

AMENDED IN ASSEMBLY JULY 27, 1998
AMENDED IN ASSEMBLY SEPTEMBER 4, 1997

SENATE BILL

No. 453

Introduced by Senator Solis
(Principal coauthor: Senator Calderon)
(Coauthor: Assembly Member Wildman)

February 19, 1997

~~An act to add Article 16 (commencing with Section 11475.10) to Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, and to amend Sections 27 and 123.6 of the Labor Code, relating to administrative law. An act to amend Sections 27 and 123.6 of the Labor Code, relating to workers' compensation.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 453, as amended, Solis. ~~Administrative law: ethics~~
Workers' compensation.

~~(1) Under existing law, various requirements and prohibitions relating to conflicts of interest and ethics in government apply to designated state employees. Existing law also subjects state employees who are members of the State Bar to the Rules of Professional Conduct. Under the California Constitution, the Supreme Court is required to make rules for the conduct of judges of courts of record, referred to as the Code of Judicial Ethics.~~

~~This bill would specify that the Code of Judicial Ethics governs the conduct of an administrative law judge or other presiding officer, with the exception of certain specified~~

~~sections of that code, and would refer to these rules as the “Administrative Adjudication Code of Ethics.”~~

~~(2) Existing law provides for the conduct of workers’ compensation proceedings by individuals referred to as workers’ compensation judges or referees.~~

~~This bill would redesignate these individuals as *workers’ compensation* administrative law judges and make related changes.~~

~~(3) Under existing law, all workers’ compensation referees and settlement conference referees are required to subscribe to the California Code of Judicial Conduct.~~

~~This bill would instead refer to these persons as administrative law judges and provide that they are subject to the Administrative Adjudication Code of Ethics. The bill would authorize the Administrative Director of the Division of Workers’ Compensation, Department of Industrial Relations, to adopt additional regulations and procedures that are stricter than the code or the Political Reform Act of 1974.~~

~~The bill would also recast a prohibition against an administrative law judge working in the Division of Workers’ Compensation from accepting certain gifts or travel from persons who practice before the Workers’ Compensation Appeals Board without prior approval by the administrative director.~~

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

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

~~1 SECTION 1. Article 16 (commencing with Section
2 11475.10) is added to Chapter 4.5 of Part 1 of Division 3
3 of Title 2 of the Government Code, to read:~~

~~4
5 Article 16. Administrative Adjudication Code of
6 Ethics
7~~

~~8 11475.10. (a) The rules imposed by this article may
9 be referred to as the Administrative Adjudication Code
10 of Ethics.~~

~~11 (b) This article applies to the following persons:~~



1 ~~(1) An administrative law judge. As used in this~~
2 ~~subdivision, “administrative law judge” means an~~
3 ~~incumbent of that position, as defined by the State~~
4 ~~Personnel Board, for each class specification for~~
5 ~~Administrative Law Judge, including administrative law~~
6 ~~judges administered by the Administrative Director,~~
7 ~~Division of Workers’ Compensation, Department of~~
8 ~~Industrial Relations.~~

9 ~~(2) A presiding officer to which this article is made~~
10 ~~applicable by statute or regulation.~~

11 ~~(e) This article shall apply notwithstanding any~~
12 ~~general statutory provision that this chapter does not~~
13 ~~apply to some or all of a state agency’s adjudicative~~
14 ~~proceedings.~~

15 ~~11475.20. Except as otherwise provided in this article,~~
16 ~~the Code of Judicial Ethics adopted by the Supreme~~
17 ~~Court pursuant to subdivision (m) of Section 18 of Article~~
18 ~~VI of the California Constitution for the conduct of judges~~
19 ~~governs the hearing and nonhearing conduct of an~~
20 ~~administrative law judge or other presiding officer to~~
21 ~~which this article applies.~~

22 ~~11475.30. For the purpose of this article, the following~~
23 ~~terms used in the Code of Judicial Ethics have the~~
24 ~~meanings provided in this section:~~

25 ~~(a) “Appeal” means administrative review.~~

26 ~~(b) “Court” means the agency conducting an~~
27 ~~adjudicative proceeding.~~

28 ~~(c) “Judge” means administrative law judge or other~~
29 ~~presiding officer to which this article applies. Related~~
30 ~~terms, including “judicial,” “judiciary,” and “justice,”~~
31 ~~mean comparable concepts in administrative~~
32 ~~adjudication.~~

33 ~~(d) “Law” includes regulation and precedent~~
34 ~~decision.~~

35 ~~11475.40. The following provisions of the Code of~~
36 ~~Judicial Ethics do not apply under this article:~~

37 ~~(a) Canon 3B(7), to the extent it relates to ex parte~~
38 ~~communications.~~

39 ~~(b) Canon 3B(10).~~

40 ~~(c) Canon 4C.~~



1 ~~(d) Canons 4E(1), 4F, and 4G.~~

2 ~~(e) Canons 5A-5D. However, the introductory~~
3 ~~paragraph of Canon 5 applies to persons subject to this~~
4 ~~article notwithstanding Chapter 9.5 (commencing with~~
5 ~~Section 3201) of Division 4 of Title 1, relating to political~~
6 ~~activities of public employees.~~

7 ~~(f) Canon 6.~~

8 ~~11475.50. A violation of an applicable provision of the~~
9 ~~Code of Judicial Ethics by an administrative law judge or~~
10 ~~other presiding officer to which this article applies is~~
11 ~~cause for discipline by the employing agency pursuant to~~
12 ~~Section 19572.~~

13 ~~11475.60. (a) Except as provided in subdivision (b),~~
14 ~~a person to whom this article applies shall comply~~
15 ~~immediately with all applicable provisions of the Code of~~
16 ~~Judicial Ethics.~~

17 ~~(b) A person to whom this article applies shall comply~~
18 ~~with Canon 4D(2) of the Code of Judicial Ethics as soon~~
19 ~~as reasonably possible and shall do so in any event within~~
20 ~~a period of one year after the article becomes applicable.~~

21 ~~11475.70. Nothing in this article shall be construed or~~
22 ~~is intended to limit or affect the rights of an~~
23 ~~administrative law judge or other presiding officer under~~
24 ~~Chapter 10.3 (commencing with Section 3512) of~~
25 ~~Division 4 of Title 1.~~

26 ~~SEC. 2.~~

27 ~~SECTION 1. Section 27 of the Labor Code is amended~~
28 ~~to read:~~

29 ~~27. Whenever the term “workers’ compensation~~
30 ~~judge” or “workers’ compensation referee” is used in this~~
31 ~~code in connection with the workers’ compensation law,~~
32 ~~the term shall mean “administrative law judge.” This~~
33 ~~section shall not apply to settlement conference referees~~
34 ~~hired to conduct the settlement conferences required by~~
35 ~~subdivision (d) of Section 5502.~~

36 ~~SEC. 3. Section 123.6 of the Labor Code is amended~~
37 ~~to read:~~

38 ~~123.6. (a) All administrative law judges administered~~
39 ~~by the administrative director shall be subject to the~~
40 ~~Administrative Adjudication Code of Ethics specified in~~



1 ~~Article 16 (commencing with Section 11475.10) of~~
 2 ~~Chapter 4.5 of Part 1 of Division 3 of Title 2 of the~~
 3 ~~Government Code and shall not otherwise, directly or~~
 4 ~~indirectly, engage in conduct contrary to that code. The~~
 5 ~~administrative director may adopt additional regulations~~
 6 ~~and procedures that are stricter than the Administrative~~
 7 ~~Adjudication Code of Ethics and the Political Reform Act~~
 8 ~~of 1974 (Title 9 (commencing with Section 81000) of the~~
 9 ~~Government Code). The administrative director shall~~
 10 ~~establish the highest ethical standards within the workers'~~
 11 ~~compensation adjudicatory system.~~

12 ~~(b) In conformance with subdivision (a), the~~
 13 ~~administrative director shall adopt regulations to enforce~~
 14 ~~this section. To the extent possible, the rules shall be~~
 15 ~~consistent with the procedures established by the~~
 16 ~~Commission on Judicial Performance for regulating the~~
 17 ~~activities of state judges, and, to the extent possible, with~~
 18 ~~the gift, honoraria, and travel restrictions on legislators~~
 19 ~~contained in the Political Reform Act of 1974 (Title 9~~
 20 ~~(commencing with Section 81000) of the Government~~
 21 ~~Code), but may be more restrictive.~~

22 ~~(c) Unless the administrative director has provided~~
 23 ~~prior approval, in writing, to an administrative law judge,~~
 24 ~~a judge may not accept any gift, honorarium, travel,~~
 25 ~~payment, meal, or any other thing of value from any~~
 26 ~~person or practitioner whose interests have come or are~~
 27 ~~likely to come before the judge or any organization~~
 28 ~~composed primarily of those persons or practitioners.~~

29 ~~“workers’ compensation administrative law judge.”~~

30 *SEC. 2. Section 123.6 of the Labor Code, as amended*
 31 *by Chapter 95 of the Statutes of 1998, is amended to read:*

32 123.6. (a) All workers’ compensation—referees
 33 *administrative law judges* employed by the
 34 administrative director shall subscribe to the Code of
 35 Judicial Ethics adopted by the Supreme Court pursuant
 36 to subdivision (m) of Section 18 of Article VI of the
 37 California Constitution for the conduct of judges and shall
 38 not otherwise, directly or indirectly, engage in conduct
 39 contrary to that code.



1 The administrative director shall adopt regulations to
2 enforce this section. To the extent possible, the rules shall
3 be consistent with the procedures established by the
4 Commission on Judicial Performance for regulating the
5 activities of state judges, and, to the extent possible, with
6 the gift, honoraria, and travel restrictions on legislators
7 contained in the Political Reform Act of 1974 (Title 9
8 (commencing with Section 81000) of the Government
9 Code).

10 (b) Honoraria or travel allowed by the administrative
11 director or otherwise not prohibited by this section in
12 connection with any public or private conference,
13 convention, meeting, social event, or like gathering, the
14 cost of which is significantly paid for by attorneys who
15 practice before the board, may not be accepted unless the
16 administrative director has provided prior approval in
17 writing to the workers' compensation referee allowing
18 him or her to accept those payments.

