

AMENDED IN SENATE MARCH 23, 2011

SENATE BILL

No. 439

Introduced by Senator Negrete McLeod

February 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 amended, 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, *as adjusted biennially by the Fair Political Practices Commission*, if the ~~gift receipt of income or gifts from that source~~ 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 of, and any *designated* 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 *from any single person who has secured a contract with, or submitted a contract proposal to, PERS or STRS within the previous 5 years.* A gift would not be deemed to have been accepted if the gift or

its equivalent dollar value is returned to the donor of the gift within 30 days after receipt of the gift. 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~~ *2 separate times, more than 60 days apart*, 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 $\frac{2}{3}$ 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 22365 is added to the Education Code,
- 2 to read:
- 3 22365. (a) Any vendor or contractor that makes gifts in
- 4 violation of the gift limit in paragraph (2) of subdivision (c) of
- 5 Section 89503 of the Government Code *two separate times* in a
- 6 consecutive five-year period shall be disqualified from bidding
- 7 on, and being awarded, any contract for a period of two years from
- 8 the date of the conviction of the recipient of the second gift
- 9 pursuant to Section 91000 of the Government Code.
- 10 (b) *For purposes of subdivision (a), violations of paragraph (2)*
- 11 *of subdivision (c) of Section 89503 shall be deemed separate if*
- 12 *they occur more than 60 days apart.*
- 13 SEC. 2. Section 20154 is added to the Government Code, to
- 14 read:
- 15 20154. (a) Any vendor or contractor that makes gifts in
- 16 violation of the gift limit in paragraph (2) of subdivision (c) of

Section 89503 two *separate* times in a consecutive five-year period shall be disqualified from bidding on, and being awarded, any contract for a period of two years from the date of the conviction of the recipient of the second gift pursuant to Section 91000.

(b) *For purposes of subdivision (a), violations of paragraph (2) of subdivision (c) of Section 89503 shall be deemed separate if they occur more than 60 days apart.*

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

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

(b) (1) No candidate for elective state office, for judicial office, or for elective office in a local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250). A person shall be deemed a candidate for purposes of this subdivision when the person has filed a statement of organization as a committee for election to a state or local office, a declaration of intent, or a declaration of candidacy, whichever occurs first. A person shall not be deemed a candidate for purposes of this subdivision after he or she is sworn into the elective office, or, if the person lost the election, after the person has terminated his or her campaign statement filing obligations for that office pursuant to Section 84214 or after certification of the election results, whichever is earlier.

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

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

(2) Notwithstanding paragraph (1) and subdivision (f), no member of the board of, and no *designated* employee of, the Public Employees' Retirement System or State Teachers' Retirement System shall accept gifts ~~from any single source~~ in any calendar

1 year with a total value of more than fifty dollars (\$50) *from any*
2 *single person who has secured a contract with, or submitted a*
3 *contract proposal to, the Public Employees' Retirement System*
4 *or State Teachers' Retirement System within the previous five*
5 *years. A member of the board of, or a designated employee of, the*
6 *Public Employees' Retirement System or State Teachers'*
7 *Retirement System shall not be deemed to have accepted a gift*
8 *within the meaning of this paragraph if the gift, or the equivalent*
9 *dollar value of the gift, is returned to the donor of the gift within*
10 *30 days after its receipt.*

11 (d) This section shall not apply to a person in his or her capacity
12 as judge. This section shall not apply to a person in his or her
13 capacity as a part-time member of the governing board of any
14 public institution of higher education unless that position is an
15 elective office.

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

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

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

22 (f) Beginning on January 1, 1993, the commission shall adjust
23 the gift limitation in this section on January 1 of each
24 odd-numbered year to reflect changes in the Consumer Price Index,
25 rounded to the nearest ten dollars (\$10).

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

28 SEC. 4. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

37 SEC. 5. The Legislature finds and declares that this bill furthers
38 the purposes of the Political Reform Act of 1974 within the

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

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