

# The Levine Act

Ethics Commission

February 8, 2023

The Levine Act is contained within the California Political Reform Act

Previously, the Levine Act only applied to local governing boards composed of appointed officers (e.g. commissioners) who hear proceedings involving licenses, permits, and other entitlements for use.

Effective January 1, 2023, SB 1439 amended the Levine Act to require **local elected officers** to recuse themselves from certain proceedings involving persons that made contributions to their political campaigns or officeholder accounts, subject to certain exceptions.

# THE LEVINE ACT

Subject to  
certain  
exceptions,  
the Levine  
Act  
generally  
prohibits:

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Contributions of more than \$250

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Made to an any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency

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By a party, participant, or the party or participant's agent in a proceeding pending before the agency involving a license, permit, or other entitlement for use

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For 12 months before the proceeding, during the proceeding, and for 12 months after the proceeding

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# THE LEVINE ACT RULE

# THE LEVINE ACT

## WHO DOES THE LEVINE ACT APPLY TO IN LONG BEACH?

### Long Beach Elected Officials

- ▶ The Mayor
- ▶ Councilmembers

### Certain Long Beach Appointed Officials (Commissioners)

- ▶ Harbor Commissioners
- ▶ Water Commissioners
- ▶ Planning Commissioners
- ▶ Parks and Recreation Commissioners
- ▶ Board of Examiners, Appeals, and Condemnation
- ▶ Cultural Heritage Commission
- ▶ Long Beach Community Investment Company

# THE LEVINE ACT

## WHO IS A PARTY?

- ▶ “Party” means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.
- ▶ Examples:
  - ❑ Vendors/Contractors
  - ❑ Applicants for a permit or license
  - ❑ Developers
  - ❑ 3<sup>rd</sup> party appellants

# THE LEVINE ACT

## WHO IS A PARTICIPANT?

“Participant” means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision.

A person actively supports or opposes a particular decision in a proceeding if that person:

- ❑ Lobbies in person the officers or employees of the agency;
- ❑ Testifies in person before the agency; or
- ❑ Otherwise acts to influence officers of the agency.

# THE LEVINE ACT

## WHO IS AN AGENT?

An agent is an individual or firm who represents a party or a participant in a proceeding.

If an agent is an employee or member of a law, architectural, engineering, or consulting firm, or a similar entity, both the entity and the individual are considered agents.

# THE LEVINE ACT

## KEY ITEMS THAT TRIGGER THE LEVINE ACT REQUIREMENTS

The key agenda items that trigger the Levine Act include:

- ▶ Business, professional, trade licenses and permits
- ▶ Entitlements for land use
- ▶ Contracts (other than competitively bid, labor, or personal employment contracts)
- ▶ Franchises

# THE LEVINE ACT

## TYPES OF AGENDA ITEMS THAT TRIGGER LEVINE ACT REQUIREMENTS

### ▶ Contracts other than competitively bid, labor, or personal employment contracts.

- Contracts, permits, or licenses for use of City or public property
  - Examples: parking lot permits or leases, Facility Use Permits, Small Cell Wireless Telecommunications Facilities (Small Cell) Permits, Special Events Permits, any use of the public right-of-way, use of Airport property, right-of-entry permits
- Lease of real property
- Sale or purchase of real property
- Sole Source Contracts made pursuant to Charter sections 1801 or 1807

### ▶ Business Permits and Licenses

- Business license hearings
- Entertainment Permits
- Special Event Permits

### ▶ Land Use (Planning) Entitlements

- Accessory Dwelling Units
- Accessory Use Permits
- Certificates of Appropriateness
- Conditional Use Permits
- Easements granted by the City
- Harbor Development Permits
- Hearings for renovation
- Local Coastal Development Permits
- Zone amendments, changes, or variances, including General Plan Amendments

### ▶ Franchises

# THE LEVINE ACT CONTRIBUTIONS MADE BEFORE A PROCEEDING

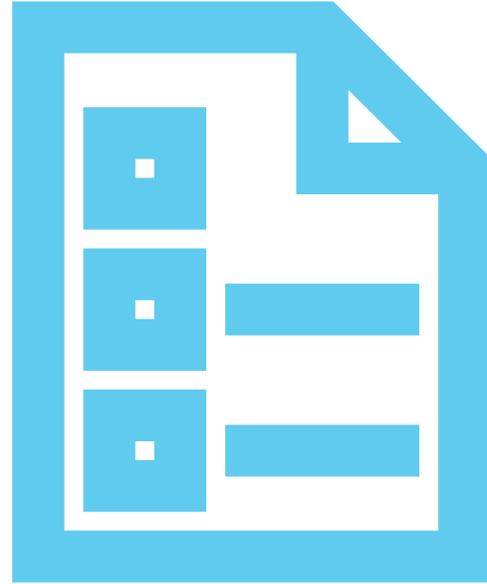
- ▶ If a contribution of more than \$250 is made by a party, participant, or their representatives of a proceeding to an officer within 12 months before a proceeding, the officer who received the contribution must:
  - ❑ Disclose that they have received a contribution on the record of the agenda item and recuse themselves OR
  - ❑ Return the contribution of more than \$250 (or the portion that exceeds \$250) within 30 days from the officer knew, or should've known about the contribution and the relevant proceeding, so the official can participate in the decision.
- ▶ Applies to contributions made, and proceedings held, after January 1, 2023

# THE LEVINE ACT CONTRIBUTIONS MADE DURING OR AFTER A PROCEEDING

- ▶ If an officer accepts, solicits, or directs a contribution of more than \$250 during the 12 months after the date a final decision is rendered in the proceeding, the officer may cure the violation by returning the contribution (or the portion that exceeds \$250), within 14 days of accepting, soliciting or directing the contribution, whichever comes latest.
  - ❑ This opportunity to cure is only available if the officer did not knowingly and willfully accept, solicit or direct the prohibited contribution and the officer or officer's controlled committee keeps a record of curing the violation.
- ▶ It is also unlawful for a party, participant, or any of their representatives in a proceeding to make a contribution of more than \$250 to an officer during a proceeding and for 12 months following the date a final decision is rendered by the City in the proceeding.

# THE LEVINE ACT VIOLATIONS

- ▶ Violations of the Political Reform Act, including the provisions of the Levine Act, are punishable as a misdemeanor.
- ▶ In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person improperly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.



QUESTIONS?