



# BOARD OF SUPERVISORS COUNTY OF MADERA

MADERA COUNTY GOVERNMENT CENTER  
200 WEST 4<sup>TH</sup> STREET / MADERA, CALIFORNIA 93637  
(559) 675-7700 / FAX (559) 673-3302 / TDD (559) 675-8970  
Agendas available: [www.MaderaCounty.com](http://www.MaderaCounty.com)

## Members of the Board

Tom Wheeler  
Brett Frazier  
David Rogers  
Robert L. Poythress  
Leticia Gonzalez

## The Board of Supervisors

December 20, 2022  
Chairman Tom Wheeler

<b>DEPARTMENT</b> COUNTY COUNSEL DEPARTMENT	<b>DEPARTMENT CONTACT</b> Regina Garza	<b>AGENDA ITEM</b> <b>d</b> <b>DISCUSSION ITEMS</b>
<b>SUBJECT:</b> <b>Senate Bill 1439 presentation related to new restrictions for officials who receive campaign contributions.</b>	<b>REQUIRED VOTE:</b> Informational, Vote Not Required	<b>DOC. ID NUMBER</b> 22-1083
<b>STRATEGIC FOCUS AREA(S):</b> Public Information		
<b>CLERK NOTES:</b> {{motions.text}}		
<b>For Clerk of the Board's Office Use Only</b>		
<b>RESULT:</b> {{voting.status}} [{{voting.for_count}}] TO [{{voting.against_count}}] <b>MOVER:</b> {{motions.mover format="[[firstname]] [[lastname]], [[title]]"}} <b>SECONDER:</b> {{motions.seconder format="[[firstname]] [[lastname]], [[title]]"}} <b>AYES:</b> {{voting.for_names format="[[lastname]]"}}		
Is this item Budgeted? N/A Will this item require additional personnel? N/A Previous Relevant Board Actions: None PowerPoint Presentation? Yes Supporting Documents: PowerPoint, Other/Misc.		<b>DOCUMENT NO(S).</b>

## RECOMMENDED ACTIONS:

Update and presentation by Regina A. Garza, County Counsel on recent legislation (SB 1439) enacted this year that will become effective on January 1, 2023.

## DISCUSSION / FISCAL IMPACT / STRATEGIC FOCUS:

### DISCUSSION:

California Legislature enacted SB 1439, effective January 1, 2023 (Attachment 1), making a substantial change to the Political Reform Act relating to campaign contributions. This bill amends Government Code Section 84308 (a provision in the Political Reform Act) to remove the local agency exception for cities and counties. This is an update on this bill and its anticipated impacts on Board of Supervisors members and potential future items before the Board of Supervisors.

Removing the local agency exception in Government Code Section 84308 will now have two important impacts. First, a Board of Supervisors member will now be prohibited



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from making, participate in making, or in any way attempting to influence a decision involving a license, permit, or use entitlement pending before the County of Madera if the Board of Supervisors member has knowingly accepted, solicited, or directed a campaign contribution exceeding \$250 from a party or participant in the license, permit or use entitlement proceeding in the previous 12 months. Disclosure of the contribution and recusal from the proceeding is required. Second, a Board of Supervisors member is prohibited from knowingly accepting, soliciting, or directing a campaign contribution exceeding \$250 from a party or participant (or a party's agents or participant's agent) for 12 months after participating in a proceeding involving a license, permit, or use entitlement. So, there is a 12-month "look back" period before the decision, and a 12-month "look forward" period after the decision.

There are two methods to "cure" a potential violation, both of which involve returning the portion of any contribution above \$250.

There have been many questions about how this change is to be administered beginning in January due to the 12-month "look back" for campaign contributions received in the previous 12 months. The Fair Political Practices Commission ("FPPC") issued a formal written letter opinion earlier this month (Attachment 2) making it clear that although the new law is effective January 1, 2023, the 12-month look back would extend back into 2022 and cover campaign contributions received in 2022. The FPPC has received much feedback on this position from local officials and local agencies, many who believe the immediate imposition of the 12-month "look back" would give the law an improper retroactive application not intended by the legislature. Additionally, given the concerted push for more housing from the Governor and state legislature, it would not be surprising if the FPPC is being asked to reconsider its 12-month look back opinion to alleviate the potential immediate impact such a position would have on local agency land use entitlement decisions in 2023.

On November 17, 2022, the FPPC met to discuss this matter and the letter opinion issued earlier this month. The commission approved by a 5-0 vote at that meeting, to adopt an opinion that campaign contributions received in 2022 will not subject an elected official to the recusal requirement. In other words, the FPPC does not believe that the legislature intended on a "look-back" period to include 2022 contributions. This means that only campaign contributions exceeding \$250 accepted, solicited, or directed on and after January 1, 2023, will affect an elected official's ability to participate in, influence and decide a matter involving a license, permit or use entitlement in the future.

The FPPC was not intending to have a meeting in December. However, in light of adopting the anticipated opinion with the new position, the FPPC intends to set a special meeting on December 22, 2022, for the sole purpose of adopting the new opinion prior to January 1, 2023. The County Counsel and Administration Departments will continue to follow this issue and the FPPC proceedings and provide a more detailed update after the FPPC's opinion is approved. If desired, County Counsel can also plan to provide a report/presentation at a Board of Supervisors meeting in January.



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### **FISCAL IMPACT:**

- Increase/no increase in County cost.

### **CONNECTION TO THE COUNTY OF MADERA STRATEGIC PLAN - MISSION 2023:**

#### STRATEGIC FOCUS AREAS

- Focus Area 4: Public Information
- Focus Area 7: Government Relations

### **ATTACHMENTS**

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1. Senate Bill 1439
2. Senate Bill 1439 FPPC Opinion