

Date of Hearing: July 3, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

SB 1426 (Blakeslee) – As Amended: June 21, 2012

SENATE VOTE: 34-1

SUBJECT: Lobbyist employers: gifts.

SUMMARY: Prohibits lobbyist employers from giving certain types of gifts to elected state officers and their immediate family members, regardless of the value of those gifts. Specifically, this bill:

- 1) Prohibits a lobbyist, lobbying firm, or lobbyist employer from giving an elected state officer, or a member of the officer's immediate family, any of the following gifts from the time that the officer is elected until he or she vacates office:
 - a) A theme park or amusement park ticket;
 - b) A professional sporting event ticket;
 - c) A racetrack ticket;
 - d) A spa treatment, or other beauty or cosmetic service;
 - e) A golf, skiing, hunting, or fishing trip, or other recreational outing or vacation; or,
 - f) A gift card.
- 2) Prohibits a lobbyist employer from giving an elected state officer, and prohibits a lobbyist, a lobbying firm, or a lobbyist employer from giving a member of the officer's immediate family, either of the following gifts from the time that the officer is elected until he or she vacates office:
 - a) A collegiate or other amateur sporting event ticket with a face value exceeding \$25; or,
 - b) A theater, concert, or other entertainment ticket with a face value exceeding \$25.
- 3) Prohibits an elected state officer from receiving any of the gifts described above from the time that the officer is elected until he or she vacates office.
- 4) Provides that the gift prohibitions in this bill do not apply to a fundraising event for a bona fide charitable organization.

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).
- 2) Makes it a felony for a public official or public employee to accept or agree to accept anything of value in exchange for an official act.
- 3) Prohibits a lobbyist or lobbying firm from making gifts aggregating more than \$10 in a calendar month to a state candidate, elected state officer, or legislative official, or to an agency official of any agency required to be listed on the registration statement of the lobbying firm or the lobbyist employer of the lobbyist.
- 4) Prohibits elected state government officials and candidates for elective state office from accepting gifts from any single source in a calendar year with a total value of more than \$420, with certain limited exceptions. Requires the FPPC to adjust this gift limit on January 1 of each odd-numbered year to reflect changes in the Consumer Price Index, rounded to the nearest \$10.

FISCAL EFFECT: According to the Senate Appropriations Committee, total first year costs of \$204,970 (General Fund) as follows:

- Annual costs of \$197,170 for 2.4 Personnel Years (PYs) (General Fund)
- Additional one-time costs of about \$4,000 in operating expenses (General Fund)
- Ongoing costs of \$3,800 for communications (General Fund)

The FPPC indicates the need for 1 PY Legal Counsel for enforcement, 1 PY Special Investigator, 0.3 PY Political Reform Consultant, and 0.1 PY for Counsel in Legal Division totaling annual costs of \$197,170 for personnel. In addition, the FPPC anticipates one-time costs of \$4,000 for operating expenses, and ongoing costs of \$3,800 for communications and training.

COMMENTS:

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

Despite rigid laws defining what gift can or cannot be given to an elected official as well as well-defined gift limits, lobbyists, lobbyists firms, and lobbyist employers continue to lavish extraordinary gifts of influence on elected officials with the intent to finance access to legislators that is not available to other members of the public.

California's elected officials are the targets of entertainment gifts unrelated to service by individual businesses and organizations with interests before the Legislature. In 2008, members of the State Legislature reported receiving \$12,708.23 worth of theme park tickets. In 2009, \$4,297.08 was spent on sporting event tickets. Rounds of golf, tickets to the race track and concert passes all are handed to State Senators and Assembly Members with the intent to gain access and favor. These egregious gifts do not help elected officials legislate more

effectively and ultimately damage public opinion of Sacramento leadership....

SB 1426 keeps elected officials accountable and interested parties transparent as to the types of gifts that are being given and received. SB 1426 stops lobbyists, lobbyist firms, and lobbyist employers from taking advantage of gift-giving loopholes used to unduly influence members and bans elected officials from receiving entertainment gifts unrelated to policy, by specifying exactly what gifts are not appropriate to be exchanged.

- 2) Any Elected State Officer May Choose to Decline Gifts: No public official—including an elected state official—is compelled to accept gifts. To the extent that an elected state official is concerned that the acceptance of gifts may result in a negative public perception, that official is free to decline any or all gifts. In fact, a number of members of the Legislature have chosen not to accept gifts of any kind or value.
- 3) Existing Limits and Disclosure: Under existing law, lobbyists and lobbying firms are prohibited from making a gift aggregating more than \$10 in a calendar month to an elected state official. Additionally, elected state officials are prohibited from accepting gifts from any single source, including lobbyist employers, aggregating more than \$420 in a calendar year, with certain limited exceptions. Finally, every elected state official generally must file a Statement of Economic Interests (SEI) each year. An SEI is a public document disclosing investments, real property interests, travel, income and gifts. Generally, a person must disclose gifts aggregating \$50 or more from a single source in a calendar year.

Given that there are already restrictions on the value of gifts to elected state officials regardless of the source, the ability of a lobbyist employer to give gifts to elected state officials already is limited. Additionally, because any gifts aggregating \$50 or more from a single source in a calendar year must be reported on a public document, and because lobbyist employers must report any gifts that they make to elected state officials, any gifts made by a lobbyist employer are subject to public scrutiny under existing law.

- 4) Number of Lobbyists and Lobbying Firms vs. Number of Lobbyist Employers: Existing law establishes two different types of gift limits, depending on the source of the gift. Most gifts made to public officials are limited to \$420 from a single source in a single year – a number that is updated every other year to reflect any change in inflation. On the other hand, the value of a gift to a state candidate, elected state officer, legislative official, and certain agency officials from a lobbyist or lobbying firm cannot exceed \$10 in a calendar month. That \$10 threshold is not updated for inflation, and has not been changed since it was first enacted in 1974.

This bill would impose new restrictions on gifts from lobbyists, lobbying firms, and lobbyist employers to elected state officials. By creating new restrictions on gifts from lobbyist employers, this bill will significantly expand the number of entities that are subject to gift rules other than the general \$420 gift limit. While approximately 2,100 people have registered as lobbyists during the 2011-12 Legislative Session, and there are about 440 lobbying firms in the state, there are more than 3,300 lobbyist employers in the state. As a result, it is anticipated that this bill would more than double the number of entities that are subject to a gift rules other than the general \$420 gift limit when those gifts are made to

elected state officials.

- 5) Different Gifts, Different Limits: This bill would establish restrictions on gifts given to elected state officials based not on the value of the gift, but rather on the type of gift given. As a result, it would be legal for a lobbyist employer to give an elected state official a bottle of wine valued at \$400, but it would be illegal for the same lobbyist employer to give the same official an \$8 ticket to a Sacramento River Cats baseball game. Similarly, it would be legal for a lobbyist employer to give an elected state official \$420 in cash, but a gift of a \$5 Starbucks gift card would be illegal. The committee may wish to consider whether it is rational to restrict gifts in this manner, based not on the monetary value of the gift given, but rather on the type of gift given.
- 6) Previous Legislation: AB 1412 (Torrico) of 2009, and AB 2368 (Blakeslee) of 2010, would have prohibited a lobbyist employer from making gifts to a Member of the Legislature aggregating more than \$10 in a calendar month. AB 1412 was approved by this committee, but died on the inactive file on the Assembly Floor. AB 2368 was approved by this committee, but was held on the Assembly Appropriations Committee's suspense file.

AB 2795 (Blakeslee) of 2008, would have prohibited a lobbyist employer from making gifts to state candidates, elected state officers, legislative officials, and certain agency officials aggregating more than \$10 in a calendar month with certain exceptions for food or refreshments of a nominal value offered other than as part of a meal and tickets to certain events sponsored by the lobbyist employer. AB 2795 was approved by this committee but was held on the Assembly Appropriations Committee's suspense file.

- 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

California Common Cause
CALPIRG

Opposition

Fair Political Practices Commission

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