Amend 2 Cal. Code Regs. Section 18706 to read:


(a) A material financial effect on any of an official’s economic interests is reasonably foreseeable, within the meaning of Government Code section 87103, if it is substantially likely that one or more of the materiality standards (see Cal. Code Regs., tit. 2, §§ 18704, 18705) applicable to that economic interest will be met as a result of the governmental decision the effect can be anticipated as a potential outcome under ordinary circumstances using due diligence and care commensurate with the duties of the official’s office or position. [Alternative language]: The material financial effect of a governmental decision on an economic interest is reasonably foreseeable if it presents a level of probability that would lead a reasonably prudent person to believe that [OPTION 1: there is more than a possibility that he or she will receive a benefit] [OPTION 2: he or she might receive a benefit] or suffer a detriment as a result of the decision, other than a benefit that would be received by the public generally.

(b) A material financial effect need not be likely to be considered reasonably foreseeable. In general, if the result is among the more probable possible results, it is reasonably foreseeable, even if it is not likely. A possible result that might realistically be contemplated is reasonably foreseeable. On the other hand, if the result is no more than a conceivable possibility, it is not reasonably foreseeable. In determining whether a governmental decision will have a reasonably foreseeable material financial effect on an economic interest as defined in subdivision (a) above, the following factors...
should be considered may provide guidance. These factors are not intended to be an exclusive list of the relevant facts that may be considered in determining whether a financial effect is reasonably foreseeable, but are included as general guidelines.

(1) The extent to which the official or the official’s source of income economic interest has engaged, is engaged, or plans on engaging in business activity in the jurisdiction; a business or financial interest that would be expected to be affected by the governmental decision.

(2) The market share held by the official or the official’s source of income in the jurisdiction; The nature of an official’s economic interest and the extent to which it is engaged in an activity that can be expected to participate in the reward of a financial benefit as a result of the governmental decision.

(3) The extent to which the official or the official’s source of income has competition for business in the jurisdiction; The amount and level of competition that can be expected to be faced by the official’s economic interest in competing for any financial benefits that are expected to result from the governmental decision.

(4) The scope of the governmental decision in question; and

(5) The extent to which the occurrence or non-occurrence of the material financial effect is contingent upon intervening events, not including other than future governmental decisions by the official’s agency, or any other agency appointed by or subject to the budgetary control of the official’s agency. The more intervening events upon which the material financial effect is dependant, the less the result is reasonably foreseeable.

(5) The probability that the intervening events will occur or not occur.
(c) A financial effect on an economic interest is presumed to be reasonably foreseeable if the economic interest is a named party in, or the subject of a governmental decision before the official of the official’s agency. A economic interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the person that constitutes the economic interest, and includes any governmental decision affecting a real property economic interest as described in Regulation 18704.2.

(d) Possession of a real estate sales or brokerage license, or any other professional license, without regard to the official’s business activity or likely business activity, does not in itself make a material financial effect on the official’s economic interest reasonably foreseeable.

(e) Definitions: For purposes of this regulation, the following definitions apply:

Likely – the contemplated result will have a greater probability of happening than not happening. In other words, given similar circumstances and conditions, the result will occur more that half the time.

Probability – the extent or degree to which the result is expected to occur; the chance that something will happen.