

## **Advisory** | California Government Law & Policy



**April 2024**

### **Q&A on California’s Updated ‘Pay-to-Play’ Rule**

Effective Jan. 1, 2023, California expanded its “pay-to-play” rules<sup>1</sup> to include directly elected officials in addition to appointed members of boards and commissions running for elective office.

The rule prohibits parties, participants, and their respective agents in a proceeding involving a license, permit, or other entitlement for use from contributing more than \$250 to an officer of the agency during a 12-month period.

#### **What is a proceeding for purposes of the prohibition?**

A proceeding includes all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (except competitive bids, labor, or personal employment), and all franchises.

#### **Who is a party, participant, or agent?**

A party is the one directly applying for a permit or license. A participant is not a party, but actively supports or opposes a particular decision in a proceeding and has a financial interest in that decision. An agent is someone who represents a party for compensation and appears before or communicates with the government agency for the purpose of influencing the proceeding.

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<sup>1</sup> Government Code Section 84308 of the Political Reform Act (the Levine Act).

### Who is an officer of an agency?

An officer of an agency is an elected or appointed officer of an agency or any candidate for elected office in an agency.

### What if contributions of more than \$250 were made over the past 12 months and I am involved in a proceeding?

You must disclose the contribution. The timing of that disclosure depends on when in relation to the proceeding the contribution(s) occurred. If it was made prior to the proceeding, it is not a violation of the statute, but it must be disclosed. If it is made during the pending proceeding, it is in violation of Section 84308 and it must be disclosed.

### What are the consequences for violating Section 84308?

A violation may result in a civil action for a penalty of up to \$5,000 per violation. A knowing or willful violation may be deemed a misdemeanor subject to a fine of up to the greater of \$10,000 or three times the amount of the unlawful contribution.

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