

ITEM 15
ADOPTION OF PROPOSED REGULATORY ACTION
CONFLICT OF INTEREST CODE

PROPOSED AMENDMENTS TO
CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5
Article 9. Conflict of Interest Code

EXECUTIVE SUMMARY

The purpose of the proposed regulations is to update the Commission's Conflict of Interest Code Appendix to accurately reflect the Commission employees who are designated to file economic interest statements with the Fair Political Practices Commission and their disclosure categories.

The Notice of Proposed Rulemaking was mailed on November 24, 2010, which is 65 days prior to the close of the public comment period on January 28, 2011. The proposed text was made available to the public from November 24, 2010, through January 28, 2011, but no comments were received.¹ No public hearing was requested on this matter. The final statement of reasons is attached.²

Staff finds that no alternative would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations.

Staff Recommendation

Therefore, staff recommends that the Commission:

- Find that no alternative would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations.
- Adopt the proposed amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Article 9 as originally proposed.
- Authorize staff to make any non-substantive, technical corrections requested by the Office of Administrative Law or Barclays Official California Code of Regulations prior to publication.

¹ Exhibit A.

² Exhibit B.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

In the Matter of:

Amendments to California Code of
Regulations, Title 2, Division 2, Chapter 2.5,
Article 9

No. 10-03

ADOPTION OF PROPOSED
REGULATORY ACTION

Conflict of Interest Code

On March 24, 2011, at a duly noticed public hearing held in Room 447 of the State Capitol, Sacramento, California, the Commission on State Mandates adopted the proposed regulatory action after close of the public comment period.

PROPOSED REGULATORY ACTION. The Commission proposes to amend Article 9 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5.

AUTHORITY AND REFERENCE. Government Code section 17527, subdivision (g), authorizes the Commission to adopt the proposed regulations.

The purpose of the proposed regulations is to update the Commission's Conflict of Interest Code Appendix to accurately reflect the Commission employees who are designated to file economic interest statements with the Fair Political Practices Commission and their disclosure categories.

By: _____
Drew Bohan, Executive Director

Dated: March 24, 2011

1 CALIFORNIA CODE OF REGULATIONS
2 TITLE 2. ADMINISTRATION
3 DIVISION 2. FINANCIAL OPERATIONS
4 CHAPTER 2.5. COMMISSION ON STATE MANDATES

5 Text of Proposed Regulations

6 Changes are illustrated by underline for proposed additions and by strikeout for proposed
7 deletions.

8 ARTICLE 9. CONFLICT OF INTEREST CODE

9 1189.10. General Provisions

10 The Political Reform Act, Government Code sections 81000, et seq., requires state and local
11 government agencies to adopt and promulgate conflict of interest codes. The Fair Political
12 Practices Commission has adopted a regulation (Cal. Code of Regs., tit. 2, § 18730) which
13 contains the terms of a standard conflict of interest code, which can be incorporated by reference,
14 and which may be amended by the Fair Political Practices Commission to conform to
15 amendments to the Political Reform Act after public notice and hearings. Therefore, the terms of
16 California Code of Regulations, title 2, section 18730 and any amendments to it duly adopted by
17 the Fair Political Practices Commission, along with the attached Appendix in which officials and
18 employees are designated disclosure categories are set forth, are hereby incorporated by
19 reference and constitute the conflict of interest code of the commission.

20 Designated employees shall file statements of economic interests with their agency. Upon
21 receipt of the statements of the commission members, their alternates and the executive director,
22 the commission shall make and retain a copy and forward the originals to the Fair Political
23 Practices Commission. Statements for all other designated employees shall be retained with the
24 commission and made available for public inspection and reproduction. (Gov. Code, § 81008).

25 Note: Authority cited: Sections 17527(g), 87300 Government Code. Reference: Sections
26 82014, 87302, 87306 Government Code.
27

28 **Appendix**

| 29 | | |
|----|---------------------------------------------|------------------------------|
| 30 | <i>Designated Employees</i> | <i>Disclosure Categories</i> |
| 31 | | |
| 32 | Members and alternates of the Commission on | |
| 33 | State Mandates | 1 |
| 34 | Executive Director | 1 |

| | | |
|----|-------------------------------------------------------------------|--------------|
| 1 | Chief Legal Counsel (Career Executive Assignment) | 1 |
| 2 | <u>Staff Counsel III, or Attorney II or other successor title</u> | |
| 3 | <u>designated by the State Personnel Board</u> | 1 |
| 4 | <u>Staff Counsel or Attorney I or other successor title</u> | |
| 5 | <u>designated by the State Personnel Board</u> | 1 |
| 6 | Staff Services Manager I, II | 2, 3 |
| 7 | Staff Services Manager III | 1 |
| 8 | Staff Services Analyst | 2, 3 |
| 9 | Associate Governmental Program Analyst | 2, 3 |
| 10 | Graduate Legal Assistant | 1 |
| 11 | Information Services Technician | 2 |
| 12 | Senior Assistant Information Systems Analyst | 2 |
| 13 | Staff Information Systems Analyst | 2 |
| 14 | Consultants * | 1 |

15

16 *Disclosure Category*

17 Category 1 designated employees must disclose all investments, and business positions in
 18 business entities, interests in real property, income and gifts from any source.

19 Category 2 designated employees shall report all investments, business positions in any
 20 business entity, interests in real property, income and gifts from any source of the type which has
 21 contracted, or in the future may contract with the commission to provide services, supplies,
 22 materials, machinery or equipment.

23 Category 3 designated employees shall report all business positions and income from any
 24 school district, local governmental agency or special district which has received, or in the future
 25 may receive, state reimbursement under article XIII B, section 6 of the California Constitution.

26 *The disclosure by consultants is subject to the following limitation:

27 The executive director may determine in writing that a particular consultant, although a
 28 "designated employee," is hired to perform a range of duties that is limited in scope and thus is
 29 not required to fully comply with the disclosure requirements in this section. Such written
 30 determination shall include a description of the consultant's duties and, based upon that

- 1 description, a statement of the extent of disclosure requirements. The executive director's
- 2 determination is a public record and shall be retained for public inspection in the same manner
- 3 and location as this conflict of interest code.

FINAL STATEMENT OF REASONS

NO COMMENTS WERE RECEIVED DURING THE INITIAL NOTICE PERIOD OF NOVEMBER 24, 2010, THROUGH JANUARY 28, 2011

The proposed text was made available to the public from November 24, 2010, through January 28, 2011. The Commission did not receive any comments on the proposed text.

ALTERNATIVES DETERMINATION

The Commission has determined that no alternative would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.