

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
SB 1155 (Hurtado) – As Amended April 18, 2024

SENATE VOTE: 39-0

SUBJECT: Political Reform Act of 1974: postgovernment employment restrictions.

SUMMARY: Prohibits the head of a state administrative agency from engaging in any activity to influence legislative or administrative action by the Legislature or any state administrative agency for one year after leaving office. Specifically, **this bill:**

- 1) Prohibits the head of a state administrative agency, for a period of one year after leaving office, from engaging, for compensation, in any activity for the purposes of influencing legislative or administrative action by the Legislature or any state administrative agency that would require the individual to register as a lobbyist under the Political Reform Act (PRA).
- 2) Provides that the term “head of a state administrative agency” includes elected state officers and appointed officials who receive a salary based on their appointment.
- 3) Finds and declares that a one-year cooling off period for executive heads of state administrative agencies will help mitigate concerns related to corruption and the appearance of corruption, undue influence, conflicts of interest, and the rapid transition from public service to lobbying.

EXISTING LAW:

- 1) Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the PRA. (Government Code §§81000 et seq.)
- 2) Makes violations of the PRA subject to administrative, civil, and criminal penalties. (Government Code §§83116, 91000-91005.5)
- 3) Prohibits a member of the Legislature, for a period of one year after leaving office, from acting as a compensated agent or attorney for, or otherwise representing, any other person by making appearances before or communications with the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action. (Government Code §87406(b)(1))
- 4) Prohibits a Member of the Legislature who resigns from office, for a period commencing with the effective date of the resignation and concluding one year after the adjournment sine die of the session in which the resignation occurred, from acting as a compensated agent or attorney for, or otherwise representing, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing

legislative action. (Government Code §87406(b)(2))

- 5) Prohibits an elected state officer, other than a Member of the Legislature, for a period of one year after leaving office, from acting as a compensated agent or attorney for, or otherwise representing, any other person by making appearances before or communications with any state administrative agency, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. (Government Code §87406(c))
- 6) Prohibits a designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position that entails the making, or participation in the making, of decisions that may foreseeably have a material effect on any financial interest, and a member of a state administrative agency, for a period of one year after leaving office or employment, from acting as a compensated agent or attorney for, or otherwise representing, any other person, by making appearances before, or communications with any state administrative agency, or officer or employee thereof, for which the individual worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. (Government Code §87406(d)(1))
- 7) Defines "legislative action," for the purposes of the one year ban, to mean the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a member or employee of the Legislature acting in the person's official capacity. Provides that "legislative action" also includes the action of the Governor in approving or vetoing any bill. (Government Code §82037)
- 8) Defines "administrative action" for the purposes of the one year ban to include any action relating to any rule, regulation or other action in any ratemaking proceeding or any quasi-legislative proceeding. (Government Code §82002)
- 9) Defines an "elected state officer" to mean any person who holds an elective state office or has been elected to an elective state office but has not yet taken office. Provides that a person who is appointed to fill a vacant elective state office is an elected state officer. (Government Code §82021)
- 10) Prohibits a state or local public official from making, participating in making, or using their official position to influence, any governmental decision directly relating to any person or other entity with whom they are negotiating, or has any arrangement concerning, prospective employment. (Government Code § 87100 et seq.)
- 11) Defines a lobbyist as any person paid \$2,000 or more in a calendar month, or whose principal duties as an employee are, to communicate with state public officials for the purpose of

influencing legislative or administrative actions. (Government Code §82039, California Code of Regulations §18239)

- 12) Requires lobbying firms and lobbyist employers that employ lobbyists (but not lobbyist employers that contract with lobbying firms) to register with the Secretary of State. (Government Code §86100 et seq.)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

- 1) **Purpose of the Bill:** According to the author:

Building trust in our democracy requires decisive action to address the concerning phenomenon of the revolving door between state agencies and lobbying firms. SB 1155 stands as a beacon of hope, proposing a one-year cooling-off period for executive members of state agencies before they can engage in lobbying activities.

This legislation recognizes the urgency of the situation and seeks to create a longer buffer period to mitigate conflicts of interest, promote transparency, and ultimately restore trust in the integrity of our state agencies and the policymaking process. By imposing a more substantial barrier between public service and private advocacy, SB 1155 aims to safeguard against the undue influence of special interests and ensure that decisions are made with the public's best interests at heart.

In taking this bold step, we reaffirm our commitment to accountable governance and uphold the principles upon which our democracy thrives. By enacting measures such as SB 1155, we send a clear message that the integrity of our democratic institutions is non-negotiable and that the public's trust must be safeguarded above all else. It is through actions like these that we can build a government that is truly of the people, by the people, and for the people.

- 2) **Revolving Door Restrictions:** The PRA restricts the post-governmental activities of certain former public officials. These restrictions are commonly known as a "revolving door ban." For instance, the PRA prohibits certain officials, for one year after leaving state service, from representing any other person by appearing before or communicating with, for compensation, their former agency in an attempt to influence agency decisions that involve the making of general rules (such as regulations or legislation), or to influence certain proceedings involving a permit, license, contract, or transaction involving the sale or purchase of property or goods. The one-year ban generally serves to prevent former officials, including legislators, from taking advantage of their relationships with former colleagues and subordinates for the benefit of third parties by prohibiting former officials from having direct communications with their former agency in an attempt to influence decisions. The one-year ban applies regardless of whether a former official is registered as a lobbyist; even if a former official does not qualify as a lobbyist under the PRA, that person nonetheless can violate the revolving door ban by making appearances or communications before their former agency in

the year after the person leaves office. At the same time, however, the one-year ban does not prohibit a former official from providing strategic advice to others about business before the official's former agency in the year after the person leaves office, as long as the former official does not appear before or directly contact the former agency.

The following are subject to the one-year ban:

- Members of the Legislature and other elected state officials.
- Members of state boards and commission with decision-making authority.
- Any individual who holds a position designated in Section 87200 of the PRA appointed or employed by a state agency.
- Any individual who manages public investments appointed or employed by a state agency.
- Any state official designated in their agency's conflict-of-interest code.
- Any state official that should be designated in their agency's conflict-of-interest code. (State agency employees, officers, and consultants should be designated in their respective agency's conflict-of-interest code if they make or participate in making governmental decisions.)

This bill establishes a new one year ban for a head of a state administrative agency, which includes elected state officers and appointed officials who receive a salary. Under existing law, an elected state officer is currently banned for one year from appearing or communicating, for compensation, before *any* state administrative agency in an attempt to influence agency decisions. Under this bill, elected state officers who were the head of a state administrative agency would also be banned from lobbying the Legislature for a year after leaving office. Additionally, current law prohibits a designated employee, and any officer (including an appointed officer), employee, or consultant of state administrative agency from appearing or communicating, for compensation, before the former state agency for which they worked. In the case of appointed heads of state administrative agencies, this bill additionally would prohibit them from lobbying *other* state administrative agencies or the Legislature for one year after leaving office.

- 3) **Lobbyist:** As mentioned above, existing law defines a "lobbyist" as a person paid \$2,000 or more in a calendar month, or whose principal duties as an employee are, to communicate with state public officials for the purpose of influencing legislative or administrative actions. The existing "revolving door" prohibitions apply whether or not the former official qualifies as a lobbyist. If a former official does not qualify as a lobbyist under PRA, that person can nonetheless violate the revolving door ban by making appearances or communications before their former agency in the year after the person leaves office.

It is unclear whether it's the author's intent to require the new one year ban to apply only to activity that reaches the threshold for lobbying. The existing revolving door bans contain no such limitation, but instead prohibit *any* attempt by a covered person to influence legislative or administrative action for one year after leaving state service. Because this bill's revolving door ban is limited to activity that would require a person to register as a lobbyist, a covered official could still attempt to influence legislative or administrative action for compensation during the one year ban, as long as the official does not meet the lobbying thresholds.

- 4) **Need for the Bill:** According to the author, in recent years, concerns have escalated regarding the revolving door phenomenon observed between state agencies and lobbying firms. This phenomenon entails a seamless transition for state agency executives into highly lucrative lobbying roles, wherein there is a significant potential for leveraging insider knowledge for personal gain. Such a practice has become a focal point for ethical scrutiny and has detrimentally impacted public trust in the integrity of state agencies.

Notwithstanding these stated concerns, the author has not provided the committee with any specific examples that demonstrate the need for this bill.

- 5) **Political Reform Act of 1974:** California voters passed an initiative, Proposition 9, in 1974 that created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. That initiative is commonly known as the PRA. Amendments to the PRA that are not submitted to the voters, such as those contained in this bill, must further the purposes of the initiative and require a two-thirds vote of both houses of the Legislature.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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