

Fair Political Practices Commission

MEMORANDUM

To: Chair Ravel, Commissioners Eskovitz, Garrett, Montgomery, and Rotunda

From: Zackery P. Morazzini, General Counsel
Jack Woodside, Senior Commission Counsel

Subject: Adoption of Proposed Amendment to Regulations 18723 and 18730: Annual SEI Filing Deadline.

Date: December 3, 2012

Proposed Commission Action

There are two regulations (18723 and 18730) that address the annual filing deadlines for Statements of Economic Interest (“SEI”). Luisa Menchaca, Chief Counsel for the Assembly Legislative Ethics Committee, has requested that the Commission amend Regulation 18723 to add an exception that would allow public officials who are unable to comply with the filing deadline due to their active military status to extend it to 30 days following their return to office. In addition, she requests that the Commission consider a similar amendment to Regulation 18730.

Background and Current Law

Section 87203 requires every person who holds an office specified under Section 87200 to annually file an SEI at a time specified by Commission regulations. Thus, depending on their position, Regulation 18723 requires 87200 filers to file their SEIs by either March 1 or April 1 every year:

(1) For the Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, members of the Legislature, members of the State Board of Equalization, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of the High-Speed Rail Authority, members elected to the Board of Administration of the Public Employees' Retirement System, and members elected to the Board of Administration of the Teachers' Retirement Board, the filing deadline shall be *March 1*.

(2) For county supervisors, district attorneys, county counsels, county treasurers, county

chief administrative officers, county planning commissioners, members of city councils, mayors, city managers, city attorneys, city treasurers, city chief administrative officers and city planning commissioners, the filing deadline shall be *April 1*.

(Regulation 18723(b)(1)-(2), emphasis added.)

Similarly, Regulation 18730 sets forth the annual SEI filing deadline for designated employees covered by an agency's Conflict of Interest Code established under the provisions of Sections 87300 et seq. Under Regulation 18730(b)(5)(C), all such employees must annually file SEIs no later than April 1.

Public officials who miss filing deadlines are subject to "administrative and other sanctions." For example, under Section 91013, late filers are subject to a monetary penalty not to exceed \$100.00. Additionally, Section 83116 authorizes the Commission to seek a monetary penalty of up to \$5,000.00 for that type of violation.

The potential for these penalties can obviously be seen as unduly harsh with respect to a public official who is called to military duty and unable to comply with the filing deadline.¹ This would apply to Reservists and National Guard members placed on active duty in federal Title 10 status, as well as National Guard members called to duty in Title 32 status.² Therefore, the request seeks to amend Regulations 18723 and 18730 by adding an exception to allow such an individual to extend the annual filing deadline to 30 days following his or her return to office on the condition they provide notice and verification to the filing officer prior to the applicable deadline.³

In support, the request emphasizes that Reservists and members of the National Guard are afforded similar protections under the federal Servicemember's Civil Relief Act⁴ ("SCRA"). (See 50 App. U.S.C. §§ 511, 516 [SCRA applies to Reservists and National Guard members ordered to report to military service pursuant to Title 10 by the President and to National Guard members called to state duty in Title 32 status by the Governor for a period of more than 30 consecutive days].) The express purpose of the SCRA is to enable servicemembers to devote their entire energy to the defense needs of the Nation, while providing for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service. (50 App. U.S.C. § 502.) Thus,

¹ This scenario occurred in March 2011 when a newly elected Assemblyman and member of the Naval reserves, Jeff Gorell, was called to active duty and deployed to Afghanistan.

² The United States Code provides for dual roles for members of the National Guard. They can be called to federal duty in Title 10 status by the President, or called to duty (for purposes of responding to a national emergency declared by the President and supported by federal funds) in Title 32 status by the Governor.

³ As part of the proposed exception, staff added language to allow someone authorized to represent the individual called to military duty to provide the filing officer with the written notice and verification.

⁴ The SCRA, 50 App. U.S.C. §§ 501 et seq., was enacted at the end of 2003 as a recodification and modernization of the Soldiers' and Sailors' Civil Relief Act of 1940 cited by the request.

the proposed exception to the annual filing deadlines under the Act is consistent with the federal protections already provided to these individuals.

In addition, the request notes that the proposed amendments to Regulations 18723 and 18730 would place the burden on the filer to notify his or her filing officer of the need for an extension, and would require that the filer provide verification in support of the request. In this regard, there would be no additional burden placed on the filing officer to track those public officials on active military duty.

Therefore, staff recommends that the Commission amend Regulations 18723 and 18730 to add the proposed exception to the annual SEI filing deadlines for those public officials who are called to active duty and unable to comply with the specified deadlines.

Attachments:

- 1 – Menchaca Request Letter**
- 2 -- Proposed Amendment to Regulation 18723**
- 2 – Proposed Amendment to Regulation 18730**

California Legislature

Assembly Rules Committee

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August 22, 2012

John Wallace, Acting Executive Director
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

RE: Request for Amendment to Regulation 18723

Dear Mr. Wallace:

The purpose of this letter is request an amendment to Regulation 18723 concerning public officials who file statements of economic interest under the provisions of Government Code Section 87200. It is proposed that subdivision (e) be added to the regulation to provide an extension of time for the filing of annual statements of economic interests by Section 87200 filers who are on active military duty and are unable to comply with the current annual deadline. The deadline would be 30 days after the official returns to his or her office and following notification by the filer.

The Assembly believes this simple but important change may be included in a technical packet for revisions to your regulations. The FPPC is clearly authorized by Government Code Section 87203 to adopt by regulation an applicable deadline, other than March 1 or April 1, for the filing of annual statements by Section 87200 filers. In addition, the proposed regulation does not add burdens to filing officers. There would be no burden by filing officers to track persons on military duty. The proposed amendment would also place the burden on the filer to notify the filing officer prior to the annual deadline, with verification of his or her military status. Finally, the proposed amendment would leave intact provisions of Government Code Section 91013, concerning the filing officer notification requirements and waiver of fines.

Thank you for consideration of this proposal. If you have any questions please feel free to contact me at (916) 319-3752.

Sincerely,



Luisa Menchaca
Chief Counsel, Assembly Legislative Ethics Committee

Attachment

cc: Lynda Cassady, Chief, Technical Assistance Division
Zachary Morazzini, General Counsel ✓

PROPOSED REGULATORY AMENDMENT FOR UPDATE PACKET

SUMMARY OF LAW

Under current law, statements of economic interests are required to be filed at specified periods under certain provisions of the Political Reform Act (Government Code Sections 87201 – 87205 and 87300 – 87302.) As authorized by Government Code Section 87203, the deadlines for statements required to be filed annually by elected officers and other filers enumerated in Government Code Section 87200 may be set by regulation. FPPC Regulation 18723 provides that “87200 filers” shall file their annual statements either March 1 or April 1 of each year.

Government Code Section 91013 provides for penalties for filing a late statement (up to \$100) following notification by a filing officer of the filing requirement. In addition, under Government Code Section 83116, a late filing may be determined by the FPPC to be a violation of the Political Reform Act subject to administrative penalties of up to \$5,000 per violation.

STATEMENT OF THE PROBLEM

There are narrow circumstances where a public official may not be able to meet the applicable deadline due to his or her responsibilities as an active member of the military. In recognition of the difficulty military personnel have to meet certain obligations, the federal Soldiers and Sailors Relief Act provides for relief from certain rules and proceedings while a person is on active military duty.

As to the filing of statements of economic interests, it presently appears that active military personnel are subject to administrative and other sanctions for being unable to meet a filing deadline for a statement of economic interests.

PROPOSED SOLUTION

The FPPC is authorized by Government Code Section 87203 to adopt by regulation an applicable deadline, other than March 1 or April 1, for the filing of annual statements by Section 87200 filers to address this problem faced by active military personnel. The FPPC should consider extending the filing deadline for annual statements of economic interest for person on active military duty.

It is proposed that a subdivision be added to FPPC Regulation 18723 to provide a 30-day extension for the filing of annual statements of economic interests by Section 87200 filers who are on active military duty. The proposed amendment would place the burden on the person with the filing obligation to notify the filing officer. Therefore, there would be no burden by filing officers to track persons on military duty, or additional responsibility to provide extensions where one is not submitted. The proposed amendment would further the goals of the Political Reform Act and the federal statute.

In addition, as authorized by Government Code Section 87302, subdivision ((b)), the Commission may want to amend Regulation 18730 to provide for a similar provision for persons who file statements under the conflict of interest code provisions of the Political Reform Act. (Gov. Code Sections 87300-87302.)

Proposed Regulatory Amendment for the Commission update packet.

§ 18723. Dates for Filing Annual Statements of Economic Interests.

(a) Each person who holds an office specified in Government Code Section 87200 shall file a Statement of Economic Interests each year in accordance with the schedule set forth in subsection (b) disclosing his or her investments, interests in real property and income during the period since the closing date of his or her last statement filed pursuant to Government Code Sections 87202 or 87203. The statement shall include any investments and interests in real property held at any time during the period covered by the statement, regardless of whether they are still held at the time of filing.

(b) The closing date for all persons required to file Statements of Economic Interests pursuant to Government Code Section 87203 shall be December 31. The filing deadlines for the Statements are as follows:

(1) For the Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, members of the Legislature, members of the State Board of Equalization, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members elected to the Board of Administration of the Public Employees' Retirement System, and members elected to the Board of Administration of the Teachers' Retirement Board, the filing deadline shall be March 1.

(2) For county supervisors, district attorneys, county counsels, county treasurers, county chief administrative officers, county planning commissioners, members of city councils, mayors, city managers, city attorneys, city treasurers, city chief administrative officers and city planning commissioners, the filing deadline shall be April 1.

(3) For "other public officials who manage public investments" as that term is used in Government Code Section 87200, the filing deadline shall be April 1.

(c) If a person assumes an office specified in Government Code Section 87200 between October 1 and December 31 and files an assuming office Statement of Economic Interests pursuant to Government Code Section 87202, that person need not file an annual Statement of Economic Interests pursuant to Section 87203 until one year later than the date specified in subsection (b).

(d) If a person leaves an office specified in Government Code Section 87200 between January 1 and the filing deadline for his or her annual Statement of Economic Interests, the leaving office Statement of Economic Interests filed pursuant to Government Code Section 87204 may serve as that person's annual Statement. Prior to the filing deadline for the annual Statement the person shall notify the filing officer in writing that he intends to follow this procedure.

(e) If a person is under active military duty as defined in the Soldiers and Sailors Relief Act, the deadline for the annual statement of economic interests is 30 days following his or her return to office, provided the person notifies the filing officer in writing prior to the applicable filing deadline that he or she is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of his or her military status.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 82024, 87200, 87202 87203 and 87204, Government Code.

ProposedRegulatoryAmendmentforUpdatePacket 8/3/12

1 Amend 2 Cal. Code Regs. Section 18723 to read:

2 **§ 18723. Dates for Filing Annual Statements of Economic Interests.**

3 (a) Each person who holds an office specified in ~~Government Code~~ Section 87200
4 shall file a Statement of Economic Interests each year in accordance with the schedule set
5 forth in subsection (b) disclosing his or her investments, interests in real property and
6 income during the period since the closing date of his or her last statement filed pursuant
7 to ~~Government Code Sections~~ Section 87202 or 87203. The statement shall include any
8 investments and interests in real property held at any time during the period covered by
9 the statement, regardless of whether they are still held at the time of filing.

10 (b) The closing date for all persons required to file Statements of Economic
11 Interests pursuant to ~~Government Code~~ Section 87203 shall be December 31. The filing
12 deadlines for the Statements are as follows:

13 (1) For the Governor, Lieutenant Governor, Attorney General, Insurance
14 Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public
15 Instruction, members of the Legislature, members of the State Board of Equalization,
16 judges and commissioners of courts of the judicial branch of government, members of the
17 Public Utilities Commission, members of the State Energy Resources Conservation and
18 Development Commission, members of the Fair Political Practices Commission,
19 members of the California Coastal Commission, members of the High-Speed Rail
20 Authority, members elected to the Board of Administration of the Public Employees'
21 Retirement System, and members elected to the Board of Administration of the Teachers'
22 Retirement Board, the filing deadline shall be March 1.

1 (2) For county supervisors, district attorneys, county counsels, county treasurers,
2 county chief administrative officers, county planning commissioners, members of city
3 councils, mayors, city managers, city attorneys, city treasurers, city chief administrative
4 officers and city planning commissioners, the filing deadline shall be April 1.

5 (3) For “other public officials who manage public investments” as that term is
6 used in ~~Government Code~~ Section 87200, the filing deadline shall be April 1.

7 (c) If a person assumes an office specified in ~~Government Code~~ Section 87200
8 between October 1 and December 31 and files an assuming office Statement of Economic
9 Interests pursuant to ~~Government Code~~ Section 87202, that person need not file an annual
10 Statement of Economic Interests pursuant to Section 87203 until one year later than the
11 date specified in subsection (b).

12 (d) If a person leaves an office specified in ~~Government Code~~ Section 87200
13 between January 1 and the filing deadline for his or her annual Statement of Economic
14 Interests, the leaving office Statement of Economic Interests filed pursuant to
15 ~~Government Code~~ Section 87204 may serve as that person's annual Statement. Prior to
16 the filing deadline for the annual Statement the person shall notify the filing officer in
17 writing that he or she intends to follow this procedure.

18 (e) If a person reports for military service, as defined in the Servicemember’s
19 Civil Relief Act, the deadline for the annual statement of economic interests is 30 days
20 following his or her return to office, provided the person or someone authorized to
21 represent the person’s interests, notifies the filing officer in writing prior to the applicable
22 filing deadline that he or she is subject to that federal statute and is unable to meet the

1 applicable deadline and provides the filing officer verification of his or her military
2 status.

3 Note: Authority cited: Section 83112, Government Code. Reference: Sections 82024,
4 87200, 87202, 87203 and 87204, Government Code.

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1 Amend 2 Cal. Code Regs. Section 18730 to read:

2 **§ 18730. Provisions of ~~Conflict of Interest~~ Conflict of Interest Codes.**

3 (a) Incorporation by reference of the terms of this regulation along with the
4 designation of employees and the formulation of disclosure categories in the Appendix
5 referred to below constitute the adoption and promulgation of a ~~conflict of interest~~ conflict of
6 interest code within the meaning of Section 87300 or the amendment of a conflict of interest
7 code within the meaning of Section 87306 if the terms of this regulation are substituted for
8 terms of a ~~conflict of interest~~ conflict of interest code already in effect. A code so amended
9 or adopted and promulgated requires the reporting of reportable items in a manner
10 substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform
11 Act, Sections 81000, et seq. The requirements of a ~~conflict of interest~~ conflict of interest
12 code are in addition to other requirements of the Political Reform Act, such as the general
13 prohibition against conflicts of interest contained in Section 87100, and to other state or local
14 laws pertaining to conflicts of interest.

15 (b) The terms of a ~~conflict of interest~~ conflict of interest code amended or adopted
16 and promulgated pursuant to this regulation are as follows:

17 (1) Section 1. Definitions.

18 The definitions contained in the Political Reform Act of 1974, regulations of the Fair
19 Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act
20 or regulations, are incorporated by reference into this ~~conflict of interest~~ conflict of interest
21 code.

22 (2) Section 2. Designated Employees.

1 The persons holding positions listed in the Appendix are designated employees. It has
2 been determined that these persons make or participate in the making of decisions which may
3 foreseeably have a material effect on economic interests.

4 (3) Section 3. Disclosure Categories.

5 This code does not establish any disclosure obligation for those designated employees
6 who are also specified in Section 87200 if they are designated in this code in that same
7 capacity or if the geographical jurisdiction of this agency is the same as or is wholly included
8 within the jurisdiction in which those persons must report their economic interests pursuant
9 to article 2 of chapter 7 of the Political Reform Act, Sections 87200, et seq.

10 In addition, this code does not establish any disclosure obligation for any designated
11 employees who are designated in a ~~conflict of interest~~ conflict of interest code for another
12 agency, if all of the following apply:

13 (A) The geographical jurisdiction of this agency is the same as or is wholly included
14 within the jurisdiction of the other agency;

15 (B) The disclosure assigned in the code of the other agency is the same as that
16 required under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

17 (C) The filing officer is the same for both agencies.¹

18 Such persons are covered by this code for disqualification purposes only. With
19 respect to all other designated employees, the disclosure categories set forth in the Appendix
20 specify which kinds of economic interests are reportable. Such a designated employee shall
21 disclose in his or her statement of economic interests those economic interests he or she has
22 which are of the kind described in the disclosure categories to which he or she is assigned in
23 the Appendix. It has been determined that the economic interests set forth in a designated

1 employee's disclosure categories are the kinds of economic interests which he or she
2 foreseeably can affect materially through the conduct of his or her office.

3 (4) Section 4. Statements of Economic Interests: Place of Filing.

4 The code reviewing body shall instruct all designated employees within its code to
5 file statements of economic interests with the agency or with the code reviewing body, as
6 provided by the code reviewing body in the agency's ~~conflict of interest~~ conflict of interest
7 code.²

8 (5) Section 5. Statements of Economic Interests: Time of Filing.

9 (A) Initial Statements.

10 All designated employees employed by the agency on the effective date of this code,
11 as originally adopted, promulgated and approved by the code reviewing body, shall file
12 statements within 30 days after the effective date of this code. Thereafter, each person
13 already in a position when it is designated by an amendment to this code shall file an initial
14 statement within 30 days after the effective date of the amendment.

15 (B) Assuming Office Statements.

16 All persons assuming designated positions after the effective date of this code shall
17 file statements within 30 days after assuming the designated positions, or if subject to State
18 Senate confirmation, 30 days after being nominated or appointed.

19 (C) Annual Statements.

20 All designated employees shall file statements no later than April 1. If a person
21 reports for military service as defined in the Servicemember's Civil Relief Act, the deadline
22 for the annual statement of economic interests is 30 days following his or her return to office,
23 provided the person, or someone authorized to represent the person's interests, notifies the

1 filing officer in writing prior to the applicable filing deadline that he or she is subject to that
2 federal statute and is unable to meet the applicable deadline, and provides the filing officer
3 verification of his or her military status.

4 (D) Leaving Office Statements.

5 All persons who leave designated positions shall file statements within 30 days after
6 leaving office.

7 (5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

8 Any person who resigns within 12 months of initial appointment, or within 30 days of
9 the date of notice provided by the filing officer to file an assuming office statement, is not
10 deemed to have assumed office or left office, provided he or she did not make or participate
11 in the making of, or use his or her position to influence any decision and did not receive or
12 become entitled to receive any form of payment as a result of his or her appointment. Such
13 persons shall not file either an assuming or leaving office statement.

14 (A) Any person who resigns a position within 30 days of the date of a notice from the
15 filing officer shall do both of the following:

16 (1) File a written resignation with the appointing power; and

17 (2) File a written statement with the filing officer declaring under penalty of perjury
18 that during the period between appointment and resignation he or she did not make,
19 participate in the making, or use the position to influence any decision of the agency or
20 receive, or become entitled to receive, any form of payment by virtue of being appointed to
21 the position.

22 (6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

23 (A) Contents of Initial Statements.

1 Initial statements shall disclose any reportable investments, interests in real property
2 and business positions held on the effective date of the code and income received during the
3 12 months prior to the effective date of the code.

4 (B) Contents of Assuming Office Statements.

5 Assuming office statements shall disclose any reportable investments, interests in real
6 property and business positions held on the date of assuming office or, if subject to State
7 Senate confirmation or appointment, on the date of nomination, and income received during
8 the 12 months prior to the date of assuming office or the date of being appointed or
9 nominated, respectively.

10 (C) Contents of Annual Statements.

11 Annual statements shall disclose any reportable investments, interests in real
12 property, income and business positions held or received during the previous calendar year
13 provided, however, that the period covered by an employee's first annual statement shall
14 begin on the effective date of the code or the date of assuming office whichever is later, or
15 for a board or commission member subject to Section 87302.6, the day after the closing date
16 of the most recent statement filed by the member pursuant to Regulation 18754.

17 (D) Contents of Leaving Office Statements.

18 Leaving office statements shall disclose reportable investments, interests in real
19 property, income and business positions held or received during the period between the
20 closing date of the last statement filed and the date of leaving office.

21 (7) Section 7. Manner of Reporting.

1 Statements of economic interests shall be made on forms prescribed by the Fair
2 Political Practices Commission and supplied by the agency, and shall contain the following
3 information:

4 (A) Investment and Real Property Disclosure.

5 When an investment or an interest in real property³ is required to be reported,⁴ the
6 statement shall contain the following:

- 7 1. A statement of the nature of the investment or interest;
- 8 2. The name of the business entity in which each investment is held, and a general
9 description of the business activity in which the business entity is engaged;
- 10 3. The address or other precise location of the real property;
- 11 4. A statement whether the fair market value of the investment or interest in real
12 property equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds
13 \$1,000,000.

14 (B) Personal Income Disclosure.

15 When personal income is required to be reported,⁵ the statement shall contain:

- 16 1. The name and address of each source of income aggregating \$500 or more in
17 value, or \$50 or more in value if the income was a gift, and a general description of the
18 business activity, if any, of each source;
- 19 2. A statement whether the aggregate value of income from each source, or in the
20 case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than
21 \$1,000, greater than \$10,000, or greater than \$100,000;
- 22 3. A description of the consideration, if any, for which the income was received;

1 4. In the case of a gift, the name, address and business activity of the donor and any
2 intermediary through which the gift was made; a description of the gift; the amount or value
3 of the gift; and the date on which the gift was received;

4 5. In the case of a loan, the annual interest rate and the security, if any, given for the
5 loan and the term of the loan.

6 (C) Business Entity Income Disclosure.

7 When income of a business entity, including income of a sole proprietorship, is
8 required to be reported,⁶ the statement shall contain:

9 1. The name, address, and a general description of the business activity of the
10 business entity;

11 2. The name of every person from whom the business entity received payments if the
12 filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

13 (D) Business Position Disclosure.

14 When business positions are required to be reported, a designated employee shall list
15 the name and address of each business entity in which he or she is a director, officer, partner,
16 trustee, employee, or in which he or she holds any position of management, a description of
17 the business activity in which the business entity is engaged, and the designated employee's
18 position with the business entity.

19 (E) Acquisition or Disposal During Reporting Period.

20 In the case of an annual or leaving office statement, if an investment or an interest in
21 real property was partially or wholly acquired or disposed of during the period covered by
22 the statement, the statement shall contain the date of acquisition or disposal.

23 (8) Section 8. Prohibition on Receipt of Honoraria.

1 (A) No member of a state board or commission, and no designated employee of a
2 state or local government agency, shall accept any honorarium from any source, if the
3 member or employee would be required to report the receipt of income or gifts from that
4 source on his or her statement of economic interests. This section shall not apply to any part-
5 time member of the governing board of any public institution of higher education, unless the
6 member is also an elected official.

7 Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this
8 section.

9 This section shall not limit or prohibit payments, advances, or reimbursements for
10 travel and related lodging and subsistence authorized by Section 89506.

11 (8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of ~~\$420~~ \$440.

12 (A) No member of a state board or commission, and no designated employee of a
13 state or local government agency, shall accept gifts with a total value of more than ~~\$420~~ \$440
14 in a calendar year from any single source, if the member or employee would be required to
15 report the receipt of income or gifts from that source on his or her statement of economic
16 interests. This section shall not apply to any part-time member of the governing board of any
17 public institution of higher education, unless the member is also an elected official.

18 Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this
19 section.

20 (8.2) Section 8.2. Loans to Public Officials.

21 (A) No elected officer of a state or local government agency shall, from the date of
22 his or her election to office through the date that he or she vacates office, receive a personal
23 loan from any officer, employee, member, or consultant of the state or local government

1 agency in which the elected officer holds office or over which the elected officer's agency
2 has direction and control.

3 (B) No public official who is exempt from the state civil service system pursuant to
4 subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall,
5 while he or she holds office, receive a personal loan from any officer, employee, member, or
6 consultant of the state or local government agency in which the public official holds office or
7 over which the public official's agency has direction and control. This subdivision shall not
8 apply to loans made to a public official whose duties are solely secretarial, clerical, or
9 manual.

10 (C) No elected officer of a state or local government agency shall, from the date of
11 his or her election to office through the date that he or she vacates office, receive a personal
12 loan from any person who has a contract with the state or local government agency to which
13 that elected officer has been elected or over which that elected officer's agency has direction
14 and control. This subdivision shall not apply to loans made by banks or other financial
15 institutions or to any indebtedness created as part of a retail installment or credit card
16 transaction, if the loan is made or the indebtedness created in the lender's regular course of
17 business on terms available to members of the public without regard to the elected officer's
18 official status.

19 (D) No public official who is exempt from the state civil service system pursuant to
20 subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall,
21 while he or she holds office, receive a personal loan from any person who has a contract with
22 the state or local government agency to which that elected officer has been elected or over
23 which that elected officer's agency has direction and control. This subdivision shall not apply

1 to loans made by banks or other financial institutions or to any indebtedness created as part
2 of a retail installment or credit card transaction, if the loan is made or the indebtedness
3 created in the lender's regular course of business on terms available to members of the public
4 without regard to the elected officer's official status. This subdivision shall not apply to loans
5 made to a public official whose duties are solely secretarial, clerical, or manual.

6 (E) This section shall not apply to the following:

7 1. Loans made to the campaign committee of an elected officer or candidate for
8 elective office.

9 2. Loans made by a public official's spouse, child, parent, grandparent, grandchild,
10 brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first
11 cousin, or the spouse of any such persons, provided that the person making the loan is not
12 acting as an agent or intermediary for any person not otherwise exempted under this section.

13 3. Loans from a person which, in the aggregate, do not exceed ~~five hundred dollars~~
14 ~~(\$500)~~ \$500 at any given time.

15 4. Loans made, or offered in writing, before January 1, 1998.

16 (8.3) Section 8.3. Loan Terms.

17 (A) Except as set forth in subdivision (B), no elected officer of a state or local
18 government agency shall, from the date of his or her election to office through the date he or
19 she vacates office, receive a personal loan of \$500 or more, except when the loan is in
20 writing and clearly states the terms of the loan, including the parties to the loan agreement,
21 date of the loan, amount of the loan, term of the loan, date or dates when payments shall be
22 due on the loan and the amount of the payments, and the rate of interest paid on the loan.

23 (B) This section shall not apply to the following types of loans:

1 1. Loans made to the campaign committee of the elected officer.

2 2. Loans made to the elected officer by his or her spouse, child, parent, grandparent,
3 grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt,
4 uncle, or first cousin, or the spouse of any such person, provided that the person making the
5 loan is not acting as an agent or intermediary for any person not otherwise exempted under
6 this section.

7 3. Loans made, or offered in writing, before January 1, 1998.

8 (C) Nothing in this section shall exempt any person from any other provision of Title
9 of the Government Code.

10 (8.4) Section 8.4. Personal Loans.

11 (A) Except as set forth in subdivision (B), a personal loan received by any designated
12 employee shall become a gift to the designated employee for the purposes of this section in
13 the following circumstances:

14 1. If the loan has a defined date or dates for repayment, when the statute of
15 limitations for filing an action for default has expired.

16 2. If the loan has no defined date or dates for repayment, when one year has elapsed
17 from the later of the following:

18 a. The date the loan was made.

19 b. The date the last payment of \$100 or more was made on the loan.

20 c. The date upon which the debtor has made payments on the loan aggregating to less
21 than \$250 during the previous 12 months.

22 (B) This section shall not apply to the following types of loans:

1 1. A loan made to the campaign committee of an elected officer or a candidate for
2 elective office.

3 2. A loan that would otherwise not be a gift as defined in this title.

4 3. A loan that would otherwise be a gift as set forth under subdivision (A), but on
5 which the creditor has taken reasonable action to collect the balance due.

6 4. A loan that would otherwise be a gift as set forth under subdivision (A), but on
7 which the creditor, based on reasonable business considerations, has not undertaken
8 collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on
9 the basis of this paragraph has the burden of proving that the decision for not taking
10 collection action was based on reasonable business considerations.

11 5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately
12 discharged in bankruptcy.

13 (C) Nothing in this section shall exempt any person from any other provisions of Title
14 9 of the Government Code.

15 (9) Section 9. Disqualification.

16 No designated employee shall make, participate in making, or in any way attempt to
17 use his or her official position to influence the making of any governmental decision which
18 he or she knows or has reason to know will have a reasonably foreseeable material financial
19 effect, distinguishable from its effect on the public generally, on the official or a member of
20 his or her immediate family or on:

21 (A) Any business entity in which the designated employee has a direct or indirect
22 investment worth \$2,000 or more;

1 (B) Any real property in which the designated employee has a direct or indirect
2 interest worth \$2,000 or more;

3 (C) Any source of income, other than gifts and other than loans by a commercial
4 lending institution in the regular course of business on terms available to the public without
5 regard to official status, aggregating \$500 or more in value provided to, received by or
6 promised to the designated employee within 12 months prior to the time when the decision is
7 made;

8 (D) Any business entity in which the designated employee is a director, officer,
9 partner, trustee, employee, or holds any position of management; or

10 (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts
11 aggregating \$420 or more provided to, received by, or promised to the designated employee
12 within 12 months prior to the time when the decision is made.

13 (9.3) Section 9.3. Legally Required Participation.

14 No designated employee shall be prevented from making or participating in the
15 making of any decision to the extent his or her participation is legally required for the
16 decision to be made. The fact that the vote of a designated employee who is on a voting body
17 is needed to break a tie does not make his or her participation legally required for purposes of
18 this section.

19 (9.5) Section 9.5. Disqualification of State Officers and Employees.

20 In addition to the general disqualification provisions of section 9, no state
21 administrative official shall make, participate in making, or use his or her official position to
22 influence any governmental decision directly relating to any contract where the state
23 administrative official knows or has reason to know that any party to the contract is a person

1 with whom the state administrative official, or any member of his or her immediate family
2 has, within 12 months prior to the time when the official action is to be taken:

3 (A) Engaged in a business transaction or transactions on terms not available to
4 members of the public, regarding any investment or interest in real property; or

5 (B) Engaged in a business transaction or transactions on terms not available to
6 members of the public regarding the rendering of goods or services totaling in value \$1,000
7 or more.

8 (10) Section 10. Disclosure of Disqualifying Interest.

9 When a designated employee determines that he or she should not make a
10 governmental decision because he or she has a disqualifying interest in it, the determination
11 not to act may be accompanied by disclosure of the disqualifying interest.

12 (11) Section 11. Assistance of the Commission and Counsel.

13 Any designated employee who is unsure of his or her duties under this code may
14 request assistance from the Fair Political Practices Commission pursuant to Section 83114
15 and Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that
16 nothing in this section requires the attorney for the agency to issue any formal or informal
17 opinion.

18 (12) Section 12. Violations.

19 This code has the force and effect of law. Designated employees violating any
20 provision of this code are subject to the administrative, criminal and civil sanctions provided
21 in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to
22 which a violation of the disqualification provisions of this code or of Section 87100 or 87450
23 has occurred may be set aside as void pursuant to Section 91003.

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2 ¹Designated employees who are required to file statements of economic interests under any
3 other agency's ~~conflict-of-interest~~ conflict of interest code, or under article 2 for a different
4 jurisdiction, may expand their statement of economic interests to cover reportable interests in
5 both jurisdictions, and file copies of this expanded statement with both entities in lieu of
6 filing separate and distinct statements, provided that each copy of such expanded statement
7 filed in place of an original is signed and verified by the designated employee as if it were an
8 original. See Section 81004.

9 ²See Section 81010 and Regulation 18115 for the duties of filing officers and persons in
10 agencies who make and retain copies of statements and forward the originals to the filing
11 officer.

12 ³For the purpose of disclosure only (not disqualification), an interest in real property does not
13 include the principal residence of the filer.

14 ⁴Investments and interests in real property which have a fair market value of less than \$2,000
15 are not investments and interests in real property within the meaning of the Political Reform
16 Act. However, investments or interests in real property of an individual include those held by
17 the individual's spouse and dependent children as well as a pro rata share of any investment
18 or interest in real property of any business entity or trust in which the individual, spouse and
19 dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10
20 percent or greater.

21 ⁵A designated employee's income includes his or her community property interest in the
22 income of his or her spouse but does not include salary or reimbursement for expenses
23 received from a state, local or federal government agency.

1 ⁶Income of a business entity is reportable if the direct, indirect or beneficial interest of the
2 filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In
3 addition, the disclosure of persons who are clients or customers of a business entity is
4 required only if the clients or customers are within one of the disclosure categories of the
5 filer.

6 Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e),
7 87300-87302, 89501, 89502 and 89503, Government Code.

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