

**ASSEMBLY BILL**

**No. 1716**

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**Introduced by Assembly Member Garcia**

February 13, 2014

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An act to amend Section 87400 of, and to add Section 87406.5 to, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1716, as introduced, Garcia. Political Reform Act of 1974: Postemployment activity restrictions.

(1) The Political Reform Act of 1974 prohibits a former state administrative officials, as defined, from participating in judicial, quasi-judicial, or other proceedings before a court or state administrative agency in which the State is a party or has a direct and substantial interest and in which the former state administrative official participated, subject to limited exceptions, as specified.

This bill would impose these restrictions, subject to the same exemptions, on local administrative officials, as defined, with respect to judicial, quasi-judicial, or other proceedings before a court, local government agency, or state administrative agency, as specified.

(2) Violations of the act are punishable as a misdemeanor. By expanding the scope of an existing crime, this 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.

(3) 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 87400 of the Government Code is  
2 amended to read:

3 87400. Unless the contrary is stated or clearly appears from  
4 the context, the definitions set forth in this section shall govern  
5 the interpretation of this article.

6 ~~(a) “State administrative agency” means every state office,~~  
7 ~~department, division, bureau, board and commission, but does not~~  
8 ~~include the Legislature, the courts or any agency in the judicial~~  
9 ~~branch of government.~~

10 ~~(b) “State administrative official” means every member, officer,~~  
11 ~~employee or consultant of a state administrative agency who as~~  
12 ~~part of his or her official responsibilities engages in any judicial,~~  
13 ~~quasi-judicial or other proceeding in other than a purely clerical,~~  
14 ~~secretarial or ministerial capacity.~~

15 ~~(c)~~  
16 ~~(a) (1) “Judicial, quasi-judicial, or other proceeding” means~~  
17 ~~any proceeding, application, request for a ruling or other~~  
18 ~~determination, contract, claim, controversy, investigation, charge,~~  
19 ~~accusation, arrest, or other particular matter involving a specific~~  
20 ~~party or parties in any court or state administrative agency,~~  
21 ~~including but not limited to any proceeding governed by Chapter~~  
22 ~~5 (commencing with Section 11500) of Division 3 of Title 2 of~~  
23 ~~the Government Code.~~

24 ~~(2) For purposes of Section 87404 and 87406.5, “Judicial,~~  
25 ~~quasi-judicial, or other proceeding” shall additionally apply to~~  
26 ~~matters described in paragraph (1) that are before a local~~  
27 ~~government agency.~~

28 ~~(b) “Local administrative official” means every member, officer,~~  
29 ~~employee or consultant of a local government agency who as part~~  
30 ~~of his or her official responsibilities engages in any judicial,~~

1 *quasi-judicial, or other proceeding in other than a purely clerical,*  
2 *secretarial or ministerial capacity.*

3 ~~(d)~~

4 (c) “Participated” means to have taken part personally and  
5 substantially through decision, approval, disapproval, formal  
6 written recommendation, rendering advice on a substantial basis,  
7 investigation or use of confidential information as an officer or  
8 employee, but excluding approval, disapproval or rendering of  
9 legal advisory opinions to departmental or agency staff which do  
10 not involve a specific party or parties.

11 (d) “State administrative agency” means every state office,  
12 department, division, bureau, board and commission, but does not  
13 include the Legislature, the courts or any agency in the judicial  
14 branch of government.

15 (e) “State administrative official” means every member, officer,  
16 employee or consultant of a state administrative agency who as  
17 part of his or her official responsibilities engages in any judicial,  
18 quasi-judicial, or other proceeding in other than a purely clerical,  
19 secretarial or ministerial capacity.

20 SEC. 2. Section 87406.5 is added to the Government Code, to  
21 read:

22 87406.5. (a) A former local administrative official, after the  
23 termination of his or her employment or term of office, shall not  
24 for compensation do either of the following:

25 (1) Act as agent or attorney for, or otherwise represent, any  
26 other person, other than the former official’s local government  
27 agency, before any court, local government agency, or state  
28 administrative agency, or any officer or employee of those courts  
29 or agencies by making any formal or informal appearance, or by  
30 making any oral or written communication with the intent to  
31 influence, in connection with any judicial, quasi-judicial, or other  
32 proceeding if both of the following apply:

33 (A) The former local administrative official’s local government  
34 agency is a party or has a direct and substantial interest.

35 (B) The proceeding is one in which the former local  
36 administrative official participated.

37 (2) Aid, advise, counsel, consult or assist in representing any  
38 other person, except the local government agency, in any  
39 proceeding in which the official would be prohibited from  
40 appearing under paragraph (1).

1 (b) The prohibitions contained in subdivision (a) shall not apply  
2 to any of the following:

3 (1) To prevent a former local administrative official from  
4 making or providing a statement, which is based on the former  
5 local administrative official’s own special knowledge in the  
6 particular area that is the subject of the statement, provided that  
7 no compensation is received other than that regularly provided for  
8 by law or regulation for witnesses.

9 (2) To communications made solely for the purpose of  
10 furnishing information by a former local administrative official if  
11 the court, local government agency, or state administrative agency  
12 to which the communication is directed makes each of the  
13 following findings in writing:

14 (A) That the former local administrative official has outstanding  
15 and otherwise unavailable qualifications.

16 (B) That the former local administrative official is acting with  
17 respect to a particular matter which requires such qualifications.

18 (C) That the public interest would be served by the participation  
19 of the former local administrative official; or

20 (3) With respect to appearances or communications in a  
21 proceeding in which a court, local government agency, or state  
22 administrative agency has issued a final order, decree, decision,  
23 or judgment but has retained jurisdiction if the local government  
24 agency of former employment gives its consent by determining  
25 each of the following:

26 (A) That at least five years have elapsed since the termination  
27 of the former local administrative official’s employment or term  
28 of office.

29 (B) That the public interest would not be harmed.

30 (c) The requirements imposed by this section shall not apply to  
31 any person who left government service prior to the effective date  
32 of this section with respect to that prior service.

33 SEC. 3. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 the only costs that may be incurred by a local agency or school  
36 district will be incurred because this act creates a new crime or  
37 infraction, eliminates a crime or infraction, or changes the penalty  
38 for a crime or infraction, within the meaning of Section 17556 of  
39 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.  
3 SEC. 4. The Legislature finds and declares that this bill furthers  
4 the purposes of the Political Reform Act of 1974 within the  
5 meaning of subdivision (a) of Section 81012 of the Government  
6 Code.

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