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FISCAL IMPACT REPORT

ORIGINAL DATE 2/06/07
 LAST UPDATED 3/14/07 HB CS/819/aSRC/aSJC

SPONSOR HCPAC

SHORT TITLE Gift Act SB _____

ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Unknown	Unknown		Recurring	Various

(Parenthesis () Indicate Expenditure Decreases)

Relates to a package of ethics bills

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to the House Consumer & Public Affairs Committee Substitute for House Bill 819 changes and adds definitions for situations that are excluded in the definition of a gift as follows:

- a gift given under circumstances that make it clear that the gift is motivated by a family relationship or close personal relationship rather than the recipient's position as a state officer or employee or candidate for state office;
- any gift accepted on behalf of and becomes the property of the state;
- reasonable expenses for a bona fide educational program or other activity that is directly related to the state officer's or employee's official duties; or
- an educational scholarship or other grant or award that is available to all similarly qualified applicants.

In the section defining a restricted donor, the amendment expands the definition of a lobbyist to include the lobbyist's employer with respect to matters over which the donee may reasonably be expected to act.

Under the limitation of gifts section the limitations are expanded to all restricted donors not just lobbyists. The amendment expands the restriction on gifts to the family of any one officer, employee or candidate.

Finally, the amendment adds that an agent of a business or corporation regulated by a public agency shall not donate to a charity in response to a solicitation for that charity from a public officer or employee of that public agency.

Synopsis of SRC Amendment

The Senate Rules Committee amendment to the House Consumer & Public Affairs Committee substitute for House Bill 819 now applies to public employees and public officers instead of just state employees and state officers.

The amendment expands the definition of state officer or employee to mean any person who has been elected to, appointed to or hired by any public office of the state, instrumentality of the state, political subdivision of the state, local school board, public post-secondary educational institution or any commission or board created by any state agency, local public body or public post-secondary educational institution.

The amendment also adds a new section that reads nothing in the Gift Act shall be construed to prohibit a local government from enacting more restrictive requirements governing the donation or acceptance of gifts than those imposed by this act.

Synopsis of Original Bill

The House Consumer & Public Affairs Committee Substitute for House Bill 819 enacts the Gift Act, limiting gifts to a candidate for state office, a state officer or employee, or that person's family. The bill defines:

- “family” as a spouse and dependent children.
- “gift” without reference to family or to whom the gift is made.
- “restricted donor” to mean a person who is:
 1. or is seeking to be a party to any one or any combination of sales, purchases, leases or contracts to, from or with the agency in which the donee holds office or is employed;
 2. will personally be, or is the agent of a person who will be, directly and substantially affected financially by the performance or nonperformance of the donee's official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a

profession, occupation, industry or region;

3. personally, or is the agent of a person who is, the subject of or party to a matter that is pending before a regulatory agency and over which the donee has discretionary authority as part of the donee's official duties or employment within the regulatory agency; or
4. a lobbyist or a client of a lobbyist with respect to matters within the donee's jurisdiction.

The bill sets the following limitations on gifts:

- A. State officer or employee or candidate for state office, or that person's family shall not knowingly accept from a restricted donor, and a restricted donor shall not knowingly donate to a state officer or employee or a candidate for state office, or that person's family, a gift of a market value greater than \$250.
- B. Registered lobbyist, lobbyist's employer or government contractor shall not donate gifts of an aggregate market value greater than \$1,000 in a calendar year to any one state officer or employee or to any one candidate for state office.
- C. State officer or employee shall not solicit gifts for a charity from a business or corporation regulated by the state agency for which the state officer or employee works and shall not otherwise solicit donations for a charity in such a manner that it appears that the purpose of the donor in making the gift is to influence the state officer or employee in the performance of an official duty.

The bill provides that a person who violates the provisions of the Act is guilty of a petty misdemeanor

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

This bill is part of a package of ethics reform measures introduced that include campaign reporting reforms, the creation of and granting of powers and duties to the State Ethics Commission, limitations on gifts to public officials, and the strengthening of the Governmental Conduct Act.

The AODA notes many state agencies work closely with non-profits on charitable events and employees of those agencies solicit or are regularly given gifts for those purposes. The statute

limits gifts to a market value of under \$250, but frequently donations are greater than that amount. The statute allows solicitations from businesses not regulated by the agency and requires that there be no appearance that a gift will influence any decisions by the agency; therefore; the limit seems superfluous.

ADMINISTRATIVE IMPLICATIONS

Unknown

RELATIONSHIP

This bill relates to a package of ethics bills that include:

HB 553, Contributions to State Agents & Candidates
HB 818, Public Financing of Statewide Campaigns
HB 820, Legislative Campaign Funds for Office Duties
HB 821, Campaign Reporting Requirements
HB 822, State Ethics Commission Act
HB 823, Prohibit Certain Acts by Public Officers
HB 1154, Lobbyist Filing Fees
HB 1295, Retaliation for Ethics Violation Reporting
HB 1053, Campaign Reporting Act Exception Statements
HB 1296, Investigation of Elected Officials by AG
SB 342, Candidate Withdrawal Requirements
SB 400, Contributions to State Agents & Candidates (dup HB 553)
SB 445, Extend Governmental Conduct Act
SB 588, Former Legislators as Lobbyists
SB 671, Candidate Withdrawal Requirements (dup SB 342)
SB 737, Disclosure by Procurement Contractors
SB 796, Legislative Campaign Funds for Office Duties (dup HB 820)
SB 799, Public Financing of Statewide Campaigns (dup HB 818)
SB 800, Campaign Reporting Requirements (dup HB 821)
SB 815, State Ethics Commission Act (dup HB 822)
SB 931, Gift Act
SB 953, Lobbyist Filing Fees (dup HB 1154)
SB 1043, Whistleblower Protection Act
SB 1051, Inclusion in Governmental Conduct Act
SB 1107, Prohibit Certain Acts by Public Officers (dup HB 823)
SB 1137, Reporting of Lobbyist Compensation
SB 1177, Disclosure by Procurement Contractors

POSSIBLE QUESTIONS

- 1) Who will be responsible for enforcing the provisions of this bill?
- 2) Should comparable provisions apply to county, municipal and school board personnel?
- 3) Must all gifts be reported to the SOS? Or somebody?
- 4) Should comparable provisions apply to members of appointed boards and Commissions?