

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
SB 1156 (Hurtado) – As Amended June 18, 2024

SENATE VOTE: 39-0

SUBJECT: Groundwater sustainability agencies: conflicts of interest: financial interest disclosures.

SUMMARY: Requires specified members of a groundwater sustainability agency (GSA) to file their statements of economic interests (SEI) with the Fair Political Practices Commission (FPPC). Specifically, **this bill** requires members of the board of directors and the executive of a GSA to file their SEIs with the FPPC using the FPPC’s online filing system for SEIs. Provides that the term “executive” means the executive director, general manager, or other equivalent position of the GSA. Finds and declares it is essential to establish mechanisms that promote transparency, prevent conflicts of interest, and ensure accountability within groundwater sustainability agencies to safeguard the sustainable management of groundwater resources.

EXISTING LAW:

- 1) Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (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) Defines a local government agency within the PRA to mean a county, city, or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission, or other agency of the foregoing. (Government Code §82041)
- 4) Prohibits a public official at any level of state or local government from making, participating in making, or in any way attempting to use the public official’s official position to influence a governmental decision in which the official knows or has reason to know that the official has a financial interest. (Government Code §87100 et seq.)
- 5) Requires candidates for, and current holders of, specified elected or appointed state and local offices and designated employees of state and local agencies to file SEIs disclosing their financial interests, including investments, real property interests, and income. (Government Code §81009 et seq.)
- 6) Requires every state or local agency to adopt a conflict of interest code that identifies the officials and employees within the agency who make governmental decisions based on the positions they hold, as specified. Provides that a conflict of interest code shall have the force of law. Requires the individuals in the designated positions, commonly referred to as “designated employees,” to file SEIs that publicly disclose the employees’ financial interests, as specified. (Government Code §§87300, 87302)

- 7) Requires heads of local government agencies and members of local government boards or commissions for which the FPPC is the code reviewing body to file their original SEIs with the agency or board or commission, which shall be the filing officer, unless, at its discretion, the FPPC elects to act as the filing officer. Provides that in this instance, the original shall be filed with the agency, board, or commission, which shall make and retain a copy and forward the original to the FPPC. (Government Code § 87500(1))
- 8) Defines the term “code reviewing body” to mean all of the following:
 - a) The FPPC, with respect to the conflict of interest code of a state agency other than an agency in the judicial branch of government, or any local government agency with jurisdiction in more than one county.
 - b) The board of supervisors, with respect to the conflict of interest code of any county agency other than the board of supervisors, or any agency of the judicial branch of government, and of any local government agency, other than a city agency, with jurisdiction wholly within the county. (Government Code §82011)
- 9) Authorizes an agency to permit the electronic filing of an SEI, including amendments, in accordance with regulations adopted by the FPPC. (Government Code §87500.2)
- 10) Permits the FPPC to develop and operate an online system for filing SEIs required by existing law, as specified. (Government Code §87500.3) Permits the FPPC to make all the data filed through this online system available on the FPPC’s internet website in an easily understood format that provides the greatest public access, and to provide assistance to those seeking public access to the information. (Government Code §87500.3(d)(1))
- 11) Permits a GSA to be formed by a single local agency or a combination of local agencies by using a joint powers agreement, a memorandum of agreement, or other legal agreement. (Water Code §10723.6)
- 12) Defines a local agency to mean a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin (Water Code §10721(n)).

FISCAL EFFECT: Unknown. State-mandated local program; contains a crimes and infractions disclaimer.

COMMENTS:

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

SB 1156 creates policies and procedures that promote transparency, prevent conflicts of interest, and ensure accountability within groundwater sustainability agencies. The disclosures by executive members and board of directors of GSAs will be submitted to the Fair Political Practices Commission. If necessary, the commission may investigate and take appropriate enforcement actions for violations of the disclosure requirements. Requiring greater accountability by

those in power of GSAs seeks to safeguard the sustainable management of groundwater resources.

- 2) **Statements of Economic Interests and Previous Legislation:** As part of the PRA's comprehensive scheme to prevent conflicts of interest by state and local public officials, existing law identifies certain elected and other high-level state and local officials who must file SEIs (commonly referred to as a Form 700). Similarly, candidates for those positions must file SEIs. Other state and local public officials and employees are required to file SEIs if the position they hold is designated in an agency's conflict of interest code. A position is required to be designated in an agency's conflict of interest code when the position entails the making or participation in the making of governmental decisions that may foreseeably have a material financial effect on the decision maker's financial interests.

The information that must be disclosed on an SEI, and the location at which an SEI is filed, varies depending on the position held by the individual who is required to file an SEI. Although there are some exceptions, individuals who are required to file an SEI typically must file that document with the agency of which they are an elected official or by which they are employed. In some cases, original SEIs or copies thereof are filed with the FPPC. The requirement for public officials to file SEIs serves two purposes. First, the SEI provides necessary information to the public about an official's personal financial interests so there is assurance that officials are making decisions that do not enhance their personal finances. Second, the requirement to file an SEI serves as a reminder to the public official of potential conflicts of interests so the official can recuse themselves from making or participating in governmental decisions that are deemed conflicts.

In 2013, the Legislature approved and then-Governor Brown signed AB 409 (Quirk-Silva), Chapter 643, Statutes of 2013, which permitted the FPPC to develop and operate an online system for filing SEIs. While AB 409 permitted the FPPC to establish an electronic system for filing SEIs, it would be up to each individual filer to decide whether to use that system or to file an SEI on paper.

- 3) **Groundwater Sustainability Agencies:** According to the Senate Committee on Natural Resources and Water, the Sustainable Groundwater Management Act (SGMA) provides a framework for sustainable groundwater management with the goal of managing and using groundwater in such a way that certain undesirable results, such as seawater intrusion and the chronic lowering of groundwater levels, among others, can be avoided. According to the Department of Water Resources (DWR), SGMA's foundational principle is that "groundwater is best managed at the local level, and the State's primary role is to provide guidance and support."

SGMA requires local public agencies to form GSAs which have broad management authority of the groundwater basins under their jurisdiction. According to DWR, over 350 unique GSAs have been formed for 142 groundwater basins statewide by March 2024.

A GSA is a public entity and its membership is typically composed of local public agencies, such as water districts. Some GSAs include participation by private entities such as mutual water companies. As a public entity, a GSA is required to adopt a conflict of interest code and any person participating in a decision making role at a GSA is subject to the PRA and required to file a an SEI. The SEI is filed either with the county (if the GSA is in only one

county) or with the FPPC (if the GSA is in multiple counties) and existing law requires that information to be disclosed to the public once it has been filed.

This bill explicitly requires members of the board of directors and the executive of a GSA to file their SEIs with the FPPC using the FPPC's online filing system for SEIs. Additionally, the bill defines the term "executive" to mean the executive director, general manager, or other equivalent position of the GSA. Other GSA designated employees will continue to file their SEIs either with the county or with the FPPC as required.

4) **Arguments in Support:** In support of a prior version of this bill, the City of Visalia, wrote:

Current law lacks appropriate transparency measures relating to GSAs. This insufficiency can exacerbate the risk of economic interests influencing decision-making processes. The lack of robust mechanisms to ensure clarity and prevent conflicts of interest pose a severe threat to the sustainable management of precious groundwater resources. Without adequate safeguards, there is a heightened risk of economic instability and social inequities. Addressing these deficiencies is imperative to establish effective governance frameworks that prioritize the long-term health and sustainability of groundwater resources.

SB 1156 creates policies and procedures that promote transparency, prevents conflicts of interest, and ensures accountability within groundwater sustainability agencies. The disclosures by executive members and board of directors of GSAs will be submitted to the Fair Political Practices Commission.

5) **Arguments in Opposition:** In opposition to a prior version of this bill, the Kings River Conservation District and the Kings River Water Association, wrote:

Each GSA is a public agency that is required to adopt a Conflict of Interest ("COI") Code, which is required to be reviewed every two years (even numbered years). The COI Code identifies who those individuals are, in addition to the Board members, who need to file Form 700s. This is based on the conduct of the agency and consultants, staff and legal counsel and therefore may be included on the COI Code. The COI Code is then filed with either the County (if the GSA is wholly within one county) or the FPPC, if the GSA spans more than one county. Similarly, Form 700s are required to be filed upon entering office (within 30 days), annually, and upon leaving office (within 30 days) by each person identified in the COI Code. Those forms are either filed with the County (if the GSA is in only one county) or with the FPPC. The FPPC uses an online filing system, which most of the counties (at least all of those in the Central Valley) also use. The counties are using the exact same program as the FPPC (which was developed for the FPPC), so getting access to any Form 700s should not be an issue.

Based on the above, enough procedural safeguards exist to ensure that members of the executive team, board of directors...of the GSA engage in transparent conduct, prevent conflict of interests, and remain accountable.

- 6) **Related Legislation:** AB 1170 (Valencia) requires public officials and candidates who file their original SEIs with the FPPC, to file those SEIs using the FPPC's electronic filing system, as specified. AB 1170 is pending in the Senate Judiciary Committee.
- 7) **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**

City of Visalia (prior version)

Opposition

Kings River Conservation District (prior version)

Kings River Water Association (prior version)

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