

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2823

Introduced by Assembly Member Gatto

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2823, as amended, Gatto. Political Reform Act of 1974: economic interest disclosure.

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, or a source of income aggregating \$500 or more in value within 12 months before 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 a source 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.

This 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.

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.

~~This bill would make a technical, nonsubstantive change to that provision.~~

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

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

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

9 82034. “Investment” means any financial interest ~~in~~ *in*, or
 10 security issued ~~by~~ *by*, a business entity, including, but not limited
 11 to, common stock, preferred stock, rights, warrants, options, debt
 12 instruments, and any partnership or other ownership interest owned
 13 directly, indirectly, or beneficially by the public official, or other
 14 filer, or his or her immediate family, if the business entity or any
 15 parent, subsidiary, or otherwise related business entity has an
 16 interest in real property in the jurisdiction, or does business or
 17 plans to do business in the jurisdiction, or has done business within
 18 the jurisdiction at any time during the two years ~~prior to~~ *before*
 19 the time any statement or other action is required under this title.
 20 An asset shall not be deemed an investment unless its fair market
 21 value equals or exceeds ~~two five~~ thousand dollars ~~(\$2,000)~~
 22 *(\$5,000)*. The term “investment” does not include a time or demand
 23 deposit in a financial institution, shares in a credit union, ~~any an~~
 24 insurance policy, interest in a diversified mutual fund registered
 25 with the Securities and Exchange Commission under the
 26 Investment Company Act of 1940 *(15 U.S.C. Sec. 80a-1 et seq.)*
 27 or in a common trust fund created pursuant to Section ~~1564~~ *1585*
 28 of the Financial Code, interest in a government defined-benefit
 29 pension plan, or ~~any a~~ bond or other debt instrument issued by any
 30 government or government agency. Investments of an individual
 31 includes a pro rata share of investments of any business entity,
 32 mutual fund, or trust in which the individual or immediate family
 33 owns, directly, indirectly, or beneficially, a 10-percent interest or
 34 greater. The term “parent, ~~subsidiary~~ *subsidiary*, or otherwise
 35 related business entity” shall be specifically defined by regulations
 36 of the commission.

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

39 87103. A public official has a financial interest in a decision
 40 within the meaning of Section 87100 if it is reasonably foreseeable

1 that the decision will have a material financial effect,
2 distinguishable from its effect on the public generally, on the
3 official, a member of his or her immediate family, or on any of
4 the following:

5 (a) Any business entity in which the public official has a direct
6 or indirect investment worth ~~two~~ five thousand dollars ~~(\$2,000)~~
7 (\$5,000) or more.

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

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

18 (d) Any business entity in which the public official is a director,
19 officer, partner, trustee, employee, or holds ~~any~~ a 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 SECTION 4.

36 SEC. 4. Section 87206 of the Government Code is amended
37 to read:

38 87206. If an investment ~~or an interest in real property~~ is
39 required to be disclosed under this article, the statement shall
40 ~~contain:~~ contain all of the following:

1 (a) A statement of the nature of the ~~investment or interest.~~
2 *investment.*

3 (b) (1) The name of the business entity in which each
4 investment is held, and a general description of the business activity
5 in which the business entity is engaged.

6 ~~(e)~~

7 (2) 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): investment:~~

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 fifty thousand dollars (\$50,000).*

22 (3) *Greater than fifty thousand dollars (\$50,000) but not greater*
23 *than one hundred thousand dollars (\$100,000).*

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

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

28 (6) *Greater than five hundred thousand dollars (\$500,000) but*
29 *not greater than one million dollars (\$1,000,000).*

30 (7) *Greater than one million dollars (\$1,000,000) but not greater*
31 *than two million dollars (\$2,000,000).*

32 (8) *Greater than two million dollars (\$2,000,000).*

33 ~~(e)~~

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

38 (f) For purposes of disclosure under this article, “interest in real
39 property” does not include the principal residence of the filer or

1 any other property that the filer utilizes exclusively as the personal
2 residence of the filer.

3 *SEC. 5. Section 87206.5 is added to the Government Code, to*
4 *read:*

5 87206.5. (a) *If an interest in real property is required to be*
6 *disclosed under this article, the statement shall contain all of the*
7 *following:*

8 (1) *A statement of the nature of the interest.*

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

10 (3) *A statement indicating which of the following represents the*
11 *fair market value of the interest in real property:*

12 (A) *At least ten thousand dollars (\$10,000) but not greater than*
13 *one hundred thousand dollars (\$100,000).*

14 (B) *Greater than one hundred thousand dollars (\$100,000) but*
15 *not greater than two hundred fifty thousand dollars (\$250,000).*

16 (C) *Greater than two hundred fifty thousand dollars (\$250,000)*
17 *but not greater than five hundred thousand dollars (\$500,000).*

18 (D) *Greater than five hundred thousand dollars (\$500,000) but*
19 *not greater than seven hundred fifty thousand dollars (\$750,000).*

20 (E) *Greater than seven hundred fifty thousand dollars*
21 *(\$750,000) but not greater than one million dollars (\$1,000,000).*

22 (F) *Greater than one million dollars (\$1,000,000) but not*
23 *greater than two million dollars (\$2,000,000).*

24 (G) *Greater than two million dollars (\$2,000,000).*

25 (4) *In the case of a statement filed under Section 87203 or*
26 *87204, if the interest in real property was partially or wholly*
27 *acquired or disposed of during the period covered by the statement,*
28 *the date of acquisition or disposal.*

29 (b) *For purposes of disclosure under this article, “interest in*
30 *real property” does not include the principal residence of the filer*
31 *or any other property that the filer uses exclusively as the personal*
32 *residence of the filer.*

33 *SEC. 6. Section 87207 of the Government Code is amended to*
34 *read:*

35 87207. (a) ~~*Except as provided in subdivision (b), if income*~~
36 ~~*is required to be reported under this article, the statement shall*~~
37 ~~*contain, except as provided in subdivision (b): contain all of the*~~
38 ~~*following:*~~

39 (1) ~~*The name and address of each source of income aggregating*~~
40 ~~*five hundred one thousand dollars (\$500) (\$1,000) or more in*~~

1 value, or fifty dollars (\$50) or more in value if the income was a
2 gift, and a general description of the business activity, if any, of
3 each source.

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

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

16 (B) *Greater than ten thousand dollars (\$10,000) but not greater*
17 *than fifty thousand dollars (\$50,000).*

18 (C) *Greater than fifty thousand dollars (\$50,000) but not greater*
19 *than one hundred thousand dollars (\$100,000).*

20 (D) *Greater than one hundred thousand dollars (\$100,000) but*
21 *not greater than two hundred fifty thousand dollars (\$250,000).*

22 (E) *Greater than two hundred fifty thousand dollars (\$250,000)*
23 *but not greater than five hundred thousand dollars (\$500,000).*

24 (F) *Greater than five hundred thousand dollars (\$500,000).*

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

27 (4) In the case of a gift, the amount and the date on which the
28 gift was received, and the travel destination for purposes of a gift
29 that is a travel payment, advance, or reimbursement.

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

32 (b) ~~If~~ *When* the filer's pro rata share of income to a business
33 entity, including income to a sole proprietorship, is required to be
34 reported under this article, the statement shall contain:

35 (1) The name, address, and a general description of the business
36 activity of the business entity.

37 (2) The name of every person from whom the business entity
38 received payments if the filer's pro rata share of gross receipts
39 from that person was equal to or greater than ten thousand dollars
40 (\$10,000) during a calendar year.

1 (c) ~~If~~ *When* a payment, including an advance or reimbursement,
 2 for travel is required to be reported pursuant to this section, it may
 3 be reported on a separate travel reimbursement ~~schedule~~ *schedule*,
 4 which shall be included in the filer’s statement of economic
 5 ~~interest.~~ *interests*. A filer who chooses not to use the travel schedule
 6 shall disclose payments for travel as a gift, unless it is clear from
 7 all surrounding circumstances that the services provided were
 8 equal to or greater in value than the payments for the travel, in
 9 which case the travel may be reported as income.

10 *SEC. 7. No reimbursement is required by this act pursuant to*
 11 *Section 6 of Article XIII B of the California Constitution because*
 12 *the only costs that may be incurred by a local agency or school*
 13 *district will be incurred because this act creates a new crime or*
 14 *infraction, eliminates a crime or infraction, or changes the penalty*
 15 *for a crime or infraction, within the meaning of Section 17556 of*
 16 *the Government Code, or changes the definition of a crime within*
 17 *the meaning of Section 6 of Article XIII B of the California*
 18 *Constitution.*

19 *SEC. 8. The Legislature finds and declares that this bill furthers*
 20 *the purposes of the Political Reform Act of 1974 within the meaning*
 21 *of subdivision (a) of Section 81012 of the Government Code.*