

1 **§ 18702.5. Public Identification of a Conflict of Interest for Section 87200 Filers**

2 **Materiality Standard: Financial Interest in a Personal Financial Effect.**

3 **[Moved to Regulation 18704.5]**

4 ~~(a) Government Code section 87105 and this regulation apply when a public official who~~
5 ~~holds an office specified in Government Code section 87200 has a financial interest in a decision~~
6 ~~within the meaning of Government Code section 87100, and the governmental decision relates to~~
7 ~~an agenda item which is noticed for a meeting subject to the provisions of the Bagley Keene Act~~
8 ~~(Government Code section 11120 et seq.) or the Brown Act (Government Code section 54950 et~~
9 ~~seq.).~~

10 ~~(b) Content & Timing of Identification: The public official shall, following the~~
11 ~~announcement of the agenda item to be discussed or voted upon but before either the discussion~~
12 ~~or vote commences, do all of the following:~~

13 ~~(1) The public official shall publicly identify:~~

14 ~~(A) Each type of economic interest held by the public official which is involved in the~~
15 ~~decision and gives rise to the conflict of interest (i.e. investment, business position, interest in~~
16 ~~real property, personal financial effect, or the receipt or promise of income or gifts), and~~

17 ~~(B) The following details identifying the economic interest(s):~~

18 ~~(i) if an investment, the name of the business entity in which each investment is held;~~

19 ~~(ii) if a business position, a general description of the business activity in which the~~
20 ~~business entity is engaged as well as the name of the business entity;~~

21 ~~(iii) if real property, the address or another indication of the location of the property,~~
22 ~~unless the property is the public official's principal or personal residence, in which case,~~
23 ~~identification that the property is a residence;~~

24 ~~(iv) if income or gifts, then identification of the source; and~~

25 ~~(v) if personal financial effect, then identification of the expense, liability, asset or~~
26 ~~income affected.~~

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1 ~~(2) Form of Identification: If the governmental decision is to be made during an open~~
2 ~~session of a public meeting, the public identification shall be made orally and shall be made part~~
3 ~~of the official public record.~~

4 ~~(3) Recusal/Leaving the Room: The public official must recuse himself or herself and~~
5 ~~leave the room after the identification required by subdivisions (b)(1) and (b)(2) of this~~
6 ~~regulation is made. He or she shall not be counted toward achieving a quorum while the item is~~
7 ~~discussed.~~

8 ~~(c) Special Rules for Closed Session: If the governmental decision is made during a~~
9 ~~closed session of a public meeting, the public identification may be made orally during the open~~
10 ~~session before the body goes into closed session and shall be limited to a declaration that his or~~
11 ~~her recusal is because of a conflict of interest under Government Code section 87100. The~~
12 ~~declaration shall be made part of the official public record. The public official shall not be~~
13 ~~present when the decision is considered in closed session or knowingly obtain or review a~~
14 ~~recording or any other non public information regarding the governmental decision.~~

15 ~~(d) Exceptions:~~

16 ~~(1) Uncontested Matters: The exception from leaving the room granted in Government~~
17 ~~Code section 87105(a)(3) for a "matter [that] has been placed on the portion of the agenda~~
18 ~~reserved for uncontested matters" shall mean agenda items on the consent calendar. When the~~
19 ~~matter in which the public official has a financial interest is on the consent calendar, the public~~
20 ~~official must comply with subdivisions (b)(1) and (b)(2) of this regulation, and recuse himself or~~
21 ~~herself from discussing or voting on that matter, but the public official is not required to leave~~
22 ~~the room during the consent calendar.~~

23 ~~(2) Absence: If the public official is absent when the agenda item subject to subdivision~~
24 ~~(a) of this regulation is considered, then Government Code section 87105 and this regulation~~
25 ~~impose no public identification duties on the public official for that item at that meeting.~~

26 ~~(3) Speaking as a Member of the Public Regarding an Applicable Personal Interest:~~
27 ~~When a personal interest found in 2 Cal. Code Regs. section 18702.4(b) is present, a public~~
28 ~~official may speak as a member of the general public if he or she complies with subdivisions~~

1 ~~(b)(1) and (b)(2) of this regulation, recuses himself or herself from voting on the matter and~~
2 ~~leaves the dais to speak from the same area as the members of the public. He or she may listen to~~
3 ~~the public discussion of the matter with the members of the public. Comment: Nothing in the~~
4 ~~provisions of this regulation is intended to cause an agency or public official to make any~~
5 ~~disclosure that would reveal the confidences of a closed session or any other privileged~~
6 ~~information as contemplated by law including but not limited to the recognized privileges found~~
7 ~~in 2 Cal. Code Regs. section 18740. Note: Authority cited: Section 83112, Government Code.~~
8 ~~Reference: Sections 87100, 87105 and 87200, Government Code.~~

9 **[Moved from Regulation 18705.5]**

10 (a) A personal financial effect means the financial effect of a governmental decision on
11 the personal finances of a public official or his or her immediate family. The financial effect is
12 material if the official or the official's immediate family member will receive a measurable
13 financial benefit or loss from the decision.

14 (b) Notwithstanding subdivision (a), a personal financial effect does not include:

15 (1) Any establishment of or change to benefits provided under an employment or
16 retirement policy for employees or retirees if the financial effect of the decision applies equally
17 to all employees in the same bargaining unit or other representative group.

18 (2) Payment of any travel expenses, to the extent allowed by law, incurred while
19 attending meetings as an authorized representative of an agency.

20 (3) Stipends received for attendance at meetings of any group or body created by law or
21 formed by the official's agency for a special purpose, so long as the selecting body posts on its
22 website a form provided by the Commission that includes: a list of each appointed position
23 eligible for a stipend, the amount of the stipend for each position, the name of the public official
24 who has been appointed to the position, the name of the public official, if any, who has been
25 appointed as an alternate, and the term of the position.

26 (4) The use of any government property, such as automobiles or other modes of
27 transportation, mobile communication devices, or other agency provided equipment for carrying

1 out the official duties of a position, including any nominal, incidental, negligible, or
2 inconsequential personal use while on duty.

3 (5) Any personal reward received by the official when using a personal charge card or
4 membership rewards program, so long as the reward is no different from the reward offered to
5 the public and is limited to charges made solely for the official's approved travel expenses.

6 (6) A decision to fill a position on the body of which the official is a member.

7 (c) If the governmental decision affects a business entity or real property in which the
8 official has a financial interest, this regulation does not apply and materiality is determined under
9 Regulation ~~18705.1 or 18705.2~~ 18702.1 or 18702.2.

10 Note: Authority cited: Section 83112, Government Code. Reference: Section 87100, 87102.5,
11 87102.6, 87102.8 and 87103, Government Code.

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