

AMENDED IN SENATE AUGUST 25, 1997

AMENDED IN SENATE JUNE 24, 1997

AMENDED IN SENATE JUNE 16, 1997

AMENDED IN ASSEMBLY APRIL 3, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 627**

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**Introduced by Assembly Members Scott and Thomson**  
(Coauthors: Senators Karnette and Schiff)

February 25, 1997

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An act to amend Section 87207 of, ~~to add Section 87207.5 to,~~ and to add Article 4.6 (commencing with Section 87460) to Chapter 7 of Title 9 of, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 627, as amended, Scott. Political Reform Act of 1974: public officials: personal loans.

(1) Existing provisions of the Political Reform Act of 1974 provide that, subject to certain exceptions, a personal loan made to a public official is income and, if the loan exceeded a specified amount and was made to the official within the 12-month period prior to when the official would participate in a governmental decision that has a specified financial effect on the maker of the loan, the official would be prohibited from participating in the decision.

This bill would prohibit elected state and local officials and other specified public officials from receiving personal loans from officials and employees of, and contractors with, their governmental agencies which, in the aggregate, exceed \$250 per lender at any given time. This bill would exempt certain types of loans from this prohibition, including loans made to the campaign committee of a candidate for elective office or elected officer, loans from specified family members of the public official, and loans made, or offered in writing, prior to the operative date of the bill.

(2) Existing provisions of the Political Reform Act of 1974 do not prohibit elected state or local officials or other public officials from receiving personal loans, so long as the officials report specified loans on their statements of economic interests, which they are required to periodically file with specified state or local governmental agencies.

This bill would require all public officials and candidates who are required to file statements of economic interests and who report loans thereon to report, in addition to other specified information already required concerning loans, the term of the loan.

~~This bill would require public officials and candidates, under specified conditions, to file an amendment to their statement of economic interest within 48 hours of receiving a personal loan of \$1,000 or more.~~

This bill would prohibit elected state and local officials from receiving personal loans in excess of ~~\$1,000~~ \$500 unless specified terms of the loan are in writing.

This bill would exempt certain types of loans from the prohibition, including loans made to the campaign committee of a candidate for elective office or elected officer, loans from specified family members of the official, and loans made, or offered in writing, prior to the operative date of this bill.

(3) Existing provisions of the Political Reform Act of 1974 regulate gifts made to specified public officials. Among other things, the act currently prohibits these officials from receiving gifts in excess of \$290 from a single source in a calendar year and requires these officials to report gifts of \$50 or more on their statements of economic interests.



This bill would provide that a loan made to one of these officials would become a gift under the act in specified circumstances when the loan is either not being repaid or is being repaid below defined amounts. This bill would exempt certain types of loans from these provisions. In addition, this bill would exempt loans from these provisions when the creditor has taken specified actions in regards to collection of the loan or where the debtor has had the loan discharged in bankruptcy.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these penalties on certain persons who violate the provisions of the bill.

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 no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a  $\frac{2}{3}$  vote.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 87207 of the Government Code
- 2 is amended to read:
- 3 87207. (a) When income is required to be reported
- 4 under this article, the statement shall contain, except as
- 5 provided in subdivision (b):
- 6 (1) The name and address of each source of income
- 7 aggregating two hundred fifty dollars (\$250) or more in
- 8 value, or fifty dollars (\$50) or more in value if the income



1 was a gift, and a general description of the business  
2 activity, if any, of each source.

3 (2) A statement whether the aggregate value of  
4 income from each source, or in the case of a loan, the  
5 highest amount owed to each source, was at least two  
6 hundred fifty dollars (\$250) but did not exceed one  
7 thousand dollars (\$1,000), whether it was in excess of one  
8 thousand dollars (\$1,000) but was not greater than ten  
9 thousand dollars (\$10,000), or whether it was greater than  
10 ten thousand dollars (\$10,000).

11 (3) A description of the consideration, if any, for which  
12 the income was received.

13 (4) In the case of a gift, the amount and the date on  
14 which the gift was received.

15 (5) In the case of a loan, the annual interest rate, the  
16 security, if any, given for the loan, and the term of the  
17 loan.

18 (b) When the filer's pro rata share of income to a  
19 business entity, including income to a sole proprietorship,  
20 is required to be reported under this article, the  
21 statement shall contain:

22 (1) The name, address, and a general description of  
23 the business activity of the business entity.

24 (2) The name of every person from whom the business  
25 entity received payments if the filer's pro rata share of  
26 gross receipts from that person was equal to or greater  
27 than ten thousand dollars (\$10,000) during a calendar  
28 year.

29 (c) When a payment, including an advance or  
30 reimbursement, for travel is required to be reported  
31 pursuant to this section, it may be reported on a separate  
32 travel reimbursement schedule which shall be included  
33 in the filer's statement of economic interest. A filer who  
34 chooses not to use the travel schedule shall disclose  
35 payments for travel as a gift, unless it is clear from all  
36 surrounding circumstances that the services provided  
37 were equal to or greater in value than the payments for  
38 the travel, in which case the travel may be reported as  
39 income.



1 ~~SEC. 2. Section 87207.5 is added to the Government~~  
2 ~~Code, to read:~~

3 ~~87207.5. (a) Public officials and candidates for office~~  
4 ~~required to file a statement of economic interest pursuant~~  
5 ~~to Section 87200 shall file an amendment to that~~  
6 ~~statement of economic interest within 48 hours of~~  
7 ~~receiving a personal loan of one thousand dollars (\$1,000)~~  
8 ~~or more, if both of the following conditions exist:~~

9 ~~(1) The public official or candidate for office will~~  
10 ~~appear on the ballot in the next scheduled election.~~

11 ~~(2) The next filing date for statements of economic~~  
12 ~~interest for individuals required to file under Section~~  
13 ~~87200 falls on a date after the next scheduled election in~~  
14 ~~which the public official or candidate for office will~~  
15 ~~appear on the ballot.~~

16 ~~(b) An amendment to a statement of economic~~  
17 ~~interest filed pursuant to this section shall be filed with~~  
18 ~~the appropriate agency as specified in Section 87500.~~  
19 ~~Agencies receiving these amendments shall retain copies~~  
20 ~~and forward copies and originals in the same manner as~~  
21 ~~described in Section 87500.~~

22 ~~SEC. 3.—~~

23 ~~SEC. 2. Article 4.6 (commencing with Section 87460)~~  
24 ~~is added to Chapter 7 of Title 9 of the Government Code,~~  
25 ~~to read:~~

26  
27 Article 4.6. Loans to Public Officials

28  
29 87460. (a) No elected officer of a state or local  
30 government agency shall, from the date of his or her  
31 election to office through the date that he or she vacates  
32 office, receive a personal loan from any officer, employee,  
33 member, or consultant of the state or local government  
34 agency in which the elected officer holds office or over  
35 which the elected officer's agency has direction and  
36 control.

37 (b) No public official who is required to file a  
38 statement of economic interests pursuant to Section  
39 87200 and no public official who is exempt from the state  
40 civil service system pursuant to subdivisions (c), (d), (e),



1 (f), and (g) of Section 4 of Article VII of the Constitution  
2 shall, while he or she holds office, receive a personal loan  
3 from any officer, employee, member, or consultant of the  
4 state or local government agency in which the public  
5 official holds office or over which the public official's  
6 agency has direction and control. This subdivision shall  
7 not apply to loans made to a public official whose duties  
8 are solely secretarial, clerical, or manual.

9 (c) No elected officer of a state or local government  
10 agency shall, from the date of his or her election to office  
11 through the date that he or she vacates office, receive a  
12 personal loan from any person who has a contract with  
13 the state or local government agency to which that  
14 elected officer has been elected or over which that  
15 elected officer's agency has direction and control. This  
16 subdivision shall not apply to loans made by banks or  
17 other financial institutions or to any indebtedness created  
18 as part of a retail installment or credit card transaction,  
19 if the loan is made or the indebtedness created in the  
20 lender's regular course of business on terms available to  
21 members of the public without regard to the elected  
22 officer's official status.

23 (d) No public official who is required to file a  
24 statement of economic interests pursuant to Section  
25 87200 and no public official who is exempt from the state  
26 civil service system pursuant to subdivisions (c), (d), (e),  
27 (f), and (g) of Section 4 of Article VII of the Constitution  
28 shall, while he or she holds office, receive a personal loan  
29 from any person who has a contract with the state or local  
30 government agency to which that elected officer has  
31 been elected or over which that elected officer's agency  
32 has direction and control. This subdivision shall not apply  
33 to loans made by banks or other financial institutions or  
34 to any indebtedness created as part of a retail installment  
35 or credit card transaction, if the loan is made or the  
36 indebtedness created in the lender's regular course of  
37 business on terms available to members of the public  
38 without regard to the elected officer's official status. This  
39 subdivision shall not apply to loans made to a public



1 official whose duties are solely secretarial, clerical, or  
2 manual.

3 (e) This section shall not apply to the following:

4 (1) Loans made to the campaign committee of an  
5 elected officer or candidate for elective office.

6 (2) Loans made by a public official's spouse, child,  
7 parent, grandparent, grandchild, brother, sister,  
8 parent-in-law, brother-in-law, sister-in-law, nephew,  
9 niece, aunt, uncle, or first cousin, or the spouse of any such  
10 persons, provided that the person making the loan is not  
11 acting as an agent or intermediary for any person not  
12 otherwise exempted under this section.

13 (3) Loans from a person which, in the aggregate, do  
14 not exceed two hundred fifty dollars (\$250) at any given  
15 time.

16 (4) Loans made, or offered in writing, before the  
17 operative date of this section.

18 87461. (a) Except as set forth in subdivision (b), no  
19 elected officer of a state or local government agency shall,  
20 from the date of his or her election to office through the  
21 date he or she vacates office, receive a personal loan of  
22 five hundred dollars (\$500) or more, except when the  
23 loan is in writing and clearly states the terms of the loan,  
24 including the parties to the loan agreement, date of the  
25 loan, amount of the loan, term of the loan, date or dates  
26 when payments shall be due on the loan and the amount  
27 of the payments, and the rate of interest paid on the loan.

28 (b) This section shall not apply to the following types  
29 of loans:

30 (1) Loans made to the campaign committee of the  
31 elected officer.

32 (2) Loans made to the elected officer by his or her  
33 spouse, child, parent, grandparent, grandchild, brother,  
34 sister, parent-in-law, brother-in-law, sister-in-law,  
35 nephew, niece, aunt, uncle, or first cousin, or the spouse  
36 of any such person, provided that the person making the  
37 loan is not acting as an agent or intermediary for any  
38 person not otherwise exempted under this section.

39 (3) Loans made, or offered in writing, before the  
40 operative date of this section.



1 (c) Nothing in this section shall exempt any person  
2 from any other provisions of this title.

3 87462. (a) Except as set forth in subdivision (b), a  
4 personal loan shall become a gift to the debtor for the  
5 purposes of this title in the following circumstances:

6 (1) If the loan has a defined date or dates for  
7 repayment, when the statute of limitations for filing an  
8 action for default has expired.

9 (2) If the loan has no defined date or dates for  
10 repayment, when one year has elapsed from the later of  
11 the following:

12 (A) The date the loan was made.

13 (B) The date the last payment of one hundred dollars  
14 (\$100) or more was made on the loan.

15 (C) The date upon which the debtor has made  
16 payments on the loan aggregating to less than two  
17 hundred fifty dollars (\$250) during the previous 12  
18 months.

19 (b) This section shall not apply to the following types  
20 of loans:

21 (1) A loan made to the campaign committee of an  
22 elected officer or a candidate for elective office.

23 (2) A loan that would otherwise not be a gift as defined  
24 in this title.

25 (3) A loan that would otherwise be a gift as set forth  
26 under paragraph (a), but on which the creditor has taken  
27 reasonable action to collect the balance due.

28 (4) A loan that would otherwise be a gift as set forth  
29 under paragraph (a), but on which the creditor, based on  
30 reasonable business considerations, has not undertaken  
31 collection action. Except in a criminal action, a creditor  
32 who claims that a loan is not a gift on the basis of this  
33 paragraph has the burden of proving that the decision for  
34 not taking collection action was based on reasonable  
35 business considerations.

36 (5) A loan made to a debtor who has filed for  
37 bankruptcy and the loan is ultimately discharged in  
38 bankruptcy.

39 (c) Nothing in this section shall exempt any person  
40 from any other provisions of this title.



1 ~~SEC. 4.—~~

2 *SEC. 3.* No reimbursement is required by this act  
3 pursuant to Section 6 of Article XIII B of the California  
4 Constitution because the only costs that may be incurred  
5 by a local agency or school district will be incurred  
6 because this act creates a new crime or infraction,  
7 eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section  
9 17556 of the Government Code, or changes the definition  
10 of a crime within the meaning of Section 6 of Article  
11 XIII B of the California Constitution.

12 Notwithstanding Section 17580 of the Government  
13 Code, unless otherwise specified, the provisions of this act  
14 shall become operative on the same date that the act  
15 takes effect pursuant to the California Constitution.

16 ~~SEC. 5.—~~

17 *SEC. 4.* The Legislature finds and declares that the  
18 provisions of this act further the purposes of the Political  
19 Reform Act of 1974 within the meaning of subdivision (a)  
20 of Section 81012 of the Government Code.

