

Date of Hearing: May 1, 2024

**ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT**

Juan Carrillo, Chair

AB 3130 (Quirk-Silva) – As Amended April 1, 2024

**SUBJECT:** County board of supervisors: disclosure

**SUMMARY:** Requires a member of the board of supervisors for a county to disclose a known family relationship with an officer or employee of a nonprofit entity before the board appropriates money to that nonprofit entity. Specifically, **this bill:**

- 1) Defines the following terms:
  - a) “Disclose” as to have information noted in the official records of the board of supervisors.
  - b) “Family relationship” as a relationship by blood, adoption, marriage, domestic partnership, or cohabitation.
  - c) “Nonprofit entity” as a nonprofit entity exempt from taxation under existing law, or a nonprofit corporation.
- 2) Requires a member of the board of supervisors to disclose a known family relationship with an officer or employee of a nonprofit entity before the board of supervisors appropriates money to that nonprofit entity.

**EXISTING LAW:**

- 1) Prohibits certain public officials, including, but not limited to, state, county, or district officers or employees, from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members, except as provided. A willful violation of these provisions is a crime. (Gov. Code Sec. 1090)
- 2) Requires a remote interest to be disclosed to the body or board of which the officer is a member and noted in its official records, and thereafter the body or board to authorize, approve, or ratify the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest. (Gov. Code Sec. 1091)
- 3) Identifies certain remote interests in contracts that are not subject to the above prohibition and other situations in which an official is not deemed to be financially interested in a contract. (Gov. Code Sec. 1091.5)

**FISCAL EFFECT:** None.

**COMMENTS:**

- 1) **Bill Summary.** This bill requires a member of a county board of supervisors to disclose a known family relationship, defined as a relationship by blood, adoption, marriage, domestic partnership, or cohabitation, with an officer or employee of a nonprofit entity before the

board of supervisors appropriates money to that nonprofit entity. This bill also defines disclosure as having the information noted in the official records of the board of supervisors, and a nonprofit entity as one exempt from taxation under existing law, or a nonprofit corporation.

This bill is author-sponsored.

- 2) **Author's Statement.** According to the author, "California has long been a leader in protecting the public against 'self-dealings' by elected officials and their families. Even the perception of selfish political agendas can strain the public's trust in government, hence the many conflict-of-interest-laws across our nation extending beyond the individual public officeholder to also include their family, including adult children and their spouses. By requiring disclosure of familial ties with nonprofit entities before the allocation of public funds, AB 3130 preserves public trust and protects government integrity."
- 3) **The Political Reform Act.** In 1974, California voters passed Proposition 9 to create the Political Reform Act (PRA), along with the Fair Political Practices Commission (FPPC), the agency tasked with enforcing the PRA through administrative and civil penalties. In 2013, the Legislature expanded the FPPC's jurisdiction to include Section 1090 [AB 1090 (Fong), Chapter 650, Statutes 2013]. The PRA is broader than Section 1090 because it prohibits any state or local public official from using his or her official position to influence any "governmental decision" in which the official has a financial interest. The PRA also applies to decisions that will have a material financial effect on a member of the official's "immediate family," which the Legislature has defined as a government official's spouse or dependent children. The PRA supersedes most other conflict of interest laws, including Section 1090, in the case of an inconsistency. Public officials must therefore consider whether a conflict exists under either the PRA or Section 1090, or both.
- 4) **County Governance.** Existing law provides for county powers and governance, including an elected county board of supervisors, an elected county sheriff, an elected district attorney, and an elected assessor. The powers of a county can only be exercised by the board of supervisors or through officers acting under the authority of the board or authority conferred by law. The board supervises the official conduct of all county officers, particularly as their activities pertain to the management and disbursement of public funds. The board of supervisors is also vested with the constitutional authority to provide for the number, compensation, tenure, and appointment of employees.

The board of supervisors of any county can appropriate and expend money from the general fund of the county to establish county programs or to fund other programs considered by the board of supervisors to be necessary to meet the social needs of the population of the county. This includes the areas of health, law enforcement, public safety, and education, among others. The board of supervisors can also contract with other public agencies or private agencies or individuals to operate such programs if the board of supervisors determines it will serve public purposes.

A program may consist of a community support program including a charitable fund drive conducted in cooperation with one or more nonprofit charitable organizations if the board of supervisors believes a program will assist in meeting the social needs of the population of the county. If the board establishes a program, the officers and employees of the county must

have the authority to carry out the program, using county funds and property if authorized by the board.

- 5) **Orange County.** Starting in late 2023, news surfaced that an Orange County Supervisor awarded COVID-19 relief funding to an organization run by his daughter without disclosing the connection to the public.<sup>1</sup> After public scrutiny over the contracts, news surfaced that the organization was also behind on required audits.<sup>2</sup> Despite these concerns, the Supervisor continued to award funding to the organization.<sup>3</sup>

According to an April 8, *Los Angeles Times* Article, “In September 2022, with the five supervisors’ districts splitting federal coronavirus relief funds earmarked for ‘social needs,’ the board voted unanimously to approve \$6.9 million in discretionary funds for Do’s district. According to public records obtained by The Times, Do’s office sent \$2.2 million of that money to the Viet America Society between December 2022 and March 2023 and an additional \$1 million in October 2023 for a Vietnam War Memorial. The board had decided that proper uses for the coronavirus relief money included parks, infrastructure, ‘projects and programs.’

“In June 2023, the board voted unanimously to approve \$3 million in discretionary funds, this time from the county’s general fund, for each of the districts. Do directed his \$3 million to the Viet America Society in August 2023. According to LAist, the news site that has spearheaded reporting on the controversy, Do has directed as much as \$13.5 million in government money to the nonprofit, often without placing it on a public agenda and without disclosing his daughter’s connection to the group.”<sup>4</sup>

According to Orange County, the Orange County Board of Supervisors agendized and voted on all discretionary spending requested by individual supervisors. The process was initially noticed and approved by the Board on April 27, 2021 and included authorization to allow each Supervisor to develop their own approach to meet the needs of their respective districts.

- 6) **Policy Consideration.** This bill defines “disclose” as to have information noted in the official records of the board of supervisors. This definition is somewhat vague and might not provide the kind of disclosure the author is seeking.
- 7) **Committee Amendment.** The Committee may wish to amend this bill’s definition of “disclose” as follows:

“Disclose” means to have information **announced in an open and public meeting and** noted in the official records of the board of supervisors.

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<sup>1</sup> <https://laist.com/news/politics/andrew-do-rhiannon-do-investigation-warner-wellness-orange-county-viet-america-society-pham>

<sup>2</sup> <https://laist.com/news/politics/orange-county-taxpayer-money-andrew-do-viet-america-society-warner-wellness>

<sup>3</sup> <https://laist.com/news/politics/orange-county-supervisor-andrew-do-taxpayer-money-daughter-viet-america-society-warner-wellness-rhiannon-do>

<sup>4</sup> <https://www.latimes.com/california/story/2024-04-08/scandal-shadows-andrew-dos-final-year-on-the-o-c-board-of-supervisors>

8) **Related Legislation.** AB 2946 (Valencia) specifies that the board of supervisors of Orange County must only appropriate district discretionary funds if the board of supervisors approves, by majority vote, appropriating the district discretionary funds. This bill also requires the board to post a log of appropriated district discretionary funds on its website and places specified limitations on a member of the board of supervisors who is on a ballot as a candidate. AB 2946 is pending in the Assembly Appropriations Committee.

SB 1111 (Min) expands the definition of “remote interest” for the purpose of the state’s conflict-of interest laws governing contracting by public officials or employees (commonly called the “1090” laws) to include the financial interests of a public officer’s child, parent, or sibling, or the spouses of those individuals. SB 1111 is pending in the Senate Appropriations Committee.

9) **Arguments in Support.** None on file.

10) **Arguments in Opposition.** None on file.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file.

**Opposition**

None on file.

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