

Assembly Bill No. 41

CHAPTER 626

An act to amend Section 87200 of the Government Code, and to add Section 185034.5 to the Public Utilities Code, relating to conflicts of interest, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 2012. Filed with
Secretary of State September 27, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 41, Hill. High-Speed Rail Authority: conflicts of interest: disqualification.

Existing provisions of the Political Reform Act of 1974 prohibit a public official at any level of state or local government from making, participating in making, or attempting to use his or her official position to influence a governmental decision in which he or she knows or has reason to know that he or she has a financial interest, as defined. Existing law also requires specified elected and appointed officers at the state and local levels of government to disclose specified financial interests by filing periodic statements of economic interests. Existing law further requires public officials who hold specified offices and who have a financial interest in a decision within the meaning of the Political Reform Act of 1974 to publicly identify the financial interest giving rise to the conflict of interest or potential conflict of interest, recuse themselves from discussing and voting on the matter, and leave the room until after the discussion, vote, and other disposition of the matter is concluded, except as specified.

This bill would add members of the High-Speed Rail Authority to those specified officers who must publicly identify a financial interest giving rise to a conflict of interest or potential conflict of interest, and recuse themselves accordingly.

Existing law requires each state agency to adopt a conflict-of-interest code and to designate those employees of the agency who are subject to the provisions of the conflict-of-interest code. Existing law requires that each agency's conflict-of-interest code contain specified provisions, including requirements that each designated employee file periodic statements of economic interests and provisions setting forth circumstances under which a designated employee must disqualify himself or herself from participating in a governmental decision. Existing law further imposes various other restrictions on individuals who are designated employees, including postgovernment employment restrictions and restrictions regarding the acceptance of gifts and honoraria.

This bill would provide that each individual who is selected by the authority to serve in a peer review capacity to the authority shall be deemed

to be a designated employee of the authority, thereby making those persons subject to the provisions of the authority's conflict-of-interest code and to the various other restrictions that apply to the designated employees of a state agency.

Existing law makes a violation of the Political Reform Act of 1974 subject to administrative, civil, and criminal penalties. This bill would impose a state-mandated local program by exposing these members and designated employees to potential criminal penalties for failing to make the disclosures and recuse themselves where required by this bill.

This bill would incorporate additional changes in Section 87200 of the Government Code proposed by AB 2609, that would become operative only if AB 2609 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

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.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 87200 of the Government Code is amended to read:

87200. This article is applicable to elected state officers, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of the High-Speed Rail Authority, members of planning commissions, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and to candidates for any of these offices at any election.

SEC. 1.5. Section 87200 of the Government Code is amended to read:

87200. This article is applicable to elected state officers, judges and commissioners of courts of the judicial branch of government, members of the Fish and Game Commission, members of the Public Utilities Commission, members of the State Energy Resources Conservation and

Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of the High-Speed Rail Authority, members of planning commissions, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and to candidates for any of these offices at any election.

SEC. 2. Section 185034.5 is added to the Public Utilities Code, to read:

185034.5. For purposes of Article 3 (commencing with Section 87300) of Chapter 7 of Title 9 of the Government Code, each individual who is selected by the authority to serve in a peer review capacity to the authority shall be deemed to be a designated employee of the authority, and the authority shall be deemed to be the appointing power. Statements required to be filed pursuant to Section 87302 of the Government Code shall be filed with the authority.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 87200 of the Government Code proposed by both this bill and Assembly Bill 2609. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 87200 of the Government Code, and (3) this bill is enacted after Assembly Bill 2609, in which case Section 1 of this bill shall not become operative.

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

SEC. 5. The Legislature finds and declares that Sections 1 and 1.5 of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that prior to the commencement of major expenditures by the High-Speed Rail Authority, proper disqualification procedures are in place, it is necessary that this act take effect immediately.