

Introduced by Senator Negrete McLeodFebruary 16, 2011

An act to add Section 22365 to the Education Code, and to amend Section 89503 of, and to add Section 20154 to, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 439, as introduced, Negrete McLeod. Political Reform Act of 1974: PERS: STRS: gift limits.

The Political Reform Act of 1974 prohibits a member of a state board or commission or a designated employee of a state or local government agency from accepting gifts from any single source in any calendar year with a total value of more than \$250 if the gift is subject to disclosure on a statement of economic interests. Existing law requires the commission to adjust the gift limitation in this section on January 1 of each odd-numbered year to reflect changes in the Consumer Price Index, rounded to the nearest \$10. Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor.

This bill would prohibit any member of the board and any employee of the Public Employees' Retirement System (PERS) or State Teachers' Retirement System (STRS) from accepting gifts from any single source in any calendar year with a total value of more than \$50. Because a knowing or willful violation of this provision would be a crime, the bill would impose a state-mandated local program.

This bill would disqualify any vendor or contractor that makes gifts in violation of the above-described gift limit twice in a consecutive 5-year period from bidding on, and being awarded, any contract for a period of 2 years from the date of the conviction of the recipient of the 2nd gift.

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 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: 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 22365 is added to the Education Code,
2 to read:

3 22365. Any vendor or contractor that makes gifts in violation
4 of the gift limit in paragraph (2) of subdivision (c) of Section 89503
5 of the Government Code two times in a consecutive five-year
6 period shall be disqualified from bidding on, and being awarded,
7 any contract for a period of two years from the date of the
8 conviction of the recipient of the second gift pursuant to Section
9 91000 of the Government Code.

10 SEC. 2. Section 20154 is added to the Government Code, to
11 read:

12 20154. Any vendor or contractor that makes gifts in violation
13 of the gift limit in paragraph (2) of subdivision (c) of Section 89503
14 two times in a consecutive five-year period shall be disqualified
15 from bidding on, and being awarded, any contract for a period of
16 two years from the date of the conviction of the recipient of the
17 second gift pursuant to Section 91000.

18 SEC. 3. Section 89503 of the Government Code is amended
19 to read:

20 89503. (a) No elected state officer, elected officer of a local
21 government agency, or other individual specified in Section 87200
22 shall accept gifts from any single source in any calendar year with
23 a total value of more than two hundred fifty dollars (\$250).

24 (b) (1) No candidate for elective state office, for judicial office,
25 or for elective office in a local government agency shall accept

1 gifts from any single source in any calendar year with a total value
2 of more than two hundred fifty dollars (\$250). A person shall be
3 deemed a candidate for purposes of this subdivision when the
4 person has filed a statement of organization as a committee for
5 election to a state or local office, a declaration of intent, or a
6 declaration of candidacy, whichever occurs first. A person shall
7 not be deemed a candidate for purposes of this subdivision after
8 he or she is sworn into the elective office, or, if the person lost the
9 election, after the person has terminated his or her campaign
10 statement filing obligations for that office pursuant to Section
11 84214 or after certification of the election results, whichever is
12 earlier.

13 (2) Paragraph (1) shall not apply to any person who is a
14 candidate as described in paragraph (1) for judicial office on or
15 before December 31, 1996.

16 (c) (1) No member of a state board or commission or designated
17 employee of a state or local government agency shall accept gifts
18 from any single source in any calendar year with a total value of
19 more than two hundred fifty dollars (\$250) if the member or
20 employee would be required to report the receipt of income or
21 gifts from that source on his or her statement of economic interests.

22 (2) *Notwithstanding paragraph (1) and subdivision (f), no*
23 *member of the board and no employee of the Public Employees'*
24 *Retirement System or State Teachers' Retirement System shall*
25 *accept gifts from any single source in any calendar year with a*
26 *total value of more than fifty dollars (\$50).*

27 (d) This section shall not apply to a person in his or her capacity
28 as judge. This section shall not apply to a person in his or her
29 capacity as a part-time member of the governing board of any
30 public institution of higher education unless that position is an
31 elective office.

32 (e) This section shall not prohibit or limit the following:

33 (1) Payments, advances, or reimbursements for travel and related
34 lodging and subsistence permitted by Section 89506.

35 (2) Wedding gifts and gifts exchanged between individuals on
36 birthdays, holidays, and other similar occasions, provided that the
37 gifts exchanged are not substantially disproportionate in value.

38 (f) Beginning on January 1, 1993, the commission shall adjust
39 the gift limitation in this section on January 1 of each

1 odd-numbered year to reflect changes in the Consumer Price Index,
2 rounded to the nearest ten dollars (\$10).

3 (g) The limitations in this section are in addition to the
4 limitations on gifts in Section 86203.

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

14 SEC. 5. The Legislature finds and declares that this bill furthers
15 the purposes of the Political Reform Act of 1974 within the
16 meaning of subdivision (a) of Section 81012 of the Government
17 Code.