

# Pay-to-Play Restrictions Expanded in 2023

## Key Points

- Elected officials are now universally subject to the Levine Act, the primary California pay-to-play statute.
- Elected and appointed officials cannot accept or solicit a campaign contribution for 12 months following the date a decision is made concerning permits and certain contracts before the Board.
- In some circumstances, an official can cure violations of the Levine Act by returning the contribution.
- The FPPC's General Counsel has concluded that the new law applies retroactively to contributions received and proceedings conducted throughout 2022. This issue is being considered by the FPPC and will be decided at its November 17, 2022 meeting.

Senate Bill 1439 (Glazer) (SB 1439), effective January 1, 2023, amends the Levine Act to apply to all elected officials and restricts campaign donations from applicants for decisions coming before their agencies. Historically, the Levine Act prohibited appointed officials from participating or influencing a decision on awarding a permit or certain contracts to anyone that has donated more than \$250 to the official within the previous 12 months. The Levine Act also prohibited appointed officials from accepting or soliciting a campaign donation while the matter of awarding the contract is pending before his or her Board and for three months after a final decision is made. Now, SB 1439 broadens the scope of its prohibitions. (Cal. Govt. Code § 84308.)

## Who Is Affected?

The Levine Act previously only applied to appointed officials, but it now applies to both appointed and elected officials.

## What Is Prohibited and When?

Under the Levine Act, as amended, elected and appointed officials may not accept, solicit, or direct a campaign contribution of more than \$250 from a vendor for 12 months before and after any Board action to award the vendor a contract. Before January 1, 2023, the time periods were 12 months before and 3 months after the date of Board action.



by Claire Hervey Collins & Julian  
A. Viksman



## Curing a Violation

An official may cure a violation of the Levine Act for accepting, soliciting or directing a contribution of more than \$250 during the 12 month period after the date a decision is made. If the official did not knowingly and willfully accept, solicit, or direct the contribution, they can cure the violation by returning the contribution within 14 days of accepting, soliciting, or directing the contribution. The official's controlled committee, or the official if no controlled committee exists, must maintain records related to curing any violation.

Practically, elected officials must now understand the Levine Act's prohibitions related to their decisions while sitting on their elected boards as well as appointed boards of public entities. This includes constraints on campaign donations and potential conflicts for board members. For appointed officials already subject to the Levine Act, the critical change is that the Board member cannot accept, solicit, or direct a contribution in a covered proceeding for 12 months following the proceeding. The FPPC's General Counsel recently issued an opinion concluding that SB 1439 applied retroactively by looking back to contributions received and proceedings conducted throughout 2022. The FPPC will consider adopting this position at its November 17, 2022 meeting. We will provide another update at that time.

For more information, please contact:

**Claire Hervey Collins**, Partner  
(213) 395-7650  
CCollins@hansonbridgett.com

**Julian A. Viksman**, Associate  
(213) 395-7645  
JViksman@hansonbridgett.com