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AB-3123 Los Angeles County Metropolitan Transportation Authority: board code of conduct: lobbying rules. (2023-2024)

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Assembly Bill No. 3123

CHAPTER 755

An act to amend Sections 130051.18, 130600, 130605, 130610, 130615, 130620, 130625, 130635, 130640, 130655, 130660, 130675, 130680, 130685, 130705, 130710, 130715, 130720, 130725, and 130730 of, to add Section 130607 to, to repeal Sections 130665, 130690, and 130700 of, and to repeal and add Sections 130051.17, 130051.20, and 130670 of, the Public Utilities Code, relating to transportation.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3123, Jones-Sawyer. Los Angeles County Metropolitan Transportation Authority: board code of conduct: lobbying rules.

Existing law creates the Los Angeles County Metropolitan Transportation Authority (MTA), governed by a 14-member board, with specified powers and duties relative to transportation planning, programming, and operations in the County of Los Angeles. Existing law prescribes a code of conduct for the board of MTA, which includes, among other things, rules pertaining to gifts and financial conflicts of interest. As part of the provisions establishing this code of conduct, existing law requires the board of MTA to appoint an ethics officer who reports to the board. Existing law also requires MTA to appoint an inspector general and requires the code of conduct to be enforced by the inspector general.

This bill would revise and recast the code of conduct by, among other things, specifying that board members are subject to all ethics laws applicable to other public officials and by eliminating specific rules from the code of conduct including, among others, certain rules pertaining to gifts and financial conflicts of interest. The bill would also provide that the code of conduct is in addition to any rules or codes adopted by the board.

The bill would require the ethics officer, in addition to reporting to the board, to operate in an independent manner, and would prohibit the ethics officer from being removed from office except under certain circumstances. The bill would require the ethics officer to provide advice to the board and MTA relating to codes of conduct, lobbying, governmental ethics, campaign finance, fair procurement practices, and conflicts of interest. The bill would also authorize the ethics officer to make recommendations regarding a potential violation to the inspector general. By imposing additional duties on the ethics officer, the bill would create a state-mandated local program.

Existing law requires MTA to adopt and implement an ordinance for the regulation of lobbying. Existing law requires this ordinance to require lobbyists, lobbying firms, and lobbyist employers to submit an annual registration statement containing specified information and to submit quarterly reports containing specified information about their lobbying activities. Existing law also requires the ordinance to include specified prohibitions. Under existing law, a violation of these provisions is a misdemeanor and subject to a specified civil penalty, as specified.

This bill would revise and recast these provisions by, among other things, authorizing the ethics officer to issue guidance and advice to implement these statutory requirements and by revising the required contents of the annual registration statements and quarterly reports. The bill would authorize the ethics officer to prescribe additional information to be included in the registration statements and quarterly reports, to conduct audits of those statements or reports, and to impose a late fee in a certain amount for a late filing of one of those statements or reports.

The bill would subject lobbyist employers to various prohibitions applicable to lobbyists and lobbying firms.

By expanding the scope of a crime, the bill would impose a state-mandated local program.

Existing law requires the authority to adopt an ordinance regulating the making of gifts to board members and employees of MTA.

This bill would repeal this provision and would instead require any gifts to board members and employees of MTA to be governed by applicable state law and MTA's administrative code.

Existing law prohibits any construction company, engineering firm, consultant, legal firm, or any company, vendor, or business entity seeking a contract with MTA from giving to a board member or employee of MTA, or to any member of their immediate families, a contribution of over \$10 in value or amount, and imposes other related prohibitions with regard to contributions involving those entities.

This bill would repeal those prohibitions.

Existing law prohibits a board member or employee of MTA who has participated as a decisionmaker in the preparation, evaluation, award, or implementation of a contract and who leaves the authority from accepting, within 3 years of leaving the authority, employment with any company, vendor, or business entity that was awarded a contract as a result of their participation, evaluation, award, or implementation of that contract.

This bill would repeal that provision and would instead prohibit a former board member or employee of MTA from accepting compensation from an MTA contractor as an employee, officer, director, or consultant of the contractor within 12 months after the former board member or employee served in certain capacities relating to an award of a contract to that contractor, as provided. The bill would authorize the inspector general to enforce this prohibition.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 130051.17 of the Public Utilities Code is repealed.

SEC. 2. Section 130051.17 is added to the Public Utilities Code, to read:

130051.17. Any gifts received by members of the board or employees of the Los Angeles County Metropolitan Transportation Authority shall be governed by applicable state law and the authority's administrative code.

SEC. 3. Section 130051.18 of the Public Utilities Code is amended to read:

130051.18. (a) This section, in addition to rules or codes adopted by the board of the Los Angeles County Metropolitan Transportation Authority, shall regulate lobbying of the authority.

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

(1) "Activity expense" means any payment, including any gift, made to, or directly benefiting, any authority official or member of their immediate family, made by a lobbyist, lobbying firm, or lobbyist employer.

(2) "Administrative testimony" means influencing or attempting to influence authority action undertaken by any person or entity who does not seek to enter into a contract or other arrangement with the authority by acting as counsel in, appearing as a

witness in, or providing written submissions, including answers to inquiries, which become a part of the record of, any proceeding of the authority that is conducted as an open public hearing for which public notice is given.

(3) "Authority" means the Los Angeles County Metropolitan Transportation Authority and all of its organizational units.

(4) "Authority action" means the drafting, introduction, consideration, modification, enactment, or defeat of an ordinance, resolution, contract, or report by the governing board of an organizational unit of the authority, or by an authority official, including any action taken, or required to be taken, by a vote of the members of the authority or by the members of the governing board of an organizational unit of the authority, except those actions relating to Article 10 (commencing with Section 30750) of Chapter 5 of Part 3 of Division 10.

(5) "Authority official" means any member of the authority, member of an organizational unit of the authority, or employee of the authority.

(6) (A) "Contact" means any communication, oral or written, including communication made through an agent, associate, or employee, for the purpose of influencing authority action, except as provided in subparagraph (B).

(B) The following activities are not "contacts" for purposes of this section:

(i) Attending or participating in a prebid or preproposal conference.

(ii) Submitting a response to a solicitation issued by the authority or authority official.

(iii) Participating in an interview regarding a solicitation at the request of the authority or authority official.

(iv) Responding to a request for information from the authority or authority official regarding a solicitation or existing contract.

(v) A representative of a news media organization gathering news and information or disseminating the same to the public, even if the organization, in the ordinary course of business, publishes news items, editorials or other commentary, or paid advertisements, that urge action upon authority matters.

(vi) Providing oral or written testimony that becomes part of the record of a public hearing. A person providing testimony pursuant to this clause who has already qualified as a lobbyist under this section and is testifying on behalf of a client shall identify the client on whose behalf the lobbyist is testifying.

(vii) A communication from an elected public official acting in their official capacity.

(7) (A) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

(B) For purposes of this section, "contribution" also includes all of the following:

(i) An expenditure made at the behest of a candidate, committee, or elected officer is a contribution to the candidate, committee, or elected officer unless full and adequate consideration is received for making the expenditure.

(ii) The purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events.

(iii) The candidate's own money or property used on behalf of their candidacy.

(iv) The granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office.

(v) The payment of compensation by any person for the personal services or expenses of any other person if those services are rendered or expenses are incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(vi) Any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(C) For purposes of this section, "contribution" does not include any of the following:

(i) Amounts received pursuant to an enforceable promise to the extent that those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(ii) A payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

(iii) Volunteer personal services or payments made by any individual for the individual's own travel expenses if those payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to the individual.

(8) "Employee of the authority" has the same meaning as defined in the authority's administrative code.

(9) "Ethics officer" means the ethics officer appointed pursuant to Section 130610.

(10) "Filing officer" means the individual designated by the authority with whom statements and reports required by this section shall be filed.

(11) "Lobbying" means influencing or attempting to influence authority action through direct or indirect contact, other than administrative testimony, with an authority official, as described in paragraph (14).

(12) "Lobbying activity" includes any of the following conduct when that conduct is related to a contact to influence any authority action:

(A) Engaging in, either personally or through an agent, written or oral communication with an authority official.

(B) Providing advice or recommending strategy to a person or other entity that may have business in front of the authority.

(C) Research, investigation, and information gathering.

(D) Seeking to influence the position of a third party on issues related to authority action by any means, including, but not limited to, engaging in community, public, or press relations activities.

(E) Attending or monitoring authority meetings or other events.

(13) (A) "Lobbying firm" means any business entity, including an individual lobbyist, that meets either of the following criteria:

(i) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing authority action on behalf of any other person, if any partner, owner, officer, or employee of the business entity is a lobbyist.

(ii) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any agency official for the purpose of influencing authority action on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing authority action.

(B) A business entity shall not be considered a lobbying firm by reason of engaging in activities described in subparagraph (B) of paragraph (6).

(14) "Lobbyist" means any individual who receives compensation, other than reimbursement for reasonable travel expenses, and who meets both of the following criteria in a consecutive three-month period:

(A) The individual has at least one contact with an authority official or employee in an attempt to influence authority action.

(B) The individual is compensated to engage in at least 15 hours of lobbying activity in connection with attempts to influence authority action.

(15) "Lobbyist employer" means any person, other than a lobbying firm, who does either of the following:

(A) Employs one or more lobbyists for the purpose of influencing authority action.

(B) Contracts for the services of a lobbying firm for economic consideration for the purpose of influencing authority action.

(c) (1) (A) Lobbyists, lobbying firms, and lobbyist employers shall register with the filing officer within 10 calendar days after qualifying as a lobbyist, lobbying firm, or lobbyist employer. No additional lobbying contacts shall occur before registration. Registration shall include the filing of a registration statement and the payment of any fee required pursuant to paragraph (2). Registration shall be renewed annually by the filing of a new registration statement and the payment of a fee, if applicable, on or before January 31 of the year of renewal.

(B) After registration, each lobbyist, lobbying firm, or lobbyist employer shall retain that status through December 31 of that year unless that status is terminated as set forth in paragraph (6).

(2) Each lobbyist, lobbying firm, and lobbyist employer required to register under this section may be charged a fee by the authority in an amount determined by the ethics officer.

(3) The lobbyist registration statement shall include all of the following:

(A) The name, address, telephone number, and email address of the lobbyist.

(B) For each person or entity from whom the lobbyist receives compensation to provide lobbying services, all of the following:

(i) The full name, business address, and telephone number of the person or entity.

(ii) The lobbying interests of the lobbyist, including identification of specific contracts or authority actions. A description of the types of contracts or authority action is permissible only if a specific contract or authority action cannot be identified.

(C) A statement signed by the lobbyist certifying that the lobbyist has read and understands the prohibitions contained in subdivisions (g) and (h).

(D) Any other information required by the ethics officer consistent with the purposes and provisions of this section.

(4) The registration statement of a lobbying firm shall include all of the following:

(A) The full name, business address, telephone number, and email address of the lobbying firm.

(B) The full name of each lobbyist who is a partner, owner, officer, or employee of the lobbying firm.

(C) For each person or entity from which the firm received or became entitled to receive compensation for engaging in lobbying activities and with whom the lobbying firm contracts to provide lobbying services, all of the following:

(i) The full name, business address, telephone number, and email address of the person or entity.

(ii) The time period of the contract during which the lobbying activities for which the firm received or became entitled to receive compensation will occur.

(iii) The lobbying interests of the lobbying firm, including identification of specific contracts or authority actions. A description of the types of contracts or authority action is permissible only if a specific contract or authority action cannot be identified.

(D) A statement signed by the designated responsible person that the person has read and understands the prohibitions contained in subdivisions (g) and (h).

(E) Any other information required by the ethics officer consistent with the purposes and provisions of this section.

(5) The registration statement of a lobbyist employer shall include all of the following:

(A) The full name, business address, telephone number, and email address of the lobbyist employer.

(B) A list of the lobbyists who are employed by the lobbyist employer.

(C) The lobbying interests of the lobbyist employer, including identification of specific contracts or authority actions. A description of the types of contracts or authority action is permissible only if a specific contract or authority action cannot be identified.

(D) A statement signed by the designated responsible person that the person has read and understands the prohibitions contained in subdivisions (g) and (h).

(E) Any other information required by the ethics officer consistent with the purposes and provisions of this section.

(6) (A) Lobbyists, lobbyist employers, and lobbying firms shall file amendments to their registration statements within 10 days of any change in information required to be included in the registration statement.

(B) (i) Lobbying firms and lobbyist employers upon ceasing all lobbying activity that required registration shall file a notice of termination within 30 days after the cessation.

(ii) Failure to complete annual renewal by March 1 shall constitute a termination of a lobbyist, lobbyist employer, or lobbying firm's registration.

(iii) The ethics officer may establish additional processes for terminating the registration of a lobbyist, lobbyist employer, or lobbying firm.

(d) Lobbyists, lobbying firms, and lobbyist employers that receive payments, make payments, or incur expenses, or expect to receive payments, make payments, or incur expenses, in connection with activities that are reportable pursuant to this section shall keep detailed accounts, records, bills, and receipts for four years, and shall make them reasonably available for inspection for the purposes of auditing for compliance with, or enforcement of, this section.

(e) When a person is required to report activity expenses pursuant to this section, all of the following information shall be provided:

(1) The date and amount of each activity expense.

(2) The full name and official position, if any, of the beneficiary of each expense, a description of the benefit, and the amount of the benefit.

(3) The full name of the payee of each expense if other than the beneficiary.

(f) (1) A lobbying firm shall file a periodic report containing all of the following:

(A) The full name, address, telephone number, and email address of the lobbying firm.

(B) The full name, business address, and telephone number of each person or entity from which the firm received or became entitled to receive compensation for engaging in lobbying activities and who contracted with the lobbying firm for lobbying services.

(C) A description of each contract or authority action that the lobbying firm attempted to influence during the reporting period, including identification of specific contracts or authority actions. A description of the types of contracts or authority action is permissible only if a specific contract or authority action cannot be identified.

(D) The total payments, including fees and the reimbursement of expenses, received or expected from the person or entity for lobbying services during the reporting period.

(E) A copy of the periodic report completed and verified by each lobbyist in the lobbying firm pursuant to paragraph (2).

(F) Each activity expense incurred by the lobbying firm, including those reimbursed by a person who contracts with the lobbying firm for lobbying services.

(G) The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an authority official.

(H) Any other information required by the ethics officer consistent with the purposes and provisions of this section.

(2) A lobbyist shall complete and verify a periodic report, and file the report with the filing officer, and a copy of the report with their lobbying firm or lobbyist employer. The periodic report shall contain all of the following:

(A) The name, address, telephone number, and email address of the lobbyist.

(B) The full name, business address, and telephone number of the lobbying firm or lobbyist employer from whom the lobbyist receives compensation to provide lobbying services.

(C) A description of each contract or authority action that the lobbyist attempted to influence during the reporting period, including identification of specific contracts or authority actions. A description of the types of contracts or authority action is permissible only if a specific contract or authority cannot be identified.

(D) A report of all activity expenses by the lobbyist during the reporting period.

(E) A report of all contributions of one hundred dollars (\$100) or more made or delivered by the lobbyist to any authority official during the reporting period.

(F) Any other information required by the ethics officer consistent with the purposes and provisions of this section.

(3) A lobbyist employer shall file a periodic report containing all of the following:

(A) The name, business address, telephone number, and email address of the lobbyist employer.

(B) The total amount of payments to each lobbying firm. Those payments shall include solely payments for compensation and reimbursement of expenses relating to the lobbying firm's attempts to influence authority action.

(C) The total amount of all payments to lobbyists employed by the filer. The lobbyist employer shall only be required to disclose whether the total salary payments made to the individual during the reporting period was less than or equal to two hundred fifty dollars (\$250), greater than two hundred fifty dollars (\$250) but less than or equal to one thousand dollars (\$1,000), greater than one thousand dollars (\$1,000) but less than or equal to ten thousand dollars (\$10,000), or greater than ten thousand dollars (\$10,000).

(D) A description of each contract or authority action that the filer attempted to influence during the reporting period, including identification of specific contracts or authority actions. A description of the types of contracts or authority action is permissible only if a specific contract or authority action cannot be identified.

(E) Each activity expense of the filer and a total of all activity expenses of the filer.

(F) The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an authority official.

(G) The total of all other payments to influence authority action.

(H) Any other information required by the ethics officer consistent with the purposes and provisions of this section.

(4) The periodic reports shall be filed by the last day of the month following the end of each calendar quarter. The period covered shall be from the beginning of the calendar year through the last day of the calendar quarter before the period during which the report is filed, except that the period covered by the first report a person is required to file shall begin with the first day of the calendar quarter in which the filer first registered or qualified.

(g) (1) It is unlawful for a lobbyist, a lobbying firm, or a lobbyist employer to make a gift to an authority official aggregating more than ten dollars (\$10) in a calendar month, to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.

(2) It is unlawful for any authority official knowingly to receive any gift that is made unlawful by this section. For the purposes of this subdivision, "gift" has the same meaning as defined in Section 82028 of the Government Code.

(h) A lobbyist, lobbying firm, or lobbyist employer shall not do any of the following:

(1) Do anything with the purpose of placing an authority official under personal obligation to the lobbyist, the lobbying firm, or the employer of the lobbyist or lobbying firm.

(2) Deceive or attempt to deceive any authority official with regard to any material fact pertinent to any authority action.

(3) Cause or influence any authority action for the purpose of thereafter being employed to secure its passage or defeat.

(4) Attempt to create a fictitious appearance of public favor or disfavor of any authority action, or cause any communications to be sent to any authority official in the name of any fictitious person or in the name of any real person, except with the consent of that real person.

(5) Represent falsely, either directly or indirectly, that the lobbyist, lobbying firm, or lobbyist employer can control any authority official.

(6) Accept or agree to accept any payment that is contingent upon the outcome of any authority action.

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

(j) (1) The ethics officer may conduct audits of reports and statements filed pursuant to this section. Those audits may be conducted on a random basis or when the ethics officer has reason to believe that a filer has not complied with this section.

(2) In addition to any other penalty or remedy available, the ethics officer may impose a late fee on any person or entity that does not file a report or statement required by this section before a deadline imposed by this section. The late fee shall be in the amount of ten dollars (\$10) per day until the statement or report is filed, up to a maximum amount of three hundred dollars (\$300). The ethics officer may choose not to impose the late fee if the ethics officer determines that the late filing was not willful and that enforcement of the late fee would not further the purposes of this section.

(k) The ethics officer may issue guidance and advice as necessary to implement this section.

(l) The District Attorney of the County of Los Angeles is responsible for prosecuting violations of this section.

(m) Any person who violates any provision of this section is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction of the authority for an amount up to five hundred dollars (\$500), or three times the amount of an unlawful gift or expenditure, whichever amount is greater.

(n) The authority shall reject any bid or other proposal to enter into a contract with the authority by any person or entity that has not complied with the registration and reporting requirements of this section.

(o) This section does not apply to any of the following:

(1) An elected public official who is acting in their official capacity to influence authority action.

(2) Any newspaper or other periodical of general circulation, book publisher, radio or television station that, in the ordinary course of business, publishes or broadcasts news items, editorials, or other documents, or paid advertisement, that directly or indirectly urges authority action, if the newspaper, periodical, book publisher, radio or television station engages in no further or other activities in connection with urging authority action other than to appear before the authority in support of, or in opposition to, the authority action.

(p) A former authority official shall not become a lobbyist for a period of one year after leaving the authority.

SEC. 4. Section 130051.20 of the Public Utilities Code is repealed.

SEC. 5. Section 130051.20 is added to the Public Utilities Code, to read:

130051.20. (a) A former board member or employee of MTA shall not accept compensation from an MTA contractor as an employee, officer, director, or consultant of the contractor within 12 months after the former board member or employee served in any of the following capacities:

(1) As a member of the procurement evaluation team for a contract that was awarded to that contractor.

(2) As the procuring contract officer for a contract that was awarded to that contractor.

(3) As the project manager or deputy project manager for a contract that was awarded to that contractor.

(4) As an agency executive with oversight responsibilities for a contract awarded to that contractor if the executive participated in the contract development, proposal review, or approval, or provided agency signatory authority related to the contract or project.

(5) As a substantial participant in an MTA decision to do any of the following:

(A) Award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order to that contractor.

(B) Develop a contract awarded to that contractor, including developing the scope of work.

(C) Approve issuance of one or more contract payments to that contractor.

(D) Pay or settle a claim with that contractor.

(b) For purposes of paragraph (1) of subdivision (a), a former board member's or former employee's service ends at the completion of the evaluation period, or the former board member's or former employee's last day of service with MTA, whichever occurs first.

(c) For purposes of paragraphs (2) to (5), inclusive, of subdivision (a), a former board member's or former employee's service ends at the completion of the contract term, or the former board member's or former employee's last day of service with MTA, whichever occurs first.

(d) The inspector general appointed pursuant to Section 130051.28 may enforce this section.

SEC. 6. Section 130600 of the Public Utilities Code is amended to read:

130600. For purposes of this chapter, the following definitions apply:

(a) "Board" means the board of directors of the Los Angeles County Metropolitan Transportation Authority.

(b) "Board staff" or "staff" has the same meaning as the term "board staff," as defined in MTA's administrative code.

(c) "Gift" has the same meaning as defined in Section 82028 of the Government Code.

(d) "Lobbyist," "lobbyist employer," and "lobbying firm," have the same meanings as defined in Section 130051.18.

(e) "MTA" means the Los Angeles County Metropolitan Transportation Authority.

(f) "MTA contractor" has the same meaning as defined in MTA's administrative code.

(g) "MTA employee" has the same meaning as defined in MTA's administrative code.

(h) "MTA proposer" has the same meaning as defined in MTA's administrative code.

SEC. 7. Section 130605 of the Public Utilities Code is amended to read:

130605. Any reference in this chapter to "chief executive officer," "general counsel," "counsel," "inspector general," "ethics officer," "board secretary," or "secretary" is to the officers of the Los Angeles County Metropolitan Transportation Authority appointed under Sections 130051.9, 130051.28, and 130610.

SEC. 8. Section 130607 is added to the Public Utilities Code, to read:

130607. (a) This chapter, in addition to rules or codes adopted by the board, shall be the code of conduct for the board of the Los Angeles County Metropolitan Transportation Authority.

(b) In addition to any other ethics laws applicable to other public officials, members of the board are also subject to the rules and codes described in subdivision (a).

SEC. 9. Section 130610 of the Public Utilities Code is amended to read:

130610. (a) The board shall appoint an ethics officer, who shall report to the board and operate in an independent manner.

(b) When in doubt as to the applicability of any provision of this chapter to any particular situation, a board member shall contact the general counsel or the ethics officer for advice.

(c) (1) The ethics officer shall interpret relevant authorities and provide advice to the board and MTA relating to codes of conduct, lobbying, governmental ethics, campaign finance, fair procurement practices, and conflicts of interest.

(2) Any advice provided by the ethics officer shall be confidential and entitled to all applicable privileges.

(d) The ethics officer shall propose amendments to codes of conduct that apply to the board, MTA employees, and MTA contractors, when appropriate. The proposed amendments are subject to approval by the board.

(e) (1) The inspector general shall receive any allegation of a violation of this chapter, or other ethics-related rules or laws that apply to the board and MTA.

(2) The inspector general may confer with the ethics officer on any potential violations described in paragraph (1) that may be a violation of this chapter, or other ethics-related rules or laws that apply to the board and MTA.

(3) The ethics officer may make recommendations regarding a potential violation described in paragraph (1) for consideration by the inspector general.

(f) The ethics officer shall be removed from office only if either or both of the following occur:

(1) A two-thirds majority of the members of the board votes for removal.

(2) The ethics officer violates a federal or state law or regulation, a local ordinance, or a policy or practice of the authority, relative to ethical practices, including, but not limited to, the acceptance of gifts or contributions.

SEC. 10. Section 130615 of the Public Utilities Code is amended to read:

130615. (a) This chapter shall be enforced by the inspector general.

(b) Any violation of this chapter that is also a violation of other state law or of local or federal law may also be prosecuted by the appropriate authority.

(c) Upon notice of a possible violation of this chapter, the board shall refer the matter to the inspector general for investigation. Upon completion of the investigation, if the matter has been determined not to be criminal in nature and to be of such a nature that it may be disclosed, the inspector general shall report the findings to the board. If the matter is determined to be criminal in nature, the inspector general shall refer the matter to the appropriate enforcement authorities for prosecution.

(d) A board member or their staff shall not use or threaten to use any official action or authority against, or attempt to interfere with, any person acting in good faith to report or otherwise provide information to MTA regarding any activity that may be a violation of this chapter.

SEC. 11. Section 130620 of the Public Utilities Code is amended to read:

130620. (a) Sanctions for violations of this chapter shall be determined by the board. The sanctions imposed shall depend upon the severity of the infraction and may be progressive unless the violation is determined to be so egregious as to warrant more severe action initially.

(b) The board may consult with the inspector general or the ethics officer for an opinion regarding the sanctions appropriate to any particular violation, provided that a release of confidential information is not required.

(c) Sanctions imposed under this section may include, but are not limited to, any of the following:

- (1) Private reprimand by the board.
- (2) Public censure by the board at a regularly scheduled meeting.
- (3) Disqualification from participating in any discussion or vote on any matter related to the violation.
- (4) Removal of the board member from one or more committees for a period of time.
- (5) Permanent removal of the board member from one or more committees.
- (6) Suspension from all board actions for a period of time.
- (7) A monetary fine in an amount determined by the board.

(d) If a board member is criminally indicted, the board member shall be suspended from all board actions for the duration of the criminal proceeding. If the board member is acquitted of the charges, the board member shall return to the board as a full, participating member.

(e) For violations of this chapter that result in findings of criminal or civil liability, the board may recommend additional sanctions to the inspector general after the civil or criminal proceedings are completed.

SEC. 12. Section 130625 of the Public Utilities Code is amended to read:

130625. (a) Confidential information, particularly investigative reports for the inspector general and procurement information, shall not be disclosed beyond the authorized recipient of the report or information.

(b) For purposes of this section, "confidential information" means information that is not subject to disclosure under applicable state law or MTA's administrative code, or that is otherwise identified as confidential by MTA.

SEC. 13. Section 130635 of the Public Utilities Code is amended to read:

130635. The rules of conduct at board meetings shall be governed by the board's adopted rules and procedures. Board members shall treat MTA employees and colleagues on the board with respect and courtesy.

SEC. 14. Section 130640 of the Public Utilities Code is amended to read:

130640. (a) Board members shall not engage in personal attacks on MTA employees or attempt to discipline any employee.

(b) Any concerns regarding an employee's performance shall be communicated to the chief executive officer.

(c) Any concerns regarding the performance of an officer of the board shall be communicated to that officer.

(d) This section does not limit the right of the board to evaluate board officers.

SEC. 15. Section 130655 of the Public Utilities Code is amended to read:

130655. (a) All board members shall be afforded an adequate opportunity to review written motions having financial or policy implications before the board meeting.

(b) A written motion having financial or policy implications shall be referred to the appropriate committee for recommendation to the full board, unless the motion is distributed to all board members not later than 48 hours before the board meeting or this requirement is waived by the vote of nine board members.

SEC. 16. Section 130660 of the Public Utilities Code is amended to read:

130660. (a) Board members or their staff are prohibited from soliciting or accepting any gift from a person or entity, including the person's or entity's lobbyists, that has submitted a proposal or bid for an MTA contract award during the period beginning on the date that the proposal or bid is submitted and ending 12 months after the final decision on the contract award.

(b) Board members and their staff shall exercise caution in accepting any gift from a person or entity that is considering submitting a proposal or bid for an MTA contract award.

(c) Board members shall not accept gifts aggregating more than ten dollars (\$10) in a calendar month from a current MTA contractor, registered lobbyist, lobbying firm, or lobbyist employer.

SEC. 17. Section 130665 of the Public Utilities Code is repealed.

SEC. 18. Section 130670 of the Public Utilities Code is repealed.

SEC. 19. Section 130670 is added to the Public Utilities Code, to read:

130670. The payment for, and reimbursement of, board travel shall be governed by applicable state law and MTA's administrative code.

SEC. 20. Section 130675 of the Public Utilities Code is amended to read:

130675. (a) Board members shall not direct or request that any MTA employee, contractor, or proposer make a charitable contribution.

(b) (1) This section does not prohibit a board member from making a solicitation or request for a charitable contribution if a payment that is made in response to the solicitation or request by the board member would not be considered a behested payment, pursuant to subdivision (c) of Section 82004.5 of the Government Code and related regulations adopted by the Fair Political Practices Commission, if the payment was made at the behest of an elected officer.

(2) This section does not prohibit a board member from making a solicitation or request for a charitable contribution, including a solicitation or request by the board member that results in a reportable behested payment, if the solicitation or request is made to a person other than one identified in subdivision (a).

SEC. 21. Section 130680 of the Public Utilities Code is amended to read:

130680. (a) The chief executive officer shall be responsible for ensuring the MTA has an independent professional procurement staff. The chief executive officer and designated procurement staff shall be responsible for conducting an independent, autonomous procurement process in accordance with state and federal law.

(b) Board members shall use objective judgment in voting on a procurement award and base their decision on the criteria established in the procurement documents.

(c) Board members or their staff shall not attempt to influence contract awards.

(d) During any procurement process, board members or their staff shall not communicate with MTA staff regarding the procurement unless authorized by this chapter, MTA's administrative code, or MTA procurement policies.

(e) Before the staff recommendation for an award is made public, board members or their staff may communicate with the chief executive officer or the designee of the chief executive officer regarding the procurement, subject to limitations in this chapter, MTA's administrative code, and MTA procurement policies. Board members and their staff may also communicate with the ethics officer for advice on compliance with this section.

(f) Board members or their staff shall not attempt to obtain or release information about the recommendation of the award of a contract until the recommendation is made public.

SEC. 22. Section 130685 of the Public Utilities Code is amended to read:

130685. (a) Commencing with the issuance of a request for proposal (RFP), request for interest in qualification (RFIQ), or invitation for bid (IFB), and ending on the date of the publicly released, recommended selection of the contractor, a person or entity submitting a proposal in response to the RFP, RFIQ, or IFB, or any officer, employee, representative, agent, or consultant representing the proposer or bidder, shall not contact by any means or engage in any discussion concerning the award of the contract with any board member or their staff. Any contact shall be grounds for the disqualification of the proposer or bidder.

(b) A board member who receives any communication from a proposer or bidder in violation of this chapter shall report that communication to the inspector general.

(c) During the period identified in this section, board members shall not communicate with a proposer or bidder or with any officer, employee, representative, or agent of the proposer or bidder regarding a contract award, protest, or any lawsuit or potential lawsuit regarding the contract award.

SEC. 23. Section 130690 of the Public Utilities Code is repealed.

SEC. 24. Section 130700 of the Public Utilities Code is repealed.

SEC. 25. Section 130705 of the Public Utilities Code is amended to read:

130705. (a) Board members or their staff shall not engage in any employment, activity, or enterprise that is inconsistent, incompatible, or in conflict with the duties of an MTA officer.

(b) Board members or their staff shall not use the MTA's facilities, equipment, supplies, badge, prestige, or influence for personal gain.

(c) Board members and their staff shall refrain from conduct that is likely to create in the minds of reasonable observers the perception that the board member or staff member used their public position improperly.

(d) Board members or their staff shall not make, participate in, or attempt to influence any decision if they are incapable of providing fair treatment to a matter before the board due to bias, prejudice, or because they have prejudged a matter.

SEC. 26. Section 130710 of the Public Utilities Code is amended to read:

130710. The MTA shall not contract with any of the following:

(a) Board members or their staff.

(b) Any profit-making firm or business in which a board member or member of their staff is an officer, principal, partner, or shareholder who owns more than 10 percent of the firm or business.

SEC. 27. Section 130715 of the Public Utilities Code is amended to read:

130715. (a) Former board members or their staff shall not participate in any contract with MTA for a period of 12 months after leaving the board.

(b) For a period of 12 months after the board member has left the board, MTA shall not contract with any profit-making firm or business in which the former board member or member of their staff is an officer, principal, partner, or shareholder who owns more than 10 percent of the firm or business.

SEC. 28. Section 130720 of the Public Utilities Code is amended to read:

130720. (a) Board members shall file Statements of Economic Interest with the ethics officer pursuant to state law, within 30 days of assuming office, annually, and within 30 days of leaving office.

(b) Any amendments to the Statement of Economic Interest shall be filed within 30 days of the occurrence of the change.

SEC. 29. Section 130725 of the Public Utilities Code is amended to read:

130725. Any person who receives compensation to regularly provide advice, recommendations, or counsel to board members regarding MTA activities shall file a Statement of Economic Interest with the MTA within 30 days of the commencement of the consultant relationship. This requirement does not apply to a full-time employee of a governmental entity who is already required to file Statements of Economic Interests with their employing agency.

SEC. 30. Section 130730 of the Public Utilities Code is amended to read:

130730. (a) Any person who provides advice, recommendations, or counsel to board members regarding MTA activities and also advises another public or private entity that has a financial interest in an item before the board shall be prohibited from giving advice to board members and MTA staff regarding that item.

(b) This section shall not prohibit an employee of a public agency from providing advice or recommendations to a board member if the item affects their agency generally and does not involve any direct benefit to the public employee.

SEC. 31. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.