

Introduced by Senator HillDecember 1, 2014

An act to amend Sections 87207 and 89506 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 21, as introduced, Hill. Political Reform Act of 1974: gifts of travel.

The Political Reform Act of 1974 provides for the comprehensive regulation of campaign financing and related matters, including the reporting of gifts, as defined. The act prohibits specified officers from receiving gifts in excess of \$440 in value from a single source in a calendar year. The act exempts gift payments for the actual costs of specified types of travel that are reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, from the annual limit on the value of gifts from a single source.

This bill would require a nonprofit organization that pays for these types of travel for an elected state officer or local elected officeholder to disclose the names of donors responsible for funding the payments, as specified. The bill would require a person who receives a gift of a travel payment from any source to report the travel destination on his or her statement of economic interests.

A violation of the Act's provisions is punishable as a misdemeanor. By expanding the scope of an existing crime, 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 87207 of the Government Code is
 2 amended to read:
 3 87207. (a) ~~When~~*If* income is required to be reported under
 4 this article, the statement shall contain, except as provided in
 5 subdivision (b):
 6 (1) The name and address of each source of income aggregating
 7 five hundred dollars (\$500) or more in value, or fifty dollars (\$50)
 8 or more in value if the income was a gift, and a general description
 9 of the business activity, if any, of each source.
 10 (2) A statement whether the aggregate value of income from
 11 each source, or in the case of a loan, the highest amount owed to
 12 each source, was at least five hundred dollars (\$500) but did not
 13 exceed one thousand dollars (\$1,000), whether it was in excess of
 14 one thousand dollars (\$1,000) but was not greater than ten thousand
 15 dollars (\$10,000), whether it was greater than ten thousand dollars
 16 (\$10,000) but not greater than one hundred thousand dollars
 17 (\$100,000), or whether it was greater than one hundred thousand
 18 dollars (\$100,000).
 19 (3) A description of the consideration, if any, for which the
 20 income was received.
 21 (4) In the case of a gift, the amount and the date on which the
 22 gift was received, *and the travel destination for purposes of a gift*
 23 *that is a travel payment, advance, or reimbursement.*
 24 (5) In the case of a loan, the annual interest rate, the security,
 25 if any, given for the loan, and the term of the loan.
 26 (b) ~~When~~*If* the filer’s pro rata share of income to a business
 27 entity, including income to a sole proprietorship, is required to be
 28 reported under this article, the statement shall contain:

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

3 (2) The name of every person from whom the business entity
4 received payments if the filer's pro rata share of gross receipts
5 from that person was equal to or greater than ten thousand dollars
6 (\$10,000) during a calendar year.

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

16 SEC. 2. Section 89506 of the Government Code is amended
17 to read:

18 89506. (a) Payments, advances, or reimbursements; for travel,
19 including actual transportation and related lodging and subsistence
20 that is reasonably related to a legislative or governmental purpose,
21 or to an issue of state, national, or international public policy, are
22 not prohibited or limited by this chapter if either of the following
23 ~~apply~~ *applies*:

24 (1) The travel is in connection with a speech given by the elected
25 state officer, local elected officeholder, candidate for ~~elected~~
26 *elective* state office or local ~~elected~~, *elective* office, an individual
27 specified in Section 87200, member of a state board or commission,
28 or designated employee of a state or local government agency, the
29 lodging and subsistence expenses are limited to the day
30 immediately preceding, the day of, and the day immediately
31 following the speech, and the travel is within the United States.

32 (2) The travel is provided by a government, a governmental
33 agency, a foreign government, a governmental authority, a bona
34 fide public or private educational institution, as defined in Section
35 203 of the Revenue and Taxation Code, a nonprofit organization
36 that is exempt from taxation under Section 501(c)(3) of the Internal
37 Revenue Code, or by a person domiciled outside the United States
38 ~~which~~ *who* substantially satisfies the requirements for tax-exempt
39 status under Section 501(c)(3) of the Internal Revenue Code.

1 (b) Gifts of travel not described in subdivision (a) are subject
2 to the limits in Section 89503.

3 (c) Subdivision (a) applies only to travel that is reported on the
4 recipient's statement of economic interests.

5 (d) For purposes of this section, a gift of travel does not include
6 any of the following:

7 (1) Travel that is paid for from campaign funds, as permitted
8 by Article 4 (commencing with Section 89510), or that is a
9 contribution.

10 (2) Travel that is provided by the agency of a local elected
11 officeholder, an elected state officer, member of a state board or
12 commission, an individual specified in Section 87200, or a
13 designated employee.

14 (3) Travel that is reasonably necessary in connection with a
15 bona fide business, trade, or profession and that satisfies the criteria
16 for federal income tax deduction for business expenses in Sections
17 162 and 274 of the Internal Revenue Code, unless the sole or
18 predominant activity of the business, trade, or profession is making
19 speeches.

20 (4) Travel that is excluded from the definition of a gift by any
21 other provision of this title.

22 (e) This section does not apply to payments, advances, or
23 reimbursements for travel and related lodging and subsistence
24 permitted or limited by Section 170.9 of the Code of Civil
25 Procedure.

26 (f) (1) *A nonprofit organization that makes payments, advances,
27 or reimbursements that total more than ten thousand dollars
28 (\$10,000) in a calendar year, or that total more than five thousand
29 dollars (\$5,000) in a calendar year for a single person, for travel
30 by an elected state officer or local elected officeholder as described
31 in subdivision (a) shall disclose to the Commission the names of
32 the donors responsible for funding those payments, advances, or
33 reimbursements. The disclosure of donor names shall be limited
34 to donors who donated one thousand dollars (\$1,000) or more to
35 the nonprofit organization in a calendar year and who knew or
36 had reason to know that the donation would be used for a payment,
37 advance, or reimbursement for travel by an elected state officer
38 or local elected officeholder as described in subdivision (a).*

1 (2) A donor knows or has reason to know that his or her
2 donation will be used in the manner described in paragraph (1)
3 under any of the following conditions:

4 (A) The donor directed the nonprofit organization to use the
5 donation to make a payment, advance, or reimbursement for travel
6 by an elected state officer or local elected officeholder as described
7 in subdivision (a).

8 (B) The donor made the donation in response to a message or
9 solicitation for donations for the stated purpose of making a
10 payment, advance, or reimbursement for travel by an elected state
11 officer or local elected officeholder as described in subdivision
12 (a).

13 (C) The donor, or an agent, employee, or representative of the
14 donor, accompanied an elected state officer or local elected
15 officeholder for any portion of travel as described in subdivision
16 (a).

17 (3) For purposes of Sections 87103, 87207, and 89503, a
18 nonprofit organization that makes payments, advances, or
19 reimbursements for travel by an elected state officer or local
20 elected officeholder as described in subdivision (a) is the source
21 of the gift unless the nonprofit organization is acting as an
22 intermediary or agent of the donor. If the nonprofit organization
23 is acting as an intermediary or agent of the donor, all of the
24 following apply:

25 (A) The donor to the nonprofit organization is the source of the
26 gift.

27 (B) The donor shall be identified as a financial interest under
28 Section 87103.

29 (C) The gift shall be reported as required by Section 87207.

30 (D) The gift shall be subject to the limitations on gifts specified
31 in Section 89503.

32 SEC. 3. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within
39 the meaning of Section 6 of Article XIII B of the California
40 Constitution.

1 SEC. 4. The Legislature finds and declares that this bill furthers
2 the purposes of the Political Reform Act of 1974 within the
3 meaning of subdivision (a) of Section 81012 of the Government
4 Code.

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