

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 10

Introduced by Assembly Member Gatto

December 1, 2014

An act to amend Sections 82015, 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 amended, Gatto. Political Reform Act of 1974: *behested payments and economic interest disclosures.*

(1) The Political Reform Act of 1974 requires elected officers, candidates, and committees to file semiannual campaign statements that include, among other things, the total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received. The act provides that contributions include a payment made at the behest of a candidate unless full and adequate consideration is received from the candidate or it is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The act provides that a payment made principally for legislative, governmental, or charitable purposes is presumed to be made for purposes unrelated to a candidate's candidacy for elective office and is neither a gift nor a contribution. The act requires a payment of this type made at the behest of a candidate who is an elected officer to be reported within 30 days following the date on which the payment or payments equal or exceed \$5,000 in the aggregate from the same source in the same calendar year in which the payments are made.

This bill would also require candidates who are required to file campaign statements, and elected officers for one year after they leave elective office, to report within 30 days following the date on which a behested payment or payments are made for legislative, governmental, or charitable purposes that equal or exceed \$5,000 in the aggregate from the same source in the same calendar year in which the payments are made.

~~The~~

(2) *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~~

(3) *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~~

(4) *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.

Vote: $\frac{2}{3}$. 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 82015 of the Government Code is
2 amended to read:

3 82015. (a) “Contribution” means a payment, a forgiveness of
4 a loan, a payment of a loan by a third party, or an enforceable
5 promise to make a payment except to the extent that full and
6 adequate consideration is received, unless it is clear from the
7 surrounding circumstances that it is not made for political purposes.

8 (b) (1) A payment made at the behest of a committee, as defined
9 in subdivision (a) of Section 82013, is a contribution to the
10 committee unless full and adequate consideration is received from
11 the committee for making the payment.

12 (2) A payment made at the behest of a candidate is a contribution
13 to the candidate unless the criteria in either subparagraph (A) or
14 (B) are satisfied:

15 (A) Full and adequate consideration is received from the
16 candidate.

1 (B) It is clear from the surrounding circumstances that the
2 payment was made for purposes unrelated to his or her candidacy
3 for elective office. The following types of payments are presumed
4 to be for purposes unrelated to a candidate's candidacy for elective
5 office:

6 (i) A payment made principally for personal purposes, in which
7 case it may be considered a gift under ~~the provisions of~~ Section
8 82028. Payments that are otherwise subject to the limits of Section
9 86203 are presumed to be principally for personal purposes.

10 (ii) A payment made by a state, local, or federal governmental
11 agency or by a nonprofit organization that is exempt from taxation
12 under Section 501(c)(3) of the Internal Revenue Code.

13 (iii) A payment not covered by clause (i), made principally for
14 legislative, governmental, or charitable purposes, in which case it
15 is neither a gift nor a contribution. However, payments of this type
16 that are made at the behest of *a candidate who is required to file*
17 *a campaign statement*, a candidate who is an ~~elected officer~~ *officer,*
18 *or an elected officer for one year after he or she leaves elective*
19 *office*, shall be reported within 30 days following the date on which
20 the payment or payments equal or exceed five thousand dollars
21 (\$5,000) in the aggregate from the same source in the same
22 calendar year in which they are made. The report shall be ~~filed by~~
23 ~~the elected officer~~ *filed, for a candidate who is required to file a*
24 *campaign statement, with the officials and agencies he or she is*
25 *required to file his or her campaign statement, for an elected*
26 *officer, with the elected officer's ~~agency and~~ agency, and for an*
27 *elected officer for the one year after he or she has left elective*
28 *office, with the agency the elected officer was required to file the*
29 *statement when he or she was an elected officer. The report shall*
30 *be a public record subject to inspection and copying pursuant to*
31 ~~subdivision (a) of~~ Section 81008. The report shall contain the
32 following information: name of payor, address of payor, amount
33 of the payment, date or dates the payment or payments were made,
34 the name and address of the payee, a brief description of the goods
35 or services provided or purchased, if any, and a description of the
36 specific purpose or event for which the payment or payments were
37 made. Once the five-thousand-dollar (\$5,000) aggregate threshold
38 from a single source has been reached for a calendar year, all
39 payments for the calendar year made by that source shall be
40 disclosed within 30 days after the date the threshold was reached

1 or the payment was made, whichever occurs later. Within 30 days
2 after receipt of the report, state agencies shall forward a copy of
3 these reports to the Commission, and local agencies shall forward
4 a copy of these reports to the officer with whom *candidates for,*
5 *and* elected officers—~~of~~ *of,* that agency file their campaign
6 statements.

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

12 (i) Communications that contain express advocacy of the
13 nomination or election of the candidate or the defeat of his or her
14 opponent.

15 (ii) Communications that contain reference to the candidate's
16 candidacy for elective office, the candidate's election campaign,
17 or the candidate's or his or her opponent's qualifications for
18 elective office.

19 (iii) Solicitation of contributions to the candidate or to third
20 persons for use in support of the candidate or in opposition to his
21 or her opponent.

22 (iv) Arranging, coordinating, developing, writing, distributing,
23 preparing, or planning of any communication or activity described
24 in clause (i), (ii), or (iii).

25 (v) Recruiting or coordinating campaign activities of campaign
26 volunteers on behalf of the candidate.

27 (vi) Preparing campaign budgets.

28 (vii) Preparing campaign finance disclosure statements.

29 (viii) Communications directed to voters or potential voters as
30 part of activities encouraging or assisting persons to vote if the
31 communication contains express advocacy of the nomination or
32 election of the candidate or the defeat of his or her opponent.

33 (D) A contribution made at the behest of a candidate for a
34 different candidate or to a committee not controlled by the
35 behesting candidate is not a contribution to the behesting candidate.

36 (3) A payment made at the behest of a member of the Public
37 Utilities Commission, made principally for legislative,
38 governmental, or charitable purposes, is not a contribution.
39 However, payments of this type shall be reported within 30 days
40 following the date on which the payment or payments equal or

1 exceed five thousand dollars (\$5,000) in the aggregate from the
2 same source in the same calendar year in which they are made.
3 The report shall be filed by the member with the Public Utilities
4 Commission and shall be a public record subject to inspection and
5 copying pursuant to ~~subdivision (a)~~ of Section 81008. The report
6 shall contain the following information: name of payor, address
7 of payor, amount of the payment, date or dates the payment or
8 payments were made, the name and address of the payee, a brief
9 description of the goods or services provided or purchased, if any,
10 and a description of the specific purpose or event for which the
11 payment or payments were made. Once the five-thousand-dollar
12 (\$5,000) aggregate threshold from a single source has been reached
13 for a calendar year, all payments for the calendar year made by
14 that source shall be disclosed within 30 days after the date the
15 threshold was reached or the payment was made, whichever occurs
16 later. Within 30 days after receipt of the report, the Public Utilities
17 Commission shall forward a copy of these reports to the Fair
18 Political Practices Commission.

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

33 (d) "Contribution" further includes any transfer of anything of
34 value received by a committee from another committee, unless
35 full and adequate consideration is received.

36 (e) "Contribution" does not include amounts received pursuant
37 to an enforceable promise to the extent those amounts have been
38 previously reported as a contribution. However, the fact that those
39 amounts have been received shall be indicated in the appropriate
40 campaign statement.

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

6 (2) “Contribution” includes a payment made by a lobbyist or a
7 cohabitant of a lobbyist for costs related to a fundraising event
8 held at the home of the lobbyist, including the value of the use of
9 the home as a fundraising event venue. A payment described in
10 this paragraph shall be attributable to the lobbyist for purposes of
11 Section 85702.

12 (3) “Contribution” includes a payment made by a lobbying firm
13 for costs related to a fundraising event held at the office of the
14 lobbying firm, including the value of the use of the office as a
15 fundraising event venue.

16 (g) Notwithstanding the foregoing definition of “contribution,”
17 the term does not include volunteer personal services or payments
18 made by any individual for his or her own travel expenses if the
19 payments are made voluntarily without any understanding or
20 agreement that they shall be, directly or indirectly, repaid to him
21 or her.

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

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

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

31 (i) “Contribution” further includes a payment made by a person
32 to a multipurpose organization as defined and described in Section
33 84222.

34 **SECTION 4.**

35 *SEC. 2.* Section 82033 of the Government Code is amended
36 to read:

37 82033. “Interest in real property” includes any leasehold,
38 beneficial or ownership interest or an option to acquire such an
39 interest in real property located in the jurisdiction owned directly,
40 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 ten thousand dollars (\$10,000) or more. Interests in real property
3 of an individual includes a pro rata share of interests in real
4 property of any business entity or trust in which the individual or
5 immediate family owns, directly, indirectly or beneficially, a
6 10-percent interest or greater.

7 ~~SEC. 2.~~

8 *SEC. 3.* Section 82034 of the Government Code is amended
9 to read:

10 82034. “Investment” means any financial interest in or security
11 issued by a business entity, including, but not limited to, common
12 stock, preferred stock, rights, warrants, options, debt instruments,
13 and any partnership or other ownership interest owned directly,
14 indirectly, or beneficially by the public official, or other filer, or
15 his or her immediate family, if the business entity or any parent,
16 subsidiary, or otherwise related business entity has an interest in
17 real property in the jurisdiction, or does business or plans to do
18 business in the jurisdiction, or has done business within the
19 jurisdiction at any time during the two years prior to the time any
20 statement or other action is required under this title. An asset shall
21 not be deemed an investment unless its fair market value equals
22 or exceeds five thousand dollars (\$5,000). The term “investment”
23 does not include a time or demand deposit in a financial institution,
24 shares in a credit union, any insurance policy, interest in a
25 diversified mutual fund registered with the Securities and Exchange
26 Commission under the Investment Company Act of 1940 (*15*
27 *U.S.C. 80a-1 et seq.*) or in a common trust fund created pursuant
28 to Section 1585 of the Financial Code, interest in a government
29 defined-benefit pension plan, or any bond or other debt instrument
30 issued by any government or government agency. Investments of
31 an individual includes a pro rata share of investments of any
32 business entity, mutual fund, or trust in which the individual or
33 immediate family owns, directly, indirectly, or beneficially, a
34 10-percent interest or greater. The term “parent, subsidiary or
35 otherwise related business entity” shall be specifically defined by
36 regulations of the ~~commission~~. *Commission*.

37 ~~SEC. 3.~~

38 *SEC. 4.* Section 87103 of the Government Code is amended
39 to read:

1 87103. A public official has a financial interest in a decision
2 within the meaning of Section 87100 if it is reasonably foreseeable
3 that the decision will have a material financial effect,
4 distinguishable from its effect on the public generally, on the
5 official, a member of his or her immediate family, or on any of
6 the following:

7 (a) Any business entity in which the public official has a direct
8 or indirect investment worth five thousand dollars (\$5,000) or
9 more.

10 (b) Any real property in which the public official has a direct
11 or indirect interest worth ten thousand dollars (\$10,000) or more.

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

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

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

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

35 ~~SEC. 4.~~

36 *SEC. 5.* Section 87206 of the Government Code is amended
37 to read:

38 87206. If an investment is required to be disclosed under this
39 article, the statement shall contain all of the following:

40 (a) A statement of the nature of the investment.

1 (b) The name of the business entity in which each investment
 2 is held, and a general description of the business activity in which
 3 the business entity is engaged. ~~However, if the filer has a financial~~
 4 ~~interest in the business entity pursuant to subdivision (d) of Section~~
 5 ~~87103, If a filer is required to report on his or her statement of~~
 6 ~~economic interests a business entity investment in which the filer~~
 7 ~~is a director, officer, partner, or trustee, the filer shall provide a~~
 8 thorough and detailed description of the business entity’s activities
 9 and disclose the names of all business partners who share a
 10 financial interest in the business entity, based on criteria established
 11 by the Commission.

12 (c) A statement indicating which of the following represents
 13 the fair market value of the ~~investment~~: *investment*:

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

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

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

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

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

24 (6) Greater than one million dollars (\$1,000,000) but not greater
 25 than two million dollars (\$2,000,000).

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

27 (d) In the case of a statement filed under Section 87203 or
 28 87204, if the investment was partially or wholly acquired or
 29 disposed of during the period covered by the statement, the date
 30 of acquisition or disposal.

31 ~~SEC. 5.~~

32 *SEC. 6.* Section 87206.5 is added to the Government Code, to
 33 read:

34 87206.5. (a) If an interest in real property is required to be
 35 disclosed under this article, the statement shall contain all of the
 36 following:

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

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

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

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

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

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

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

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

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

12 (4) In the case of a statement filed under Section 87203 or
13 87204, if the interest in real property was partially or wholly
14 acquired or disposed of during the period covered by the statement,
15 the date of acquisition or disposal.

16 (b) For purposes of disclosure under this article, “interest in real
17 property” does not include the principal residence of the filer or
18 any other property that the filer ~~utilizes~~ *uses* exclusively as the
19 personal residence of the filer.

20 ~~SEC. 6.~~

21 *SEC. 7.* Section 87207 of the Government Code is amended
22 to read:

23 87207. (a) Except as provided in subdivision (b), if income is
24 required to be reported under this article, the statement shall contain
25 all of the following:

26 (1) The name and address of each source of income aggregating
27 one thousand dollars (\$1,000) or more in value, or fifty dollars
28 (\$50) or more in value if the income was a gift, and a general
29 description of the business activity, if any, of each source.
30 ~~However, if the source of income is a business entity in which the~~
31 ~~filer has a financial interest pursuant to subdivision (d) of Section~~
32 ~~87103, the filer shall provide a thorough and detailed description~~
33 ~~of the business entity’s activities, based on criteria established by~~
34 ~~the Commission.~~

35 (2) A statement indicating which of the following represents
36 the aggregate value of income from each source, or in the case of
37 a loan, the highest amount owed to each source:

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

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

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

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

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

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

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

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

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

17 (1) The name, address, and a thorough and detailed description
18 of the business activity of the business ~~entity~~. *entity based on*
19 *criteria established by the Commission.*

20 (2) The name of every person from whom the business entity
21 received payments if the filer's pro rata share of gross receipts
22 from that person was equal to or greater than ten thousand dollars
23 (\$10,000) during a calendar year.

24 (c) When a payment, including an advance or reimbursement,
25 for travel is required to be reported pursuant to this section, it may
26 be reported on a separate travel reimbursement schedule ~~which~~,
27 *which* shall be included in the filer's statement of economic
28 interest. A filer who chooses not to use the travel schedule shall
29 disclose payments for travel as a gift, unless it is clear from all
30 surrounding circumstances that the services provided were equal
31 to or greater in value than the payments for the travel, in which
32 case the travel may be reported as income.

33 ~~SEC. 7.~~

34 *SEC. 8.* Section 87211 is added to the Government Code, to
35 read:

36 87211. (a) A public official who holds an office specified in
37 Section 87200 shall disclose on his or her statement of economic
38 interests each governmental decision for which a financial interest
39 resulted in the public official's disqualification from making,
40 participating in making, or in any way attempting to use his or her

1 official position to influence that governmental decision pursuant
2 to Section 87100 or, for a Member of the Legislature, Section
3 87102.5. The disclosure shall identify the governmental decision,
4 the date that the governmental decision was made or considered,
5 the financial interest that created the conflict of interests, and any
6 other relevant information that the Commission deems appropriate.

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

10 ~~SEC. 8.~~

11 *SEC. 9.* No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.

20 ~~SEC. 9.~~

21 *SEC. 10.* The Legislature finds and declares that this bill
22 furthers the purposes of the Political Reform Act of 1974 within
23 the meaning of subdivision (a) of Section 81012 of the Government
24 Code.