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GOVERNMENT CODE - GOV

TITLE 9. POLITICAL REFORM [81000 - 91014] (Title 9 added June 4, 1974, by initiative Proposition 9.)

CHAPTER 11. Enforcement [91000 - 91014] (Chapter 11 added June 4, 1974, by initiative Proposition 9.)

91000. (a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.

(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.

(c) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.

(Repealed and added by Stats. 2000, Ch. 102, Sec. 73. Approved in Proposition 34 at the November 7, 2000, election. Operative January 1, 2001, by Sec. 83 of Ch. 102.)

91000.5. An administrative action brought pursuant to Chapter 3 (commencing with Section 83100) alleging a violation of any of the provisions of this title shall not be commenced more than five years after the date on which the violation occurred.

(a) The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action.

(b) If the person alleged to have violated this title engages in the fraudulent concealment of the person's acts or identity, the five-year period shall be tolled for the period of the concealment. For purposes of this subdivision, "fraudulent concealment" means the person knows of material facts related to the person's duties under this title and knowingly conceals them in performing or omitting to perform those duties, for the purpose of defrauding the public of information to which it is entitled under this title.

(c) If, upon being ordered by a superior court to produce any documents sought by a subpoena in any administrative proceeding under Chapter 3 (commencing with Section 83100), the person alleged to have violated this title fails to produce documents in response to the order by the date ordered to comply therewith, the five-year period shall be tolled for the period of the delay from the date of filing of the motion to compel until the date the documents are produced.

(Amended by Stats. 2021, Ch. 50, Sec. 234. (AB 378) Effective January 1, 2022.)

91001. (a) The Attorney General is responsible for enforcing the criminal provisions of this title with respect to state agencies, lobbyists and state elections. The district attorney of any county in which a violation occurs has concurrent powers and responsibilities with the Attorney General.

(b) The civil prosecutor is primarily responsible for enforcement of the civil penalties and remedies of this title. The civil prosecutor is the commission with respect to the state or any state agency, except itself. The Attorney General is the civil prosecutor with respect to the commission. The district attorneys are the civil prosecutors with respect to any other agency. The civil prosecutor may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction. Upon written authorization from a district attorney, the commission may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction. Under such circumstances, Section 91007 shall not apply to the commission.

(c) Whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith shall be considered in applying the remedies and sanctions of this title.

(Amended by Stats. 1979, Ch. 357. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

91001.5. In any case in which a district attorney could act as the civil or criminal prosecutor under the provisions of this title, the elected city attorney of any charter city may act as the civil or criminal prosecutor with respect to any violations of this title occurring within the city.

(Added by Stats. 1976, Ch. 594.)

91002. No person convicted of a misdemeanor under this title shall be a candidate for any elective office or act as a lobbyist for a period of four years following the date of the conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable. A plea of nolo contendere shall be deemed a conviction for purposes of this section. Any person violating this section is guilty of a felony.

(Added June 4, 1974, by initiative Proposition 9.)

91003. (a) Any person residing in the jurisdiction may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this title. The court may in its discretion require any plaintiff other than the commission to file a complaint with the commission prior to seeking injunctive relief. The court may award to a plaintiff or defendant who prevails that party's costs of litigation, including reasonable attorney's fees.

(b) Upon a preliminary showing in an action brought by a person residing in the jurisdiction that a violation of Article 1 (commencing with Section 87100), Article 4 (commencing with Section 87400), or Article 4.5 (commencing with Section 87450) of Chapter 7 of this title or of a disqualification provision of a conflict of interest code has occurred, the court may restrain the execution of any official action in relation to which such a violation occurred, pending final adjudication. If it is ultimately determined that a violation has occurred and that the official action might not otherwise have been taken or approved, the court may set the official action aside as void. The official actions covered by this subsection include, but are not limited to, orders, permits, resolutions, and contracts, but do not include the enactment of any state legislation. In considering the granting of preliminary or permanent relief under this subsection, the court shall accord due weight to any injury that may be suffered by innocent persons relying on the official action.

(Amended by Stats. 2021, Ch. 50, Sec. 235. (AB 378) Effective January 1, 2022. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

91003.5. Any person who violates a provision of Article 2 (commencing with Section 87200), 3 (commencing with Section 87300), or 4.5 (commencing with Section 87450) of Chapter 7 is subject to discipline by that person's agency, including dismissal, consistent with any applicable civil service or other personnel laws, regulations, and procedures.

(Amended by Stats. 2021, Ch. 50, Sec. 236. (AB 378) Effective January 1, 2022. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

91004. Any person who intentionally or negligently violates any of the reporting requirements of this title shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported.

(Repealed and added by Stats. 2000, Ch. 102, Sec. 76. Approved in Proposition 34 at the November 7, 2000, election. Operative January 1, 2001, by Sec. 83 of Ch. 102.)

91005. (a) Any person who makes or receives a contribution, gift, or expenditure in violation of Section 84300, 84304, 86203, or 86204 is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to one thousand dollars (\$1,000) or three times the amount of the unlawful contribution, gift, or expenditure, whichever amount is greater.

(b) Any designated employee or public official specified in Section 87200, except an elected state officer, who realizes an economic benefit as a result of a violation of Section 87100 or of a disqualification provision of a conflict of interest code is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to three times the value of the benefit.

(Amended by Stats. 2000, Ch. 130, Sec. 11. Effective January 1, 2001. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

91005.5. Any person who violates any provision of this title, except Sections 84305, 84307, and 89001, for which no specific civil penalty is provided, shall be liable in a civil action brought by the commission or the district attorney pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to five thousand dollars (\$5,000) per violation.

No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.

The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.

(Repealed and added by Stats. 2000, Ch. 102, Sec. 79. Approved in Proposition 34 at the November 7, 2000, election. Operative January 1, 2001, by Sec. 83 of Ch. 102.)

91006. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

(Repealed and added by Stats. 2000, Ch. 102, Sec. 82. Approved in Proposition 34 at the November 7, 2000, election. Operative January 1, 2001, by Sec. 83 of Ch. 102.)

91007. (a) Any person, before filing a civil action pursuant to Sections 91004 and 91005, must first file with the civil prosecutor a written request for the civil prosecutor to commence the action. The request shall include a statement of the grounds for believing a cause of action exists. The civil prosecutor shall respond to the person in writing, indicating whether the civil prosecutor intends to file a civil action.

(1) If the civil prosecutor responds in the affirmative and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought unless the action brought by the civil prosecutor is dismissed without prejudice as provided for in Section 91008.

(2) If the civil prosecutor responds in the negative within 120 days from receipt of the written request to commence the action, the person requesting the action may proceed to file a civil action upon receipt of the response from the civil prosecutor. If, pursuant to this subdivision, the civil prosecutor does not respond within 120 days, the civil prosecutor shall be deemed to have provided a negative written response to the person requesting the action on the 120th day and the person shall be deemed to have received that response.

(3) The time period within which a civil action shall be commenced, as set forth in Section 91011, shall be tolled from the date of receipt by the civil prosecutor of the written request to either the date that the civil action is dismissed without prejudice or the date of receipt by the person of the negative response from the civil prosecutor, but only for a civil action brought by the person who requested the civil prosecutor to commence the action.

(b) Any person filing a complaint, cross-complaint, or other initial pleading in a civil action pursuant to Section 91003, 91004, 91005, or 91005.5 shall, within 10 days of filing the complaint, cross-complaint, or initial pleading, serve on the commission a copy of the complaint, cross-complaint, or initial pleading or a notice containing all of the following:

(1) The full title and number of the case.

(2) The court in which the case is pending.

(3) The name and address of the attorney for the person filing the complaint, cross-complaint, or other initial pleading.

(4) A statement that the case raises issues under the Political Reform Act of 1974.

(c) A complaint, cross-complaint, or other initial pleading shall not be dismissed for failure to comply with subdivision (b).

(Amended by Stats. 2021, Ch. 50, Sec. 237. (AB 378) Effective January 1, 2022. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

91008. Not more than one judgment on the merits with respect to any violation may be obtained under Sections 91004 and 91005. Actions brought for the same violation or violations shall have precedence for purposes of trial in order of the time filed. Such actions shall be dismissed once judgment has been entered or a settlement approved by the court in a previously filed action. The court may dismiss a pending action without prejudice to any other action for failure of the plaintiff to proceed diligently and in good faith. The action may be so dismissed on motion of the civil prosecutor or any plaintiff in an action based on the same violation.

(Added June 4, 1974, by initiative Proposition 9.)

91008.5. No civil action may be filed under Section 91004, 91005, or 91005.5 with regard to any person for any violations of this title after the commission has issued an order pursuant to Section 83116 against that person for the same violation.

(Added by Stats. 1984, Ch. 670, Sec. 4.)

91009. In determining the amount of liability under Sections 91004 or 91005, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action brought under Section 91004 or 91005, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited in the General Fund of the state. In an action brought by the civil prosecutor, the entire amount recovered shall be paid to the general fund or treasury of the jurisdiction.

(Added June 4, 1974, by initiative Proposition 9.)

91010. No request to the civil prosecutor pursuant to Section 91007 shall be made or filed in connection with a report or statement required by Chapter 4 (commencing with Section 84100) until the time when an audit and investigation could be begun under subdivision (c) of Section 90002.

(Amended by Stats. 1992, Ch. 405, Sec. 5. Effective January 1, 1993. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

91011. (a) A civil action alleging a violation in connection with a report or statement required by Chapter 4 (commencing with Section 84100) shall not be filed more than four years after an audit could begin as set forth in subdivision (c) of Section 90002, as that section existed on January 1, 2014, or more than one year after the Franchise Tax Board forwards its report to the commission, pursuant to Section 90004, of any audit conducted of the alleged violator, whichever period is less.

(b) A civil action alleging a violation of any provisions of this title, other than those described in subdivision (a), shall not be filed more than four years after the date the violation occurred.

(Amended by Stats. 2024, Ch. 97, Sec. 6. (AB 2001) Effective January 1, 2025. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

91012. The court may award to a plaintiff or defendant other than an agency, who prevails in any action authorized by this title, that party's costs of litigation, including reasonable attorney's fees. On motion of any party, a court shall require a private plaintiff to post a bond in a reasonable amount at any stage of the litigation to guarantee payment of costs.

(Amended by Stats. 2021, Ch. 50, Sec. 238. (AB 378) Effective January 1, 2022.)

91013. (a) (1) Except as provided in paragraphs (2) to (4), if any person files an original statement or report after any deadline imposed by this act, the person shall, in addition to any other penalties or remedies established by this act, be liable in the amount of ten dollars (\$10) per day after the deadline until the statement or report is filed, to the officer with whom the statement or report is required to be filed.

(2) Liability need not be enforced by the filing officer if on an impartial basis the filing officer determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the act, except that liability shall not be waived pursuant to this paragraph if a statement or report is not filed within 30 days for a statement of economic interest, other than a candidate's statement filed pursuant to Section 87201, 5 days for a campaign statement required to be filed 12 days before an election, and 10 days for all other statements or reports, after the filing officer has sent specific written notice of the filing requirement.

(3) Liability shall not be enforced by the filing officer if the person who filed the late statement or report was unable to timely file the statement or report due to serious illness or hospitalization.

(4) Liability shall not be enforced by the filing officer if the person who filed the late statement or report completes the political reform education program pursuant to Section 83116.7 for that late filing violation.

(b) If any person files a copy of a statement or report after any deadline imposed by this act, the person shall, in addition to any other penalties or remedies established by this chapter, be liable in the amount of ten dollars (\$10) per day, starting 10 days, or 5 days in the case of a campaign statement required to be filed 12 days before an election, after the officer has sent specific written notice of the filing requirement and until the statement is filed. Liability shall not be enforced by the filing officer in either of the following circumstances:

(1) The person who filed the late copy of the statement or report was unable to timely file the copy of the statement or report due to serious illness or hospitalization.

(2) The person who filed the late copy of the statement or report completes the political reform education program pursuant to Section 83116.7 for that late filing violation.

(c) The officer shall deposit any funds received under this section into the general fund of the jurisdiction of which the filing officer is an officer. Liability under this section shall not exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100), whichever is greater.

(Amended by Stats. 2023, Ch. 696, Sec. 2. (SB 29) Effective October 10, 2023. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

91013.5. (a) In addition to any other available remedies, the commission or the filing officer may bring a civil action and obtain a judgment in superior court for the purpose of collecting any unpaid monetary penalties, fees, or civil penalties imposed pursuant to this title. The action may be filed as a small claims, limited civil, or unlimited civil case, depending on the jurisdictional amount. The venue for this action shall be in the county where the monetary penalties, fees, or civil penalties were imposed by the commission or the filing officer. In order to obtain a judgment in a proceeding under this section, the commission or filing officer shall show, following the procedures and rules of evidence as applied in ordinary civil actions, all of the following:

(1) That the monetary penalties, fees, or civil penalties were imposed following the procedures set forth in this title and implementing regulations.

(2) That the defendant or defendants in the action were notified, by actual or constructive notice, of the imposition of the monetary penalties, fees, or civil penalties.

(3) That a demand for payment has been made by the commission or the filing officer and full payment has not been received.

(b) A civil action brought pursuant to subdivision (a) shall be commenced within four years after the date on which the monetary penalty, fee, or civil penalty was imposed.

(Amended by Stats. 2004, Ch. 483, Sec. 5. Effective January 1, 2005.)

91013.7. (a) If the time for judicial review of a final Commission order or decision has lapsed, or if all means of judicial review of the order or decision have been exhausted, the Commission may apply to the clerk of the court for a judgment to collect the penalties imposed by the order or decision, or the order as modified in accordance with a decision on judicial review.

(b) The application, which shall include a certified copy of the order or decision, or the order as modified in accordance with a decision on judicial review, and proof of service of the order or decision, constitutes a sufficient showing to warrant issuance of the judgment to collect the penalties. The clerk of the court shall enter the judgment immediately in conformity with the application.

(c) An application made pursuant to this section shall be made to the clerk of the superior court in the county where the monetary penalties, fees, or civil penalties were imposed by the Commission.

(d) A judgment entered in accordance with this section has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action and may be enforced in the same manner as any other judgment of the court in which it is entered.

(e) The Commission may bring an application pursuant to this section only within four years after the date on which the monetary penalty, fee, or civil penalty was imposed.

(f) The remedy available under this section is in addition to those available under Section 91013.5 or any other law.

(Added by Stats. 2013, Ch. 645, Sec. 1. (AB 552) Effective January 1, 2014.)

91014. Nothing in this chapter shall exempt any person from applicable provisions of any other laws of this state.

(Added June 4, 1974, by initiative Proposition 9.)