

DEERING'S CALIFORNIA ADVANCE LEGISLATIVE SERVICE
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1992 REGULAR SESSION
CHAPTER 586 (Assembly Bill No. 3547)

BILL TRACKING SUMMARY FOR THIS DOCUMENT

1992 Cal ALS 586; 1992 Cal AB 3547; Stats 1992 ch 586

[Approved by Governor August 31, 1992.] Urgency legislation is effective immediately, Non-urgency legislation will become effective January 1, 1993

To view the next section, type .np* and TRANSMIT.
To view a specific section, transmit p* and the section number. E.g. p*1

DIGEST: AB 3547, Katz. Los Angeles County Metropolitan Transportation Authority.

(1) Existing law creates, prescribes the powers and duties of, and specifies the governing bodies of, the Southern California Rapid Transit District and the Los Angeles County Transportation Commission, respectively. Chapter 60 of the Statutes of 1992, known as the Los Angeles County Metropolitan Transportation Authority Reform Act of 1992 (the act), abolishes the commission and the district and creates, as the successor to both agencies, the Los Angeles County Metropolitan Transportation Authority. The act prescribes the membership of the authority and provides for the authority to assume, over a specified period of time, the rights, powers, duties, obligations, and responsibilities of the district and the commission, and prescribes additional powers and duties of the authority.

This bill would do all of the following: (a) delete the termination date of a provision requiring the commission and the district to conduct joint regular meetings, (b) delete an obsolete provision requiring the commission and the district to develop a plan for the reorganization of those agencies, (c) prohibit the commission or the district from awarding, renewing, amending, or extending any personal service contract with an executive or management employee before April 1, 1993, unless the contract is approved by the authority, (d) require the commission and the district to cause a fiscal audit to be conducted for the period beginning July 1, 1992, and ending March 30, 1993, and require the authority to cause an annual fiscal audit of the authority to be conducted, and (e) allow certain appointees to the commission, the district, or the authority by the Mayor of the City of Los Angeles to serve without the city council's consent. Thus, the bill would impose a state-mandated local program.

(2) The act also requires the authority to adopt an ordinance, as specified, regulating the making of gifts to members and designated employees of the authority.

This bill would define the term "designated employees" for these purposes.

(3) The act imposes various requirements and prohibitions applicable to lobbyists and lobbyist employers, as defined, having contact with the authority.

This bill would, instead, require the authority, prior to approving any contract, to adopt and implement an ordinance, containing specified provisions, for the regulation of lobbyists, lobbyist employers, and lobbying firms, as defined, thereby imposing a state-mandated local program.

(4) 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.

(5) The bill would declare that it is to take effect immediately as an urgency statute.

SYNOPSIS: An act to amend Sections 30201.5, 130051.1, and 130051.7 of, to add Sections 130051.17, 130051.18, and 130051.21 to, to add and repeal Section 130051.20 of, and to repeal Section 130051.8 of, the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

NOTICE: [A> Uppercase text within these symbols is added <A]

* * * indicates deleted text

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

[*1] SECTION 1. Section 30201.5 of the Public Utilities Code is amended to read:

§ 30201.5.

Notwithstanding Section 30201, * * * if a director appointed by the Mayor of the City of Los Angeles is a member of the city council of that city, confirmation by the city council is not required. If a director appointed by the mayor is not a member of the city council, the person appointed may serve for 60 days without confirmation.

[*2] SECTION 2. Section 130051.1 of the Public Utilities Code is amended to read:

§ 130051.1.

Notwithstanding subdivision (c) of Section 130051, * * * if a member appointed by the Mayor of the City of Los Angeles is not a member of the city council of that city, the person appointed may serve for 60 days without consent of the city council.

[*3] SECTION 3. Section 130051.7 of the Public Utilities Code is amended to read:

§ 130051.7.

(a) The Los Angeles County Transportation Commission and the Southern California Rapid Transit District shall conduct joint regular meetings at least once during each quarter of the calendar year.

(b) Notwithstanding subdivisions (a) and (b) of Section 130051, the members of the Los Angeles County Board of Supervisors and the Mayor of the City of Los Angeles, rather than their alternates, shall personally serve at the joint meetings.

(c) Notwithstanding Section 30201, the members of the Los Angeles County Board of Supervisors, rather than their appointees, shall personally serve at the joint meetings.

(d) Notwithstanding Section 30201, the Mayor of the City of Los Angeles, rather than the mayor's appointee, shall personally serve at the joint meetings as one of the two directors representing the City of Los Angeles.

(e) It is the intent of the Legislature that reasonable efforts be made to discuss major fiscal and policy items related to the Los Angeles County Transportation Commission and the Southern California Rapid Transit District at the meetings required by subdivision (a). This statement of legislative intent shall not be construed as requiring any action which would interfere with, delay, or otherwise impede the orderly and proper functioning of the Los Angeles County Transportation Commission or the Southern California Rapid Transit District.

* * *

[*4] SECTION 4. Section 130051.8 of the Public Utilities Code is repealed.

[*5] SECTION 5. Section 130051.17 is added to the Public Utilities Code, to read:

§ 130051.17.

(a) Prior to the approval of any contract by the Los Angeles County Metropolitan Transportation Authority, or by any organizational unit of the authority, the authority shall adopt an ordinance comparable to Chapter 9.5 (commencing with Section 89500) of Title 9 of the Government Code, which regulates the acceptance of gifts by members of the authority, alternate members, members of the board of an organizational unit, and designated employees, as defined by Section 82019 of the Government Code, of the authority. The ordinance shall prohibit any designated employee of the authority from accepting gifts with a total value of more than two hundred fifty dollars (\$ 250) in a calendar year from any single source.

(b) The ordinance shall require the limitations on receiving gifts by members of the authority, alternate members, and members of the board of an organizational unit who are not elected local officials to be substantially comparable to those specified by Chapter 9.5 (commencing with Section 89500) of Title 9 of the Government Code.

(c) For the purposes of this section, "gift" has the same meaning as defined in Section 82028 of the Government Code.

(d)(1) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence which is reasonably related to a governmental purpose, or to an issue of local, state, national or international public policy, is not prohibited or limited by this section if either of the following apply:

(A) The travel is in connection with a speech given by a member, alternate member, member of the board of an organizational unit, or designated employee, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.

(B) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit charitable or religious organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States which substantially satisfies the requirements for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

(2) Gifts of travel not described in paragraph (1) are subject to the limits in this section.

(3) Paragraph (1) applies only to travel which is reported on the recipient's statement of economic interest.

(4) For purposes of this section, a gift does not include travel which is provided by the Los Angeles County Metropolitan Transportation Authority.

(5)(A) The policy shall specify appropriate penalties for violations by employees including, but not limited to, personnel action.

(B) The policy shall specify appropriate penalties for violations by members of the authority, alternate members, and the members of the board of an organizational unit who are not subject to Chapter 9.5 (commencing with Section 89500) of Title 9 of the Government Code, which shall include, but not be limited to, removal from office by the appointing authority.

[*6] SECTION 6. Section 130051.18 is added to the Public Utilities Code, to read:

§ 130051.18.

Prior to the approval of any contract by the Los Angeles County Metropolitan Transportation Authority, or by any organizational unit of the authority, the authority shall adopt and implement an ordinance for the regulation of lobbying which shall include, at a minimum, the provisions of this section.

(a) For purposes of this section, the following terms are defined as follows:

(1) "Activity expense" means any expense incurred or payment made by a lobbyist, lobbying firm, or lobbyist employer, or arranged by a lobbyist, lobbying firm, or lobbyist employer, which benefits in whole or in part any authority official, or a member of the immediate family of an authority official.

(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 which 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 as defined by Section 130051.11.

(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, alternate member, member of an organizational unit of the authority, and employee of the authority.

(6) "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. 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.

"Contribution" also includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate's own money or property used on behalf of his or her candidacy; 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; the payment of

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

"Contribution" also includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

"Contribution" does not include amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution. However, the fact that such amounts have been received shall be indicated in the appropriate campaign statement.

"Contribution" does not include 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.

"Contribution" does not include volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

(7) "Employee of the authority" means anyone who receives compensation from the authority for full or part-time employment, and any contractor, subcontractor, consultant, expert, or adviser acting on behalf of, or providing advice to, the authority.

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

(9) "Lobbying" means influencing or attempting to influence authority action through direct or indirect communication, other than administrative testimony, with an authority official.

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

(A) 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, and any partner, owner, officer, or employee of the business entity is a lobbyist.

(B) 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 the business entity receives compensation is for the purpose of influencing authority action.

(11) "Lobbyist" means any individual who receives any economic consideration, other than reimbursement for reasonable travel expenses, for lobbying, including consultants and officers or employees of any business entity seeking to enter into a contract with the authority.

(12) "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.

(b)(1) Lobbyists, lobbying firms, and lobbyist employers shall register with the filing officer within 10 days after qualifying as a lobbyist, lobbying firm, or lobbyist employer. Registration shall be completed prior to the commencement of lobbying by the lobbyist. Registration shall include the filing of a registration statement, and the payment of any fees authorized by this section. Registration shall be renewed annually by the filing of a new registration statement and the payment of a fee.

(2) Each lobbyist, lobbying firm, and lobbyist employer required to register under this section may be charged a fee by the authority that shall be in an amount necessary to pay the direct costs of implementing this section.

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

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

(B) For each person 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.

(ii) A written authorization signed by the person.

(iii) The time period of the contract or employment agreement.

(iv) The lobbying interests of the person.

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

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

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

(B) A list of the lobbyists who are partners, owners, officers, or employees of the lobbying firm.

(C) For each person with whom the lobbying firm contracts to provide lobbying services, all of the following:

- (i) The full name, business address, and telephone number of the person.
- (ii) A written authorization signed by the person.
- (iii) The time period of the contract.
- (iv) Information sufficient to identify the lobbying interests of the person.

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

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

- (A) The full name, business address, and telephone number 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.
- (D) A statement signed by the designated responsible person that he or she has read and understands the prohibitions contained in subdivisions (f) and (g).

(6)(A) The registration statement may be amended within 10 days of a change in the information included in the statement. However, if the change includes the name of a person by whom a lobbyist is retained, the registration statement shall be amended to show that change prior to the commencement of lobbying by the lobbying firm or the lobbyist.

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

(C) Lobbyists and lobbyist firms shall remain subject to subdivisions (f) and (g) for 12 months after filing a notice of termination.

(c) Lobbyists, lobbying firms, and lobbyist employers which receive payments, make payments, or incur expenses or expect to receive payments, make payments, or incur expenses in connection with activities which 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.

(d) 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.

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

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

(B) The full name, business address, and telephone number of each person who contracted with the lobbying firm for lobbying services, a description of the specific lobbying interests of the person, and the total payments, including fees and the reimbursement of expenses, received from the person for lobbying services during the reporting period.

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

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

(E) 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.

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

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

(B) 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.

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

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

(B) The total amount of payments to each lobbying firm.

(C) The total amount of all payments to lobbyists employed by the filer.

(D) A description of the specific lobbying interests of the filer.

(E) A periodic report, completed and verified by each lobbyist employed by a lobbyist employer pursuant to paragraph (1) of subdivision (e).

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

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

(4)(A) The periodic reports shall be filed within 30 days after 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 prior to the 30-day 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.

(B) The original and one copy of each report shall be filed with the filing officer, shall be retained by the authority for a minimum of four years, and shall be available for inspection by the public during regular working hours.

(f)(1) It is unlawful for a lobbyist, a lobbying firm, or a lobbyist employer to make gifts to an authority official aggregating more than ten dollars (\$ 10) in a calendar month, or 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 which is made unlawful by this section. For the purposes of this subdivision, "gift" has the same meaning as defined in Section 130051.17.

(g) No lobbyist or lobbying firm shall 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 lobbyist's or the firm's employer.

(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 or the lobbying firm can control any authority official.

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

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

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

(j) 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 is greater.

(k) 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.

(l) The provisions of this section are not applicable to any of the following:

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

(2) Any newspaper or other periodical of general circulation, book publisher, radio or television station which, 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.

(m) No former authority official shall become a lobbyist for a period of one year after leaving the authority.

[*7] SECTION 7. Section 130051.20 is added to the Public Utilities Code, to read:
§ 130051.20.

Neither the Los Angeles County Transportation Commission nor the Southern California Rapid Transit District shall award, renew, amend, or extend any personal service contract with an executive or management employee of the commission or the district, respectively, before April 1, 1993, unless the contract is approved by the Los Angeles County Metropolitan Transportation Authority.

This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

[*8] SECTION 8. Section 130051.21 is added to the Public Utilities Code, to read:
§ 130051.21.

The Los Angeles County Transportation Commission and the Southern California Rapid Transit District shall each cause a supplemental independent fiscal audit to be conducted for the period beginning July 1, 1992, and ending March 30, 1993, for the purpose of determining the financial condition of each agency prior to the abolishment of those agencies pursuant to Section 130051.13. Thereafter, the Los Angeles County Metropolitan Transportation Authority shall cause an independent fiscal audit of the authority to be conducted annually and shall consider the results of the audit at a duly noticed public hearing.

[*9] SECTION 9. The terms of members and alternate members of the Los Angeles County Transportation Commission and the Southern California Transit District appointed by the Los Angeles County City Selection Committee and serving on the effective date of this act, shall expire on April 1, 1993.

[*10] SECTION 10. Sections 19 and 20 of Chapter 60 of the Statutes of 1992 shall not become operative.

[*11] SECTION 11. Sections 5 and 6 of this act shall become operative on January 1, 1993.

[*12] SECTION 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

[*13] SECTION 13. Notwithstanding any other provision of law, the Controller shall deduct, from any state funds allocated to the Los Angeles County Metropolitan Transportation Authority for transportation purposes, the amount the authority was reimbursed by the state for costs resulting from state mandates resulting from this act. The deducted state funds shall be transferred to the unappropriated balance of the fund from which they were appropriated.

[*14] SECTION 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to resolve conflicts between transportation agencies resulting in reduced efficiency and increased delays in providing an integrated transportation system in Los Angeles, it is necessary for this act to take effect immediately.