



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code: Section:

[Up^](#) [Add To My Favorites](#)

GOVERNMENT CODE - GOV

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

CHAPTER 7. Conflicts of Interest [87100 - 87505] (Chapter 7 added June 4, 1974, by initiative Proposition 9.)

ARTICLE 1. General Prohibition [87100 - 87105] (Article 1 added June 4, 1974, by initiative Proposition 9.)

87100. A public official at any level of state or local government shall not make, participate in making, or in any way attempt to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest.

(Amended by Stats. 2021, Ch. 50, Sec. 190. (AB 378) Effective January 1, 2022.)

87100.1. (a) A registered professional engineer or licensed land surveyor who renders professional services as a consultant to a state or local government, either directly or through a firm in which the consultant is employed or is a principal, does not have a financial interest in a governmental decision pursuant to Section 87100 where the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency and does not exercise public agency decisionmaking authority as a contract city or county engineer or surveyor.

(b) For purposes of this section, the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency when the consultant is in responsible charge of the work pursuant to Section 6703 or 8703 of the Business and Professions Code.

(c) Subdivision (a) does not apply to that portion of the work that constitutes the recommendation of the actual formula to spread the costs of an assessment district's improvements if both of the following apply:

(1) The engineer has received income of two hundred fifty dollars (\$250) or more for professional services in connection with any parcel included in the benefit assessment district within 12 months prior to the creation of the district.

(2) The district includes other parcels in addition to those parcels for which the engineer received the income.

The recommendation of the actual formula does not include preliminary site studies, preliminary engineering, plans, specifications, estimates, compliance with environmental laws and regulations, or the collection of data and information, utilized in applying the formula.

(Amended by Stats. 2021, Ch. 50, Sec. 191. (AB 378) Effective January 1, 2022.)

87101. Section 87100 does not prevent any public official from making or participating in the making of a governmental decision to the extent the official's participation is legally required for the action or decision to be made. The fact that an official's vote is needed to break a tie does not make the official's participation legally required for purposes of this section.

(Amended by Stats. 2021, Ch. 50, Sec. 192. (AB 378) Effective January 1, 2022.)

87102. The requirements of Section 87100 are in addition to the requirements of Articles 2 (commencing with Section 87200) and 3 (commencing with Section 87300) and any Conflict of Interest Code adopted thereunder. Except as provided in Section 87102.5, the remedies provided in Chapters 3 (commencing with Section 83100) and 11 (commencing with Section 91000) shall not be applicable to elected state officers for violations or threatened violations of this article.

(Amended by Stats. 1990, Ch. 84, Sec. 6. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

87102.5. (a) The remedies provided in Chapter 3 (commencing with Section 83100) apply to any Member of the Legislature who makes, participates in making, or in any way attempts to use the Member's official position to influence any of the following governmental decisions in which the Member knows or has reason to know that the Member has a financial interest:

(1) Any state governmental decision, other than any action or decision before the Legislature, made in the course of the Member's duties.

(2) Approval, modification, or cancellation of any contract to which either house or a committee of the Legislature is a party.

(3) Introduction as a lead author of any legislation that the Member knows or has reason to know is nongeneral legislation.

(4) Any vote in a legislative committee or subcommittee on what the Member knows or has reason to know is nongeneral legislation.

(5) Any rollcall vote on the Senate or Assembly floor on an item which the Member knows is nongeneral legislation.

(6) Any action or decision before the Legislature in which all of the following occur:

(A) The Member has received any salary, wages, commissions, or similar earned income within the preceding 12 months from a lobbyist employer.

(B) The Member knows or has reason to know the action or decision will have a direct and significant financial impact on the lobbyist employer.

(C) The action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(7) Any action or decision before the Legislature on legislation that the Member knows or has reason to know will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the Member has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(b) For purposes of this section, all of the following apply:

(1) "Any action or decision before the Legislature" means any vote in a committee or subcommittee, or any rollcall vote on the floor of the Senate or Assembly.

(2) "Financial interest" means an interest as defined in Section 87103.

(3) "Legislation" means a bill, resolution, or constitutional amendment.

(4) "Nongeneral legislation" means legislation that is described in Section 87102.6 and is not of a general nature pursuant to Section 16 of Article IV of the Constitution.

(5) A Member of the Legislature has reason to know that an action or decision will have a direct and significant financial impact on a person with respect to which disqualification may be required pursuant to subdivision (a) if either of the following apply:

(A) With the knowledge of the Member, the person has attempted to influence the vote of the Member with respect to the action or decision.

(B) Facts have been brought to the Member's personal attention indicating that the action or decision will have a direct and significant impact on the person.

(6) The prohibitions specified in subdivision (a) do not apply to a vote on the Budget Bill as a whole, or to a vote on a consent calendar, a motion for reconsideration, a waiver of any legislative rule, or any purely procedural matter.

(7) A Member of the Legislature has reason to know that legislation is nongeneral legislation if facts have been brought to the Member's personal attention indicating that it is nongeneral legislation.

(8) Written advice given to a Member of the Legislature regarding the Member's duties under this section by the Legislative Counsel shall have the same effect as advice given by the commission pursuant to subdivision (b) of Section 83114 if both of the following apply:

(A) The Member has made the same written request based on the same material facts to the commission for advice pursuant to Section 83114 as to the Member's duties under this section, as the written request and facts presented to the Legislative Counsel.

(B) The commission has not provided written advice pursuant to the Member's request prior to the time the Member acts in good faith reliance on the advice of the Legislative Counsel.

87102.6. (a) "Nongeneral legislation" means legislation as to which both of the following apply:

- (1) It is reasonably foreseeable that the legislation will have direct and significant financial impact on one or more identifiable persons, or one or more identifiable pieces of real property.
- (2) It is not reasonably foreseeable that the legislation will have a similar impact on the public generally or on a significant segment of the public.

(b) For purposes of this section and Section 87102.5, all of the following apply:

- (1) "Legislation" means a bill, resolution, or constitutional amendment.
- (2) "Public generally" includes an industry, trade, or profession.
- (3) Any recognized subgroup or specialty of the industry, trade, or profession constitutes a significant segment of the public.
- (4) A legislative district, county, city, or special district constitutes a significant segment of the public.
- (5) More than a small number of persons or pieces of real property is a significant segment of the public.
- (6) Legislation, administrative action, or other governmental action impacts in a similar manner all members of the public, or all members of a significant segment of the public, on which it has a direct financial effect, whether or not the financial effect on individual members of the public or the significant segment of the public is the same as the impact on the other members of the public or the significant segment of the public.
- (7) The Budget Bill as a whole is not nongeneral legislation.
- (8) Legislation that contains at least one provision that constitutes nongeneral legislation is nongeneral legislation, even if the legislation also contains other provisions that are general and do not constitute nongeneral legislation.

(Amended by Stats. 2006, Ch. 538, Sec. 334. Effective January 1, 2007.)

87102.8. (a) An elected state officer, as defined in subdivision (f) of Section 14 of Article V of the California Constitution, shall not make or participate in the making of, or use the officer's official position to influence, any governmental decision before the agency in which the elected state officer serves, where the officer knows or has reason to know that the officer has a financial interest.

(b) An elected state officer knows or has reason to know that the officer has a financial interest in any action by, or a decision before the agency in which the officer serves where either of the following occur:

- (1) The action or decision will have a direct and significant financial impact on a lobbyist employer from which the officer has received any salary, wages, commissions, or similar earned income within the preceding 12 months and the action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.
- (2) The action or decision will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the officer has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(c) The definitions of "public generally" and "significant segment of the public" contained in Section 87102.6 apply to this section.

(d) Notwithstanding Section 87102, the remedies provided in Chapter 3 (commencing with Section 83100) apply to violations of this section.

(Amended by Stats. 2021, Ch. 50, Sec. 194. (AB 378) Effective January 1, 2022.)

87103. A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of the official's immediate family, or on any of the following:

- (a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.
- (b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.

(c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (f) of Section 89503.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

(Amended by Stats. 2021, Ch. 50, Sec. 195. (AB 378) Effective January 1, 2022. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

87103.5. (a) Notwithstanding subdivision (c) of Section 87103, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official who owns a 10-percent or greater interest in the entity if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer is not distinguishable from the amount of income received from its other retail customers.

(b) Notwithstanding subdivision (c) of Section 87103, in a jurisdiction with a population of 10,000 or less which is located in a county with 350 or fewer retail businesses, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official of that jurisdiction who owns a 10-percent or greater interest in the entity, if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer does not exceed one percent of the gross sales revenues that the business entity earned during the 12 months prior to the time the decision is made.

(c) For the purposes of subdivision (b):

(1) Population in a jurisdiction shall be established by the United States Census.

(2) The number of retail businesses in a county shall be established by the previous quarter's Covered Employment and Wages Report (ES-202) of the Labor Market Information Division of the California Employment Development Department.

(Amended by Stats. 2002, Ch. 654, Sec. 1. Effective January 1, 2003.)

87103.6. Notwithstanding subdivision (c) of Section 87103, any person who makes a payment to a state agency or local government agency to defray the estimated reasonable costs to process any application, approval, or any other action, including but not limited to, holding public hearings and evaluating or preparing any report or document, shall not by reason of the payments be a source of income to a person who is retained or employed by the agency.

(Added by Stats. 1991, Ch. 887, Sec. 2. Effective October 14, 1991.)

87104. (a) A public official of a state agency shall not, for compensation, act as an agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance before, or any oral or written communication to, the official's state agency or any officer or employee thereof, if the appearance or communication is for the purpose of influencing a decision on a contract, grant, loan, license, permit, or other entitlement for use.

(b) For purposes of this section, "public official" includes a member, officer, employee, or consultant of an advisory body to a state agency, whether the advisory body is created by statute or otherwise, except when the public official is representing the official's employing state, local, or federal agency in an appearance before, or communication to, the advisory body.

(Amended by Stats. 2021, Ch. 50, Sec. 196. (AB 378) Effective January 1, 2022.)

87105. (a) A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

(1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

(2) Recuse the public official's own self from discussing and voting on the matter, or otherwise acting in violation of Section 87100.

(3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

(4) Notwithstanding paragraph (3), a public official described in subdivision (a) may speak on the issue during the time that the general public speaks on the issue.

(b) This section does not apply to Members of the Legislature.

(Amended by Stats. 2021, Ch. 50, Sec. 197. (AB 378) Effective January 1, 2022.)