

1 Amend 2 Cal. Code Regs. Section 18438.1 as follows:

2 **§ 18438.1. Officers and Agencies Under Government Code Section 84308.**

3 (a) The officers of an agency exempted by ~~Government Code~~ Section 84308(a)(3) are
4 exempted only ~~when:~~ from proceedings before the exempted agency.

5 ~~(1) They are acting as members of the governing body of the agency, and the body is~~
6 ~~acting in its entirety as itself or as the ex officio governing body of any other agency. This~~
7 ~~applies to a city council or board of supervisors which designates itself as the redevelopment~~
8 ~~agency for the city or county; or~~

9 ~~(2) They are acting as members of any committee or subgroup of the governing body of~~
10 ~~the agency which is composed solely of members of the governing body of the agency.~~

11 ~~(b) The exemption for the officers of local governmental agencies who are directly~~
12 ~~elected by the voters applies only to agencies whose entire membership consists of officers~~
13 ~~directly elected by the voters to serve on that agency.~~

14 (b) Members of the Governor’s Cabinet, when acting in the capacity of agency secretary
15 advising or consulting the Governor’s Office, are officers of the Governor’s Office and exempt
16 from Section 84308. The member is not exempted from proceedings before the member’s agency
17 or other governing body not otherwise exempted.

18 (c) “Alternate” as used in Section 84308(a)(4) means any person designated to serve as an
19 officer of an agency who has served at least once in the preceding three months, or who knows or
20 has reason to know will serve as an officer of the agency in the next three months.

21 (d) An officer of an agency includes only those persons who may make, participate in
22 making, or in any way attempt to use their official position to influence a decision in the license,
23 permit, or entitlement for use proceeding, or who exercise authority or budgetary control over the
24 agency of officers who may do so, and:

1 (1) Serve in an elected position, including any official appointed to an elected position
2 due to an interim vacancy or an election otherwise canceled because the official was the sole
3 candidate for the position.

4 ~~(1)~~ (2) Serve as a member ~~members~~ of a board or commission ~~governmental boards and~~
5 ~~commissions~~; or

6 ~~(2)~~ (3) Serve as the head of an agency; ~~or - A member of the Governor's Cabinet is not an~~
7 ~~officer under Government Code Section 84308 when the member is acting in the capacity of~~
8 ~~agency secretary; however, the person is an officer when the person acts as a department director~~
9 ~~or as a member of any board or commission.~~

10 (4) Have decisionmaking authority with respect to the proceeding involving a license,
11 permit, or other entitlement for use and is also a candidate for elected office or has been a
12 candidate for elected office in the 12 months prior to the proceeding.

13 (e) "Constitutional officer" means the Governor, Lieutenant Governor, Attorney General,
14 Controller, Insurance Commissioner, Secretary of State, State Treasurer, and Superintendent of
15 Public Instruction.

16 Note: Authority cited: Section 83112, Government Code. Reference: Section 84308, Government
17 Code.