

AMENDED IN SENATE APRIL 26, 2016

**SENATE BILL**

**No. 816**

---

---

**Introduced by Senator Hill**

January 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 amended, 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 *the* 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~~ *reduce* the \$250 *contribution* limitation ~~and instead apply to \$100, applying~~ the above-described disclosure and disqualification provisions if a board member receives ~~any~~ *a contribution in the amount of \$100, or more* 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 one hundred dollars (\$100) or more* from  
10 a party or his or her agent, or from any participant or his or her  
11 agent, shall disclose that fact on the record of the proceeding.

12 (c) A member shall not make, participate in making, or in any  
13 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 one*  
17 *hundred dollars (\$100) or more* within the preceding 12 months  
18 from a party or his or her agent, or from any participant or his or  
19 her agent, and if the member knows or has reason to know that the  
20 participant has a financial interest in the decision, as that term is

1 used in Article 1 (commencing with Section 87100) of Chapter 7  
2 of Title 9.

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

10 (e) A party to, or a participant in, an adjudicatory proceeding  
11 pending before the board shall disclose on the record of the  
12 proceeding any contribution or contributions *in an aggregate*  
13 *amount of one hundred dollars (\$100) or more* made within the  
14 preceding 12 months by the party or participant, or his or her agent,  
15 to any member of the board.

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

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

25 (h) For purposes of this section:

26 (1) “Contribution” has the same meaning prescribed in Section  
27 82015 and the regulations adopted pursuant to that section.

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

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

39 (4) “Agent” means any person who represents a party to or  
40 participant in an adjudicatory proceeding pending before the board.

1 If a person acting as an agent is also acting as an employee or  
2 member of a law, accounting, consulting, or other firm, or a similar  
3 entity or corporation, both the entity or corporation and the person  
4 are agents.

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

14 (6) A member knows or has reason to know about a contribution  
15 if, after the adjudicatory proceeding first appears on a meeting  
16 notice of the board, facts have been brought to the member’s  
17 personal attention that he or she has received a contribution which  
18 would require disqualification under subdivision (c), or that the  
19 member received written notice from the board staff, before  
20 commencement of the hearing and before any subsequent decision  
21 on the matter, that a specific party, close corporation, or majority  
22 shareholder, or agent thereof, or any participant having a financial  
23 interest in the matter, or agent thereof, in a specific, named  
24 adjudicatory proceeding before the board, made a contribution or  
25 contributions within the preceding 12~~months~~. *months in an*  
26 *aggregate amount of one hundred dollars (\$100) or more.* Each  
27 member shall provide board staff with a copy of each of his or her  
28 campaign statements at the time each of those statements is filed.

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

36 In addition, the staff shall inquire and report on the record as  
37 follows:

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

1 (B) Whether any agent is an employee or member of any law,  
 2 accounting, ~~consulting~~ *consulting*, or other firm, or similar entity  
 3 or corporation, and if so, its name and address and whether a  
 4 contribution has been made by any such person, firm, corporation,  
 5 or entity.

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

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

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

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

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

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

O