



Levine Act Policy

(Government Code section 84308)

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SENATE BILL 1439

On September 29, 2022, Governor Newsom signed Senate Bill (“SB”) 1439 into law, making a number of changes to Government Code section 84308, a provision of the Political Reform Act generally known as the “Levine Act”.

The Levine Act

Generally, the Levine Act provides that an elected officer is prohibited from taking part in a license, permit, or other entitlement for use proceeding if the officer has received a campaign contribution in excess of \$250 within the preceding 12 months.

The Levine Act

An officer is also prohibited from accepting a contribution in excess of \$250 while the proceeding is pending, and for 12 months following the date a final decision is rendered in the proceeding.

Definitions

“License, permit, or other entitlement for use”: all business, professional, trade and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (with exceptions), and all franchises.

The rule expressly does not apply to labor contracts, personal employment contracts, or contracts that are competitively bid.

For example, this rule applies to any Board of Supervisor decisions on appeals of Planning Commission decisions, non-competitively bid contracts, and discretionary land use entitlements or permits.

Definitions

A proceeding is “pending before” an agency:

- (1) When the application has been filed, the proceeding has been commenced, or the issue has otherwise been submitted to the agency for its determination or other action;
- (2) It is the type of proceeding where the officers of the agency are required by law to make a decision, or the matter has been otherwise submitted to the officers of the agency for their decision; and
- (3) The decision of the officer or officers with respect to the proceeding will not be purely ministerial.

LEVINE ACT PRIOR TO JANUARY 1, 2023

The Levine Act previously only applied to elected officers sitting on local governing boards where they were appointed, such as joint powers authorities or Local Agency Formation Commissions.

LEVINE ACT AFTER JANUARY 1, 2023

Effective January 1, 2023, SB 1439 amended Section 84308 to also apply to elected officers sitting on their elected governing boards or in their elected positions.



CHANGE IN LAW

Given this recent change in law applicable to the Board of Supervisors and other County elected officers, the Office of the County Counsel recommends the addition of a Levine Act compliance guide in the Board Policy Manual.

POLICY AND PROCEDURE

The proposed policy would apply to all County officers and departments to ensure Levine Act compliance, as follows:

1. While a license, permit, or other entitlement for use from the County is pending, and for 12 months after a final decision is rendered on the matter, a County officer may not accept a contribution of more than \$250 from a party, a party's agent, or a participant with a financial interest if the officer has reason to know that the participant has a financial interest.

POLICY AND PROCEDURE, CONTINUED

2. A County officer may not make, participate in making, or in any way use the officer's official position to influence a decision regarding a license, permit, or other entitlement for use from the County if the officer has willfully or knowingly received a contribution of more than \$250 from a party, a party's agent, or a participant within the preceding 12 months.

3. Before participating in any decision in an applicable proceeding, a County official who received a contribution over \$250 in the preceding 12 months must disclose that fact on the record and recuse him or herself, and leave the dais and room where the meeting is being held.

POLICY AND PROCEDURE, CONTINUED

4. If the County official returns the entire contribution within 30 days from the time the official knows or should have known about the contribution and relevant proceeding, the officer may participate in the decision.

5. A party, agent, or participant seeking a license, permit, or other entitlement for use may not contribute more than \$250 to a County officer while the matter is pending or within 12 months after there has been a final decision on the matter. The party to the pending matter must disclose on the record any qualifying contribution made within the preceding 12 months.

Levine Act Retroactivity

On December 22, 2022, the Fair Political Practices Commission (“FPPC”) issued Opinion Number O-22-002 stating that the disqualification obligations in Section 84308 will not apply retroactively.

County officers will not be prohibited from taking part in decisions involving parties and participants from whom they received contributions of more than \$250 before January 1, 2023.

Likewise, applicable proceedings that concluded before January 1, 2023 are not affected.

RECOMMENDATION



- a. Approve and adopt the Levine Act Policy statement for inclusion in the Board Policy Manual given recent changes to Government Code section 84308, a provision of the Political Reform Act; and
- b. Provide direction to staff as appropriate.