

**ASSEMBLY BILL**

**No. 1059**

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**Introduced by Assembly Member Wieckowski**

February 22, 2013

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An act to amend Section 1090 of, and to add Section 1091.8 to the Government Code, relating to public officers and employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1059, as introduced, Wieckowski. Public officers and employees: financial interests.

Existing law prohibits Members of the Legislature, and state, county, district, judicial district, and city officers or employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Existing law further prohibits these public officers and employees from being purchasers at any sale, or vendors at any purchase, made by them in their official capacity. A violation of these provisions is a crime.

This bill would extend the application of those prohibitions to independent contractors who perform a public function, and provide when an independent contractor, or an owner, officer, employee, or agent of the independent contractor, has a financial interest in a contract. By expanding the scope of a crime, the bill would impose a state-mandated local program.

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.

Vote: majority. 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 1090 of the Government Code is amended  
2 to read:

3 1090. Members of the Legislature, state, county, district,  
4 judicial district, and city officers or employees, *and independent*  
5 *contractors who perform a public function* shall not be financially  
6 interested in any contract made by them in their official capacity,  
7 or by any body or board of which they are members. Nor shall  
8 state, county, district, judicial district, and city officers or  
9 employees, *and independent contractors who perform a public*  
10 *function* be purchasers at any sale or vendors at any purchase made  
11 by them in their official capacity.

12 As used in this article, “district” means any agency of the state  
13 formed pursuant to general law or special act, for the local  
14 performance of governmental or proprietary functions within  
15 limited boundaries.

16 SEC. 2. Section 1091.8 is added to the Government Code, to  
17 read:

18 1091.8. An independent contractor, or an owner, officer,  
19 employee, or agent of the independent contractor, who contracts  
20 with a government agency, body, or board, to provide services,  
21 including program management services, has a financial interest  
22 in a subsequent contract of the government agency, body, or board,  
23 if the independent contractor, or the owner, officer, employee, or  
24 agent of the independent contract, participates in the making of  
25 the subsequent contract and the independent contractor’s contract  
26 to provide services bases the independent contractor’s  
27 compensation, directly or indirectly, on whether the subsequent  
28 contract is executed.

29 SEC. 3. No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution because  
31 the only costs that may be incurred by a local agency or school  
32 district will be incurred because this act creates a new crime or  
33 infraction, eliminates a crime or infraction, or changes the penalty  
34 for a crime or infraction, within the meaning of Section 17556 of  
35 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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