

AMENDED IN ASSEMBLY MARCH 31, 2016

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 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 $\frac{2}{3}$ 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 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
 7 his or her immediate family if the fair market value of the interest

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

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

8 82034. “Investment” means any financial interest in, or security
9 issued by, a business entity, ~~including, but not limited to,~~ *including*
10 common stock, preferred stock, rights, warrants, options, debt
11 instruments, and any partnership or other ownership interest owned
12 directly, indirectly, or beneficially by the public official, or other
13 filer, or his or her immediate family, if the business entity or any
14 parent, subsidiary, or otherwise related business entity has an
15 interest in real property in the jurisdiction, or does business or
16 plans to do business in the jurisdiction, or has done business within
17 the jurisdiction at any time during the two years before the time
18 any statement or other action is required under this title. An asset
19 shall not be deemed an investment unless its fair market value
20 equals or exceeds five thousand dollars (\$5,000). The term
21 “investment” does not include a time or demand deposit in a
22 financial institution, shares in a credit union, an insurance policy,
23 interest in a diversified mutual fund registered with the Securities
24 and Exchange Commission under the Investment Company Act
25 of 1940 (15 U.S.C. Sec. 80a-1 et seq.) or in a common trust fund
26 created pursuant to Section 1585 of the Financial Code, interest
27 in a government defined-benefit pension plan, or a bond or other
28 debt instrument issued by any government or government agency.
29 Investments of an individual includes a pro rata share of
30 investments of any business entity, mutual fund, or trust in which
31 the individual or immediate family owns, directly, indirectly, or
32 beneficially, a 10-percent interest or greater. The term “parent,
33 subsidiary, or otherwise related business entity” shall be
34 specifically defined by regulations of the commission.

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

37 87103. A public official has a financial interest in a decision
38 within the meaning of Section 87100 if it is reasonably foreseeable
39 that the decision will have a material financial effect,
40 distinguishable from its effect on the public generally, on the

1 official, a member of his or her immediate family, or on any of
 2 the following:

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

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

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

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

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

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

31 SEC. 4. Section 87206 of the Government Code is amended
 32 to read:

33 87206. If an investment is required to be disclosed under this
 34 article, the statement shall contain all of the following:

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

36 (b) ~~(1)~~—The name of the business entity in which each
 37 investment is held, and a general description of the business activity
 38 in which the business entity is engaged.

39 ~~(2)~~—The address or other precise location of the real property.

1 (c) A statement indicating which of the following represents
2 the fair market value of the investment:

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

5 (2) Greater than ten thousand dollars (\$10,000) but not greater
6 than fifty thousand dollars (\$50,000).

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

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

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

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

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

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

18 (d) In the case of a statement filed under Section 87203 or
19 87204, if the investment was partially or wholly acquired or
20 disposed of during the period covered by the statement, the date
21 of acquisition or disposal.

22 SEC. 5. Section 87206.5 is added to the Government Code, to
23 read:

24 87206.5. (a) If an interest in real property is required to be
25 disclosed under this article, the statement shall contain all of the
26 following:

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

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

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

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

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

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

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

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

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

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

4 (4) In the case of a statement filed under Section 87203 or
5 87204, if the interest in real property was partially or wholly
6 acquired or disposed of during the period covered by the statement,
7 the date of acquisition or disposal.

8 (b) For purposes of disclosure under this article, “interest in real
9 property” does not include the principal residence of the filer or
10 any other property that the filer uses exclusively as the personal
11 residence of the filer.

12 SEC. 6. Section 87207 of the Government Code is amended
13 to read:

14 87207. (a) Except as provided in subdivision (b), if income is
15 required to be reported under this article, the statement shall contain
16 all of the following:

17 (1) The name and address of each source of income aggregating
18 one thousand dollars (\$1,000) or more in value, or fifty dollars
19 (\$50) or more in value if the income was a gift, and a general
20 description of the business activity, if any, of each source.

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

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

26 (B) Greater than ten thousand dollars (\$10,000) but not greater
27 than fifty thousand dollars (\$50,000).

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

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

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

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

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

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

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

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

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

8 (2) The name of every person from whom the business entity
9 received payments if the filer's pro rata share of gross receipts
10 from that person was equal to or greater than ten thousand dollars
11 (\$10,000) during a calendar year.

12 (c) When a payment, including an advance or reimbursement,
13 for travel is required to be reported pursuant to this section, it may
14 be reported on a separate travel reimbursement schedule, which
15 shall be included in the filer's statement of economic interests. A
16 filer who chooses not to use the travel schedule shall disclose
17 payments for travel as a gift, unless it is clear from all surrounding
18 circumstances that the services provided were equal to or greater
19 in value than the payments for the travel, in which case the travel
20 may be reported as income.

21 SEC. 7. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

30 SEC. 8. The Legislature finds and declares that this bill furthers
31 the purposes of the Political Reform Act of 1974 within the
32 meaning of subdivision (a) of Section 81012 of the Government
33 Code.