

1-1-1987

Public Entities, Officers, and Employees

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Recommended Citation

University of the Pacific; McGeorge School of Law, *Public Entities, Officers, and Employees*, 18 PAC. L. J. 725 (1987).

Available at: <https://scholarlycommons.pacific.edu/mlr/vol18/iss2/28>

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Public Entities, Officers, and Employees

Public Entities, Officers, and Employees; California State Lottery Act of 1984

Government Code § 8880.57 (repealed and new); §§ 8880.5, 8880.6, 8880.13, 8880.18, 8880.19, 8880.29, 8880.32, 8880.34, 8880.35, 8880.38, 8880.43, 8880.46, 8880.48, 8880.50, 8880.52, 8880.54, 8880.56, 8880.59, 8880.60, 8880.61, 8880.65, 8880.70 (amended); Penal Code § 11105.01 (new); §§ 470, 475 (amended).

SB 34 (Dills); 1986 STAT. Ch. 55

(Effective April 16, 1986)

Support: California State Lottery Commission; Department of Finance; Webcraft Gaines, Inc.

SB 2285 (Campbell); 1986 STAT. Ch. 848

Sponsor: California State Lottery Commission

(Effective September 17, 1986)

Existing law provides that the Director of the California State Lottery (Director) is to supervise and administer the operations of the lottery.¹ In addition, existing law authorizes the Director, pursuant to the rules and regulations of the California State Lottery Commission (Commission) to select² lottery game retailers.³ Chapter 55 authorizes the Director and the Deputy Director for Security to have access to criminal history information in performing these functions.⁴ In evaluating persons applying for authority to act as a lottery game

1. CAL. GOV'T CODE § 8880.35.

2. In this selection process, the Director must consider the following factors: Financial responsibility, integrity, reputation, accessibility of the place of business to the public, projected volume of sales, security of the premises, and the sufficiency of existing lottery game retailers to serve the public convenience. *Id.* § 8880.48.

3. *Id.* See *id.* § 8880.13 (lottery game retailer is a person the Commission contracts with for the purpose of selling tickets to the public). A retailer cannot be engaged exclusively in the selling of lottery tickets. *Id.* § 8880.48.

4. *Id.* §§ 8880.35, 8880.38. See CAL. PENAL CODE § 11105 (state summary criminal history is a master record of information compiled by the Attorney General, pertaining to the identification and criminal history of a person). See *id.* § 11105.1 (list of persons authorized to receive state summary criminal histories).

retailer, Chapter 55 authorizes the Commission to require potential retailers to submit any information the Commission deems necessary.⁵ Furthermore, Chapter 55 requires the Commission to establish a formal written appeal process for revocations and denials of a grant of authority for lottery game retailers.⁶

Existing law allows the Commission to terminate contracts with lottery game retailers for selling tickets to persons under the age of eighteen.⁷ Existing law also prohibits the payment of a prize to any person under 18 years of age.⁸ Chapter 55 requires the termination of a contract when the lottery game retailer employs or uses the services of an unsupervised person under the age of eighteen for the sale of lottery tickets.⁹ In addition, Chapter 55 declares that a minor who purchases a lottery ticket, as well as the person who sold the minor the ticket, is guilty of a misdemeanor.¹⁰ Chapter 848 further provides that a person who knowingly claims or attempts to claim a prize with a ticket purchased by a minor is guilty of a misdemeanor.¹¹

Existing law prohibits the purchase of any lottery ticket by, or payment of a prize to, Commission members, officers, employees, or their specified relatives.¹² Chapter 848 provides that a person who violates this provision by selling or purchasing a ticket, or knowingly claiming or attempting to claim a prize with a ticket, purchased under this provision, is guilty of a misdemeanor.¹³ In addition, Chapter 55 adds to the definition of forgery the counterfeiting of a lottery ticket or share purporting to be issued under the lottery act.¹⁴ Chapter 55 prohibits the possession or receipt of a forged lottery ticket if the receiver has knowledge of the forgery.¹⁵

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5. CAL. GOV'T CODE § 8880.48(b). The submission of this information is used to evaluate the competency, integrity, and character of potential retailers. *Id.*

6. *Id.* § 8880.48(c).

7. *Id.* § 8880.50(a).

8. *Id.* § 8880.32(i).

9. *Id.* § 8880.50(b). Supervision must be by someone 21 years of age or older. *Id.*

10. *Id.* § 8880.52(a). Lottery game retailers must establish safeguards to ensure that tickets are not sold to minors. *Id.* In addition, lottery game retailers must post a notice declaring that state law prohibits the sale of lottery tickets to a minor. *Id.* § 8880.52(b).

11. *Id.* § 8880.32(i).

12. *Id.* § 8880.32(h). Specified relatives include a spouse, child, brother, sister, or parent. *Id.*

13. *Id.*

14. CAL. PENAL CODE § 470.

15. *Id.* § 475.

Public Entities, Officers, and Employees; conflicts of interest

Government Code § 87450 (new); § 91003.5 (amended).

SB 2136 (Boatwright); 1986 STAT. Ch. 653

Sponsor: Author

Existing law prohibits public officials from participating¹ in making or influencing governmental decisions² in which the official has a financial interest.³ Under Chapter 653,⁴ state administrative officers⁵ are specifically prohibited from making, participating in making, or using their official position to influence any governmental decision directly relating to a contract in which any party to the contract is a person with whom they, or any member of their immediate family, has engaged in certain business transactions.⁶ Additionally, Chapter 653 provides that any state administrative officer who violates the

1. CAL. GOV'T CODE § 87400(d) (definition of participation).

2. A legislator's financial investments do not give rise to a conflict of interest unless the legislator votes on a matter affecting those financial interests. *See* 1 Op. Fair Pol. Prac. Comm'n 39 (July 2, 1975). *See, e.g., id.* at 54 (chairing a city council meeting at which matters relating to a utility were considered constituted prohibited participation in a governmental decision, since the mayor had a financial interest in the utility). *See also* CAL. GOV'T CODE § 87101 (does not prevent public officials from making, or participating in making, a governmental decision to the extent their participation is legally required for the action or decision to be made).

3. CAL. GOV'T CODE § 87100. *Id.* § 87103 (definition of financial interest). The object of Government Code provisions forbidding state officers and employees from being financially interested in any contract made or influenced by them in their official capacity is to insure absolute loyalty, undivided allegiance to the best interest of the governmental entity they serve, and to discourage deliberate dishonesty. *Fraser-Yamor Agency v. Del Norte*, 68 Cal. App. 3d 201, 210, 137 Cal. Rptr. 118, 127 (1977). *Cf.* CAL. GOV'T CODE § 1090 (prohibits members of the legislature, public officers, and public employees from having a financial interest in any contract, sale, or purchase made in their official capacity). *See generally* 1 B. WITKIN, SUMMARY OF CALIFORNIA LAW, *Contracts* § 483(a) (8th ed. 1984) (discussion of what constitutes a financial interest).

4. Chapter 653 was enacted in response to an investigation and hearing by a California Senate Select Committee on government contract practices, probing into the financial dealings between a state officer and a private contractor involved with the state. *See Senate Select Committee Hearing on State Procurement and Expenditure Practices*, 1985-86 Leg., 2d Reg. Sess. (Feb. 11, 1986) (certified transcript on file at *Pacific Law Journal*). The Senate hearing investigated the financial dealings of a Deputy Director of the Department of Food and Agriculture and a private contractor with the Department, and found that the Deputy Director had signed payment authorizations for a legal services contract while he was also a partner with the contractor in a major private land deal. *Id.* The committee acknowledged that conflicts of interest are often more a matter of public perception than reality. *Id.* at 22. Chapter 653, however, was intended to avoid even the hint of conflicts of interest in state contract practices. *Id.*

5. CAL. GOV'T CODE § 87450(b) (definition of state administrative officer).

6. *Id.* § 87450(a). Chapter 653 includes any business transactions on terms not available to the public, regarding any investment in real property, or the rendering of goods and services totaling \$1,000 or more, within 1 year of the time the official action is to be performed. *Id.*

provisions of Chapter 653 is subject to discipline, including dismissal, by the officer's agency.⁷

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7. *Id.* § 91003.5 (the officer will be subject to discipline consistent with any applicable civil service or personnel laws, regulations, and procedures).

Public Entities, Officers, and Employees; enforcement of support judgments

Civil Procedure Code § 708.730 (amended).
AB 2996 (Klehs); 1986 STAT. Ch. 436
Sponsor: Riverside County District Attorney
Support: Department of Social Services

Under existing law, a judgment creditor may satisfy a money judgment out of money that a public entity¹ owes² the judgment debtor.³ If the money judgment is for support,⁴ the judgment creditor may claim moneys owed to a judgment debtor because of overpayment by a state agency⁵ of a tax, penalty, interest, or interest allowable with respect to an overpayment.⁶ Chapter 436 removes all

1. CAL. CIV. PROC. CODE § 708.710(b) (definition of public entity). *See* CAL. GOV'T CODE § 965.5 (length of time which judgment may be enforced against a public entity).

2. *McDaniel v. City & County of San Francisco*, 259 Cal. App. 2d 356, 361, 66 Cal. Rptr. 384, 387 (1968) (money is owing and unpaid when there is an existing and unsatisfied legal liability on the part of the public entity).

3. CAL. CIV. PROC. CODE § 708.730(a).

4. Related costs may be included in the support judgment. *Id.* § 708.730(c). *See* Uniform Civil Liability for Support Act, CAL. CIV. CODE §§ 241-254. *See also* CAL. CIV. PROC. CODE §§ 704.110 (retirement benefits as satisfaction of a judgment for child or spousal support); 704.120(d), (e) (unemployment insurance and compensation funds as satisfaction of a judgment for child or spousal support).

5. CAL. CIV. PROC. CODE § 708.710(d) (definition of state agency).

6. CAL. CIV. PROC. CODE § 708.730(c). The judgment creditor may file a certified copy of the money judgment and an affidavit which states the following: (1) the judgment creditor desires to enforce a support judgment against money owed the judgment debtor by a state agency, and (2) the exact amount required to satisfy the judgment. *Id.* § 708.730(a). Notice of the filing must promptly be served on the judgment debtor. *Id.* § 708.730(b). *See also id.* § 708.740 (duties of agency and controller when affidavit regarding judgment for support has been filed).

restrictions on moneys collectible for support judgments⁷ by allowing a judgment creditor to enforce a support judgment by filing an affidavit with a state agency owing *any* type of money to a judgment debtor.⁸

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7. *Id.* § 708.730(c).

8. *Id.*

Public Entities, Officers, and Employees; retirement benefits—revocation

Education Code §§ 23701.5, 23703, 23704, 23705, 23707 (repealed); §§ 22101, 22112, 22114, 22800, 23100, 23701, 23702, 23708, 23801, 24603, 24604 (amended).

SB 2179 (Royce); 1986 STAT. Ch. 717

Sponsor: State Teachers Retirement System

Under prior law, a beneficiary designation¹ under the State Teachers' Retirement Law² was revoked if the member³ or retirant⁴ obtained a divorce or annulment after the designation was made.⁵ Chapter 717 provides instead that the beneficiary designation, regardless of any change in the member's marital status, will be revoked only if the member subsequently changes the designation.⁶ Chapter 717 further provides that if a beneficiary is not designated as of the date of the member's death, the retirement benefits will be paid to the estate of the member.⁷

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1. CAL. EDUC. CODE § 22108 (definition of beneficiary).

2. *Id.* §§ 22000-24944.

3. *Id.* § 22133 (definition of member).

4. *Id.* § 22149 (definition of retirant).

5. 1978 Cal. Stat. ch. 502, sec. 7, at 1644 (amending CAL. EDUC. CODE § 23703).

6. CAL. EDUC. CODE § 23703. Compare *id.* with 1978 Cal. Stat. ch. 502, sec. 7, at 1644.

7. CAL. EDUC. CODE § 23701.

