

Date of Hearing: April 15, 2024

ASSEMBLY COMMITTEE ON TRANSPORTATION  
Lori D. Wilson, Chair  
AB 3123 (Jones-Sawyer) – As Amended March 21, 2024

**SUBJECT:** Los Angeles County Metropolitan Transportation Authority: board code of conduct: lobbying rules

**SUMMARY:** Amends and updates the Los Angeles County Metropolitan Transportation Authority's (LA Metro) code of conduct and lobbying rules. Specifically, **this bill:**

- 1) Revises the requirements regarding the receipt of gifts by LA Metro board members and designated employees to conform with applicable state law and the LA Metro's administrative code.
- 2) Revises the gift prohibition for lobbyists to make a gift to an authority official if the gift is prohibited by state law and LA Metro's administrative code.
- 3) Defines "contact" to mean any communication for the purpose of influencing authority action.
- 4) Defines what activities are not "contacts" including:
  - a) Attending or participating in a prebid or preproposal conference;
  - b) Submitting a response to a solicitation issued by the authority or authority official;
  - c) Participating in an interview regarding a solicitation at the request of the authority or authority official;
  - d) Responding to a request for information from the authority or authority official regarding a solicitation or existing contract;
  - e) A representative of a news media organization gathering news and information or disseminating the same to the public, even if the organization, in the ordinary course of business, publishes news items, editorials or other commentary, or paid advertisements, that urge action upon authority matters;
  - f) Providing oral or written testimony that becomes part of the record of a public hearing. A person providing testimony pursuant to this clause who has already qualified as a lobbyist under this section and is testifying on behalf of a client shall identify the client on whose behalf the lobbyist is testifying; and,
  - g) A communication from an elected public official acting in their official capacity.
- 5) Defines "lobbying activity" to include:
  - a) Engaging in, either personally or through an agent, written or oral communication with an authority official;
  - b) Providing advice or recommending strategy to a person or other entity that may have business in front of the authority;
  - c) Research, investigation, and information gathering;
  - d) Seeking to influence the position of a third party on issues related to authority action by any means, including, but not limited to, engaging in community, public, or press relations activities; and,

- e) Attending or monitoring authority meetings or other events.
- 6) Defines “lobbyist” as someone who meets both of the following criteria in a consecutive three-month period:
  - a) The individual has at least one contact with an authority official or employee in an attempt to influence authority action; and,
  - b) The individual is compensated to engage in at least 15 hours of lobbying activity in connection with attempts to influence authority action.
- 7) Requires a lobbyist employer to file a periodic report containing the total amount of all payments to lobbyists employed by the filer. The lobbyist employer shall only be required to disclose whether the total salary payments made to the individual during the reporting period was less than or equal to two hundred fifty dollars (\$250), greater than two hundred fifty dollars (\$250) but less than or equal to one thousand dollars (\$1,000), greater than one thousand dollars (\$1,000) but less than or equal to ten thousand dollars (\$10,000), or greater than ten thousand dollars (\$10,000).
- 8) Authorizes the ethics officer to conduct audits of quarterly reports and registration statements. Those audits may be conducted on a random basis or when the ethics officer has reason to believe that a filer has not complied with this section.
- 9) Authorizes the ethics officer, in addition to any other penalty or remedy available, to impose a late fee on any person or entity that does not file a report or statement required by this section before a deadline imposed by this section. The late fee shall be in the amount of \$10 per day until the statement or report is filed, up to a maximum amount of \$300.
- 10) Requires the ethics officer to interpret relevant authorities and provide advice to the board and LA Metro relating to codes of conduct, lobbying, governmental ethics, campaign finance, fair procurement practices, and conflicts of interest.
- 11) States that in addition to the rules or codes adopted by the board shall be the code of conduct for the LA Metro Board.
- 12) Codifies the responsibilities of the LA Metro’s ethics officer and only allows removal from the office if 1) a two-thirds majority of the members of the board votes for removal, and/or 2) the ethics officer violates a federal or state law or regulation, a local ordinance, or a policy or practice of the authority, relative to ethical practices, including, but not limited to, the acceptance of gifts or contributions.

**EXISTING LAW:**

- 1) Creates LA Metro consisting of 14 members, including five members of the Los Angeles, County Board of Supervisors, the Mayor of the City of Los Angeles, two members of the public, and five other members appointed from the region. (Public Utilities Code (PUC), Section 130051)

- 2) Relevant provisions of PUC, Section 130051.20:
- a) Prohibits any “construction company, engineering firm, consultant, legal firm, or any company, vendor, or business entity” including any “owner, employee or immediate family members” that is “seeking a contract,” from making a campaign contribution over \$10 to a Metro Board Member or “their immediate families.” During the same period, a Metro Board Member may not accept a campaign contribution over \$10 from the same categories of individuals.
  - b) Prohibits participation in a “contract decision” by a Metro Board Member, if they have received a campaign contribution over \$10 in the preceding four years from any “participant or agent” involved in the contract decision.
  - c) Prohibits a Metro Board Member or “their immediate families,” from accepting a campaign contribution over \$10 from any “construction company, engineering firm, consultant, legal firm, or any company, vendor, or business entity” that has contracted with Metro in the preceding four years.
- 3) Relevant provisions of Government Code, Section 84308:
- a) During a “pending proceeding” involving a “license, permit, or other entitlement for use,” an official may not accept a campaign contribution over \$250 from any “party, participant, or agent” to the proceeding. During the same period, a “party, participant, or agent” may not make a campaign contribution over \$250 to an affected official.
  - b) If an official received a campaign contribution over \$250 in the preceding 12 months from a “party, participant, or agent” to a proceeding involving a “license, permit, or other entitlement for use,” the official shall not make or participate in making any decision involving the proceeding.
  - c) For 12 months after a proceeding involving a “license, permit, or other entitlement for use,” an official shall not accept a campaign contribution over \$250 from any “party, participant, or agent” to the proceeding. During the same period, a “party, participant, or agent” may not make a campaign contribution over \$250 to an affected official.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

The California Legislature has enacted laws to promote transparency and fairness in governmental decision to prevent public officials from being unfairly influenced by contributors to their campaign—a practice known as “pay to play”. A scandal involving the California Coastal Commission in the early 1980s led to the enactment of the Levine Act (AB 1040, 1982), which added Government Code 84308 to the Political Reform Act of 1974. As originally enacted, the Levine Act’s restrictions only applied to members of appointed boards and commissions, excluding city councilmembers and county supervisors in their elected roles, as opposed to any appointed roles they may have had.

LA Metro was created by AB 152 (Katz), Chapter 60, Statutes of 1992 through the consolidation of the Los Angeles County Transportation Commission and the Southern California Rapid Transit District. In 1997, concerns about the operations of LA Metro and failures to reform its practices and procedures led to several bills being introduced to address problems and deficiencies in the agency. The Legislature passed SB 89 (Hayden), Chapter 657, Statutes of 1997 which imposed limitations on contributions that may be given to members and employees of LA Metro and also prohibited former members or employees from accepting employment with any entity that was awarded specified contracts. LA Metro is unique in having its own “pay to play” rules codified in state law.

SB 1439 (Glazer), Chapter 848, Statutes of 2022 updated the Levine Act and expanded it to include local elected officials such as city councilmembers, special district board members, and school board members even when acting in their elected roles.

As a result of SB 1439, LA Metro Board members must comply with both the requirements of it and SB 89 in their elected positions. These two sets of laws have different reporting requirements and categories complicating reporting and potentially compliance.

This bill removes most provisions of the Hayden bill and replaces them with the Levine Act in an attempt to clarify reporting requirements and to increase the likelihood that the provisions, over time, are better defined with case law. The Hayden Bill also contains a post-employment restriction, and the amendments in this bill attempt to provide more clarity regarding those provisions.

*According to the author*, “With the enactment of Senate Bill 1439 (Glazer), which amended the Levine Act in 2023, the state made its intention clear of having uniform ethics law governing all contract decisions by local and state officials, no matter the makeup of a board or commission. AB 3123 helps bring the Los Angeles County Metro Board into alignment with current state law, the Levine Act, which already applies to the Board in their primary elected positions. This bill will help strengthen the Board’s ethics rules and ensure they are consistent with every other agency in the state.”

*Committee comments*: LA Metro is unique as a local agency by having its “pay to play” rules codified in state law. Most local agencies adhere to state law and locally adopted requirements. In this bill, LA Metro is trying to move away from having its own separate set of rules in state statute.

The bill references “applicable state laws” in many sections, raising questions as to why LA Metro needs to have things codified so that they can reference state law. It might be less confusing for LA Metro to eliminate its own body of law and simply adhere to the requirements of the recently passed SB 1439 and other state law as applicable, and any locally adopted requirements.

Finally, this is local bill and it will be important for members of the Los Angeles delegation to weigh in on the content of this bill.

*Double referral:* This bill is double referred to the Assembly Elections Committee.

*Related Legislation:* SB 1439 (Glazer), Chapter 848, Statutes of 2022 applies the existing campaign contribution prohibition for state and local agencies and applies it to local elected agencies, such as city councils and boards of supervisors, and expands the timeframe prohibiting specific contributions following an official's action from three months to 12 months, as specified.

AB 584, Villaraigosa, Chapter 900, Statutes of 1997 Creates a term of office for the inspector general and specifies conditions for his/her removal, and establishes a Code of Conduct for the Board of the Los Angeles County Metropolitan Transportation Authority.

SB 89 (Hayden), Chapter 657, Statutes of 1997 imposed limitations on contributions that may be given to members and employees of the Los Angeles County Metropolitan Transportation Authority.

AB 152 (Katz), Chapter 60, Statutes of 1992 created LA Metro.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Los Angeles County Metropolitan Transportation Authority

**Opposition**

None on file

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