

LEVINE ACT

Levine Act Disclosure Requirement for Parties to a Proceeding

The Levine Act requires a Party in a Proceeding before South Bayside Waste Management Authority (SBWMA) that involves any action related to their contract, license, permit, or use entitlement to disclose any campaign contributions to SBWMA's appointed officials totaling more than \$250 within the 12 months prior to SBWMA's decision. A Participant to a Proceeding may voluntarily report a campaign contribution on this form and submit it to SBWMA.

When The Levine Act Form Must Be Completed

The form must be completed (1) by the party to a contract with SBWMA (or that party's agent) at the time the party submits a response to a Request for Proposals, Request for Bids, or other competitive solicitation, enters into contract negotiations with SBWMA, or executes a contract with SBWMA, whichever is earliest, or (2) by a party to a license, permit, or other entitlement proceeding before SBWMA at the time the party (or their agent) submits the license, permit, or entitlement application to SBWMA. The requirement to submit this form applies where a party (or that party's agent) has contributed more than \$250 to Board member(s) or Alternate(s), if they may participate in the proceeding, within the prior 12 months of the proceeding.

The party (or their agent) must submit a supplemental form if they make any new reportable contributions while the contract, license, permit, or other entitlement is being considered.

The party (or their agent) must also use this form if they need to correct any previously submitted form.

Parties are solely responsible for completing this form accurately. If you are uncertain about whether you are required to report a contribution, please consult with your attorney.

The foregoing statements do not constitute legal advice and individuals are urged to consult with their own legal counsel regarding the requirements of the law.

The completed form submitted to CCFD is a public record.

1. [Levine Act Fact Sheet](#)
2. [Levine Act Frequently Asked Questions](#)
3. [Levine Act Section 84308 Guide for Parties, Participants, and Agents](#)
4. [Levine Act Section 84308 Guide for Officers](#)
5. [Levine Act Regulations at FPPC website](#)

SB 1439: LEVINE ACT
FREQUENTLY ASKED QUESTIONS
South Bayside Waste Management Authority

1. What is the prohibition on the officer?

Officers may not accept, solicit, or direct contributions of more than \$250 from a party, a party's agent, or from any participant or a participant's agent if the officer knows or has reason to know that the participant has a financial interest in the decision, (1) while a proceeding involving a license, permit, or other entitlement for use is pending before the officer, and (2) for 12 months after a final decision.

This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution on the officer's own behalf, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

2. What is a contribution and are contributions aggregated?

A contribution is defined as contributions to candidates and committees in federal, state or local elections. A contribution does not include donations to SBWMA or for SBWMA sponsored special events.

Contributions are aggregated in a 12-month period. For example, a \$200 campaign donation made to an officer by a party or the party's agents in February 2023 must be added to a \$50 contribution by that party or the party's agents in March 2023. Campaign committees should monitor contributions for compliance with fundraising ban and the recusal requirement, and multiple small donations must not exceed \$250 within a 12-month period.

3. What is the prohibition on parties, participants and their agents on contributions?

A party, party's agent, participant, participant's agent, to a proceeding pending before CCFD shall not contribute more than \$250 to any officer during the proceeding and for 12 months following the date of a final decision.

4. Who is an officer?

"Officer" means any appointed officer of an agency, and any alternate to the appointed officer of an agency. For SBWMA, this would include Board member(s) and Alternate(s), who would preside over a proceeding involving a license, permit, or other entitlement for use.

5. What is a proceeding that involves a license, permit, or other entitlement of use?

The proceeding must involve an action to grant, deny, revoke, restrict or modify contracts, licenses, permits, for any business, professional, trade, franchise, and other use entitlements.

A proceeding does not include competitively bid lowest qualified bidder contracts where the bidders submit fixed amounts in their bids and SBWMA is required to select the lowest qualified bidder with no discretion in awarding the contract. A proceeding also does not include collective bargaining agreements or personal employment contracts involving SBWMA employees. In addition, a proceeding does not include purely ministerial decisions where no discretion is exercised.

6. When is a proceeding pending?

A proceeding is pending for an officer when the decision is before the officer's consideration as an item on a public meeting agenda, or officer knows or has reason to know the proceeding is before SBWMA for its decision and it is reasonably foreseeable that decision will come before the officer.

A proceeding is pending for a party, participant, or agent when an application has been filed with CCFD, even though the decision has not yet come before the officer.

7. Who is a party?

A party is any person, including a business entity, who files an application for, or is the subject of, a proceeding involving a license, permit or other entitlement for use.

When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements.

8. Who is a participant and when do they have a financial interest in the decision?

A participant, while not an actual party to the proceeding, is anyone who (1) actively supports or opposes a particular decision (e.g., lobbies officers or employees, testifies in person before SBWMA, or otherwise acts to influence the officer); and (2) has a financial interest in the outcome of the decision.

. The officer must have actual knowledge of the participant's financial interest, or the participant reveals facts during the proceeding that make that person's financial interest apparent, giving the official a reason to know about the financial interest, such as:

Economic interest in a business entity that may see a significant increase or decrease in customers because of the proceeding; or

A business relationship with the applicant that may result in additional services provided to the applicant.

An officer does not know or have reason to know of a participant's financial interest in a decision solely from the participant identifying an economic interest in the general vicinity of a business entity at issue in the proceeding.

9. Who is an agent?

An agent of a party or participant 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.

10. When must an officer disclose and recuse themselves from participating in the proceeding?

Officers who “willfully or knowingly” received a contribution of more than \$250 from a party, participant with a financial interest, or agent in the 12 months before a proceeding cannot make, participate in making or attempt to use their official position to influence the decision. The officer must disclose receipt of the contribution in the record of the proceeding, and recuse themselves unless there is an exception to recusal or they cured the violation before the proceeding. Disclosure under the Levine Act does not relieve the officer from any other campaign contribution reporting requirements under local and state law.

11. When does an officer “willfully or knowingly” receive a contribution?

It is “willful and knowing” when the officer has actual knowledge that the contribution came from someone with a connection to a pending proceeding, or aware of facts establishing other reasons to know of the contribution. A campaign contribution that is reported on a Form 460 Campaign Statement, by itself, is not considered willful or knowing.

12. Is there a legally required participation exception to recusal?

Officers who would otherwise be disqualified from participating in a proceeding can participate if their vote is legally required in order to obtain the number of votes required to take action but absence of other Board members alone is not sufficient to trigger the rule of legally required participation.

13. Is there an opportunity to cure the violation before the decision and lawfully participate?

Yes – the officer may cure a violation only if they did not knowingly and willfully accept, solicit, or direct the prohibited contribution. They can participate if they disclose the amount of any contribution(s) made within the preceding 12 months and the names of the contributors. The contribution amount over \$250 must also be returned within 30

days from the time they know or should have known about the contribution. The officer's-controlled committee, or the officer if no controlled committee exists, shall maintain records of curing any violation.

14. Is there a cure post-decision?

If an officer unwilfully and unknowingly accepts, solicits, or directs a contribution of more than \$250 during the 12 months **after** the date of a final decision, the violation can be cured by returning the contribution, or the excess over \$250, within 14 days of accepting, soliciting, or directing the contribution, whichever comes latest. The officer's-controlled committee, or the officer if no controlled committee exists, shall maintain records of curing any violation.

15. What is the penalty for a violation of the Levine Act?

Violation of the Levine Act carries with it administrative, civil, or criminal penalties and the FPPC is actively monitoring compliance by local officers with the Levine Act.

16. Does a party have disclosure obligations?

The party to a proceeding who contributed more than \$250 to an officer in the 12 months prior to the proceeding will also be required to disclose the amount of any contribution(s) on the date a party to a proceeding files an application or other request initiating the proceeding. For a contribution made during any stage of the proceeding, the party must disclose the contribution within 30 days of making the contribution, or on the date on which the party makes its first appearance before or communication with SBWMA regarding the proceeding following the contribution, whichever is earliest.

A party should fill out SBWMA's SB 1439 Levine Act Disclosure Statement.

17. Does a participant have disclosure obligations?

Participants are not required to disclose but may voluntarily disclose using SBWMA's SB 1439 Levine Act Disclosure Statement.

18. What if the spouse to a party or participant makes a contribution but is not a party to a proceeding?

A campaign contribution in an amount over \$250 from the spouse to a party or participant could trigger the fundraising ban, recusal and disclosure requirements if the spouse is acting as an agent of the party or participant, or would separately qualify as a participant and has a financial interest in the decision.

19. What if a company that employs the party or participant makes a contribution but is not the party to the proceeding?

A campaign contribution in an amount over \$250 from a company that employs the party or participant could trigger the fundraising ban, recusal and disclosure requirements if the company is acting as an agent of the party or participant or would separately qualify as a participant with a financial interest.

20. What if a family member of a party or participant makes a contribution but is not a party to the proceeding?

A campaign contribution in an amount over \$250 from a child of a party or participant could trigger the fundraising ban, recusal and disclosure requirements if the child is acting as an agent of the party or participant, would separately qualify as a participant with a financial interest. A contribution made by a child under the age of 18 is presumed to be a contribution from his/her/their parent or guardian.

SOUTH BAYSIDE MANAGEMENT AUTHORITY
SB 1439 California Levine Act Disclosure Statement
[Cal. Govt. Code § 84308](#)

The Levine Act requires a Party in a proceeding pending before South Bayside Management Authority (SBWMA) that involves any action related to their contract, license, permit, or use entitlement to disclose any campaign contributions to SBWMA's appointed officials totaling more than \$250 within the twelve (12) months prior to the decision. A participant in a proceeding may voluntarily report a campaign contribution on this form.

1. Have you or your company/organization, or any agent on behalf of you or your company/organization, made any political contributions of more than \$250 to any SBWMA Board member(s) or Alternate(s) in the 12 months preceding the anticipated date of any Board action related to this license, permit, or other use entitlement?¹ YES NO

2. If yes to 1, please identify:

Meeting Date: _____

Agenda item number: _____

Brief Agenda Description (e.g., contract, license, permit, use entitlement):

3. If yes, please identify the Board member(s), or Alternate(s) receiving the contribution:

Answering yes to question #1 does not preclude the Board from taking action on the license, permit, or other use entitlement. It does, however, preclude the identified Board Member(s) and Alternate(s) from participating in the actions.

Verification

I have used all reasonable diligence in preparing this Disclosure Statement. I have reviewed this Disclosure Statement and to the best of my knowledge the information contained in this statement is true and complete. I declare under penalty under the laws of the State of California that the foregoing is true and correct.

Signature of Authorized Individual

Date

Name of Authorized Individual: _____

Name of Company/Organization: _____

Submit by email to: Cyndi Urman, Clerk of the Board of Directors curman@rethinkwaste.org

¹ "License, permit, or other entitlement for use" means all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises. Cal. Govt. Code § 84308(a)(5). The FPPC interprets "competitively bid" contracts to apply only when the bidders submit fixed amounts in their bids and the Town is required to select the lowest qualified bidder with no discretion in awarding the contract.

SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
SB 1439 California Levine Act Disclosure Statement
[Cal. Govt. Code § 84308](#)

INSTRUCTIONS AND DEFINITIONS

[California Government Code Section 84308](#), most recently amended by SB 1439, and commonly referred to as the “Levine Act,” prohibits a local elected official or quasi-judicial appointed official from participating in any action related to a contributor’s contract, license, permit, or use entitlement if the official receives any campaign contributions totaling more than \$250 within the twelve (12) months prior to the District decision, and for twelve (12) months following the date a final decision has been made, from the party, participants, or agents in the proceeding. The Levine Act / SB 1439 also requires a member of the District Board who has received such a contribution to disclose the contribution on the record of the proceeding and recuse themselves before the proceeding unless the violation has been properly cured.

Members of the Board of Directors can be found on the South Bayside Waste Management Authority website at rethinkwaste.org.

Parties,² Participants³ or Agents for a proceeding involving a license, permit, or other use entitlement pending before the Authority Board are responsible for accessing the above link to review the names prior to answering the following questions, and must complete this form prior to their proceeding.

² “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. Cal Govt. Code § 84308(a)(1).

³ “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 District, testifies in person before the District, or otherwise acts to influence officers of the District. Cal. Govt. Code § 84308(a)(2).