

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1059

Introduced by Assembly Member Wieckowski

February 22, 2013

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 amended, 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 *specifically* 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
11 made 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, staff, administer, or~~
22 ~~manage the government agency, body, or board~~ has a financial
23 interest in a subsequent contract of the government agency, body,
24 or board, if the independent contractor, or the owner, officer,
25 employee, or agent of the independent contract, participates in the
26 making of the subsequent contract and the independent contractor’s
27 contract to provide services bases the independent contractor’s
28 compensation, directly or indirectly, on whether the subsequent
29 contract is executed.

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

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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