

Assembly Bill No. 1200

Passed the Assembly May 2, 2016

Chief Clerk of the Assembly

Passed the Senate March 3, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend, add, and repeal Sections 82002 and 82039 of, and to add Section 86207 to, the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1200, Gordon. Political Reform Act of 1974: lobbying: procurement contracts.

Existing provisions of the Political Reform Act of 1974 regulate the activities of lobbyists, lobbying firms, and lobbyist employers in connection with attempts to influence legislative and administrative action by legislative and other state officials, including requirements that lobbyists, lobbying firms, and lobbyist employers register and file periodic reports with the Secretary of State. For purposes of these provisions, "lobbyist" is defined, in part, as an individual who receives \$2,000 or more in economic consideration in a calendar month, or whose principal duties as an employee are, to communicate with specified officials for the purpose of influencing legislative or administrative action.

This bill would revise the definition of "lobbyist" to include specified conduct by an individual acting on behalf of any person other than his or her employer for the purpose of influencing administrative action that is governmental procurement, which is further defined to include various actions regarding a state procurement contract for which the total estimated cost exceeds \$250,000, thereby making the above-described lobbying requirements applicable to the specified attempts to influence governmental procurement. This bill would provide that the act's penalty provisions are the exclusive remedy for a violation of the act's requirements concerning governmental procurement lobbying.

The bill would make these provisions operative on January 1, 2017.

Because a willful violation of the act's provisions is punishable as a misdemeanor, 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.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 82002 of the Government Code is amended to read:

82002. (a) "Administrative action" means either of the following:

(1) The proposal, drafting, development, consideration, amendment, enactment, or defeat by any state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding, which shall include any proceeding governed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(2) With regard only to placement agents, the decision by any state agency to enter into a contract to invest state public retirement system assets on behalf of a state public retirement system.

(b) "Ratemaking proceeding" means, for the purposes of a proceeding before the Public Utilities Commission, any proceeding in which it is reasonably foreseeable that a rate will be established, including, but not limited to, general rate cases, performance-based ratemaking, and other ratesetting mechanisms.

(c) "Quasi-legislative proceeding" means, for purposes of a proceeding before the Public Utilities Commission, any proceeding that involves consideration of the establishment of a policy that will apply generally to a group or class of persons, including, but not limited to, rulemakings and investigations that may establish rules affecting an entire industry.

(d) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 2. Section 82002 is added to the Government Code, to read:

82002. (a) “Administrative action” means any of the following:

(1) The proposal, drafting, development, consideration, amendment, enactment, or defeat by any state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding, which shall include any proceeding governed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(2) With regard only to placement agents, the decision by any state agency to enter into a contract to invest state public retirement system assets on behalf of a state public retirement system.

(3) Governmental Procurement.

(b) “Ratemaking proceeding” means, for purposes of a proceeding before the Public Utilities Commission, any proceeding in which it is reasonably foreseeable that a rate will be established, including, but not limited to, general rate cases, performance-based ratemaking, and other ratesetting mechanisms.

(c) “Quasi-legislative proceeding” means, for purposes of a proceeding before the Public Utilities Commission, any proceeding that involves consideration of the establishment of a policy that will apply generally to a group or class of persons, including, but not limited to, rulemakings and investigations that may establish rules affecting an entire industry.

(d) (1) “Governmental procurement” means any of the following with respect to influencing a state procurement contract for which the total estimated cost exceeds two hundred fifty thousand dollars (\$250,000):

(A) Preparing the terms, specifications, bid documents, request for proposals, or evaluation criteria for the procurement contract.

(B) Soliciting for the procurement contract.

(C) Evaluating the procurement contract.

(D) Scoring criteria for the procurement contract.

(E) Awarding, approving, denying, or disapproving the procurement contract.

(F) Approving or denying an assignment, amendment, other than an amendment authorized and payable under the terms of the

procurement contract as the procurement contract was finally awarded or approved, renewal, or extension of the procurement contract, or any other material change in the procurement contract resulting in financial benefit to the offeror.

(2) “Governmental procurement” does not include any activity undertaken by a placement agent, as that term is defined in Section 82047.3.

(e) This section shall become operative on January 1, 2017.

SEC. 3. Section 82039 of the Government Code is amended to read:

82039. (a) “Lobbyist” means either of the following:

(1) Any individual who receives two thousand dollars (\$2,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, or whose principal duties as an employee are, to communicate directly or through his or her agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action.

(2) A placement agent, as defined in Section 82047.3.

(b) An individual is not a lobbyist by reason of activities described in Section 86300.

(c) For the purposes of subdivision (a), a proceeding before the Public Utilities Commission constitutes “administrative action” if it meets any of the definitions set forth in subdivision (b) or (c) of Section 82002. However, a communication made for the purpose of influencing this type of Public Utilities Commission proceeding is not within subdivision (a) if the communication is made at a public hearing, public workshop, or other public forum that is part of the proceeding, or if the communication is included in the official record of the proceeding.

(d) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 4. Section 82039 is added to the Government Code, to read:

82039. (a) “Lobbyist” means any of the following:

(1) Any individual who receives two thousand dollars (\$2,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, or whose principal duties as an employee are, to communicate directly or through his

or her agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action, except for administrative action that is governmental procurement, as defined in subdivision (d) of Section 82002.

(2) A placement agent, as defined in Section 82047.3.

(3) Any individual who receives two thousand dollars (\$2,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, to communicate directly or through his or her agents on behalf of any person other than his or her employer with any elective state official, agency official, or legislative official for the purpose of influencing administrative action that is governmental procurement, as defined in subdivision (d) of Section 82002.

(b) An individual is not a lobbyist by reason of activities described in Section 86300.

(c) For the purposes of subdivision (a), a proceeding before the Public Utilities Commission constitutes “administrative action” if it meets any of the definitions set forth in subdivision (b) or (c) of Section 82002. However, a communication made for the purpose of influencing this type of Public Utilities Commission proceeding is not within subdivision (a) if the communication is made at a public hearing, public workshop, or other public forum that is part of the proceeding, or if the communication is included in the official record of the proceeding.

(d) This section shall become operative on January 1, 2017.

SEC. 5. Section 86207 is added to the Government Code, to read:

86207. (a) Notwithstanding any other law, the penalties imposed by this title shall be the exclusive remedy for a violation of this chapter with respect to requirements for governmental procurement lobbying.

(b) This section shall become operative on January 1, 2017.

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

the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 7. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide the Fair Political Practices Commission with authority and sufficient time to adopt regulations necessary to implement the substantive requirements of this act before the January 1, 2017, operative date, it is necessary that this bill take effect immediately.

Approved _____, 2016

Governor