

ASSEMBLY BILL

No. 10

Introduced by Assembly Member Gatto

December 1, 2014

An act to amend Sections 82033, 82034, 87103, 87206, and 87207 of, and to add Sections 87206.5 and 87211 to, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 10, as introduced, Gatto. Political Reform Act of 1974: economic interest disclosures.

The Political Reform Act of 1974 prohibits a public official at any level of state or local government from making, participating in making, or in any way attempting to use his or her official position to influence a governmental decision in which the public official knows or has reason to know that he or she has a financial interest. A public official has a financial interest in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on a business entity in which the public official has a direct or indirect investment worth \$2,000 or more, real property in which the public official has a direct or indirect interest worth \$2,000 or more, and sources of income aggregating \$500 or more in value within 12 months prior to the time when the decision is made.

The Political Reform Act of 1974 requires persons holding specified public offices to file disclosures of investments, real property interests, and income within specified periods of assuming or leaving office, and annually while holding the office. The act requires the disclosures to include a statement indicating, within a specified value range, the fair

market value of investments or interests in real property and the aggregate value of income received from a source.

This bill would increase the thresholds at which a public official has a disqualifying financial interest in sources of income from \$500 to \$1,000, in investments in business entities from \$2,000 to \$5,000, and in interests in real property from \$2,000 to \$10,000.

The bill would make conforming adjustments to the thresholds at which income, investments, and interests in real property must be disclosed on a public official’s statement of economic interests. The bill would also revise the dollar amounts associated with the value ranges for reporting the value of economic interests.

This bill would require certain public officials to disclose information on the official’s statement of economic interests relating to governmental decisions for which the public official had a disqualifying financial interest, as specified.

Existing law makes a knowing or willful violation of the act a misdemeanor and subjects offenders to criminal penalties.

By creating additional crimes, 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 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 82033 of the Government Code is
 2 amended to read:
 3 82033. “Interest in real property” includes any leasehold,
 4 beneficial or ownership interest or an option to acquire such an
 5 interest in real property located in the jurisdiction owned directly,
 6 indirectly or beneficially by the public official, or other filer, or

1 his or her immediate family if the fair market value of the interest
2 is ~~two~~ *ten* thousand dollars ~~(\$2,000)~~ *(\$10,000)* or more. Interests
3 in real property of an individual includes a pro rata share of
4 interests in real property of any business entity or trust in which
5 the individual or immediate family owns, directly, indirectly or
6 beneficially, a 10-percent interest or greater.

7 SEC. 2. Section 82034 of the Government Code is amended
8 to read:

9 82034. “Investment” means any financial interest in or security
10 issued by a business entity, including, but not limited to, common
11 stock, preferred stock, rights, warrants, options, debt instruments,
12 and any partnership or other ownership interest owned directly,
13 indirectly, or beneficially by the public official, or other filer, or
14 his or her immediate family, if the business entity or any parent,
15 subsidiary, or otherwise related business entity has an interest in
16 real property in the jurisdiction, or does business or plans to do
17 business in the jurisdiction, or has done business within the
18 jurisdiction at any time during the two years prior to the time any
19 statement or other action is required under this title. An asset shall
20 not be deemed an investment unless its fair market value equals
21 or exceeds ~~two~~ *five* thousand dollars ~~(\$2,000)~~ *(\$5,000)*. The term
22 “investment” does not include a time or demand deposit in a
23 financial institution, shares in a credit union, any insurance policy,
24 interest in a diversified mutual fund registered with the Securities
25 and Exchange Commission under the Investment Company Act
26 of 1940 or in a common trust fund created pursuant to Section
27 ~~1564~~ *1585* of the Financial Code, interest in a government
28 defined-benefit pension plan, or any bond or other debt instrument
29 issued by any government or government agency. Investments of
30 an individual includes a pro rata share of investments of any
31 business entity, mutual fund, or trust in which the individual or
32 immediate family owns, directly, indirectly, or beneficially, a
33 10-percent interest or greater. The term “parent, subsidiary or
34 otherwise related business entity” shall be specifically defined by
35 regulations of the commission.

36 SEC. 3. Section 87103 of the Government Code is amended
37 to read:

38 87103. A public official has a financial interest in a decision
39 within the meaning of Section 87100 if it is reasonably foreseeable
40 that the decision will have a material financial effect,

1 distinguishable from its effect on the public generally, on the
 2 official, a member of his or her immediate family, or on any of
 3 the following:

4 (a) Any business entity in which the public official has a direct
 5 or indirect investment worth ~~two~~ *five* thousand dollars ~~(\$2,000)~~
 6 *(\$5,000)* or more.

7 (b) Any real property in which the public official has a direct
 8 or indirect interest worth ~~two~~ *ten* thousand dollars ~~(\$2,000)~~
 9 *(\$10,000)* or more.

10 (c) Any source of income, except gifts or loans by a commercial
 11 lending institution made in the regular course of business on terms
 12 available to the public without regard to official status, aggregating
 13 ~~five hundred dollars (\$500)~~ *one thousand dollars (\$1,000)* or more
 14 in value provided or promised to, received by, the public official
 15 within 12 months prior to the time when the decision is made.

16 (d) Any business entity in which the public official is a director,
 17 officer, partner, trustee, employee, or holds any position of
 18 management.

19 (e) Any donor of, or any intermediary or agent for a donor of,
 20 a gift or gifts aggregating two hundred fifty dollars (\$250) or more
 21 in value provided to, received by, or promised to the public official
 22 within 12 months prior to the time when the decision is made. The
 23 amount of the value of gifts specified by this subdivision shall be
 24 adjusted biennially by the commission to equal the same amount
 25 determined by the commission pursuant to subdivision (f) of
 26 Section 89503.

27 For purposes of this section, indirect investment or interest means
 28 any investment or interest owned by the spouse or dependent child
 29 of a public official, by an agent on behalf of a public official, or
 30 by a business entity or trust in which the official, the official's
 31 agents, spouse, and dependent children own directly, indirectly,
 32 or beneficially a 10-percent interest or greater.

33 SEC. 4. Section 87206 of the Government Code is amended
 34 to read:

35 87206. If an investment ~~or an interest in real property~~ is
 36 required to be disclosed under this article, the statement shall
 37 contain *all of the following*:

38 (a) A statement of the nature of the investment ~~or interest~~.

39 (b) The name of the business entity in which each investment
 40 is held, and a general description of the business activity in which

1 the business entity is engaged. *However, if the filer has a financial*
2 *interest in the business entity pursuant to subdivision (d) of Section*
3 *87103, the filer shall provide a thorough and detailed description*
4 *of the business entity's activities and disclose the names of all*
5 *business partners who share a financial interest in the business*
6 *entity, based on criteria established by the Commission.*

7 ~~(e) The address or other precise location of the real property.~~

8 ~~(d)~~

9 (c) A statement ~~whether~~ *indicating which of the following*
10 *represents the fair market value of the investment or interest in*
11 *real property equals or exceeds two thousand dollars (\$2,000) but*
12 *does not exceed ten thousand dollars (\$10,000), whether it exceeds*
13 *ten thousand dollars (\$10,000) but does not exceed one hundred*
14 *thousand dollars (\$100,000), whether it exceeds one hundred*
15 *thousand dollars (\$100,000) but does not exceed one million dollars*
16 *(\$1,000,000), or whether it exceeds one million dollars*
17 *(\$1,000,000)::*

18 (1) *At least five thousand dollars (\$5,000) but not greater than*
19 *ten thousand dollars (\$10,000).*

20 (2) *Greater than ten thousand dollars (\$10,000) but not greater*
21 *than one hundred thousand dollars (\$100,000).*

22 (3) *Greater than one hundred thousand dollars (\$100,000) but*
23 *not greater than two hundred fifty thousand dollars (\$250,000).*

24 (4) *Greater than two hundred fifty thousand dollars (\$250,000)*
25 *but not greater than five hundred thousand dollars (\$500,000).*

26 (5) *Greater than five hundred thousand dollars (\$500,000) but*
27 *not greater than one million dollars (\$1,000,000).*

28 (6) *Greater than one million dollars (\$1,000,000) but not greater*
29 *than two million dollars (\$2,000,000).*

30 (7) *Greater than two million dollars (\$2,000,000).*

31 (d) In the case of a statement filed under ~~Sections~~ *Section 87203*
32 *or 87204, if the investment or interest in real property was partially*
33 *or wholly acquired or disposed of during the period covered by*
34 *the statement, the date of acquisition or disposal.*

35 ~~(f) For purposes of disclosure under this article, "interest in real~~
36 ~~property" does not include the principal residence of the filer or~~
37 ~~any other property which the filer utilizes exclusively as the~~
38 ~~personal residence of the filer.~~

39 SEC. 5. Section 87206.5 is added to the Government Code, to
40 read:

1 87206.5. (a) If an interest in real property is required to be
2 disclosed under this article, the statement shall contain all of the
3 following:

4 (1) A statement of the nature of the interest.

5 (2) The address or other precise location of the real property.

6 (3) A statement indicating which of the following represents
7 the fair market value of the interest in real property:

8 (A) At least ten thousand dollars (\$10,000) but not greater than
9 two hundred fifty thousand dollars (\$250,000).

10 (B) Greater than two hundred fifty thousand dollars (\$250,000)
11 but not greater than five hundred thousand dollars (\$500,000).

12 (C) Greater than five hundred thousand dollars (\$500,000) but
13 not greater than seven hundred fifty thousand dollars (\$750,000).

14 (D) Greater than seven hundred fifty thousand dollars (\$750,000)
15 but not greater than one million dollars (\$1,000,000).

16 (E) Greater than one million dollars (\$1,000,000) but not greater
17 than two million dollars (\$2,000,000).

18 (F) Greater than two million dollars (\$2,000,000).

19 (4) In the case of a statement filed under Section 87203 or
20 87204, if the interest in real property was partially or wholly
21 acquired or disposed of during the period covered by the statement,
22 the date of acquisition or disposal.

23 (b) For purposes of disclosure under this article, “interest in real
24 property” does not include the principal residence of the filer or
25 any other property that the filer utilizes exclusively as the personal
26 residence of the filer.

27 SEC. 6. Section 87207 of the Government Code is amended
28 to read:

29 87207. (a) ~~When~~ *Except as provided in subdivision (b), if*
30 *income is required to be reported under this article, the statement*
31 *shall contain, except as provided in subdivision (b) all of the*
32 *following:*

33 (1) The name and address of each source of income aggregating
34 ~~five hundred dollars (\$500)~~ *one thousand dollars (\$1,000)* or more
35 in value, or fifty dollars (\$50) or more in value if the income was
36 a gift, and a general description of the business activity, if any, of
37 each source. *However, if the source of income is a business entity*
38 *in which the filer has a financial interest pursuant to subdivision*
39 *(d) of Section 87103, the filer shall provide a thorough and detailed*

1 *description of the business entity's activities, based on criteria*
2 *established by the Commission.*

3 (2) A statement—~~whether indicating which of the following~~
4 ~~represents the aggregate value of income from each source, or in~~
5 ~~the case of a loan, the highest amount owed to each source, was~~
6 ~~at least five hundred dollars (\$500) but did not exceed one thousand~~
7 ~~dollars (\$1,000), whether it was in excess of one thousand dollars~~
8 ~~(\$1,000) but was not greater than ten thousand dollars (\$10,000);~~
9 ~~whether it was greater than ten thousand dollars (\$10,000) but not~~
10 ~~greater than one hundred thousand dollars (\$100,000), or whether~~
11 ~~it was greater than one hundred thousand dollars (\$100,000).~~
12 *source:*

13 (A) *At least one thousand dollars (\$1,000) but not greater than*
14 *ten thousand dollars (\$10,000).*

15 (B) *Greater than ten thousand dollars (\$10,000) but not greater*
16 *than one hundred thousand dollars (\$100,000).*

17 (C) *Greater than one hundred thousand dollars (\$100,000) but*
18 *not greater than two hundred fifty thousand dollars (\$250,000).*

19 (D) *Greater than two hundred fifty thousand dollars (\$250,000)*
20 *but not greater than five hundred thousand dollars (\$500,000).*

21 (E) *Greater than five hundred thousand dollars (\$500,000).*

22 (3) A description of the consideration, if any, for which the
23 income was received.

24 (4) In the case of a gift, the amount and the date on which the
25 gift was received.

26 (5) In the case of a loan, the annual interest rate, the security,
27 if any, given for the loan, and the term of the loan.

28 (b) When the filer's pro rata share of income to a business entity,
29 including income to a sole proprietorship, is required to be reported
30 under this article, the statement shall contain *the following:*

31 (1) The name, address, and a—~~general~~ *thorough and detailed*
32 *description of the business activity of the business entity.*

33 (2) The name of every person from whom the business entity
34 received payments if the filer's pro rata share of gross receipts
35 from that person was equal to or greater than ten thousand dollars
36 (\$10,000) during a calendar year.

37 (c) When a payment, including an advance or reimbursement,
38 for travel is required to be reported pursuant to this section, it may
39 be reported on a separate travel reimbursement schedule which
40 shall be included in the filer's statement of economic interest. A

1 filer who chooses not to use the travel schedule shall disclose
2 payments for travel as a gift, unless it is clear from all surrounding
3 circumstances that the services provided were equal to or greater
4 in value than the payments for the travel, in which case the travel
5 may be reported as income.

6 SEC. 7. Section 87211 is added to the Government Code, to
7 read:

8 87211. (a) A public official who holds an office specified in
9 Section 87200 shall disclose on his or her statement of economic
10 interests each governmental decision for which a financial interest
11 resulted in the public official’s disqualification from making,
12 participating in making, or in any way attempting to use his or her
13 official position to influence that governmental decision pursuant
14 to Section 87100 or, for a Member of the Legislature, Section
15 87102.5. The disclosure shall identify the governmental decision,
16 the date that the governmental decision was made or considered,
17 the financial interest that created the conflict of interests, and any
18 other relevant information that the Commission deems appropriate.

19 (b) The disclosures required by this section are in addition to
20 any other required disclosures, including, but not limited to, the
21 requirements of Section 87105.

22 SEC. 8. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

31 SEC. 9. The Legislature finds and declares that this bill furthers
32 the purposes of the Political Reform Act of 1974 within the
33 meaning of subdivision (a) of Section 81012 of the Government
34 Code.

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