

Attorney General Declares That SB 1439 Campaign Contribution Rules Do Not Apply Retroactively

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The California Attorney General has declared that the campaign contribution rules of SB 1439 (2022) apply prospectively only to contributions received after January 1, 2023. The bill amended Government Code Section 84308 in the Political Reform Act to require local officials to disclose and recuse based on campaign contributions over \$250 received in the 12 months prior to a governmental decision in which the contributor is a party, participant, or an agent. Based on the Fair Political Practices Commission's **Kendrick Opinion** issued last December, RWG advised public officials that SB 1439 does not apply retroactively to contributions received in 2022. The bill's author, State Senator Steven Glazer, disagreed with the FPPC opinion and requested an analysis from the Attorney General.

Last Thursday, the Attorney General opined that the disclosure, recusal, and cure provisions of SB 1439 do not apply retroactively to political contributions made before January 1, 2023. Although Attorney General opinions are not binding precedent, courts typically give such opinions "great weight." If the 12-month "lookback" provisions applied retroactively, some local officials who lawfully accepted contributions of more than \$250 in 2022 could have been deemed to violate the Political Reform Act if they participated in a 2023 governmental proceeding that involved the contributor.

To demonstrate the potentially detrimental consequences of retroactively applying SB 1439, the Attorney General cited an issue related to achieving quorum raised in RWG attorney Natalie Kalbakian's comment letter. The opinion further noted that a statute that is unclear about retroactive application must be construed as "unambiguously prospective."

The Attorney General's **Opinion No. 23-101** was issued on October 19, 2023.

For more information regarding SB 1439's new campaign contribution rules, please contact **Craig Steele, Natalie Kalbakian** or your agency's RWG attorney.

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