

# **Public Officials Do Not Automatically Forfeit Their Offices Under Article XII, Section 7**

## **Introduction**

Article XII, section 7 of California's constitution provides: "A transportation company may not grant free passes or discounts to anyone holding an office in this State; and the acceptance of a pass or discount by a public officer, other than a Public Utilities Commissioner, shall work a forfeiture of that office."<sup>[1]</sup>

We conclude that this section should not be taken literally: Article XII, section 7 does not mean that a public official who accepts free or discounted transportation automatically forfeits their office. The section's history suggests that it was never so intended, and forfeiture of office is a disfavored punishment except in narrow circumstances. To date, this provision has never been successfully used to remove an official from office, automatically or not. And there are no published judicial decisions interpreting this provision. The best available authorities for determining this provision's meaning are opinions of the California Attorney General and the Political Reform Act. Those authorities suggest that Article XII, section 7 does not lead to an automatic forfeiture.

This article also reviews the history of Article XII, section 7 and its relationship with the Political Reform Act. We conclude that the Political Reform Act—not Article XII, section 7—is the operative law regulating how public officials can receive free or discounted travel and preventing travel pass influence schemes. And we conclude that the Political Reform Act is not particularly effective in this regard, because it allows non-profits to give politicians thousands of dollars in travel funds.

## **Origin of the Constitutional Prohibition on Free Transportation Passes**

The drafting history of the free pass ban does not support the conclusion that the penalty is an automatic forfeiture of office. The prohibition in Article XII, section 7

on free and discounted passes dates to California's second constitutional convention in 1879.[2] Delegates broadly sought to address the "tyranny" of corporations, particularly railroads.[3] After introducing twenty-five amendments regulating the railroads, the chairman of the committee on corporations declared that the proposals would "stamp upon the organic law of California that right of visitation and regulation of railroads necessary for the protection of the people." [4]

The first proposed ban on free and discounted passes was not limited to public officials. Delegates initially proposed barring transportation companies from granting free and discounted passes to anyone other than employees of the company.[5] Later iterations of the ban, however, prohibited "any member of the Legislature, or any State, county, or municipal officer" from receiving free or discounted travel.[6] One delegate unsuccessfully attempted to add a clause that made it a felony—punishable by death—for railroad employees to offer a public officer a free or discounted fare (which was immediately derided as absurd).[7] In defending the original language of the proposal, delegate Estee argued, "This provision is found in several of the Constitutions, and will not do any harm here, and it may do considerable good." [8][9] Delegates later added, without debate, language exempting railroad commissioners from the ban,[10] presumably to expedite the commissioners' investigations.[11] The ban on public officials receiving free or discounted travel was originally codified in Article XII, section 19.

### **Attempts to Revise the Ban on Free Transportation Passes**

The revision history of the free pass ban does not support an automatic forfeiture penalty. Reformers have unsuccessfully tried to amend or abolish the prohibition on public officials receiving free or discounted travel passes on several occasions. In 1951, the legislature codified the ban on free and discounted passes in Public Utilities Code section 521.[12] In 1962 the voters passed Proposition 7, which allowed the legislature to propose revisions to the state constitution.[13] The legislature responded by creating the Constitution Revision Commission to recommend changes. In 1966, the commission published a background study on Article XII.[14] The 1966 study concluded that the ban on free and discounted passes (then found in Article XII, section 19) was already regulated by the Public Utilities Code and recommended its deletion.[15] In 1968, the commission again

recommended Article XII, section 19 be deleted from the constitution.[16] The commission noted the provision was “harsh, inflexible, and unnecessary in view of general constitutional and statutory provisions which punish misconduct in office.”[17] The commission’s first set of revisions, including the deletion of Article XII section 19, were placed on the ballot in 1968 as Proposition 1.[18] Despite the commission’s recommendation, the voters rejected Proposition 1, 57% to 43%.[19]

During the 1970 primary election, the legislature attempted to delete most of Article XII (including the prohibition on free and discounted passes) through Proposition 3.[20] In support of Proposition 3, Assemblyman Robert Badham and Senator George Danielson argued that Article XII’s provisions were “more effectively covered by statute.”[21] Senator Danielson also argued that section 19 was unnecessary because it was already “covered by statute” and did “little to protect the public.”[22] Writing against Proposition 3, Assemblyman John Miller argued that replacing Article XII with statutes would lead to special interest lobbying, particularly because the ban on free and discounted travel would also be deleted.[23] The voters rejected Proposition 3, 77.2% to 22.8%.[24]

The last major development for the prohibition on free and discounted travel passes was in 1974 when the legislature proposed Proposition 12.[25] Like previous ballot measures, Proposition 12 sought to delete much of Article XII and replace it with statutes. Unlike previous ballot measures, however, Proposition 12 retained the prohibition on free passes.[26] Writing in favor of Proposition 12, the chairman of the Constitution Revision Commission argued that Article XII had developed into an “incomprehensible and tangled mass” of words that needed clarification.[27] Proposition 12 moved the ban on free passes from Article XII, section 19 to Article XII, section 7 and modernized the language of the provision.[28] Proposition 12 passed, 69% to 31%.[29] The ban on public officials receiving free and discounted travel remains in Article XII, section 7, unchanged since 1974.

### **Article XII, Section 7 Should Not Be Read Literally**

We conclude forfeiture of office is not automatic. While the text of Article XII, section 7 (“shall work a forfeiture”) could be construed as requiring automatic forfeiture, the Attorney General has noted the section’s ambiguity: “It is unclear

from a [literal] examination of article XII, section 7 whether it applies to a public officer only in such specific capacity, or extends to such officer without regard to his membership in some external class or universe.”[30] Although the constitution’s provisions are “mandatory and prohibitory” unless the constitution explicitly says otherwise,<sup>[31]</sup> there is little authority for an automatic forfeiture of office. No cases directly address whether forfeiture under Article XII, section 7 is automatic, but judicial decisions have generally held forfeiture of office is a disfavored punishment. Similarly, the California Attorney General Opinions that discuss what behavior violates Article XII, section 7 do not address whether forfeiture is automatic. Scholars have argued that Article XII, section 7 was designed to “inhibit certain aspects of the distribution of free passes, not to proscribe it entirely.”<sup>[32]</sup>

Granted, disregarding the interpretation of automatic forfeiture violates the maxim of interpretation that “an interpretation which gives effect is preferred to one which makes void.”[33] Yet “interpretation must be reasonable.”[34] In light of Article XII, section 7’s history, semantic ambiguity, and forfeiture being a disfavored punishment, it would be an unreasonable interpretation to find that it creates an automatic forfeiture. And disregarding “automatic forfeiture” interpretations does not vitiate Article XII section 7’s goal, because the Political Reform Act creates a mechanism for punishing politicians who unscrupulously accept free and discounted travel.

The 1879 delegates’ discussions about other constitutional provisions related to forfeiture of office also suggest that Article XII, section 7 was not intended to result in automatic forfeiture. Article IV, section 35 (also ratified in 1879) made it a felony for a member of the legislature to act on a bribe.[35] A legislator who violated Article IV, section 35 would be stripped of their right to vote and ability to hold office—but not automatically. The penalty only applied after conviction: “Any member of the legislature who shall be influenced in his vote . . . by any reward . . . shall be deemed guilty of a felony, and *upon conviction thereof* . . . shall be disfranchised and forever disqualified from holding any office of public trust.”[36] Article IV, section 35 gave immunity to witnesses testifying in corruption investigations, which also suggests delegates intended fact-finding to be required before forfeiture.[37] Both Article IV, section 35 and Article XII, section 7 penalize

legislators who accept gifts with removal from office. Yet Article IV, section 35 permits removal only after conviction for bribery. And Article XII, section 7 is silent on whether forfeiture requires a conviction.[38] The principle of *in pari materia* (laws of the same matter and subject must be construed with reference to each other) suggests forfeiture under Article XII, section 7 was not intended to be automatic.[39]

Article XII, section 7 is the only place in the 1879 constitution that purports to impose an automatic forfeiture of public office, and automatic forfeiture is inconsistent with other removal procedures discussed in the 1879 constitution. Article XII, section 22 states that railroad commissioners can only be removed for corruption a by two-thirds vote of both houses of the legislature.[40] It does not make sense that the framers of California's constitution would require a legislative supermajority to remove a commissioner for a serious offense like corruption—yet intend automatic forfeiture of office for accepting a free bus ride. Similarly, Article XI, section 10 allows for judicial officials to be removed by two-thirds votes of both houses of the legislature, but only after the party “has been served with a copy of the complaint against him,” and has been granted “an opportunity of being heard in his own defense.”[41] Both provisions are strong evidence that the framers intended officials facing forfeiture of office to have due process. The right to some process before removal from office even extends to appointed positions. Article X, section 1 gives the governor power to remove appointed state prison directors, “for misconduct, incompetency, or neglect of duty, *after an opportunity to be heard upon written charges.*”[42] Given this due process characteristic of every other removal mechanism in the 1879 constitution,[43] and applying the statutory interpretation principle requiring related provisions to be read in harmony, Article XII, section 7 should not be read to create an automatic forfeiture.

Finally, it is unlikely that the 1879 delegates intended to create an automatic forfeiture of office because that is a disfavored punishment. California courts have held that the right to hold public office is “one of the valuable rights of citizenship.”[44] Because the right to hold office is so fundamental, judicial interpretations of constitutional provisions traditionally “disfavor forfeitures,” require statutes imposing them to be “strictly construed,”[45] and resolve any ambiguity in a removal statute “in favor of continued eligibility.”[46] Accordingly, it

is unlikely that a court would construe Article XII, section 7 as requiring a public official to automatically forfeit their office by the mere acceptance of free or discounted travel.[47] This conclusion also flows from the limited interpretive treatment this provision has received, which we discuss next.

### **Few Judicial Interpretations of Article XII, Section 7 Exist**

There is little authority to aid in interpreting Article XII, section 7. The prohibition on public officials accepting free and discounted travel has never been used successfully to remove a California politician from office. Accordingly, no case has decided whether forfeiture of office under Article XII, section 7 is automatic. A 1993 Attorney General opinion noted that case law interpreting Article XII, section 7 was “virtually non-existent.”[48] Similarly, the Constitution Revision Commission concluded “there is not relevant litigation” on the prohibition.[49] In its background report on Article XII, the commission suggested the lack of case law stems from a redirection of public distrust—from the legislature to the judiciary.[50] (By 1911, there was public sentiment that judges, not legislators, were being corrupted by railroads.[51]) The commission’s study suggests Article XII cases were not brought out of fear state courts would “sweep desired regulation out the door by holding it unconstitutional.”[52] The fact that railroads were increasingly under federal control by the mid-twentieth century may also have been a contributing factor.[53]

The few cases on the prohibition of public officials accepting free or discounted travel have involved the legislature’s power to regulate railroads. In 1896, the Attorney General invoked then-Article XII, section 19 to remove an insurance commissioner from office for accepting free passes from a railroad company. Although the insurance commissioner pleaded not guilty to the charges, he did not disclaim or justify the right to maintain his office, which was required in quo warranto actions.[54] Nevertheless, the trial court erroneously dismissed the action against the commissioner. In a 6-3 decision, the California Supreme Court held it could not issue a writ of mandamus to reverse the trial court because mandamus cannot be used to correct judicial error.[55] The majority opinion was authored by Justice McFarland, who was criticized in the press for favoring railroads in his rulings.[56] In another case, the California Supreme Court held then-Article XII, section 19 could not enjoin railroad companies from issuing free passes in

accordance with the Public Utilities Act.[57] Neither those nor any other published California case has squarely confronted the question of whether Article XII, section 7 requires automatic forfeiture.

### **Attorney General Opinions Outline Article XII, section 7's Contours**

Although Article XII, section 7 has never been used successfully to remove an official from office, Attorney General opinions provide some guidance. That office opined that Article XII's prohibition on free or discounted travel only covers free or discounted travel given to public officials because of their positions.[58] If a company provides free or discounted travel to a public official as a member of a larger group (unrelated to the legislative process), it does not present any constitutional issues.[59] For example, forfeiture of office does not result if a public official uses frequent flier miles to buy a plane ticket, or accepts an airline ticket for personal use.[60] And a public official can accept a free plane ticket on his or her honeymoon if the airline offers free tickets to all similarly situated people.[61] Additionally, Article XII, section 7 is not violated when a public official accepts a free airplane ticket based on a spouse's status as a flight attendant if the airline grants the same tickets to all flight attendant spouses.[62]

In 1993, however, the Attorney General's Office found that a mayor's acceptance of an upgraded plane ticket due his status as high-profile public official constituted a "discount" under Article XII, section 7.[63] Importantly, the opinion only granted leave to sue, rather than declaring the office immediately forfeit, and no judicial opinion resulted.[64]

### **The Political Reform Act Is The Operative Scheme**

The Political Reform Act contains provisions on free and discounted travel for public officials. The voters enacted the PRA as Proposition 9 in 1974.[65] It is currently codified in Government Code sections 81000 through 91014.[66] The act governs a range of subjects including campaign finance, lobbying activity, and conflicts of interest for "public officials." [67] It also regulates how public officials can receive gifts.[68]

Under the act, free or discounted travel expenses are treated as gifts.[69] Public

officials can only receive \$470 in gifts from a single source in a calendar year.[70] Officials can only accept gifts valued at \$10 per month from lobbyists.[71] Officials who receive gifts must disclose the amount received and source of the gift on an annual income statement.[72] Travel expenses and discounts are subject to the same \$470 annual limitation as other gifts and the \$10 limit for lobbyist gifts.[73] Travel expenses or discounts also must be disclosed on annual income statements like other gifts.[74] If a public official does not comply with the PRA's requirements for accepting gifts or disclosing them, the official can be subject to severe penalties: for example, knowingly violating the act is a misdemeanor.[75] Being convicted of a misdemeanor for violating the act can result in a public official becoming ineligible to become a candidate or lobbyist for four years following their conviction.[76] A public official who violates the act's gift limitations can be subject to a fine of \$1000 or triple the amount of the unlawful contribution.[77] And the act provides for civil liability.[78]

The PRA provides the same penalties as Article XII, section 7—but only penalizes public officials after observing due process. This moots any concern about evading the electorate's intent by not reading the forfeiture provision literally. The PRA's gift provisions more efficiently cover the same subjects as Article XII, section 7. The PRA regulates giving free and discounted travel to public officials without requiring a judicial decision on the statute's applicability. And as a practical matter, suing a public official under the PRA is easier because it does not require approval from a third party. The Attorney General must first grant leave to sue before someone can sue a public official under Article XII, section 7.[79] But the PRA permits a suit against a public official with no preapproval.[80]

### **Legacies Unfulfilled**

Both Article XII, section 7 and the PRA seek to limit corporate influence on public officials by restricting travel-related gifts and discounts. Yet these goals have remained largely unfulfilled. No public official has ever been removed from office for violating Article XII, section 7. The PRA has been more successful, because it mandates that public officials disclose travel-related gifts and discounts.[81] But it contains two exceptions that undercut its effectiveness at limiting travel-related gifts to public officials. The first exception is that travel expenses or discounts related to a

speech a public official gives within the United States are unlimited.[82] So are travel expenses or discounts provided by a 501(c)(3) non-profit.[83] Public officials in California have used this second exception widely: In 2016 alone, California legislators were cumulatively paid over \$500,000 in travel expenses by non-profits.[84] For example, one member took a \$10,000 trip to Australia.[85] These non-profit travel exceptions allow corporations to influence politicians through travel expenses and discounts.[86]

## **Article XII, section 7 is Dead Letter**

Article XII, section 7 is a dead letter because the ambiguous phrase “shall work a forfeiture” has never been interpreted or applied.[87] Nor is it likely to ever be literally interpreted and strictly applied, because any ambiguity in a forfeiture provision must be “resolved in favor of continued eligibility” for the important right to hold public office.[88] The provision’s history and other removal provisions in Article XII show that the framers of California’s constitution never intended that an Article XII, section 7 violation would cause automatic forfeiture of office.[89] The fact that the provision has been in the constitution for 139 years and has only once been used to challenge a public official’s ability to hold office—much less to successfully remove a public official from office—demonstrates that it is inoperative. And the PRA more effectively restricts the conduct that Article XII, section 7 prohibits, making Article XII, section 7 superfluous.[90] Former California Supreme Court Justice Joseph R. Grodin has called Article XII, section 7 “a quaint anachronism”[91] whose “purpose could be more readily accomplished by modern statutory proscriptions on conflict of interest provisions.”[92] We agree with Professor Grodin. The PRA more effectively regulates the giving of free or discounted travel to public officials.

## **Conclusion**

Article XII, section 7 of California’s constitution and the Political Reform Act both govern how public officials can receive free and discounted travel. Although no decision has ever so held, Article XII, section 7’s provision on forfeiture is likely not automatic based on its history and judicial reluctance to find automatic forfeiture. As Professor Grodin suggests, the PRA adequately takes its place. The PRA limits public

officials' ability to receive free and discounted travel—and mandates that they report any such gifts. Still, two exceptions prevent the PRA from curbing corporate influences on public officials through free and discounted travel. Reformers interested in limiting corporate effects on public officials should focus on limiting these exceptions.

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[1] Cal. Const. art. XII, § 7.

[2] The prohibition on free and discounted passes was originally enacted as California constitution Article XII, Section 19; it is currently in Article XII, section 7.

[3] Noel Sargent, California Constitutional Convention of 1878-9, 6 Cal. L. Rev. 1 (1917). Available at: <https://scholarship.law.berkeley.edu/californialawreview/vol6/iss1/1>

[4] E.B. Willis and P.K. Stockton, Debates and Proceedings of the Constitutional Convention, Sacramento, State Printing Office (vol. 1 1880) page 375.

[5] *Id.* at p. 77.

[6] *Id.* at p. 235.

[7] *Id.* at p. 468. In response to the suggestion capital punishment be added, one delegate stated, “I hope these amendments will be voted down. This is making a farce of a very serious piece of business.” The delegate then suggested the person who proposed capital punishment, “retire to his favorite hills if he wishes to indulge in this kind of thing.”

[8] *Ibid.*

[9] At the time of the of the 1879 California Constitution, ten other states had constitutional prohibitions on free and discounted passes. See John K. McNulty, Background Study - California Constitution Article XII, Corporations and Public

Utilities (1966) p. 100.

[10] E.B. Willis & P.K. Stockton, Debates and Proceedings of the Constitutional Convention, Sacramento, State Printing Office (vol. 3 1880) page 1237.

[11] McNulty, Background Study (1966), *supra* note 9.

[12] Public Utilities Code Section 521 and 533 (added by Stats. 1951, Ch. 764) .

[13] CONSTITUTION REVISION California Proposition 1 (1968). *Available at*

[https://repository.uchastings.edu/ca\\_ballot\\_props/697](https://repository.uchastings.edu/ca_ballot_props/697).

[14] McNulty, Background Study (1966), *supra* note 9.

[15] *Id.* at p. 101. “Unless section 19 can be justified on the strength of concern about free passes to members of the Legislature, the section should be dropped from the Constitution, at least so long as the Utilities Code provides equivalent coverage.”

[16] See California Constitution Revision Commission, Proposed Revision (1968).

[17] *Id.* at p. 93.

[18] CONSTITUTION REVISION California Proposition 1 (1968). *Available at*

[https://repository.uchastings.edu/ca\\_ballot\\_props/697](https://repository.uchastings.edu/ca_ballot_props/697).

[19] *Ibid.*

[20] PARTIAL CONSTITUTIONAL REVISION: PUBLIC UTILITIES, CORPORATIONS AND WATER USE California Proposition 3 (1970). *Available at* [https://repository.uchastings.edu/ca\\_ballot\\_props/716](https://repository.uchastings.edu/ca_ballot_props/716)

[21] *Id.* at p. 10.

[22] *Ibid.*

[23] PARTIAL CONSTITUTIONAL REVISION, *supra* note 20, at p. 11.

[24] *Ibid.*

[25] PUBLIC UTILITIES California Proposition 12 (1974). *Available at* [https://repository.uchastings.edu/ca\\_ballot\\_props/798](https://repository.uchastings.edu/ca_ballot_props/798)

[26] *Ibid.*

[27] *Ibid.*

[28] *Ibid.* Proposition 12 replaced “Railroad Commissioners” with “Public Utilities Commissioner.” Proposition 12 clarified that Article XII, section 7 applies anyone “holding office.” Article XII, section 7 maintained that accepting a free or discounted pass, “shall work a forfeiture” of office.

[29] *Ibid.* The fact that voters twice rejected attempts to delete the provision banning free and discounted travel—but passed a proposition maintaining the ban arguably demonstrates the voters’ intent to maintain a constitutional ban on travel passes. The voters’ desire, however, doesn’t change that automatic forfeiture was never intended by the framers and the ambiguity in literally interpreting the penalty’s language.

[30] 80 Ops.Cal.Atty.Gen. 146 (June 9, 1997).

[31] Cal. Const. art. I, § 26 [*Former § 28, as renumbered* June 8, 1976].

[32] Grodin et. al., *The California Constitution* (1993) page 209.

[33] Civil Code section 3541 *available at* [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=CIV&sectionNum=3541](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=3541).

[34] Civil Code section 3542 *available at* [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=CIV&sectionNum=3542](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=3542).

[35] Former Cal. Const. art. IV, § 35 [*Repealed* November 8, 1966.]

[36] *Ibid* (emphasis added).

[37] *Ibid.*

[38] Cal. Const. art. XII, § 7.

[39] Civil Code section 3511. Available at [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=CIV&sectionNum=3511](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=3511).

[40] Former Cal. Const. art. XII, § 22 (*Repealed* November 5, 1974).

[41] Cal. Const. art. VI, § 10.

[42] Cal. Const. art. X, § 1.

[43] Article VI, section 9 of the 1879 constitution states a judge who is absent from the State for more than sixty consecutive days “shall be deemed to have forfeited his office.” Although this provision could be construed as creating an automatic forfeiture of office, it is inapplicable here because forfeiture under this provision is not necessarily related to misconduct.

[44] *Helena Rubenstein Internat. v. Younger* (1977) at 418.

[45] *People v. United Bonding Ins. Co.* (1971) at 916.

[46] *See Rubenstein, supra* note 44.

[47] Although forfeiture of office is a disfavored punishment, it is not wholly unconstitutional. California’s constitution provides that a person convicted of receiving or offering a bribe shall be “disqualified from holding any office of profit.” Cal. Const. art. VII, § 8. Additionally, elected officials can be impeached and removed from office for a variety of reasons. Cal. Const. art. IV, § 18.

[48] 97 Ops.Cal.Atty.Gen. 2 (Mar. 3, 1993).

[49] McNulty, Background Study (1966), *supra* note 9.

[50] *Id.* at p. 89.

[51] During a 1911 speech to the Commonwealth Club, an attorney for the State Traffic Bureau remarked, “It has been the opinion surcharged in the atmosphere of

this commonwealth for years that if the Railroad Commission of California ever did attempt to render any decision which would be far reaching in its character, it would be attacked in the courts and set aside.” *Trans. Of Com. Club*, Vol. 6 (1911), p. 265.

[52] McNulty, Background Study (1966), *supra* note 9, at p. 90.

[53] *Ibid.*

[54] Quo warranto (“by what warrant”) is a special form of legal action used to determine whether a person has legal right to a public office. <https://oag.ca.gov/opinions/quo-warranto>

[55] *People ex rel. Gesford v. Superior Court of City and County of San Francisco* (1896). Although the court acknowledged removal from office was a *quasi*-criminal, it did not address whether a not a guilty plea was sufficient to defeat a quo warranto action. *Ibid.* at p. 471. The court did not address whether forfeiture from office under then-Article XII, section 19 was automatic.

[56] Justice T. B. McFarland, *Refutation of Statements Made in Regard to His Decisions*, Sacramento Daily Union (Nov. 5, 1898).

[57] *Sexton v. Atchison, T. & S.F. Ry. Co.*, (1916). This case followed the passage in 1915 of the Public Utilities Act, which required railroad companies to provide free passes to members of the railroad commission acting in performance of their official duties.

[58] 67 Op.Atty.Gen. 81 (March 3, 1984).

[59] *Ibid.*

[60] 97 Op.Cal.Atty.Gen. 2, *supra* note 48.

[61] 74 Op.Cal.Atty.Gen. 26 (Feb. 26, 1991).

[62] 67 Op.Atty.Gen. 81, *supra* note 58.

[63] 76 Op.Cal.Atty.Gen 1 (Mar. 3, 1993).

[64] *Ibid.*

[65] Proposition 9 added Sections 81000 through 91014 to California's Government Code.

[66] Government Code sections 81000 through 91014.

[67] *Ibid.*

[68] Government Code section 89503.

[69] Government Code section 89506.

[70] *Ibid.*

[71] Government Code section 86203.

[72] Government Code section 87207.

[73] *Ibid.*

[74] *Ibid.*

[75] Government Code section 91000.

[76] Government Code section 91002. This ban has been upheld against constitutional attack. *People v. Ballard* (1980) at 765.

[77] Government Code section 91005.

[78] Government Code section 91005.5.

[79] Cal. Code Regs., tit. 11, § 1.

[80] Government Code section 91000.

[81] *See* Government Code section 89506

[82] Government Code section 89506, subdivision (1).

[83] Government Code section 89506, subdivision (2).

[84] Alexei Kossef, *From Napa to Australia, sponsored trips for California lawmakers topped \$500,000 in 2016*, Sacramento Bee (Mar. 2, 2017) available at

<https://www.sacbee.com/news/politics-government/capitol-alert/article136130533.html>

[85] *Ibid.*

[86] In an effort to help reform some aspects of the Political Reform Act, State Senator Jerry Hill introduced SB 831 to the senate in 2014. SB 831 would have increased disclosure from nonprofit organizations when they give gifts of travel. The bill would have required these groups to disclose the names of all donors who “knew or had reason to know that the donation would be used for a payment, advance, or reimbursement for travel.” These rules would only have applied to groups who provide more than \$10,000 of total travel donations in a single year or who give more than \$5,000 in gifts of travel to a single individual. Although both houses of California’s legislature passed the bill, Governor Brown vetoed it. In his veto statement, Governor Brown noted, “The activities that are addressed by this bill are already subject to extensive regulation, including robust disclosure requirements.”

[87] Opinions from the Attorney General’s Office have recognized that Article XII, section 7’s language is ambiguous. See, e.g., 80 Op.Cal.Atty.Gen. 146 (Jun. 9, 1997).

[88] See *Rubenstein*, *supra* note 44, at p. 418.

[89] Former Cal. Const. art. XII, § 22 (*Repealed* Nov. 5, 1974).

[90] Civil Code section 3537.

[91] Grodin et. al., *supra* note 32, at 209.

[92] *Ibid.*