

ASSEMBLY BILL

No. 1955

Introduced by Assembly Member De La Torre

February 17, 2010

An act to amend Section 1099 of the Government Code, relating to public officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1955, as introduced, De La Torre. Public officers: incompatible offices.

Existing law prohibits a public officer, including, but not limited to, an appointed or elected member of a governmental board, commission, committee, or other body, from simultaneously holding 2 incompatible public offices, as specified.

This bill would provide specific circumstances when 2 public offices are incompatible.

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

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

- 1 SECTION 1. Section 1099 of the Government Code is amended
- 2 to read:
- 3 1099. (a) A public officer, including, but not limited to, an
- 4 appointed or elected member of a governmental board, commission,
- 5 committee, or other body, shall not simultaneously hold two public
- 6 offices that are incompatible. Offices are incompatible when any
- 7 of the following circumstances are present, unless simultaneous

1 holding of the particular offices is compelled or expressly
2 authorized by law:

3 (1) Either of the offices may audit, overrule, remove members
4 of, dismiss employees of, or exercise supervisory powers over the
5 other office or body.

6 (2) Based on the powers and jurisdiction of the offices, there
7 is a possibility of a significant clash of duties or loyalties between
8 the offices.

9 (3) Public policy considerations make it improper for one person
10 to hold both offices.

11 (b) When two public offices are incompatible, a public officer
12 shall be deemed to have forfeited the first office upon acceding to
13 the second. This provision is enforceable pursuant to Section 803
14 of the Code of Civil Procedure.

15 (c) This section does not apply to a position of employment,
16 including a civil service position.

17 (d) This section shall not apply to a governmental body that has
18 only advisory powers.

19 (e) For purposes of paragraph (1) of subdivision (a), a member
20 of a multimember body holds an office that may audit, overrule,
21 remove members of, dismiss employees of, or exercise supervisory
22 powers over another office when the body has any of these powers
23 over the other office or over a multimember body that includes
24 that other office.

25 ~~(f) This section codifies the common law rule prohibiting an~~
26 ~~individual from holding incompatible public offices.~~

27 *(f) A possibility of a significant clash of duties or loyalties*
28 *between the offices, for purposes of paragraph (2) of subdivision*
29 *(a), includes, but is not limited to, any of the following:*

30 *(1) Both offices have the power of eminent domain and the*
31 *geographic jurisdictions of the offices overlap.*

32 *(2) One office has the power to set a fee or a rate, or to impose*
33 *a tax or a levy, that may directly or indirectly affect the other*
34 *office.*

35 *(3) One office has the authority to investigate, monitor, or sue*
36 *the other office.*