



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it by the Political Reform Act (the Act)¹ by Section 83112 of the Government Code proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **April 21, 2016**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **April 19, 2016**.

BACKGROUND/OVERVIEW

Section 87300 requires every agency to “adopt and promulgate a Conflict of Interest Code” (1) designating all “positions within the agency, other than those specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest,” and (2) identifying those interests of the designated employees that are reportable. A newly created agency is required to submit a code to its code reviewing body for approval, “not later than six months after it comes into existence.” (Section 87303.) An agency must submit a code amendment to its code reviewing body for approval, “within 90 days after the changed circumstances necessitating the amendments have become apparent.” (Section 87306.) Agencies must also review their existing codes biennially. (Sections 87306 and 87306.5.)

The Commission is the code reviewing body for all state agencies, other than agencies in the judicial branch of government, and all local government agencies with jurisdiction in more than one county (multi-county agencies). (Section 82011.) The Commission may not approve a Conflict of Interest Code or code amendment if it fails to (1) “provide reasonable assurance that all foreseeable potential conflict of interest situations will be disclosed or prevented,” (2) “provide to each affected person a clear and specific statement of his duties under the Code,” or (3) “adequately differentiate between designated employees with different powers and responsibilities.” (Section 87309.) Additionally, the review of codes by the Commission and the preparation of codes by state agencies are subject to the Administrative Procedure Act and local agencies must prepare codes “under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.” (Section 87311.)

Current Regulations 18750 through 18750.2 and 18752, detail the procedures for the adoption and amendment of conflict of interest codes for state agencies and multi-county agencies subject to the Commission’s review and approval. Under current provisions, separate detailed procedures are provided for state agencies (Regulation 18750), multi-county agencies (Regulation 18750.1), state agencies exempt from the Administrative Procedure Act (Regulation 18750.2), and non-substantive amendments (Regulation 18752).

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All further statutory references are to the Government Code. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations (hereafter Regulation).

REGULATORY ACTION:

Repeal and Adopt 2 Cal. Code Regs. Section 18750 and Repeal 2 Cal. Code Regs. Sections 18750.1, 18750.2, and 18752.

Proposed Regulation 18750 harmonizes and streamlines existing procedural requirements for all code adoptions and amendments subject to the Commission’s review and approval. In consolidating the existing requirements, the Commission may consider and revise all existing requirements, and may impose any additional requirements consistent with the Commission’s regulatory authority under the Act, including but not limited to the following:

- **Consolidating existing regulations and repealing existing regulations as necessary.**
- **Clarifying requirements for codes and code amendments.**
- **Clarifying notice and hearing requirements for the consideration and adoption of codes and code amendments.**
- **Encouraging the preliminary review of draft codes and code amendments.**
- **Detailing the documents required for the Commission’s approval of a code or code amendment.**

SCOPE:

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues.

FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY:

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE:

The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 87300, 87303, and 87306.

CONTACT:

Any inquiries should be made to Brian G. Lau, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.