

Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON ELECTIONS  
Gail Pellerin, Chair  
AB 1286 (Boerner) – As Amended March 24, 2025

**SUBJECT:** Political Reform Act of 1974: prospective employment.

**SUMMARY:** Requires specified public officials, and public officials designated in their agencies' conflict of interest codes, to disclose arrangements for prospective employment, as defined, on their statement of economic interests (SEI), also referred to as a Form 700. Specifically, **this bill:**

- 1) Defines the term “arrangement for prospective employment” to mean an agreement pursuant to which a prospective employer’s offer of employment has been accepted by the prospective employee, including through verbal or written acceptance.
- 2) Requires candidates for, and current holders of, specified elected or appointed state and local offices and designated employees of state and local agencies to disclose arrangements for prospective employment on their SEI.
- 3) Requires an agency’s conflict of interest code to require designated employees to disclose arrangements for prospective employment on their SEI. Requires designated employees of state and local agencies to disclose arrangements for prospective employment on their Form 700 if the position with the prospective employer is one that would be subject to disclosure, based on the designated employee’s disclosure requirements, as either of the following:
  - a) A source of income, if the filer had received income from that employer during the period covered by the statement.
  - b) A business position, if the filer had held that business position during the period covered by the statement.
- 4) Requires a filer, when an arrangement for prospective employment is required to be reported in accordance with this bill, to disclose on their Form 700 the date that the filer accepted the prospective employer’s offer of employment, the business position, a general description of the business activity of the prospective employer, and the name and street address of the prospective employer.
- 5) Specifies that a conflict of interest code must require disqualification of a designated employee from a governmental decision that directly relates to the designated employee’s prospective employer.
- 6) Makes conforming changes.

**EXISTING LAW:**

- 1) Creates the Fair Political Practices Commission (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) 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.)
- 4) Provides that an official has a "financial interest" in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's interests as identified and distinguishable from the decision's effect on the public generally. (Government Code §87103)
- 5) Prohibits a public official from making, participating in making, or using the public official's official position to influence a governmental decision directly relating to any person with whom the public official is negotiating, or has any arrangement concerning, prospective employment. Provides that the term "arrangement" means acceptance by a public official of an employer's offer of employment. (Government Code §87407; Cal. Code Regs. §18747)
- 6) 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 §§87200 et seq.)
- 7) 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)

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

**COMMENTS:**

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

Government transparency is important to maintain the public's trust and AB 1286 will close a reporting gap that would require additional disclosure from public officials leaving office.

Presently, the Political Reform Act forbids officials from participating in decisions that affect their future employers, as it would create a conflict of

interest. However, public officials are not required to disclose when they accept a future job offer, creating an opportunity for those in power to make decisions relating to their future employer without the public's knowledge.

By adding prospective employment disclosure to Form 700s, AB 1286 closes this gap, creating transparency for the public and allowing for the monitoring and investigating of ethical violations that occur when public officials make decisions that affect their future employers before leaving office.

- 2) **Statements of Economic Interests:** 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. 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 assurances 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.

- 3) **Political Reform Act and Prospective Employment:** As mentioned above, the PRA prohibits a public official at any level of state or local government from making, participating in making, or attempting to use the official's position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest. The PRA provides that an official has a "financial interest" if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's interests as identified and distinguishable from the decision's effect on the public generally. Taken together, these provisions of the PRA prohibit an official from taking part in a decision if it is reasonably foreseeable that the decision would have a material financial effect on one or more of the official's financial interests identified distinguishable from the decision's effect on the public generally.

The PRA places several restrictions on the activities of public officials who are leaving governmental employment. For instance, the PRA prohibits all public officials from making, participating in making, or influencing a governmental decision that directly relates to a prospective employer. Once a public official is employed and begins receiving income from the employer, they are prohibited from making or participating in a government decision that has a material financial effect on the employer as a source of income. Sources of income and business positions held are disclosed on the Form 700.

According to the author and sponsor, while a public official is generally prohibited from using their government position to benefit a future employer, they are not required to publicly disclose whether or on what date they have accepted an offer for employment. This means that there is no way for the public or the FPPC to find out if a public official could have been making government decisions that benefit or otherwise involve the future employer after they accepted the offer. Accordingly, this bill will bring transparency and improve accountability by requiring specified state and local public officials to disclose an arrangement for prospective employment, as defined, on their Form 700. Additionally, this bill requires an agency's conflict of interest code to require designated employees to disclose arrangements for prospective employment on their Form 700, if the position with the prospective employer is one that would be subject to disclosure.

- 4) **Potential Amendments:** According to the FPPC, there have been 6 enforcement actions by the FPPC related to situations where public officials participated in decisions that affected their future employers between 1996 and 2014. However, it is possible that other violations occurred that were undiscovered because the FPPC and the public are unable to identify when public officials have accepted an offer of future employment. As such, this bill may help expose situations where a public official participated in decisions that affected a future employer after accepting an employment offer from that employer.

While there may be value in helping to expose potential violations of the law by requiring disclosure of arrangements for prospective employment on the Form 700, the committee may wish to consider whether the broad applicability of this bill is appropriately tailored to the policy goals that it seeks to achieve. As written, this bill applies to *everyone* who files a Form 700, which includes not only state and local public officials and candidates, but also includes tens (if not hundreds) of thousands of governmental employees statewide who hold positions that are identified in their agency's conflict of interest code. While those positions may correctly be identified in a conflict of interest code as ones that are involved in participating in making governmental decisions, the individuals holding those positions may nonetheless have relatively low levels of decisionmaking authority, particularly when compared to elected officials.

Requiring disclosure of future employment on publicly-available documents can present privacy concerns. Furthermore, in many cases, the disclosure required by this bill would be made only when people are *exiting* governmental service, and are no longer serving in positions that involve participating in making governmental decisions. While the public interest in requiring that disclosure may outweigh these concerns in the case of people with high levels of governmental decisionmaking authority, it is less clear whether the public interest is as compelling in the case of individuals who serve in positions that have low levels of decisionmaking authority. Accordingly, the committee may wish to consider amendments to narrow the scope of this bill such that it applies only to high level filers, specifically candidates and elected state and local officials specified in Government Code Section 87200 (also known as Section 87200 filers), rather than to every individual anywhere in the state who is required to file a Form 700.

- 5) **Arguments in Support:** The sponsor of this bill, the Fair Political Practices Commission, writes in support:

Although public officials are generally prohibited from using their government position to benefit a future employer, public officials are not currently required to publicly disclose whether or on what date they accepted an offer of employment. This means that there is no disclosure that would enable the public or the Commission to discover whether a public official made or participated in a government decision that benefitted or otherwise concerned the future employer after the public official accepted the offer of employment with that employer.

AB 1286 closes this gap in transparency and improves accountability by requiring public officials to disclose on their Statements of Economic Interests (Form 700) when they have accepted an offer of employment.

- 6) **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**

Fair Political Practices Commission (sponsor)

##### **Opposition**

None on file.

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