 ~~(2) “Business entity” has the same meaning as set forth in~~
2 ~~Section 82005, and includes a parent or subsidiary of a business~~
3 ~~entity.~~

4 ~~(3) A contract to which a business entity is or was a party has~~
5 ~~a value of greater than ten million dollars (\$10,000,000) if the~~
6 ~~business entity received or will receive more than ten million~~
7 ~~dollars (\$10,000,000) in revenue during the term of the contract~~
8 ~~as a result of the contract.~~

9 ~~(4) Notwithstanding paragraph (3), with respect to a business~~
10 ~~entity that is an external manager and that receives a performance~~
11 ~~fee, a contract to which the business entity is or was a party is~~
12 ~~presumed to have a value of greater than ten million dollars~~
13 ~~(\$10,000,000) if the external manager managed or manages fifty~~
14 ~~million dollars (\$50,000,000) or more in an investment fund or~~
15 ~~managed or manages, pursuant to contract, a portfolio of securities~~
16 ~~or other assets valued at two hundred fifty million dollars~~
17 ~~(\$250,000,000) or more. section, “business entity” has the same~~
18 ~~meaning as set forth in Section 82005, and includes a parent or~~
19 ~~subsidiary of a business entity.~~

20 SEC. 3. Section 87410 is added to the Government Code, to
21 read:

22 87410. (a) A member of the Board of Administration of the
23 Public Employees’ Retirement System or an individual in a position
24 designated in subdivision (a) or (e) of Section 20098, for a period
25 of 10 years after leaving that office or position, shall not accept
26 compensation for providing services as a placement agent in
27 connection with investments or other business of the Public
28 Employees’ Retirement System *or the State Teachers’ Retirement*
29 *System.*

30 (b) A member of the Teachers’ Retirement Board or an
31 individual in a position designated in subdivision (a) or (d) of
32 Section 22212.5 of the Education Code, for a period of 10 years
33 after leaving that office or position, shall not accept compensation
34 for providing services as a placement agent in connection with
35 investments or other business of the State Teachers’ Retirement
36 System *or the Public Employees’ Retirement System.*

37 SEC. 4. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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

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