

*Exemption policy*

# Memorandum

To : Local Code Reviewing Body

Date : July 11, 1979

*MA-193*

From : FAIR POLITICAL PRACTICES COMMISSION - Ted Prim, Chief  
Conflicts of Interest Division

Subject: Standards for Granting Exemptions from the Requirement to Adopt a Conflict of Interest Code

The Fair Political Practices Commission has approved the issuance of exemptions from the requirement to adopt a Conflict of Interest Code to agencies which will soon be non-functioning and to agencies which would not have any designated employees within the meaning of Government Code Section 82019 if they were to adopt Codes. The Commission has ruled that an agency has designated employees if it has regulatory, quasi-regulatory, permit, licensing or planning authority or functions or in the future foreseeably will acquire real property. Accordingly, the Commission has disallowed exemptions for planning commissions and departments, building departments, water and sewage districts, public utility districts, air pollution control districts, school districts, and departments and districts with similar authority.

In its discretion, the code reviewing body may create a rebuttable presumption that exemptions should be granted to agencies whose primary function involves contracting for goods and services or the expenditure of money and whose annual budgets are less than \$70,000. The districts which most often qualify for this type of exemption include fire protection districts, flood control and levee maintenance districts, cemetery districts, resource conservation districts and similar districts and departments with small budgets and limited authority.

For agencies with budgets between \$70,000 and \$140,000, the code reviewing body may award exemptions on a case by case basis. The Commission has indicated that districts or departments with budgets in excess of \$140,000 per year should not be granted exemptions since through their contracting power alone, they usually can expend sufficient

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funds to materially affect financial interests.

If you have questions about the issuance of exemptions, please telephone or write the Conflicts of Interest Division.

TP:ma

MODEL RESOLUTION: POLICY FOR GRANTING EXEMPTIONS FROM  
THE REQUIREMENT TO ADOPT A CONFLICT OF INTEREST CODE

Pursuant to 2 Cal. Adm. Code Section 18751 and the policies of the Fair Political Practices Commission, the \_\_\_\_\_ is empowered to grant exemptions from the requirement to adopt a conflict of interest code to certain agencies under its jurisdiction as code reviewing body. Accordingly, the \_\_\_\_\_ will grant exemptions to agencies which satisfy the standards and procedures set forth below.

(1) (a) The agency is or soon will be inactive or nonfunctioning; or

(b) If the agency were to adopt a conflict of interest code, there would be no "designated employees" within the meaning of Government Code Sections 82019 and 87302(a) subject to its provisions.

Agencies which possess regulatory, quasi-regulatory, permit, licensing or planning authorities or functions or in the future foreseeably will acquire real property may not receive exemptions pursuant to subsection (b). With respect to other agencies with annual budgets of less than \$70,000, there is a rebuttable presumption that they do not have officials or employees who foreseeably can materially affect financial interests.

(2) Within 90 days of receiving the request for exemption, the \_\_\_\_\_ shall grant the request, deny (code reviewing body) the request or return it for additional information and resubmission by the agency.

(3) The request for exemption shall be in writing. The request must be signed by the agency's executive officer or its legal representative and shall be accompanied by the following materials.

(a) A reference to the statutory authority under which the agency was created;

(b) A copy of the agency's annual budgets for the last three years including a description of how the budget is allocated;

(c) A written summary of actions taken by the agency during the past twelve months and a summary of proposed activities for the next twelve months;

(d) A discussion of why the agency does not materially affect financial interests including a discussion of why the agency does not have regulatory, quasi-regulatory, permit, licensing or planning authority or functions and why the agency foreseeably will not be acquiring real property in the future; and

(e) An organization chart or list of agency's employees including job descriptions.