

AMENDED IN SENATE APRIL 3, 2014

SENATE BILL

No. 1441

**Introduced by Senators Lara, Corbett, De León, Hill, Monning,
Roth, Steinberg, and Torres**

February 21, 2014

An act to amend Section ~~89503~~ 82015 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 1441, as amended, Lara. Political Reform Act of 1974: ~~gifts.~~
contributions.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. "Contribution" is defined for purposes of the act as a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes. The definition does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are \$500 or less.

The act prohibits a lobbyist from making, and an elected state officer or candidate for elective state office from accepting, a contribution if the lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.

This bill would revise the definition of “contribution” to include a payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at the home of the lobbyist, as specified. The bill would make these payments attributable to the lobbyist for purposes of the prohibition against a lobbyist making a contribution to specified candidates and elected officers.

The bill would also revise the definition of “contribution” to include a payment made by a lobbying firm for costs related to a fundraising event held at the office of the lobbying firm.

A violation of the act’s provisions is 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.

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.

~~The Political Reform Act of 1974 places limits on the value of gifts that may be received by elected state officers, elected officers of local government agencies, candidates for those offices, members of state board or commissions, and designated employees of state or local government agencies. Under the act, those individuals may not accept gifts from a single source in a calendar year with a total value of more than \$250, with specified exceptions. The act directs the Fair Political Practices Commission to adjust this limit biennially to reflect changes in the Consumer Price Index.~~

~~This bill would make nonsubstantive changes to those provisions.~~

~~Vote: majority $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.~~

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 82015 of the Government Code is*
- 2 *amended to read:*

1 82015. (a) “Contribution” means a payment, a forgiveness of
2 a loan, a payment of a loan by a third party, or an enforceable
3 promise to make a payment, except to the extent that full and
4 adequate consideration is received, unless it is clear from the
5 surrounding circumstances that it is not made for political purposes.
6 (b) (1) A payment made at the behest of a committee, as defined
7 in subdivision (a) of Section 82013, is a contribution to the
8 committee, unless full and adequate consideration is received from
9 the committee for making the payment.
10 (2) A payment made at the behest of a candidate is a contribution
11 to the candidate, unless the criteria in either subparagraph (A) or
12 (B) are satisfied:
13 (A) Full and adequate consideration is received from the
14 candidate.
15 (B) It is clear from the surrounding circumstances that the
16 payment was made for purposes unrelated to his or her candidacy
17 for elective office. The following types of payments are presumed
18 to be for purposes unrelated to a candidate’s candidacy for elective
19 office:
20 (i) A payment made principally for personal purposes, in which
21 case it may be considered a gift under the provisions of Section
22 82028. Payments that are otherwise subject to the limits of Section
23 86203 are presumed to be principally for personal purposes.
24 (ii) A payment made by a state, local, or federal governmental
25 agency or by a nonprofit organization that is exempt from taxation
26 under Section 501(c)(3) of the Internal Revenue Code.
27 (iii) A payment not covered by clause (i), made principally for
28 legislative, governmental, or charitable purposes, in which case it
29 is neither a gift nor a contribution. However, payments of this type
30 that are made at the behest of a candidate who is an elected officer
31 shall be reported within 30 days following the date on which the
32 payment or payments equal or exceed five thousand dollars
33 (\$5,000) in the aggregate from the same source in the same
34 calendar year in which they are made. The report shall be filed by
35 the elected officer with the elected officer’s agency and shall be
36 a public record subject to inspection and copying pursuant to
37 subdivision (a) of Section 81008. The report shall contain the
38 following information: name of payor, address of payor, amount
39 of the payment, date or dates the payment or payments were made,
40 the name and address of the payee, a brief description of the goods

1 or services provided or purchased, if any, and a description of the
2 specific purpose or event for which the payment or payments were
3 made. Once the five-thousand-dollar (\$5,000) aggregate threshold
4 from a single source has been reached for a calendar year, all
5 payments for the calendar year made by that source ~~must~~ *shall* be
6 disclosed within 30 days after the date the threshold was reached
7 or the payment was made, whichever occurs later. Within 30 days
8 after receipt of the report, state agencies shall forward a copy of
9 these reports to the ~~Fair Political Practices~~ Commission, and local
10 agencies shall forward a copy of these reports to the officer with
11 whom elected officers of that agency file their campaign
12 statements.

13 (C) For purposes of subparagraph (B), a payment is made for
14 purposes related to a candidate's candidacy for elective office if
15 all or a portion of the payment is used for election-related activities.
16 For purposes of this subparagraph, "election-related activities"
17 shall include, but are not limited to, the following:

18 (i) Communications that contain express advocacy of the
19 nomination or election of the candidate or the defeat of his or her
20 opponent.

21 (ii) Communications that contain reference to the candidate's
22 candidacy for elective office, the candidate's election campaign,
23 or the candidate's or his or her opponent's qualifications for
24 elective office.

25 (iii) Solicitation of contributions to the candidate or to third
26 persons for use in support of the candidate or in opposition to his
27 or her opponent.

28 (iv) Arranging, coordinating, developing, writing, distributing,
29 preparing, or planning of any communication or activity described
30 in clause (i), (ii), or (iii).

31 (v) Recruiting or coordinating campaign activities of campaign
32 volunteers on behalf of the candidate.

33 (vi) Preparing campaign budgets.

34 (vii) Preparing campaign finance disclosure statements.

35 (viii) Communications directed to voters or potential voters as
36 part of activities encouraging or assisting persons to vote if the
37 communication contains express advocacy of the nomination or
38 election of the candidate or the defeat of his or her opponent.

1 (D) A contribution made at the behest of a candidate for a
2 different candidate or to a committee not controlled by the
3 behesting candidate is not a contribution to the behesting candidate.

4 (3) A payment made at the behest of a member of the Public
5 Utilities Commission, made principally for legislative,
6 governmental, or charitable purposes, is not a contribution.
7 However, payments of this type shall be reported within 30 days
8 following the date on which the payment or payments equal or
9 exceed five thousand dollars (\$5,000) in the aggregate from the
10 same source in the same calendar year in which they are made.
11 The report shall be filed by the member with the Public Utilities
12 Commission and shall be a public record subject to inspection and
13 copying pursuant to subdivision (a) of Section 81008. The report
14 shall contain the following information: name of payor, address
15 of payor, amount of the payment, date or dates the payment or
16 payments were made, the name and address of the payee, a brief
17 description of the goods or services provided or purchased, if any,
18 and a description of the specific purpose or event for which the
19 payment or payments were made. Once the five-thousand-dollar
20 (\$5,000) aggregate threshold from a single source has been reached
21 for a calendar year, all payments for the calendar year made by
22 that source ~~must~~ *shall* be disclosed within 30 days after the date
23 the threshold was reached or the payment was made, whichever
24 occurs later. Within 30 days after receipt of the report, the Public
25 Utilities Commission shall forward a copy of these reports to the
26 Fair Political Practices Commission.

27 (c) “Contribution” includes the purchase of tickets for events
28 such as dinners, luncheons, rallies, and similar fundraising events;
29 the candidate’s own money or property used on behalf of his or
30 her candidacy, other than personal funds of the candidate used to
31 pay either a filing fee for a declaration of candidacy or a candidate
32 statement prepared pursuant to Section 13307 of the Elections
33 Code; the granting of discounts or rebates not extended to the
34 public generally or the granting of discounts or rebates by television
35 and radio stations and newspapers not extended on an equal basis
36 to all candidates for the same office; *and* the payment of
37 compensation by any person for the personal services or expenses
38 of any other person if the services are rendered or expenses incurred
39 on behalf of a candidate or committee without payment of full and
40 adequate consideration.

1 (d) “Contribution” further includes any transfer of anything of
2 value received by a committee from another committee, unless
3 full and adequate consideration is received.

4 (e) “Contribution” does not include amounts received pursuant
5 to an enforceable promise to the extent those amounts have been
6 previously reported as a contribution. However, the fact that those
7 amounts have been received shall be indicated in the appropriate
8 campaign statement.

9 ~~“Contribution”~~*(1) Except as provided in paragraph (2) or*
10 *(3), “contribution” does not include a payment made by an*
11 *occupant of a home or office for costs related to any meeting or*
12 *fundraising event held in the occupant’s home or office if the costs*
13 *for the meeting or fundraising event are five hundred dollars (\$500)*
14 *or less.*

15 *(2) “Contribution” includes a payment made by a lobbyist or*
16 *a cohabitant of a lobbyist for costs related to a fundraising event*
17 *held at the home of the lobbyist, including the value of the use of*
18 *the home as a fundraising event venue. A payment described in*
19 *this paragraph shall be attributable to the lobbyist for purposes*
20 *of Section 85702.*

21 *(3) “Contribution” includes a payment made by a lobbying firm*
22 *for costs related to a fundraising event held at the office of the*
23 *lobbying firm, including the value of the use of the office as a*
24 *fundraising event venue.*

25 (g) Notwithstanding the foregoing definition of “contribution,”
26 the term does not include volunteer personal services or payments
27 made by any individual for his or her own travel expenses if the
28 payments are made voluntarily without any understanding or
29 agreement that they shall be, directly or indirectly, repaid to him
30 or her.

31 (h) “Contribution” further includes the payment of public
32 moneys by a state or local governmental agency for a
33 communication to the public that satisfies both of the following:

34 (1) The communication expressly advocates the election or
35 defeat of a clearly identified candidate or the qualification, passage,
36 or defeat of a clearly identified measure, or, taken as a whole and
37 in context, unambiguously urges a particular result in an election.

38 (2) The communication is made at the behest of the affected
39 candidate or committee.

1 *SEC. 2. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

10 *SEC. 3. The Legislature finds and declares that this bill*
11 *furtheres the purposes of the Political Reform Act of 1974 within*
12 *the meaning of subdivision (a) of Section 81012 of the Government*
13 *Code.*

14 ~~SECTION 1. Section 89503 of the Government Code is~~
15 ~~amended to read:~~

16 ~~89503. (a) An elected state officer, elected officer of a local~~
17 ~~government agency, or other individual specified in Section 87200~~
18 ~~shall not accept gifts from any single source in any calendar year~~
19 ~~with a total value of more than two hundred fifty dollars (\$250).~~

20 ~~(b) (1) A candidate for elective state office, judicial office, or~~
21 ~~elective office in a local government agency shall not accept gifts~~
22 ~~from any single source in any calendar year with a total value of~~
23 ~~more than two hundred fifty dollars (\$250). A person is a candidate~~
24 ~~for purposes of this subdivision when the person has filed a~~
25 ~~statement of organization as a committee for election to a state or~~
26 ~~local office, a declaration of intent, or a declaration of candidacy,~~
27 ~~whichever occurs first. A person is not a candidate for purposes~~
28 ~~of this subdivision after he or she is sworn into the elective office,~~
29 ~~or, if the person lost the election, after the person has terminated~~
30 ~~his or her campaign statement filing obligations for that office~~
31 ~~pursuant to Section 84214 or after certification of the election~~
32 ~~results, whichever occurs first.~~

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

36 ~~(c) A member of a state board or commission or designated~~
37 ~~employee of a state or local government agency shall not accept~~
38 ~~gifts from any single source in any calendar year with a total value~~
39 ~~of more than two hundred fifty dollars (\$250) if the member or~~

- 1 ~~employee would be required to report the receipt of income or~~
2 ~~gifts from that source on his or her statement of economic interests.~~
3 ~~(d) This section shall not apply to a person in his or her capacity~~
4 ~~as a judge. This section shall not apply to a person in his or her~~
5 ~~capacity as a part-time member of the governing board of any~~
6 ~~public institution of higher education unless that position is an~~
7 ~~elective office.~~
8 ~~(e) This section shall not prohibit or limit the following:~~
9 ~~(1) Payments, advances, or reimbursements for travel and related~~
10 ~~lodging and subsistence permitted by Section 89506.~~
11 ~~(2) Wedding gifts and gifts exchanged between individuals on~~
12 ~~birthdays, holidays, and other similar occasions, provided that the~~
13 ~~gifts exchanged are not substantially disproportionate in value.~~
14 ~~(f) Beginning on January 1, 1993, the Commission shall adjust~~
15 ~~the gift limitation in this section on January 1 of each~~
16 ~~odd-numbered year to reflect changes in the Consumer Price Index,~~
17 ~~rounded to the nearest ten dollars (\$10).~~
18 ~~(g) The limitations in this section are in addition to the~~
19 ~~limitations on gifts in Section 86203.~~