

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2609

Introduced by Assembly Member Hueso

February 24, 2012

~~An act to amend Section 13000.1 of the Food and Agricultural Code, relating to agricultural chemicals. An act to amend Section 102 of, to add Sections 101.5, 107, and 108 to, and to repeal Section 106 of, the Fish and Game Code, and to amend Section 87200 of the Government Code, relating to the Fish and Game Commission.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2609, as amended, Hueso. ~~Agricultural chemicals: pesticides, restricted materials, livestock drugs, and fertilizers. Fish and Game Commission.~~

(1) *The California Constitution establishes the 5-member Fish and Game Commission, with members appointed by the Governor and approved by the Senate. Existing law requires the commissioners to elect one of their number as president and one as vice president.*

This bill would modify that election provision to instead require that the commissioners annually elect one of their number as president and one as vice president, by a concurrent vote of at least 3 commissioners. The bill would prohibit a president or vice president from serving more than 2 consecutive years. The bill would require the commission to adopt a code of conduct that requires a commissioner to adhere to prescribed principles and to adopt rules to govern the business practices and processes of the commission. The bill would state the intent of the Legislature to encourage the Governor and the Senate Committee on

Rules to consider certain minimum qualifications in selecting, appointing, and confirming commissioners to serve on the commission.

(2) Existing provisions of the Political Reform Act of 1974 prohibit a public official at any level of state or local government from making, participating in making, or attempting to use his or her official position to influence a governmental decision in which he or she knows or has reason to know that he or she has a financial interest, as defined. Existing law also requires specified elected and appointed officers at the state and local level of government to disclose specified financial interests by filing periodic statements of economic interests. Existing law further requires public officials who hold specified offices and who have a financial interest in a decision within the meaning of the Political Reform Act of 1974 to publicly identify the financial interest giving rise to the conflict of interest or potential conflict of interest, recuse themselves from discussing and voting on the matter, and leave the room until after the discussion, vote, and other disposition of the matter is concluded, except as specified. Other existing law requires the commission to adopt and approve a Conflict of Interest Code pursuant to the Political Reform Act of 1974.

This bill would directly subject commissioners to certain provisions of the Political Reform Act of 1974 by adding members of the commission to those specified officers who must publicly identify a financial interest giving rise to a conflict of interest or potential conflict of interest, and recuse themselves accordingly.

Existing law makes a violation of the Political Reform Act of 1974 subject to administrative, civil, and criminal penalties. This bill would impose a state-mandated local program by exposing these members to potential criminal penalties for failing to make the disclosures and recuse themselves where required by 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 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.

(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.

~~Existing law governs the possession, use, distribution, sale, and storage of pesticides. Existing law generally requires a Director of Pesticide Regulation to administer and enforce these provisions and to develop and adopt related regulations. Existing law also requires the county agricultural commissioner to administer and enforce regulations issued pursuant to these provisions. Existing law authorizes the director or the county agricultural commissioner to bring an action to enjoin the violation or the threatened violation of any order made pursuant to the provisions governing the possession, use, distribution, sale, and storage of pesticides.~~

~~This bill would make technical, nonsubstantive changes to the provision authorizing the director or the county agricultural commissioner to bring an action to enjoin the violation or the threatened violation of any order made pursuant to the provisions governing the possession, use, distribution, sale, and storage of pesticides.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: ~~no~~^{yes}.

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

- 1 *SECTION 1. Section 101.5 is added to the Fish and Game*
- 2 *Code, to read:*
- 3 *101.5. (a) The Legislature finds and declares that the scope*
- 4 *and responsibilities of the commission have significantly expanded*
- 5 *over the years as the size and diversity of California’s population*
- 6 *have increased, and as the scientific knowledge of the habitat*
- 7 *conservation and ecosystem-based management needs of wildlife*
- 8 *has expanded. The members of the commission are expected to*
- 9 *make complex public policy and biological decisions on behalf of*
- 10 *the people of California. The commission is created by the*
- 11 *California Constitution, which does not include any criteria or*
- 12 *qualifications for selection and appointment of commissioners.*
- 13 *(b) It is therefore the intent of the Legislature to encourage the*
- 14 *Governor and the Senate Committee on Rules to consider the*
- 15 *following minimum qualifications in selecting, appointing, and*
- 16 *confirming commissioners to serve on the commission:*
- 17 *(1) The degree to which the appointee will enhance the diversity*
- 18 *of background and geographic representation of the commission.*

1 (2) *The appointee’s demonstrated interest and background in,*
2 *and familiarity with, wildlife and natural resources management*
3 *programs at the state or federal level.*

4 (3) *The appointee’s previous experience in public policy*
5 *decisionmaking, including government processes involving public*
6 *participation.*

7 (4) *The appointee’s commitment to prepare for and attend*
8 *meetings and subcommittee meetings of the commission and to*
9 *comply with all applicable state conflict-of-interest laws.*

10 (5) *The extent of the appointee’s exposure to and experience*
11 *with the basic science underpinning the management of living*
12 *natural resources.*

13 (6) *The appointee’s diversity of knowledge of natural resource*
14 *issues and related scientific disciplines, including, but not limited*
15 *to, outdoor recreation.*

16 *SEC. 2. Section 102 of the Fish and Game Code is amended*
17 *to read:*

18 102. *The commissioners shall annually elect one of their*
19 *number as president and one as vice president, by a concurrent*
20 *vote of at least three commissioners. No president or vice president*
21 *shall serve more than two consecutive years.*

22 *SEC. 3. Section 106 of the Fish and Game Code is repealed.*

23 ~~106. (a) The commission shall adopt and approve a Conflict~~
24 ~~of Interest Code pursuant to Article 3 (commencing with Section~~
25 ~~87300) of Chapter 7 of Title 9 of the Government Code.~~

26 ~~(b) For a period of 12 months after leaving office, a former~~
27 ~~commissioner shall be prohibited from acting as an agent or~~
28 ~~attorney for, or otherwise representing, any person before the~~
29 ~~commission by making any formal or informal appearance before,~~
30 ~~or any oral or written communication to, the commission.~~

31 *SEC. 4. Section 107 is added to the Fish and Game Code, to*
32 *read:*

33 107. *The commission shall adopt a code of conduct that*
34 *requires, at a minimum, that a commissioner adhere to the*
35 *following principles:*

36 (a) *A commissioner shall faithfully discharge the duties,*
37 *responsibilities, and quasi-judicial actions of the commission.*

38 (b) *A commissioner shall conduct his or her affairs in the*
39 *public’s best interest, following principles of fundamental fairness*
40 *and due process of law.*

1 (c) A commissioner shall conduct his or her affairs in an open,
2 objective, and impartial manner, free of undue influence and the
3 abuse of power and authority.

4 (d) A commissioner understands that California's wildlife and
5 natural resources programs require public awareness,
6 understanding, and support of, and participation and confidence
7 in, the commission and its practices and procedures.

8 (e) A commissioner shall preserve the public's welfare and the
9 integrity of the commission, and act to maintain the public's trust
10 in the commission and the implementation of its regulations and
11 policies.

12 (f) A commissioner shall not conduct himself or herself in a
13 manner that reflects discredit upon the laws, policies, and
14 principles of the commission.

15 (g) A commissioner shall not make, participate in making, or
16 in any other way attempt to use his or her official position to
17 influence a commission decision in which the member has a
18 financial interest.

19 SEC. 5. Section 108 is added to the Fish and Game Code, to
20 read:

21 108. The commission shall adopt rules to govern the business
22 practices and processes of the commission.

23 SEC. 6. Section 87200 of the Government Code is amended to
24 read:

25 87200. This article is applicable to elected state officers, judges
26 and commissioners of courts of the judicial branch of government,
27 members of the Fish and Game Commission, members of the Public
28 Utilities Commission, members of the State Energy Resources
29 Conservation and Development Commission, members of the Fair
30 Political Practices Commission, members of the California Coastal
31 Commission, members of planning commissions, members of the
32 board of supervisors, district attorneys, county counsels, county
33 treasurers, and chief administrative officers of counties, mayors,
34 city managers, city attorneys, city treasurers, chief administrative
35 officers and members of city councils of cities, and other public
36 officials who manage public investments, and to candidates for
37 any of these offices at any election.

38 SEC. 7. The Legislature finds and declares that Section 6 of
39 this act furthers the purposes of the Political Reform Act of 1974

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

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

12 ~~SECTION 1. Section 13000.1 of the Food and Agricultural~~
13 ~~Code is amended to read:~~

14 ~~13000.1. The director or the commissioner may bring an action~~
15 ~~to enjoin the violation or the threatened violation of any order~~
16 ~~made pursuant to this division in the superior court in the county~~
17 ~~in which the order is issued or the violation occurs or is threatened,~~
18 ~~and the court may enjoin the violation or threatened violation upon~~
19 ~~that showing and without further evidence of irreparable injury.~~
20 ~~The court may compel specific performance of any acts or course~~
21 ~~of conduct necessary to protect persons, animals, crops, or property.~~