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Public Law Update - SB 1243 and SB 1181 Create New Rules Regarding Campaign Contributions

On September 27, 2024, and September 30, 2024, the Governor approved Senate Bills 1181 and 1243, respectively, which alter provisions of the Political Reform Act of 1974 regarding the ability of public entity officers to participate in certain decisions or proceedings when the officer has received a campaign contribution from a party or participant in the decision or proceeding.

Currently, the Political Reform Act prohibits certain contributions of more than \$250 to an officer by any party, participant (or an agent for the party or participant) when a proceeding involving a license, permit, or other entitlement is pending and for 12 months following the date of a final decision. Under the Act, a “participant” is any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision. The Act requires disclosure on the record and disqualifies an officer from participating in a decision if the officer has willfully or knowingly received a contribution of more than \$250. The Act also allows an officer to cure certain violations of these provisions by returning a contribution, or the portion of the contribution of in excess of \$250, within 14 days of accepting, soliciting, or receiving the contribution, whichever comes latest.

The new legislation, which takes effect on January 1, 2025, raises the threshold for contributions regulated by these provisions from \$250 to \$500. However, under the new legislation, an agent to a party or participant shall not make a contribution in any amount to an officer while the proceeding is pending or in the 12 months following the final decision. Under the legislation, a proceeding is pending if it has been placed on a public meeting agenda, or if the officer knows the proceeding is within the agency’s jurisdiction and is reasonably foreseeable that the decision will come before the officer in the officer’s decision making capacity. The bills also extend the period during which an officer may cure a violation from 14 days to within 30 days of accepting, soliciting, or directing the contribution, whichever is latest.

Further, the bills clarify that a person is not a “participant” for the purposes of these provisions if their financial interest in a decision

results solely from an increase or decrease in membership dues. Unfortunately, SB 1243 does not provide any clarification or examples of when a financial interest in a decision would result solely from an increase or decrease in “membership dues.” The bills also exempt from these provisions contracts valued under \$50,000, contracts between two or more government agencies, contracts where no party receives financial compensation, and the periodic review or renewal of development agreements.

Lastly, the bills exempt a city attorney or county counsel providing legal advice to the agency who does not have the authority to make a final decision in the proceeding from the definition of “officer” for purposes of these provisions.

To ensure compliance with these new provisions, it is imperative that public entity officers always be aware of who they receive contributions from and whether that person or entity has any business before the agency.