

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE JUNE 1, 2015

**SENATE BILL**

**No. 330**

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**Introduced by Senator Mendoza**

February 23, 2015

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An act to amend, repeal, and add Section ~~1091.5~~ of, and to add Section ~~1091.7~~ to, *1091* of the Government Code, relating to public officers.

LEGISLATIVE COUNSEL'S DIGEST

SB 330, as amended, Mendoza. Public officers: contracts: financial interest.

(1) Existing law prohibits Members of the Legislature, and state, county, district, judicial district, and city officers or employees from being financially interested in a contract, as specified, made by them in their official capacity or by any body or board of which they are members, subject to specified exceptions. *Existing law identifies certain remote interests that are not subject to this prohibition and other situations in which an official is not deemed to be financially interested in a contract, including, among others, that of a parent in the earnings of his or her minor child for personal services. Existing law makes a willful violation of this prohibition a crime.*

This bill would, on and after January 1, 2017, ~~expand these prohibitions to deem that a public officer, as specified, who is an elected member of any state or local body, board, or commission has a prohibited financial interest in a contract pursuant to these provisions, if that public officer's spouse, child, parent, sibling, or the spouse of the child, parent, or sibling has a financial interest in any contract made by that public officer in his or her official capacity, or by any body,~~

~~board, or commission of which that public officer is a member~~ *instead include within the definition of remote interests that of a public officer who is an elected member of any state or local body, board, or commission, if that public officer’s spouse, child, parent, sibling, or the spouse of the child, parent, or sibling, has a financial interest in any contract made by that public officer in his or her official capacity, or by any body, board, or commission of which that public officer is a member.*

(2) Existing law imposes a criminal penalty for every officer or person who willfully violates the prohibitions against making or being financially interested in contracts, as specified.

By expanding these prohibitions, this bill would create a new crime, and thus, would impose a state-mandated local program.

(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.

Vote: majority. 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 1091 of the Government Code is amended  
2     to read:

3     1091. (a) An officer shall not be deemed to be interested in a  
4     contract entered into by a body or board of which the officer is a  
5     member within the meaning of this article if the officer has only  
6     a remote interest in the contract and if the fact of that interest is  
7     disclosed to the body or board of which the officer is a member  
8     and noted in its official records, and thereafter the body or board  
9     authorizes, approves, or ratifies the contract in good faith by a vote  
10    of its membership sufficient for the purpose without counting the  
11    vote or votes of the officer or member with the remote interest.

12    (b) As used in this article, “remote interest” means any of the  
13    following:

14    (1) That of an officer or employee of a nonprofit entity exempt  
15    from taxation pursuant to Section 501(c)(3) of the Internal Revenue  
16    Code (26 U.S.C. Sec. 501(c)(3)), pursuant to Section 501(c)(5) of  
17    the Internal Revenue Code (26 U.S.C. Sec. 501(c)(5)), or a

1 nonprofit corporation, except as provided in paragraph (8) of  
2 subdivision (a) of Section 1091.5.

3 (2) That of an employee or agent of the contracting party, if the  
4 contracting party has 10 or more other employees and if the officer  
5 was an employee or agent of that contracting party for at least three  
6 years prior to the officer initially accepting his or her office and  
7 the officer owns less than 3 percent of the shares of stock of the  
8 contracting party; and the employee or agent is not an officer or  
9 director of the contracting party and did not directly participate in  
10 formulating the bid of the contracting party.

11 For purposes of this paragraph, time of employment with the  
12 contracting party by the officer shall be counted in computing the  
13 three-year period specified in this paragraph even though the  
14 contracting party has been converted from one form of business  
15 organization to a different form of business organization within  
16 three years of the initial taking of office by the officer. Time of  
17 employment in that case shall be counted only if, after the transfer  
18 or change in organization, the real or ultimate ownership of the  
19 contracting party is the same or substantially similar to that which  
20 existed before the transfer or change in organization. For purposes  
21 of this paragraph, stockholders, bondholders, partners, or other  
22 persons holding an interest in the contracting party are regarded  
23 as having the “real or ultimate ownership” of the contracting party.

24 (3) That of an employee or agent of the contracting party, if all  
25 of the following conditions are met:

26 (A) The agency of which the person is an officer is a local public  
27 agency located in a county with a population of less than 4,000,000.

28 (B) The contract is competitively bid and is not for personal  
29 services.

30 (C) The employee or agent is not in a primary management  
31 capacity with the contracting party, is not an officer or director of  
32 the contracting party, and holds no ownership interest in the  
33 contracting party.

34 (D) The contracting party has 10 or more other employees.

35 (E) The employee or agent did not directly participate in  
36 formulating the bid of the contracting party.

37 (F) The contracting party is the lowest responsible bidder.

38 (4) That of a parent in the earnings of his or her minor child for  
39 personal services.

40 (5) That of a landlord or tenant of the contracting party.

1 (6) That of an attorney of the contracting party or that of an  
2 owner, officer, employee, or agent of a firm that renders, or has  
3 rendered, service to the contracting party in the capacity of  
4 stockbroker, insurance agent, insurance broker, real estate agent,  
5 or real estate broker, if these individuals have not received and  
6 will not receive remuneration, consideration, or a commission as  
7 a result of the contract and if these individuals have an ownership  
8 interest of 10 percent or more in the law practice or firm, stock  
9 brokerage firm, insurance firm, or real estate firm.

10 (7) That of a member of a nonprofit corporation formed under  
11 the Food and Agricultural Code or a nonprofit corporation formed  
12 under the Corporations Code for the sole purpose of engaging in  
13 the merchandising of agricultural products or the supplying of  
14 water.

15 (8) That of a supplier of goods or services when those goods or  
16 services have been supplied to the contracting party by the officer  
17 for at least five years prior to his or her election or appointment  
18 to office.

19 (9) That of a person subject to the provisions of Section 1090  
20 in any contract or agreement entered into pursuant to the provisions  
21 of the California Land Conservation Act of 1965.

22 (10) Except as provided in subdivision (b) of Section 1091.5,  
23 that of a director of, or a person having an ownership interest of,  
24 10 percent or more in a bank, bank holding company, or savings  
25 and loan association with which a party to the contract has a  
26 relationship of borrower or depositor, debtor or creditor.

27 (11) That of an engineer, geologist, or architect employed by a  
28 consulting engineering or architectural firm. This paragraph applies  
29 only to an employee of a consulting firm who does not serve in a  
30 primary management capacity, and does not apply to an officer or  
31 director of a consulting firm.

32 (12) That of an elected officer otherwise subject to Section 1090,  
33 in any housing assistance payment contract entered into pursuant  
34 to Section 8 of the United States Housing Act of 1937 (42 U.S.C.  
35 Sec. 1437f) as amended, provided that the housing assistance  
36 payment contract was in existence before Section 1090 became  
37 applicable to the officer and will be renewed or extended only as  
38 to the existing tenant, or, in a jurisdiction in which the rental  
39 vacancy rate is less than 5 percent, as to new tenants in a unit

1 previously under a Section 8 contract. This section applies to any  
2 person who became a public official on or after November 1, 1986.

3 (13) That of a person receiving salary, per diem, or  
4 reimbursement for expenses from a government entity.

5 (14) That of a person owning less than 3 percent of the shares  
6 of a contracting party that is a for-profit corporation, provided that  
7 the ownership of the shares derived from the person's employment  
8 with that corporation.

9 (15) That of a party to litigation involving the body or board of  
10 which the officer is a member in connection with an agreement in  
11 which all of the following apply:

12 (A) The agreement is entered into as part of a settlement of  
13 litigation in which the body or board is represented by legal  
14 counsel.

15 (B) After a review of the merits of the agreement and other  
16 relevant facts and circumstances, a court of competent jurisdiction  
17 finds that the agreement serves the public interest.

18 (C) The interested member has recused himself or herself from  
19 all participation, direct or indirect, in the making of the agreement  
20 on behalf of the body or board.

21 (16) That of a person who is an officer or employee of an  
22 investor-owned utility that is regulated by the Public Utilities  
23 Commission with respect to a contract between the investor-owned  
24 utility and a state, county, district, judicial district, or city body or  
25 board of which the person is a member, if the contract requires the  
26 investor-owned utility to provide energy efficiency rebates or other  
27 type of program to encourage energy efficiency that benefits the  
28 public when all of the following apply:

29 (A) The contract is funded by utility consumers pursuant to  
30 regulations of the Public Utilities Commission.

31 (B) The contract provides no individual benefit to the person  
32 that is not also provided to the public, and the investor-owned  
33 utility receives no direct financial profit from the contract.

34 (C) The person has recused himself or herself from all  
35 participation in making the contract on behalf of the state, county,  
36 district, judicial district, or city body or board of which he or she  
37 is a member.

38 (D) The contract implements a program authorized by the Public  
39 Utilities Commission.

1 (c) This section is not applicable to any officer interested in a  
2 contract who influences or attempts to influence another member  
3 of the body or board of which he or she is a member to enter into  
4 the contract.

5 (d) The willful failure of an officer to disclose the fact of his or  
6 her interest in a contract pursuant to this section is punishable as  
7 provided in Section 1097. That violation does not void the contract  
8 unless the contracting party had knowledge of the fact of the remote  
9 interest of the officer at the time the contract was executed.

10 (e) *This section shall be repealed on January 1, 2017.*

11 *SEC. 2. Section 1091 is added to the Government Code, to*  
12 *read:*

13 *1091. (a) An officer shall not be deemed to be interested in a*  
14 *contract entered into by a body or board of which the officer is a*  
15 *member within the meaning of this article if the officer has only a*  
16 *remote interest in the contract and if the fact of that interest is*  
17 *disclosed to the body or board of which the officer is a member*  
18 *and noted in its official records, and thereafter the body or board*  
19 *authorizes, approves, or ratifies the contract in good faith by a*  
20 *vote of its membership sufficient for the purpose without counting*  
21 *the vote or votes of the officer or member with the remote interest.*

22 (b) *As used in this article, "remote interest" means any of the*  
23 *following:*

24 (1) *That of an officer or employee of a nonprofit entity exempt*  
25 *from taxation pursuant to Section 501(c)(3) of the Internal Revenue*  
26 *Code (26 U.S.C. Sec. 501(c)(3)), pursuant to Section 501(c)(5) of*  
27 *the Internal Revenue Code (26 U.S.C. Sec. 501(c)(5)), or a*  
28 *nonprofit corporation, except as provided in paragraph (8) of*  
29 *subdivision (a) of Section 1091.5.*

30 (2) *That of an employee or agent of the contracting party, if the*  
31 *contracting party has 10 or more other employees and if the officer*  
32 *was an employee or agent of that contracting party for at least*  
33 *three years prior to the officer initially accepting his or her office*  
34 *and the officer owns less than 3 percent of the shares of stock of*  
35 *the contracting party; and the employee or agent is not an officer*  
36 *or director of the contracting party and did not directly participate*  
37 *in formulating the bid of the contracting party.*

38 *For purposes of this paragraph, time of employment with the*  
39 *contracting party by the officer shall be counted in computing the*  
40 *three-year period specified in this paragraph even though the*

1 *contracting party has been converted from one form of business*  
2 *organization to a different form of business organization within*  
3 *three years of the initial taking of office by the officer. Time of*  
4 *employment in that case shall be counted only if, after the transfer*  
5 *or change in organization, the real or ultimate ownership of the*  
6 *contracting party is the same or substantially similar to that which*  
7 *existed before the transfer or change in organization. For purposes*  
8 *of this paragraph, stockholders, bondholders, partners, or other*  
9 *persons holding an interest in the contracting party are regarded*  
10 *as having the “real or ultimate ownership” of the contracting*  
11 *party.*

12 *(3) That of an employee or agent of the contracting party, if all*  
13 *of the following conditions are met:*

14 *(A) The agency of which the person is an officer is a local public*  
15 *agency located in a county with a population of less than*  
16 *4,000,000.*

17 *(B) The contract is competitively bid and is not for personal*  
18 *services.*

19 *(C) The employee or agent is not in a primary management*  
20 *capacity with the contracting party, is not an officer or director*  
21 *of the contracting party, and holds no ownership interest in the*  
22 *contracting party.*

23 *(D) The contracting party has 10 or more other employees.*

24 *(E) The employee or agent did not directly participate in*  
25 *formulating the bid of the contracting party.*

26 *(F) The contracting party is the lowest responsible bidder.*

27 *(4) That of a public officer who is an elected member of any*  
28 *state or local body, board, or commission, if that public officer’s*  
29 *spouse, child, parent, sibling, or the spouse of the child, parent,*  
30 *or sibling, has a financial interest in any contract made by that*  
31 *public officer in his or her official capacity, or by any body, board,*  
32 *or commission of which that public officer is a member.*

33 *(5) That of a landlord or tenant of the contracting party.*

34 *(6) That of an attorney of the contracting party or that of an*  
35 *owner, officer, employee, or agent of a firm that renders, or has*  
36 *rendered, service to the contracting party in the capacity of*  
37 *stockbroker, insurance agent, insurance broker, real estate agent,*  
38 *or real estate broker, if these individuals have not received and*  
39 *will not receive remuneration, consideration, or a commission as*  
40 *a result of the contract and if these individuals have an ownership*

1 *interest of 10 percent or more in the law practice or firm, stock*  
2 *brokerage firm, insurance firm, or real estate firm.*

3 *(7) That of a member of a nonprofit corporation formed under*  
4 *the Food and Agricultural Code or a nonprofit corporation formed*  
5 *under the Corporations Code for the sole purpose of engaging in*  
6 *the merchandising of agricultural products or the supplying of*  
7 *water.*

8 *(8) That of a supplier of goods or services when those goods or*  
9 *services have been supplied to the contracting party by the officer*  
10 *for at least five years prior to his or her election or appointment*  
11 *to office.*

12 *(9) That of a person subject to the provisions of Section 1090*  
13 *in any contract or agreement entered into pursuant to the*  
14 *provisions of the California Land Conservation Act of 1965.*

15 *(10) Except as provided in subdivision (b) of Section 1091.5,*  
16 *that of a director of, or a person having an ownership interest of,*  
17 *10 percent or more in a bank, bank holding company, or savings*  
18 *and loan association with which a party to the contract has a*  
19 *relationship of borrower or depositor, debtor or creditor.*

20 *(11) That of an engineer, geologist, or architect employed by a*  
21 *consulting engineering or architectural firm. This paragraph*  
22 *applies only to an employee of a consulting firm who does not*  
23 *serve in a primary management capacity, and does not apply to*  
24 *an officer or director of a consulting firm.*

25 *(12) That of an elected officer otherwise subject to Section 1090,*  
26 *in any housing assistance payment contract entered into pursuant*  
27 *to Section 8 of the United States Housing Act of 1937 (42 U.S.C.*  
28 *Sec. 1437f) as amended, provided that the housing assistance*  
29 *payment contract was in existence before Section 1090 became*  
30 *applicable to the officer and will be renewed or extended only as*  
31 *to the existing tenant, or, in a jurisdiction in which the rental*  
32 *vacancy rate is less than 5 percent, as to new tenants in a unit*  
33 *previously under a Section 8 contract. This section applies to any*  
34 *person who became a public official on or after November 1, 1986.*

35 *(13) That of a person receiving salary, per diem, or*  
36 *reimbursement for expenses from a government entity.*

37 *(14) That of a person owning less than 3 percent of the shares*  
38 *of a contracting party that is a for-profit corporation, provided*  
39 *that the ownership of the shares derived from the person's*  
40 *employment with that corporation.*



1     (15) That of a party to litigation involving the body or board of  
2     which the officer is a member in connection with an agreement in  
3     which all of the following apply:

4     (A) The agreement is entered into as part of a settlement of  
5     litigation in which the body or board is represented by legal  
6     counsel.

7     (B) After a review of the merits of the agreement and other  
8     relevant facts and circumstances, a court of competent jurisdiction  
9     finds that the agreement serves the public interest.

10    (C) The interested member has recused himself or herself from  
11    all participation, direct or indirect, in the making of the agreement  
12    on behalf of the body or board.

13    (16) That of a person who is an officer or employee of an  
14    investor-owned utility that is regulated by the Public Utilities  
15    Commission with respect to a contract between the investor-owned  
16    utility and a state, county, district, judicial district, or city body  
17    or board of which the person is a member, if the contract requires  
18    the investor-owned utility to provide energy efficiency rebates or  
19    other type of program to encourage energy efficiency that benefits  
20    the public when all of the following apply:

21    (A) The contract is funded by utility consumers pursuant to  
22    regulations of the Public Utilities Commission.

23    (B) The contract provides no individual benefit to the person  
24    that is not also provided to the public, and the investor-owned  
25    utility receives no direct financial profit from the contract.

26    (C) The person has recused himself or herself from all  
27    participation in making the contract on behalf of the state, county,  
28    district, judicial district, or city body or board of which he or she  
29    is a member.

30    (D) The contract implements a program authorized by the Public  
31    Utilities Commission.

32    (c) This section is not applicable to any officer interested in a  
33    contract who influences or attempts to influence another member  
34    of the body or board of which he or she is a member to enter into  
35    the contract.

36    (d) The willful failure of an officer to disclose the fact of his or  
37    her interest in a contract pursuant to this section is punishable as  
38    provided in Section 1097. That violation does not void the contract  
39    unless the contracting party had knowledge of the fact of the remote  
40    interest of the officer at the time the contract was executed.

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

2 *SEC. 3. No reimbursement is required by this act pursuant to*  
 3 *Section 6 of Article XIII B of the California Constitution because*  
 4 *the only costs that may be incurred by a local agency or school*  
 5 *district will be incurred because this act creates a new crime or*  
 6 *infraction, eliminates a crime or infraction, or changes the penalty*  
 7 *for a crime or infraction, within the meaning of Section 17556 of*  
 8 *the Government Code, or changes the definition of a crime within*  
 9 *the meaning of Section 6 of Article XIII B of the California*  
 10 *Constitution.*

11 ~~SECTION 1. Section 1091.5 of the Government Code is~~  
 12 ~~amended to read:~~

13 ~~1091.5. (a) An officer or employee shall not be deemed to be~~  
 14 ~~interested in a contract if his or her interest is any of the following:~~

15 ~~(1) The ownership of less than 3 percent of the shares of a~~  
 16 ~~corporation for profit, provided that the total annual income to him~~  
 17 ~~or her from dividends, including the value of stock dividends, from~~  
 18 ~~the corporation does not exceed 5 percent of his or her total annual~~  
 19 ~~income, and any other payments made to him or her by the~~  
 20 ~~corporation do not exceed 5 percent of his or her total annual~~  
 21 ~~income.~~

22 ~~(2) That of an officer in being reimbursed for his or her actual~~  
 23 ~~and necessary expenses incurred in the performance of official~~  
 24 ~~duties.~~

25 ~~(3) That of a recipient of public services generally provided by~~  
 26 ~~the public body or board of which he or she is a member, on the~~  
 27 ~~same terms and conditions as if he or she were not a member of~~  
 28 ~~the body or board.~~

29 ~~(4) That of a landlord or tenant of the contracting party if the~~  
 30 ~~contracting party is the federal government or any federal~~  
 31 ~~department or agency, this state or an adjoining state, any~~  
 32 ~~department or agency of this state or an adjoining state, any county~~  
 33 ~~or city of this state or an adjoining state, or any public corporation~~  
 34 ~~or special, judicial, or other public district of this state or an~~  
 35 ~~adjoining state unless the subject matter of the contract is the~~  
 36 ~~property in which the officer or employee has the interest as~~  
 37 ~~landlord or tenant in which event his or her interest shall be deemed~~  
 38 ~~a remote interest within the meaning of, and subject to, the~~  
 39 ~~provisions of Section 1091.~~

1 ~~(5) That of a tenant in a public housing authority created~~  
2 ~~pursuant to Part 2 (commencing with Section 34200) of Division~~  
3 ~~24 of the Health and Safety Code in which he or she serves as a~~  
4 ~~member of the board of commissioners of the authority or of a~~  
5 ~~community development commission created pursuant to Part 1.7~~  
6 ~~(commencing with Section 34100) of Division 24 of the Health~~  
7 ~~and Safety Code.~~

8 ~~(6) That of a spouse of an officer or employee of a public agency~~  
9 ~~in his or her spouse's employment or officeholding if his or her~~  
10 ~~spouse's employment or officeholding has existed for at least one~~  
11 ~~year prior to his or her election or appointment.~~

12 ~~(7) That of a nonsalaried member of a nonprofit corporation,~~  
13 ~~provided that this interest is disclosed to the body or board at the~~  
14 ~~time of the first consideration of the contract, and provided further~~  
15 ~~that this interest is noted in its official records.~~

16 ~~(8) That of a noncompensated officer of a nonprofit, tax-exempt~~  
17 ~~corporation, which, as one of its primary purposes, supports the~~  
18 ~~functions of the body or board or to which the body or board has~~  
19 ~~a legal obligation to give particular consideration, and provided~~  
20 ~~further that this interest is noted in its official records.~~

21 ~~For purposes of this paragraph, an officer is "noncompensated"~~  
22 ~~even though he or she receives reimbursement from the nonprofit,~~  
23 ~~tax-exempt corporation for necessary travel and other actual~~  
24 ~~expenses incurred in performing the duties of his or her office.~~

25 ~~(9) That of a person receiving salary, per diem, or reimbursement~~  
26 ~~for expenses from a government entity, unless the contract directly~~  
27 ~~involves the department of the government entity that employs the~~  
28 ~~officer or employee, provided that the interest is disclosed to the~~  
29 ~~body or board at the time of consideration of the contract, and~~  
30 ~~provided further that the interest is noted in its official record.~~

31 ~~(10) That of an attorney of the contracting party or that of an~~  
32 ~~owner, officer, employee, or agent of a firm which renders, or has~~  
33 ~~rendered, service to the contracting party in the capacity of~~  
34 ~~stockbroker, insurance agent, insurance broker, real estate agent,~~  
35 ~~or real estate broker, if these individuals have not received and~~  
36 ~~will not receive remuneration, consideration, or a commission as~~  
37 ~~a result of the contract and if these individuals have an ownership~~  
38 ~~interest of less than 10 percent in the law practice or firm, stock~~  
39 ~~brokerage firm, insurance firm, or real estate firm.~~

1     ~~(11) Except as provided in subdivision (b), that of an officer or~~  
2 ~~employee of, or a person having less than a 10-percent ownership~~  
3 ~~interest in, a bank, bank holding company, or savings and loan~~  
4 ~~association with which a party to the contract has a relationship~~  
5 ~~of borrower, depositor, debtor, or creditor.~~

6     ~~(12) That of (A) a bona fide nonprofit, tax-exempt corporation~~  
7 ~~having among its primary purposes the conservation, preservation,~~  
8 ~~or restoration of park and natural lands or historical resources for~~  
9 ~~public benefit, which corporation enters into an agreement with a~~  
10 ~~public agency to provide services related to park and natural lands~~  
11 ~~or historical resources and which services are found by the public~~  
12 ~~agency, prior to entering into the agreement or as part of the~~  
13 ~~agreement, to be necessary to the public interest to plan for,~~  
14 ~~acquire, protect, conserve, improve, or restore park and natural~~  
15 ~~lands or historical resources for public purposes and (B) any officer,~~  
16 ~~director, or employee acting pursuant to the agreement on behalf~~  
17 ~~of the nonprofit corporation. For purposes of this paragraph,~~  
18 ~~“agreement” includes contracts and grants, and “park,” “natural~~  
19 ~~lands,” and “historical resources” shall have the meanings set forth~~  
20 ~~in subdivisions (d), (g), and (i) of Section 5902 of the Public~~  
21 ~~Resources Code. Services to be provided to the public agency may~~  
22 ~~include those studies and related services, acquisitions of property~~  
23 ~~and property interests, and any activities related to those studies~~  
24 ~~and acquisitions necessary for the conservation, preservation,~~  
25 ~~improvement, or restoration of park and natural lands or historical~~  
26 ~~resources.~~

27     ~~(13) That of an officer, employee, or member of the Board of~~  
28 ~~Directors of the California Housing Finance Agency with respect~~  
29 ~~to a loan product or programs if the officer, employee, or member~~  
30 ~~participated in the planning, discussions, development, or approval~~  
31 ~~of the loan product or program and both of the following two~~  
32 ~~conditions exist:~~

33     ~~(A) The loan product or program is or may be originated by any~~  
34 ~~lender approved by the agency.~~

35     ~~(B) The loan product or program is generally available to~~  
36 ~~qualifying borrowers on terms and conditions that are substantially~~  
37 ~~the same for all qualifying borrowers at the time the loan is made.~~

38     ~~(14) That of a party to a contract for public services entered into~~  
39 ~~by a special district that requires a person to be a landowner or a~~  
40 ~~representative of a landowner to serve on the board of which the~~

1 officer or employee is a member, on the same terms and conditions  
2 as if he or she were not a member of the body or board. For  
3 purposes of this paragraph, “public services” includes the powers  
4 and purposes generally provided pursuant to provisions of the  
5 Water Code relating to irrigation districts, California water districts,  
6 water storage districts, or reclamation districts.

7 (b) ~~An officer or employee shall not be deemed to be interested  
8 in a contract made pursuant to competitive bidding under a  
9 procedure established by law if his or her sole interest is that of  
10 an officer, director, or employee of a bank or savings and loan  
11 association with which a party to the contract has the relationship  
12 of borrower or depositor, debtor or creditor.~~

13 (e) ~~This section shall be repealed on January 1, 2017.~~

14 SEC. 2. ~~Section 1091.5 is added to the Government Code, to  
15 read:~~

16 ~~1091.5. (a) An officer or employee shall not be deemed to be  
17 interested in a contract if his or her interest is any of the following:~~

18 ~~(1) The ownership of less than 3 percent of the shares of a  
19 corporation for profit, provided that the total annual income to him  
20 or her from dividends, including the value of stock dividends, from  
21 the corporation does not exceed 5 percent of his or her total annual  
22 income, and any other payments made to him or her by the  
23 corporation do not exceed 5 percent of his or her total annual  
24 income.~~

25 ~~(2) That of an officer in being reimbursed for his or her actual  
26 and necessary expenses incurred in the performance of official  
27 duties.~~

28 ~~(3) That of a recipient of public services generally provided by  
29 the public body or board of which he or she is a member, on the  
30 same terms and conditions as if he or she were not a member of  
31 the body or board.~~

32 ~~(4) That of a landlord or tenant of the contracting party if the  
33 contracting party is the federal government or any federal  
34 department or agency, this state or an adjoining state, any  
35 department or agency of this state or an adjoining state, any county  
36 or city of this state or an adjoining state, or any public corporation  
37 or special, judicial, or other public district of this state or an  
38 adjoining state unless the subject matter of the contract is the  
39 property in which the officer or employee has the interest as  
40 landlord or tenant in which event his or her interest shall be deemed~~

1 a remote interest within the meaning of, and subject to, the  
2 provisions of Section 1091.

3 (5) ~~That of a tenant in a public housing authority created~~  
4 ~~pursuant to Part 2 (commencing with Section 34200) of Division~~  
5 ~~24 of the Health and Safety Code in which he or she serves as a~~  
6 ~~member of the board of commissioners of the authority or of a~~  
7 ~~community development commission created pursuant to Part 1.7~~  
8 ~~(commencing with Section 34100) of Division 24 of the Health~~  
9 ~~and Safety Code.~~

10 (6) ~~Except as provided in Section 1091.7, that of a spouse of an~~  
11 ~~officer or employee of a public agency in his or her spouse's~~  
12 ~~employment or officeholding if his or her spouse's employment~~  
13 ~~or officeholding has existed for at least one year prior to his or her~~  
14 ~~election or appointment.~~

15 (7) ~~That of a nonsalaried member of a nonprofit corporation,~~  
16 ~~provided that this interest is disclosed to the body or board at the~~  
17 ~~time of the first consideration of the contract, and provided further~~  
18 ~~that this interest is noted in its official records.~~

19 (8) ~~That of a nonecompensated officer of a nonprofit, tax-exempt~~  
20 ~~corporation, which, as one of its primary purposes, supports the~~  
21 ~~functions of the body or board or to which the body or board has~~  
22 ~~a legal obligation to give particular consideration, and provided~~  
23 ~~further that this interest is noted in its official records.~~

24 For purposes of this paragraph, an officer is "nonecompensated"  
25 even though he or she receives reimbursement from the nonprofit,  
26 tax-exempt corporation for necessary travel and other actual  
27 expenses incurred in performing the duties of his or her office.

28 (9) ~~That of a person receiving salary, per diem, or reimbursement~~  
29 ~~for expenses from a government entity, unless the contract directly~~  
30 ~~involves the department of the government entity that employs the~~  
31 ~~officer or employee, provided that the interest is disclosed to the~~  
32 ~~body or board at the time of consideration of the contract, and~~  
33 ~~provided further that the interest is noted in its official record.~~

34 (10) ~~That of an attorney of the contracting party or that of an~~  
35 ~~owner, officer, employee, or agent of a firm which renders, or has~~  
36 ~~rendered, service to the contracting party in the capacity of~~  
37 ~~stockbroker, insurance agent, insurance broker, real estate agent,~~  
38 ~~or real estate broker, if these individuals have not received and~~  
39 ~~will not receive remuneration, consideration, or a commission as~~  
40 ~~a result of the contract and if these individuals have an ownership~~

1 interest of less than 10 percent in the law practice or firm, stock  
2 brokerage firm, insurance firm, or real estate firm.

3 (11) Except as provided in subdivision (b), that of an officer or  
4 employee of, or a person having less than a 10-percent ownership  
5 interest in, a bank, bank holding company, or savings and loan  
6 association with which a party to the contract has a relationship  
7 of borrower, depositor, debtor, or creditor.

8 (12) That of (A) a bona fide nonprofit, tax-exempt corporation  
9 having among its primary purposes the conservation, preservation,  
10 or restoration of park and natural lands or historical resources for  
11 public benefit, which corporation enters into an agreement with a  
12 public agency to provide services related to park and natural lands  
13 or historical resources and which services are found by the public  
14 agency, prior to entering into the agreement or as part of the  
15 agreement, to be necessary to the public interest to plan for,  
16 acquire, protect, conserve, improve, or restore park and natural  
17 lands or historical resources for public purposes and (B) any officer,  
18 director, or employee acting pursuant to the agreement on behalf  
19 of the nonprofit corporation. For purposes of this paragraph,  
20 “agreement” includes contracts and grants, and “park,” “natural  
21 lands,” and “historical resources” shall have the meanings set forth  
22 in subdivisions (d), (g), and (i) of Section 5902 of the Public  
23 Resources Code. Services to be provided to the public agency may  
24 include those studies and related services, acquisitions of property  
25 and property interests, and any activities related to those studies  
26 and acquisitions necessary for the conservation, preservation,  
27 improvement, or restoration of park and natural lands or historical  
28 resources.

29 (13) That of an officer, employee, or member of the Board of  
30 Directors of the California Housing Finance Agency with respect  
31 to a loan product or programs if the officer, employee, or member  
32 participated in the planning, discussions, development, or approval  
33 of the loan product or program and both of the following two  
34 conditions exist:

35 (A) The loan product or program is or may be originated by any  
36 lender approved by the agency.

37 (B) The loan product or program is generally available to  
38 qualifying borrowers on terms and conditions that are substantially  
39 the same for all qualifying borrowers at the time the loan is made.

1     ~~(14) That of a party to a contract for public services entered into~~  
2 ~~by a special district that requires a person to be a landowner or a~~  
3 ~~representative of a landowner to serve on the board of which the~~  
4 ~~officer or employee is a member, on the same terms and conditions~~  
5 ~~as if he or she were not a member of the body or board. For~~  
6 ~~purposes of this paragraph, “public services” includes the powers~~  
7 ~~and purposes generally provided pursuant to provisions of the~~  
8 ~~Water Code relating to irrigation districts, California water districts,~~  
9 ~~water storage districts, or reclamation districts.~~

10     ~~(b) An officer or employee shall not be deemed to be interested~~  
11 ~~in a contract made pursuant to competitive bidding under a~~  
12 ~~procedure established by law if his or her sole interest is that of~~  
13 ~~an officer, director, or employee of a bank or savings and loan~~  
14 ~~association with which a party to the contract has the relationship~~  
15 ~~of borrower or depositor, debtor or creditor.~~

16     ~~(c) This section shall become operative on January 1, 2017.~~

17     ~~SEC. 3. Section 1091.7 is added to the Government Code, to~~  
18 ~~read:~~

19     ~~1091.7. (a) Subject to the provisions of this article, a public~~  
20 ~~officer who is an elected member of any state or local body, board,~~  
21 ~~or commission shall be deemed to have a financial interest in a~~  
22 ~~contract pursuant to this article, if that public officer’s spouse,~~  
23 ~~child, parent, sibling, or the spouse of the child, parent, or sibling~~  
24 ~~has a financial interest in any contract made by that public officer~~  
25 ~~in his or her official capacity, or by any body, board, or commission~~  
26 ~~of which that public officer is a member.~~

27     ~~(b) (1) The determination of a financial interest with respect to~~  
28 ~~any person described in this section shall be made according to~~  
29 ~~the same standards as those set forth in this article with respect to~~  
30 ~~the public officer, as applicable.~~

31     ~~(2) For purposes of determining a financial interest pursuant to~~  
32 ~~this section, an individual lobbying on behalf of a contracting party~~  
33 ~~shall be construed to be an agent of that contracting party.~~

34     ~~(c) For purposes of this section, only a member of the governing~~  
35 ~~entity deemed to have a financial interest pursuant to subdivision~~  
36 ~~(a) shall be subject to the prohibition and enforcement of this~~  
37 ~~article.~~

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

39     ~~SEC. 4. No reimbursement is required by this act pursuant to~~  
40 ~~Section 6 of Article XIII B of the California Constitution because~~



1 ~~the only costs that may be incurred by a local agency or school~~  
2 ~~district will be incurred because this act creates a new crime or~~  
3 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
4 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
5 ~~the Government Code, or changes the definition of a crime within~~  
6 ~~the meaning of Section 6 of Article XIII B of the California~~  
7 ~~Constitution.~~

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