

Admin.

December 6, 2000

Memorandum 2000-68

Conflict of Interest Code

At the April meeting, the Commission decided to amend its Conflict of Interest Code to require full disclosure of economic interests (within the scope of disclosure required by the Political Reform Act) for employees within Disclosure Category 1 (as defined in the current Conflict of Interest Code). Acting on that decision, the staff prepared a proposed amendment and commenced the administrative rulemaking process (as supplemented by the special procedures imposed by regulations of the Fair Political Practices Commission). No public comments were received regarding the proposed amendment.

A copy of the proposed amendment is attached, along with a “final statement of reasons” for the change, which explains the change. **The staff recommends that the Commission approve the amendment as its final action.**

Respectfully submitted,

Brian Hebert
Staff Counsel

PROPOSED AMENDMENT

Title 2, Section 47002 (amended). Appendix — Disclosure Categories

DISCLOSURE CATEGORIES

CATEGORY 1

A designated employee in this category must disclose the following:

1. Interests in real property.
2. Investments in business entities listed below.
3. Personal income from entities or persons listed below.
4. Business entity income from entities or persons listed below.
5. Business positions in entities listed below.

~~The entities and persons listed below, in the jurisdiction of California, constitute financial interests of a type that foreseeably may be materially affected by a Law Revision Commission decision concerning a topic on the Commission's Calendar of Topics Authorized for Study:~~

- ~~1. Banks, savings and loan institutions, credit unions, and other financial institutions.~~
- ~~2. Mortgage brokers.~~
- ~~3. Collection agencies.~~
- ~~4. Any entities or persons whose primary activity in California is the making of secured or unsecured loans.~~
- ~~5. Any entities or persons whose primary activity in California is the sale, leasing, or development of real estate.~~
- ~~6. Any entities or persons whose primary activity in California is the leasing of personal property.~~
- ~~7. Insurance companies.~~
- ~~8. Public entities, so long as the income is not excluded by Government Code Section 82030(b)(2).~~
- ~~9. Title insurance companies.~~
- ~~10. Newspaper companies.~~
- ~~11. Corporate sureties.~~
- ~~12. Adoption agencies.~~
- ~~13. Persons engaging in private placing for adoption of more than one child per year.~~
- ~~14. Privately owned public utilities.~~
- ~~15. Law firms.~~

- ~~16. Any entities or persons engaged in the business of tracing heirs.~~
- ~~17. Any entities or persons engaged in the business of appraising property.~~
- ~~18. Any entity or person that is a party in unfair competition litigation in California or has been within the past two years.~~
- ~~19. A director of a California corporation.~~
- ~~20. An officer or director of a California unincorporated nonprofit association.~~

~~Financial interest on this list are reportable if they relate to active topics on the Commission's Calendar of Topics. Active topics are topics the Commission has considered during the 12 months preceding, or to be considered during the 12 months following, the end of the applicable filing period, and are determined from the Commission's Annual Report, as specified by the Executive Secretary in a letter filed at least annually with the Fair Political Practices Commission.~~

CATEGORY 2

A designated employee in this category must disclose business entities in which he or she has an investment or holds a business position and sources of income if the business entities or sources of income are of the type which within the previous two years contracted with the Law Revision Commission to provide leased space or consulting services to or on behalf of the Law Revision Commission.

CATEGORY 3

A designated employee in this category must disclose business entities in which he or she has an investment or holds a business position and sources of income if the business entities or sources of income are of the type which within the previous two years contracted with the Law Revision Commission to provide equipment, materials, supplies, or services (other than consulting services) to or on behalf of the Law Revision Commission.

Authority: Gov't Code § 87300, 87306
Reference: Gov't Code § 87300 *et seq.*

FINAL STATEMENT OF REASONS

What administrative requirement is the amendment intended to address?

The California Law Revision Commission (Commission) is required to adopt a Conflict of Interest Code. See Gov't Code § 87300. The Commission is also required to amend its Conflict of Interest Code to adjust to changing circumstances. The proposed regulatory action is intended to amend the Commission's Conflict of Interest Code in order to improve the efficiency and accuracy of required disclosure of economic interests by certain designated employees.

What is the specific purpose of the amendment?

For certain designated employees of the Commission, the disclosure of economic interests is currently limited by a list of persons and entities that "may foreseeably be materially affected by a Law Revision Commission decision concerning a topic on the Commission's Calendar of Topics Authorized for Study." See 2 Cal. Code Regs. § 47002. Occasionally, this list must be revised to reflect changes in the Commission's Calendar of Topics. This approach is inefficient. It requires periodic amendment of regulations in order to update the list.

The current approach also creates a potential for under-disclosure. The complexity and delay involved in amending a regulation may cause a substantial lag between when the need to revise the list is identified and when the revision actually takes effect. If the deadline for submission of a Statement of Economic Interests falls within that lag period, the statement would be governed by the obsolete list, despite the Commission's awareness that broader disclosure should be required.

The Commission intends to eliminate the limiting list, instead requiring full disclosure of economic interests. This will eliminate the need for periodic amendments and will ensure that disclosure requirements are always sufficiently broad.

Why is the amendment reasonably necessary to carry out the purpose for which it is proposed?

The amendment will result in a more efficient system and broader disclosure of economic interests. These improvements cannot be achieved under the current system.

What technical, theoretical, and empirical study, report, or similar document, if any, was relied on in proposing the adoption, amendment, or repeal of a regulation?

None.

What alternatives to the regulation were considered and why were they rejected?

The Commission considered preserving the existing system. It rejected this alternative because of the problems discussed above.

What alternatives have been identified to lessen any adverse impact on small business?

None. The regulatory action will have no effect on small business.

What facts, evidence, documents, testimony, or other evidence have been relied upon to support a finding that the action will not have a significant adverse economic impact on business?

None. The action only affects designated employees of the Commission. It will have no effect on business.

Will the amendment impose a mandate on local agencies or school districts?

No. The action only affects designated employees of the Commission. It will have no effect on local agencies or school districts.

Summary of objections and recommendations made by interested persons:

None were made.