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**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 4. Disqualification of Former Officers and Employees [87400 - 87410]** ( Article 4 added by Stats. 1980, Ch. 66. )

**87400.** Unless the contrary is stated or clearly appears from the context, the definitions set forth in this section shall govern the interpretation of this article.

(a) "State administrative agency" means every state office, department, division, bureau, board, and commission, but does not include the Legislature, the courts, or any agency in the judicial branch of government.

(b) "State administrative official" means every member, officer, employee, or consultant of a state administrative agency who as part of that person's official responsibilities engages in any judicial, quasi-judicial, or other proceeding in other than a purely clerical, secretarial, or ministerial capacity.

(c) "Judicial, quasi-judicial, or other proceeding" means any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in any court or state administrative agency, including, but not limited to, any proceeding governed by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

(d) "Participated" means to have taken part personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, investigation, or use of confidential information as an officer or employee, but excluding approval, disapproval, or rendering of legal advisory opinions to departmental or agency staff which do not involve a specific party or parties.

(Amended by Stats. 2021, Ch. 50, Sec. 209. (AB 378) Effective January 1, 2022.)

**87401.** A former state administrative official, after the termination of the official's employment or term of office, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof by making any formal or informal appearance, or by making any oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial, or other proceeding if both of the following apply:

(a) The State of California is a party or has a direct and substantial interest.

(b) The proceeding is one in which the former state administrative official participated.

(Amended by Stats. 2021, Ch. 50, Sec. 210. (AB 378) Effective January 1, 2022.)

**87402.** A former state administrative official, after the termination of the official's employment or term of office shall not, for compensation, aid, advise, counsel, consult, or assist in representing any other person (except the State of California) in any proceeding in which the official would be prohibited from appearing under Section 87401.

(Amended by Stats. 2021, Ch. 50, Sec. 211. (AB 378) Effective January 1, 2022.)

**87403.** The prohibitions contained in Sections 87401 and 87402 shall not apply:

(a) To prevent a former state administrative official from making or providing a statement, which is based on the former state administrative official's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received other than that regularly provided for by law or regulation for witnesses; or

(b) To communications made solely for the purpose of furnishing information by a former state administrative official if the court or state administrative agency to which the communication is directed makes findings in writing that:

(1) The former state administrative official has outstanding and otherwise unavailable qualifications;

(2) The former state administrative official is acting with respect to a particular matter which requires such qualifications; and

(3) The public interest would be served by the participation of the former state administrative official; or

(c) With respect to appearances or communications in a proceeding in which a court or state administrative agency has issued a final order, decree, decision or judgment but has retained jurisdiction if the state administrative agency of former employment gives its consent by determining that:

(1) At least five years have elapsed since the termination of the former state administrative official's employment or term of office; and

(2) The public interest would not be harmed.

*(Added by Stats. 1980, Ch. 66.)*

**87404.** Upon the petition of any interested person or party, the court or the presiding or other officer, including but not limited to a hearing officer serving pursuant to Section 11512 of the Government Code, in any judicial, quasi-judicial or other proceeding, including but not limited to any proceeding pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code may, after notice and an opportunity for a hearing, exclude any person found to be in violation of this article from further participation, or from assisting or counseling any other participant, in the proceeding then pending before such court or presiding or other officer.

*(Added by Stats. 1980, Ch. 66.)*

**87405.** The requirements imposed by this article shall not apply to any person who left government service prior to the effective date of this article except that any such person who returns to government service on or after the effective date of this article shall thereafter be covered thereby.

*(Added by Stats. 1980, Ch. 66.)*

**87406.** (a) This section shall be known, and may be cited, as the Milton Marks Postgovernment Employment Restrictions Act of 1990.

(b) (1) Except as provided in paragraph (2), a Member of the Legislature, for a period of one year after leaving office, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(2) A Member of the Legislature who resigns from office, for a period commencing with the effective date of the resignation and concluding one year after the adjournment sine die of the session in which the resignation occurred, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(c) An elected state officer, other than a Member of the Legislature, for a period of one year after leaving office, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this subdivision, an appearance before a "state administrative agency" does not include an appearance in a court of law, before an administrative law judge, or before the Workers' Compensation Appeals Board.

(d) (1) A designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position that entails the making, or participation in the making, of decisions that may foreseeably have a material effect on any financial interest, and a member of a state administrative agency, for a period of one year after leaving office or employment, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which the individual worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this paragraph, an appearance before a state administrative agency does not include an appearance in

a court of law, before an administrative law judge, or before the Workers' Compensation Appeals Board. The prohibition of this paragraph only applies to designated employees employed by a state administrative agency on or after January 7, 1991.

(2) For purposes of paragraph (1), a state administrative agency of a designated employee of the Governor's office includes any state administrative agency subject to the direction and control of the Governor.

(e) The prohibitions contained in subdivisions (b), (c), and (d) do not apply to any individual subject to this section who is or becomes either of the following:

(1) An officer or employee of another state agency, board, or commission if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the state agency, board, or commission.

(2) An official holding an elective office of a local government agency if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the local government agency.

*(Amended by Stats. 2021, Ch. 50, Sec. 212. (AB 378) Effective January 1, 2022.)*

**87406.1.** (a) For purposes of this section, "district" means an air pollution control district or air quality management district and "district board" means the governing body of an air pollution control district or an air quality management district.

(b) No former member of a district board, and no former officer or employee of a district who held a position which entailed the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, shall, for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that district board, or any committee, subcommittee, or present member of that district board, or any officer or employee of the district, if the appearance or communication is made for the purpose of influencing regulatory action.

(c) Subdivision (b) shall not apply to any individual who is, at the time of the appearance or communication, a board member, officer, or employee of another district or an employee or representative of a public agency.

(d) This section applies to members and former members of district hearing boards.

*(Added by Stats. 1994, Ch. 747, Sec. 1. Effective January 1, 1995.)*

**87406.3.** (a) A local elected official, chief administrative officer of a county, city manager, or general manager or chief administrator of a special district who held a position with a local government agency as defined in Section 82041 shall not, for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that local government agency, or any committee, subcommittee, or present member of that local government agency, or any officer or employee of the local government agency, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

(b) (1) Subdivision (a) does not apply to an individual who is, at the time of the appearance or communication, a board member, officer, or employee of another local government agency or an employee or representative of a public agency and is appearing or communicating on behalf of that agency.

(2) Subdivision (a) applies to an individual who is, at the time of the appearance or communication, an independent contractor of a local government agency or a public agency and is appearing or communicating on behalf of that agency.

(c) This section does not preclude a local government agency from adopting an ordinance or policy that restricts the appearance of a former local official before that local government agency if that ordinance or policy is more restrictive than subdivision (a).

(d) Notwithstanding Sections 82002 and 82037, the following definitions apply for purposes of this section only:

(1) "Administrative action" means the proposal, drafting, development, consideration, amendment, enactment, or defeat by any local government agency of any matter, including any rule, regulation, or other action in any regulatory proceeding, whether quasi-legislative or quasi-judicial. Administrative action does not include any action that is solely ministerial.

(2) "Legislative action" means the drafting, introduction, modification, enactment, defeat, approval, or veto of any ordinance, amendment, resolution, report, nomination, or other matter by the legislative body of a local government agency or by any committee or subcommittee thereof, or by a member or employee of the legislative body of the local government agency acting in the member or employee's official capacity.

*(Amended by Stats. 2021, Ch. 50, Sec. 213. (AB 378) Effective January 1, 2022.)*

**87407.** A public official shall not make, participate in making, or use the public official's official position to influence, any governmental decision directly relating to any person with whom the public official is negotiating, or has any arrangement concerning, prospective employment.

*(Amended by Stats. 2021, Ch. 50, Sec. 214. (AB 378) Effective January 1, 2022.)*

**87408.** (a) A member of the Board of Administration of the Public Employees' Retirement System, an individual in a position designated in subdivision (a) or (e) of Section 20098, or an information technology or health benefits manager with a career executive assignment designation with the Public Employees' Retirement System, for a period of four years after leaving that office or position, shall not, for compensation, act as an agent or attorney for, or otherwise represent, any other person, except the state, by making a formal or informal appearance before, or an oral or written communication to, the Public Employees' Retirement System, or an officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing an action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

(b) A member of the Teachers' Retirement Board, an individual in a position designated in subdivision (a) or (d) of Section 22212.5 of the Education Code, or an information technology manager with a career executive assignment designation with the State Teachers' Retirement System, for a period of four years after leaving that office or position, shall not, for compensation, act as an agent or attorney for, or otherwise represent, any other person, except the state, by making a formal or informal appearance before, or an oral or written communication to, the State Teachers' Retirement System, or an officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing an action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

*(Added by Stats. 2011, Ch. 551, Sec. 1. (AB 873) Effective January 1, 2012.)*

**87409.** (a) A member of the Board of Administration of the Public Employees' Retirement System, an individual in a position designated in subdivision (a) or (e) of Section 20098, or an information technology or health benefits manager with a career executive assignment designation with the Public Employees' Retirement System, for a period of two years after leaving that office or position, shall not, for compensation, aid, advise, consult with, or assist a business entity in obtaining the award of, or in negotiating, a contract or contract amendment with the Public Employees' Retirement System.

(b) A member of the Teachers' Retirement Board, an individual in a position designated in subdivision (a) or (d) of Section 22212.5 of the Education Code, or an information technology manager with a career executive assignment designation with the State Teachers' Retirement System, for a period of two years after leaving that office or position, shall not, for compensation, aid, advise, consult with, or assist a business entity in obtaining the award of, or in negotiating, a contract or contract amendment with the State Teachers' Retirement System.

(c) For purposes of this section, "business entity" has the same meaning as set forth in Section 82005, and includes a parent or subsidiary of a business entity.

*(Added by Stats. 2011, Ch. 551, Sec. 2. (AB 873) Effective January 1, 2012.)*

**87410.** (a) A member of the Board of Administration of the Public Employees' Retirement System or an individual in a position designated in subdivision (a) or (e) of Section 20098, for a period of 10 years after leaving that office or position, shall not accept compensation for providing services as a placement agent in connection with investments or other business of the Public Employees' Retirement System or the State Teachers' Retirement System.

(b) A member of the Teachers' Retirement Board or an individual in a position designated in subdivision (a) or (d) of Section 22212.5 of the Education Code, for a period of 10 years after leaving that office or position, shall not accept compensation for providing services as a placement agent in connection with investments or other business of the State Teachers' Retirement System or the Public Employees' Retirement System.

*(Added by Stats. 2011, Ch. 551, Sec. 3. (AB 873) Effective January 1, 2012.)*