

Hi, this is Chris Micheli, with the Sacramento governmental relations firm of Aprea & Micheli and an adjunct professor at McGeorge School of Law. Today's podcast is on the Legislative Code of Ethics. In California's constitution, found in Article IV that deals with the Legislature, there are several sections that are applicable to ethical conduct by members of the Legislature. These provisions are primarily found in Sections 4 and 5 of our State Constitution.

Let's take a quick look at some of the provisions. Section 4, again, of Article IV of the State Constitution, contains a prohibition on the certain earned income and essentially Section 4 of the Constitution in Article IV, prohibits a member of the Legislature from knowingly receiving any form of income, salary, wages, commissions, from a lobbyist or a lobbying firm or from any person who during the previous 12 months had had a contract with the Legislature.

In addition in Section Four, any member who knowingly receives any salary, wages, commissions, or other earned income from a lobbyist employer may not for a period of one year following the receipt, vote upon, make, participate in making, or in any way attempt to use his or her official position to influence any actions or decisions of the Legislature. Section 5, again, of Article IV, deals with a prohibition on honorarium which is basically a payment generally for making a speech, meeting with, writing an article for, et cetera, some outside group. Section 5 prohibits any member of the Legislature from accepting any honorarium and the Legislature must enact laws that implement this prohibition.

In addition, the Legislature has to enact laws that ban or strictly limit the acceptance of a gift by a Legislator from any source if the acceptance of that gift might create a conflict of interest. Also note in Section 5 that members of the Legislature are prohibited from knowingly accepting any compensation for appearing, agreeing to appear, or taking any action on behalf of someone else before any state government board or agency.

In addition, if a member knowingly accepts any compensation for appearing or taking action on behalf of another before a local government board or agency, then the member may not for a period of one year following that compensation, vote upon, make, participate in making, or in any way attempting to use his or her official position to influence any action or decision that comes before the Legislature. However, also note that a member of the Legislature may engage in activities involving a board or agency, which are strictly on his or her own behalf.

Also, a member can appear in a capacity as an attorney before any court in the state or the worker cum appeals board, as well as act as an advocate without compensation, or make any inquiry of information on behalf of a person before a board or agency. The Legislature is also required, again under Article IV Section 5, to enact laws that prohibit members of the Legislature whose terms of office commence after 1990 from lobbying for compensation before the Legislature for 12 months after leaving office. In addition to these provisions found in our State Constitution, the California Government Code contains several sections that set forth a legislative code of ethics. These statutes were added in 1966.

Again, they're found in California's Government Code, specifically in Title II, Division 2, Part 1, Chapter 1 of Article 2. Let's review each of them. Government Code Section

8920. It has prohibitions of legislators. It says, "A member of the Legislature, a state elected or appointed officer, or a judge or justice, may not while serving in that particular position, may not have any interest financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of his or her duties."

In addition, Government Code section 8920 has very specific prohibitions on members of the Legislature, such as accepting other employment, or willfully disclosing for gain certain confidential information, et cetera. Now, note as the constitution did earlier than a Legislator is not prohibited from acting as an attorney or practicing before any court or the workers' compensation appeals board and receiving compensation for that work.

Also, a member of the Legislature may not receive or agree to receive directly or indirectly, any compensation, reward, or gift, from any source except the state of California for their service and advice and all related to the Legislative process, except for fees for speeches or published works on Legislative subjects, and with the exception of being reimbursed for expenditures that qualify as actual expenditures for travel and subsistence for which payment or reimbursement is not made by the State of California.

Then finally at 8920 of the Government Code, "A member of the Legislature may not participate by voting or any other action on the floors in committee or anywhere else for the passage or defeat of Legislation in which he or she has a personal interest," but there are some specified circumstances that are exceptions to that rule. Next is Government Code Section 8921, that basically says, "Any person who's subject to this area of the law has an interest that's in substantial conflict with the proper discharge of his or her duties that are in the public interest if he or she has reason to believe that he or she will derive a direct monetary gain or suffer a direct monetary loss, et cetera."

He or she doesn't have an interest that's in substantial conflict with the proper discharge of duties, if any benefit or detriment accrues to him or her as a member of a business profession, occupation or group, that's no greater than any other member of that business, profession, occupation, or group. Next is Government Code Section 8922, which deals with the proper discharge of duties in which someone is not engaged in an activity that's in substantial conflict with the proper discharge of his or her duties by reason of a relationship to a potential beneficiary of any situation that's basically defined as a remote interest or the receipt of a campaign contribution as long as that contribution is not made on the understanding or agreement in violation law such as someone's vote, opinion, judgment or action might be influenced by the contribution.

Next, we have Government Code Section 8924, which says that an employee, remember, up to this point we've been talking about members of the Legislature, here, under 8924, any employee of either house of the Legislature is prohibited during the time that he or she is employed by the Legislature from committing any act or engaging in any activity that's prohibited by this area of the law. The provisions of this article that are applicable to a member of the Legislature are in fact also applicable to any employee of either house of the Legislature.

However, this part does not prohibit an employee of either house of the Legislature from serving in an elected or appointed office of a regional or local public agency. Next is Government Code section 8925. This section simply provides that no person can induce or seek to induce any member of the Legislature to violate any provision of the law.

Then finally, we have section 8926, which says that, "Every person who knowingly and willfully violates any provision is guilty of a misdemeanor, and every person who conspires to violate any provision is guilty of a felony."

Thanks for joining me in this short review of the Legislative Code of Ethics that's enumerated in the Government Code, as well as the broader provisions that are contained in the California Constitution. I hope it was helpful.