

AMENDED IN ASSEMBLY AUGUST 8, 2016

AMENDED IN SENATE APRIL 26, 2016

**SENATE BILL**

**No. 816**

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**Introduced by Senator Hill**

January 4, 2016

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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:~~ *contributions: report.*

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 *within the preceding 12 months* in an aggregate amount of \$250 or more from a party to the proceeding, or his or her agent, or from a participant in the proceeding or his or her agent, and the member knows or has reason to know *that the participant* 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 reduce the \$250 contribution limitation to \$100, applying the above-described disclosure and disqualification provisions if a board member receives 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.~~

*This bill would require the board, on or before January 1, 2018, to prepare a report analyzing the impact on the board and those making contributions to the board of lowering the monetary threshold that triggers the requirements of the Quentin L. Kopp Conflict of Interest Act of 1990 from \$250 to \$100.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: *yes-no*.

*The people of the State of California do enact as follows:*

1     SECTION 1. *On or before January 1, 2018, the State Board*  
2 *of Equalization shall prepare a report analyzing the impact on the*  
3 *board and those making contributions to the board of lowering*  
4 *the monetary threshold that triggers the requirements of the*  
5 *Quentin L. Kopp Conflict of Interest Act of 1990 (Section 15626*  
6 *of the Government Code) from two hundred and fifty dollars (\$250)*  
7 *to one hundred dollars (\$100).*

8     ~~SECTION 1. Section 15626 of the Government Code is~~  
9 ~~amended to read:~~

10     ~~15626. (a) This section shall be known, and may be cited, as~~  
11 ~~the Quentin L. Kopp Conflict of Interest Act of 1990.~~

12     ~~(b) Prior to rendering any decision in any adjudicatory~~  
13 ~~proceeding pending before the State Board of Equalization, each~~  
14 ~~member who knows or has reason to know that he or she received~~

1 a contribution or contributions within the preceding 12 months in  
2 an aggregate amount of one hundred dollars (\$100) or more from  
3 a party or his or her agent, or from any participant or his or her  
4 agent, shall disclose that fact on the record of the proceeding.

5 (e) A member shall not make, participate in making, or in any  
6 way attempt to use his or her official position to influence, the  
7 decision in any adjudicatory proceeding pending before the board  
8 if the member knows or has reason to know that he or she received  
9 a contribution or contributions in an aggregate amount of one  
10 hundred dollars (\$100) or more within the preceding 12 months  
11 from a party or his or her agent, or from any participant or his or  
12 her agent, and if the member knows or has reason to know that the  
13 participant has a financial interest in the decision, as that term is  
14 used in Article 1 (commencing with Section 87100) of Chapter 7  
15 of Title 9.

16 (d) Notwithstanding subdivision (e), if a member receives a  
17 contribution which would otherwise require disqualification under  
18 subdivision (e), and he or she returns the contribution within 30  
19 days from the time he or she knows, or has reason to know, about  
20 the contribution and the adjudicatory proceeding pending before  
21 the board, his or her participation in the proceeding shall be deemed  
22 lawful.

23 (e) A party to, or a participant in, an adjudicatory proceeding  
24 pending before the board shall disclose on the record of the  
25 proceeding any contribution or contributions in an aggregate  
26 amount of one hundred dollars (\$100) or more made within the  
27 preceding 12 months by the party or participant, or his or her agent,  
28 to any member of the board.

29 (f) When a close corporation is a party to, or a participant in,  
30 an adjudicatory proceeding pending before the board, the majority  
31 shareholder is subject to the disclosure requirement specified in  
32 this section.

33 (g) For purposes of this section, if a deputy to the Controller  
34 sits at a meeting of the board and votes on behalf of the Controller,  
35 the deputy shall disclose contributions made to the Controller and  
36 shall disqualify himself or herself from voting pursuant to the  
37 requirements of this section.

38 (h) For purposes of this section:

39 (1) "Contribution" has the same meaning prescribed in Section  
40 82015 and the regulations adopted pursuant to that section.

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

3     ~~(3) “Participant” means any person who is not a party but who~~  
4     ~~actively supports or opposes a particular decision in an adjudicatory~~  
5     ~~proceeding pending before the board and who has a financial~~  
6     ~~interest in the decision, as described in Article 1 (commencing~~  
7     ~~with Section 87100) of Chapter 7 of Title 9. A person actively~~  
8     ~~supports or opposes a particular decision if he or she lobbies in~~  
9     ~~person the members or employees of the board, testifies in person~~  
10    ~~before the board, or otherwise acts to influence the members of~~  
11    ~~the board.~~

12    ~~(4) “Agent” means any person who represents a party to or~~  
13    ~~participant in an adjudicatory proceeding pending before the board.~~  
14    ~~If a person acting as an agent is also acting as an employee or~~  
15    ~~member of a law, accounting, consulting, or other firm, or a similar~~  
16    ~~entity or corporation, both the entity or corporation and the person~~  
17    ~~are agents.~~

18    ~~(5) “Adjudicatory proceeding pending before the board” means~~  
19    ~~a matter for adjudication that has been scheduled and appears as~~  
20    ~~an item on a meeting notice of the board as required by Section~~  
21    ~~11125 as a contested matter for administrative hearing before the~~  
22    ~~board members. A consent calendar matter is not included unless~~  
23    ~~the matter has previously appeared on the calendar as a nonconsent~~  
24    ~~item, or has been removed from the consent calendar for separate~~  
25    ~~discussion and vote, or the item is one about which the member~~  
26    ~~has previously contacted the staff or a party.~~

27    ~~(6) A member knows or has reason to know about a contribution~~  
28    ~~if, after the adjudicatory proceeding first appears on a meeting~~  
29    ~~notice of the board, facts have been brought to the member’s~~  
30    ~~personal attention that he or she has received a contribution which~~  
31    ~~would require disqualification under subdivision (c), or that the~~  
32    ~~member received written notice from the board staff, before~~  
33    ~~commencement of the hearing and before any subsequent decision~~  
34    ~~on the matter, that a specific party, close corporation, or majority~~  
35    ~~shareholder, or agent thereof, or any participant having a financial~~  
36    ~~interest in the matter, or agent thereof, in a specific, named~~  
37    ~~adjudicatory proceeding before the board, made a contribution or~~  
38    ~~contributions within the preceding 12 months in an aggregate~~  
39    ~~amount of one hundred dollars (\$100) or more. Each member shall~~

1 provide board staff with a copy of each of his or her campaign  
2 statements at the time each of those statements is filed.

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

10 In addition, the staff shall inquire and report on the record as  
11 follows:

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

14 (B) Whether any agent is an employee or member of any law,  
15 accounting, consulting, or other firm, or similar entity or  
16 corporation, and if so, its name and address and whether a  
17 contribution has been made by any such person, firm, corporation,  
18 or entity.

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

21 (2) No person convicted of a misdemeanor under this section  
22 shall be a candidate for any elective office or act as a lobbyist for  
23 a period for four years following the time for filing a notice of  
24 appeal has expired, or all possibility of direct attack in the courts  
25 of this state has been finally exhausted, unless the court at the time  
26 of sentencing specifically determines that this provision shall not  
27 be applicable. A plea of nolo contendere shall be deemed a  
28 conviction for the purposes of this section.

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

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

35 (5) This section shall not prevent any member of the board from  
36 making, or participating in making, a governmental decision to  
37 the extent that the member's participation is legally required for  
38 the action or decision to be made. However, the fact that a  
39 member's vote is needed to break a tie does not make the member's  
40 participation legally required.

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

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