

ASSEMBLY BILL

No. 1241

Introduced by Assembly Member Norby

February 18, 2011

An act to amend Section 84308 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1241, as introduced, Norby. Political Reform Act of 1974: contributions.

The Political Reform Act of 1974 regulates contributions to public officials and also regulates conflicts of interests on the part of public officials while carrying out their respective duties. Among its provisions, the act prohibits an officer of an agency from accepting, soliciting, or directing a contribution of more than \$250 from a party or participant in a proceeding involving a license, permit, or other entitlement for use while that proceeding is pending before the agency and for 3 months following the final decision in the proceeding. For these purposes, “officer” is defined to include any elected or appointed officer of the agency.

This bill would change the definition of “officer” for these purposes to exclude an elected officer of the agency.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

SECTION 1. Section 84308 of the Government Code is amended to read:

84308. (a) The definitions set forth in this subdivision shall govern the interpretation of this section.

(1) “Party” means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

(2) “Participant” means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

(3) “Agency” means an agency as defined in Section 82003, except that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the State Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) “Officer” means any ~~elected or~~ appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

(5) “License, permit, or other entitlement for use” means all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

(6) “Contribution” includes contributions to candidates and committees in federal, state, or local elections.

(b) No officer of an agency shall accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three

1 months following the date a final decision is rendered in the
2 proceeding if the officer knows or has reason to know that the
3 participant has a financial interest, as that term is used in Article
4 1 (commencing with Section 87100) of Chapter 7. This prohibition
5 ~~shall apply~~ *applies* regardless of whether the officer accepts,
6 solicits, or directs the contribution for himself or herself, or on
7 behalf of any other officer, or on behalf of any candidate for office
8 or on behalf of any committee.

9 (c) Prior to rendering any decision in a proceeding involving a
10 license, permit, or other entitlement for use pending before an
11 agency, each officer of the agency who received a contribution
12 within the preceding 12 months in an amount of more than two
13 hundred fifty dollars (\$250) from a party or from any participant
14 shall disclose that fact on the record of the proceeding. No officer
15 of an agency shall make, participate in making, or in any way
16 attempt to use his or her official position to influence the decision
17 in a proceeding involving a license, permit, or other entitlement
18 for use pending before the agency if the officer has willfully or
19 knowingly received a contribution in an amount of more than two
20 hundred fifty dollars (\$250) within the preceding 12 months from
21 a party or his or her agent, or from any participant, or his or her
22 agent, if the officer knows or has reason to know that the
23 participant has a financial interest in the decision, as that term is
24 described with respect to public officials in Article 1 (commencing
25 with Section 87100) of Chapter 7.

26 If an officer *who* receives a contribution—~~which~~ *that* would
27 otherwise require disqualification under this section; returns the
28 contribution within 30 days from the time he or she knows, or
29 should have known, about the contribution and the proceeding
30 involving a license, permit, or other entitlement for use, he or she
31 shall be permitted to participate in the proceeding.

32 (d) A party to a proceeding before an agency involving a license,
33 permit, or other entitlement for use shall disclose on the record of
34 the proceeding any contribution in an amount of more than two
35 hundred fifty dollars (\$250) made within the preceding 12 months
36 by the party, or his or her agent, to any officer of the agency. No
37 party, or his or her agent, to a proceeding involving a license,
38 permit, or other entitlement for use pending before any agency
39 and no participant, or his or her agent, in the proceeding shall make
40 a contribution of more than two hundred fifty dollars (\$250) to

1 any officer of that agency during the proceeding and for three
2 months following the date a final decision is rendered by the
3 agency in the proceeding. When a closed corporation is a party to,
4 or a participant in, a proceeding involving a license, permit, or
5 other entitlement for use pending before an agency, the majority
6 shareholder is subject to the disclosure and prohibition
7 requirements specified in subdivisions (b); *and* (c); and this
8 subdivision.

9 (e) Nothing in this section shall be construed to imply that any
10 contribution subject to being reported under this title shall not be
11 so reported.

12 SEC. 2. The Legislature finds and declares that this bill furthers
13 the purposes of the Political Reform Act of 1974 within the
14 meaning of subdivision (a) of Section 81012 of the Government
15 Code.