

Introduced by Senator HillJanuary 4, 2016

An act to amend Section 15626 of the Government Code, relating to the State Board of Equalization.

LEGISLATIVE COUNSEL'S DIGEST

SB 816, as introduced, Hill. State Board of Equalization: members: contributions.

The Quentin L. Kopp Conflict of Interest Act of 1990 requires a member of the State Board of Equalization who has received a contribution or contributions within the preceding 12 months in an aggregate amount of \$250 or more from a party or his or her agent, or from any participant or his or her agent, to, prior to rendering any decision in any adjudicatory proceeding pending before board, disclose that fact on the record of the proceeding. A member is prohibited from making, participating in making, or in any way attempting to use his or her official position to influence, the decision in an adjudicatory proceeding pending before the board if the member knows or has reason to know that he or she received a contribution or contributions in an aggregate amount of \$250 or more from a party to the proceeding, or from a participant in the proceeding the member knows or has reason to know has a financial interest in the decision. The act also requires a party to, or a participant in, an adjudicatory proceeding pending before the board to disclose on the record of the proceeding any contribution or contributions in an aggregate amount of \$250 or more made within the preceding 12 months by the party or participant, or his or her agent, to any member of the board. A person who knowingly or willfully violates any provision of the act is guilty of a misdemeanor.

This bill would delete the \$250 limitation and instead apply the above-described disclosure and disqualification provisions if a board member receives any contribution from a party, agent, or participant, as provided.

By extending the application of the criminal sanctions of the Quentin L. Kopp Conflict of Interest Act of 1990, 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.

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 15626 of the Government Code is
2 amended to read:
3 15626. (a) This section shall be known, and may be cited, as
4 the Quentin L. Kopp Conflict of Interest Act of 1990.
5 (b) Prior to rendering any decision in any adjudicatory
6 proceeding pending before the State Board of Equalization, each
7 member who knows or has reason to know that he or she received
8 a contribution or contributions within the preceding 12 months ~~in~~
9 ~~an aggregate amount of two hundred fifty dollars (\$250) or more~~
10 from a party or his or her agent, or from any participant or his or
11 her agent, shall disclose that fact on the record of the proceeding.
12 (c) ~~No~~A member shall *not* make, participate in making, or in
13 any way attempt to use his or her official position to influence, the
14 decision in any adjudicatory proceeding pending before the board
15 if the member knows or has reason to know that he or she received
16 a contribution or contributions ~~in an aggregate amount of two~~
17 ~~hundred fifty dollars (\$250) or more~~ within the preceding 12
18 months from a party or his or her agent, or from any participant
19 or his or her agent, and if the member knows or has reason to know
20 that the participant has a financial interest in the decision, as that
21 term is used in Article 1 (commencing with Section 87100) of
22 Chapter 7 of Title 9.

1 (d) Notwithstanding subdivision (c), if a member receives a
2 contribution which would otherwise require disqualification under
3 subdivision (c), and he or she returns the contribution within 30
4 days from the time he or she knows, or has reason to know, about
5 the contribution and the adjudicatory proceeding pending before
6 the board, his or her participation in the proceeding shall be deemed
7 lawful.

8 (e) A party to, or a participant in, an adjudicatory proceeding
9 pending before the board shall disclose on the record of the
10 proceeding any contribution or contributions ~~in an aggregate~~
11 ~~amount of two hundred fifty dollars (\$250) or more~~ made within
12 the preceding 12 months by the party or participant, or his or her
13 agent, to any member of the board.

14 (f) When a close corporation is a party to, or a participant in,
15 an adjudicatory proceeding pending before the board, the majority
16 shareholder is subject to the disclosure requirement specified in
17 this section.

18 (g) For purposes of this section, if a deputy to the Controller
19 sits at a meeting of the board and votes on behalf of the Controller,
20 the deputy shall disclose contributions made to the Controller and
21 shall disqualify himself or herself from voting pursuant to the
22 requirements of this section.

23 (h) For purposes of this section:

24 (1) “Contribution” has the same meaning prescribed in Section
25 82015 and the regulations adopted ~~thereto~~ *pursuant to that section*.

26 (2) “Party” means any person who is the subject of an
27 adjudicatory proceeding pending before the board.

28 (3) “Participant” means any person who is not a party but who
29 actively supports or opposes a particular decision in an adjudicatory
30 proceeding pending before the board and who has a financial
31 interest in the decision, as described in Article 1 (commencing
32 with Section 87100) of Chapter 7 of Title 9. A person actively
33 supports or opposes a particular decision if he or she lobbies in
34 person the members or employees of the board, testifies in person
35 before the board, or otherwise acts to influence the members of
36 the board.

37 (4) “Agent” means any person who represents a party to or
38 participant in an adjudicatory proceeding pending before the board.
39 If a person acting as an agent is also acting as an employee or
40 member of a law, accounting, consulting, or other firm, or a similar

1 entity or corporation, both the entity or corporation and the person
2 are agents.

3 (5) “Adjudicatory proceeding pending before the board” means
4 a matter for adjudication that has been scheduled and appears as
5 an item on a meeting notice of the board as required by Section
6 11125 as a contested matter for administrative hearing before the
7 board members. A consent calendar matter is not included unless
8 the matter has previously appeared on the calendar as a nonconsent
9 item, or has been removed from the consent calendar for separate
10 discussion and vote, or the item is one about which the member
11 has previously contacted the staff or a party.

12 (6) A member knows or has reason to know about a contribution
13 if, after the adjudicatory proceeding first appears on a meeting
14 notice of the board, facts have been brought to the member’s
15 personal attention that he or she has received a contribution which
16 would require disqualification under subdivision (c), or that the
17 member received written notice from the board staff, before
18 commencement of the hearing and before any subsequent decision
19 on the matter, that a specific party, close corporation, or majority
20 shareholder, or agent thereof, or any participant having a financial
21 interest in the matter, or agent thereof, in a specific, named
22 adjudicatory proceeding before the board, made a contribution or
23 contributions within the preceding ~~12 months in an aggregate~~
24 ~~amount of two hundred fifty dollars (\$250) or more.~~ *months*. Each
25 member shall provide board staff with a copy of each of his or her
26 campaign statements at the time each of those statements is filed.

27 The notice of contribution shall be on a form prescribed under
28 rules adopted by the board to provide for staff inquiry of each
29 party, participant, close corporation, and its majority shareholder,
30 and any agent thereof, to determine whether any contribution has
31 been made to a member, and if so, in what aggregate amount and
32 on what date or dates within the 12 months preceding an
33 adjudicatory proceeding or decision.

34 In addition, the staff shall inquire and report on the record as
35 follows:

36 (A) Whether any party or participant is a close corporation, and
37 if so, the name of its majority shareholder.

38 (B) Whether any agent is an employee or member of any law,
39 accounting, consulting or other firm, or similar entity or
40 corporation, and if so, its name and address and whether a

1 contribution has been made by any such person, firm, corporation,
2 or entity.

3 (i) (1) Any person who knowingly or willfully violates any
4 provision of this section is guilty of a misdemeanor.

5 (2) No person convicted of a misdemeanor under this section
6 shall be a candidate for any elective office or act as a lobbyist for
7 a period for four years following the time for filing a notice of
8 appeal has expired, or all possibility of direct attack in the courts
9 of this state has been finally exhausted, unless the court at the time
10 of sentencing specifically determines that this provision shall not
11 be applicable. A plea of nolo contendere shall be deemed a
12 conviction for the purposes of this section.

13 (3) In addition to other penalties provided by law, a fine of up
14 to the greater of ten thousand dollars (\$10,000), or three times the
15 amount the person failed to disclose or report properly, may be
16 imposed upon conviction for each violation.

17 (4) Prosecution for violation of this section shall be commenced
18 within four years after the date on which the violation occurred.

19 (5) This section shall not prevent any member of the board from
20 making, or participating in making, a governmental decision to
21 the extent that the member's participation is legally required for
22 the action or decision to be made. However, the fact that a
23 member's vote is needed to break a tie does not make the member's
24 participation legally required.

25 SEC. 2. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.