

AMENDED IN ASSEMBLY JUNE 16, 2011

AMENDED IN SENATE MARCH 23, 2011

**SENATE BILL**

**No. 439**

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**Introduced by Senator Negrete McLeod**  
*(Coauthors: Senators Correa and Walters)*  
*(Coauthor: Assembly Member Furutani)*

February 16, 2011

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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 (*PRA*) 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 (*FPPC*), if the receipt of income or gifts from that source is subject to disclosure on a statement of economic interests. Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor *and authorizes the FPPC to assess a monetary penalty if it finds a violation of the PRA has been committed.*

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 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 ~~2 separate times, more than 60 days apart, 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~~ *2nd penalty assessment made by the FPPC for commission of the violation.*

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 *that are*  
 4 *determined to be* in violation of the gift limit in paragraph (2) of  
 5 subdivision (c) of Section 89503 of the Government Code ~~two~~  
 6 ~~separate times in a consecutive~~ *to a member of the board or to an*  
 7 *employee of the State Teachers' Retirement System twice in a*  
 8 *five-year period shall be disqualified from bidding on, and being*  
 9 *awarded, any contract for a period of two years from the date of*  
 10 ~~the conviction of the recipient of the second gift pursuant to Section~~  
 11 ~~91000 of the Government Code; the date of the second assessment~~  
 12 *of an administrative penalty pursuant to Section 83116 of the*  
 13 *Government Code.*

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

4 SEC. 2. Section 20154 is added to the Government Code, to  
5 read:

6 20154. (a) Any vendor or contractor that makes gifts *that are*  
7 *determined to be* in violation of the gift limit in paragraph (2) of  
8 subdivision (c) of Section 89503 ~~two separate times in a~~  
9 ~~consecutive~~ *to a member of the board or to an employee of the*  
10 *Public Employees' Retirement System twice in a five-year period*  
11 shall be disqualified from bidding on, and being awarded, any  
12 contract for a period of two years from the date of the ~~conviction~~  
13 ~~of the recipient of the second gift pursuant to Section 91000.~~ *second*  
14 *assessment of an administrative penalty pursuant to Section 83116.*

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

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  
26 gifts from any single source in any calendar year with a total value  
27 of more than two hundred fifty dollars (\$250). A person shall be  
28 deemed a candidate for purposes of this subdivision when the  
29 person has filed a statement of organization as a committee for  
30 election to a state or local office, a declaration of intent, or a  
31 declaration of candidacy, whichever occurs first. A person shall  
32 not be deemed a candidate for purposes of this subdivision after  
33 he or she is sworn into the elective office, or, if the person lost the  
34 election, after the person has terminated his or her campaign  
35 statement filing obligations for that office pursuant to Section  
36 84214 or after certification of the election results, whichever is  
37 earlier.

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

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

7 (2) Notwithstanding paragraph (1) and subdivision (f), no  
8 member of the board of, and no designated employee of, the Public  
9 Employees' Retirement System or State Teachers' Retirement  
10 System shall accept gifts in any calendar year with a total value  
11 of more than fifty dollars (\$50) from any single person who has  
12 secured a contract with, or submitted a contract proposal to, the  
13 Public Employees' Retirement System or State Teachers'  
14 Retirement System within the previous five years. A member of  
15 the board of, or a designated employee of, the Public Employees'  
16 Retirement System or State Teachers' Retirement System shall  
17 not be deemed to have accepted a gift within the meaning of this  
18 paragraph if the gift, or the equivalent dollar value of the gift, is  
19 returned to the donor of the gift within 30 days after its receipt.

20 (d) This section shall not apply to a person in his or her capacity  
21 as judge. This section shall not apply to a person in his or her  
22 capacity as a part-time member of the governing board of any  
23 public institution of higher education unless that position is an  
24 elective office.

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

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

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

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

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

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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