



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under 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 **July 18, 2019**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **July 16, 2019**.

BACKGROUND/OVERVIEW:

Governing Statutes. The Act's conflict of interest provisions ensure that public officials perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. Section 87100 prohibits a public official from using his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. Under Section 87103(c), a public official has a financial interest in a decision within the meaning of Section 87100 if it is "reasonably foreseeable" that the decision will have a "material financial effect" on the certain enumerated interests including "[a]ny business entity in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more" (Section 87103(a)), or "[a]ny business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management" (Section 87103(d)).

Existing Regulation. Regulation 18702.1 sets forth the materiality standards applicable to a governmental decision's reasonably foreseeable financial effect on a public official's financial interest in a business entity. Regulation 18702.1(a)(1)-(7) provide that a decision's effect on an official's interest in a business is material if the business takes certain specified actions, or if the business is subject to an action by official's agency directed solely at the business. Regulation 18702.1(b) sets forth a broad and general materiality standard applicable to a decision's reasonably foreseeable financial effect on an official's financial interest in either a publicly traded business or a privately held business.

REGULATORY ACTION:

Repeal and Adopt 2 Cal. Code Regs. Section 18702.1 – Materiality Standard: Financial Interests in Business Entities.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Repeal and Adoption of Regulation 18702.1. The Commission may consider all provisions of existing Regulation 18702.1, the repeal of existing Regulation 18702.1, and the adoption of new proposed Regulation 18702.1, setting forth updated materiality standards applicable to a decision's effect on an official's business interest. At a minimum, Commission staff anticipates proposing the following:

- The addition of "bright-line" materiality standards which would provide additional clarity and guidance regarding when an effect on an official's financial interest in a business not explicitly involved in the decision at issue is material.
- The incorporation of new materiality standards applicable to a decision's effect on a real property interest of the official's business interest.
- The reestablishment of the "Small Shareholder Exception," under which a decision's effect on an official's investment interest in a business of \$25,000 or less, which is also less than one percent of the business's shares, would only be material under the regulation's materiality standards applicable to a business not explicitly involved in the decision.

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. The Commission must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

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 entity or program.

AUTHORITY: 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 Act.

REFERENCE: Sections 87100, 87102.5, 87102.6, 87102.8, and 87103.

CONTACT: Any inquiries should be made to Matthew F. Christy, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; 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>.