



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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First Quarter Update

Conflict of Interest, Revolving Door, and Statement of Economic Interests

Regulations adopted by the Commission

The following are regulatory changes approved by the Commission during the past quarter concerning conflict of interest, revolving door, or statement of economic interests. To receive updates for all regulations before the Commission, please sign up for our [mailing list here](#).

None.

Advice Letters

The following are advice letters issued by the Commission's Legal Division during the past quarter concerning questions about conflicts of interest, revolving door, or statement of economic interests. To receive the monthly report with all advice letters issued, please sign up for our [mailing list here](#).

Conflict of Interest

Kristopher J. Kokotaylo

[I-23-176](#)

While two public officials have potentially disqualifying financial interests in their businesses, the public generally exception likely applies allowing the official to take part in the decision because the decision at issue, amending the City's business license fee structure, is still in the early stages and nearly all businesses in the City are potentially impacted, with no unique effect on the officials' businesses. However, a determination of whether the public generally exception applies cannot be made until a specific decision has been identified.

Nicholas R. Ghirelli

[A-24-017](#)

The Act prohibits a mayor from taking part in decisions regarding the approval of a mixed-use project because there is no clear and convincing evidence rebutting the presumption that the development of the project located adjacent to a country club in which the mayor has a real property interest would have a measurable impact on his real property interest.

Anais Martinez Aquino

[A-24-020](#)

Under the Act, a city planning commissioner does not have a disqualifying financial interest in decisions that would change the land use designation of a site to permit a mixed-use development located approximately 985 feet from the commissioner's residence. Based upon the adjoining properties and considering that the residence is buffered from the project site by four large multifamily residential properties directly between the residence and project site, the development project would not change the residence's development potential, income producing potential, highest and best use, character, or market value.

Brian Pierik

[A-24-021](#)

Officials do not have a disqualifying financial interest under the Act in decisions regarding fiber optic lines within 500 feet of the officials' real properties where facts provided indicate the project will not have any measurable impact on the officials' properties because the line will be installed on existing infrastructure, or underground, by a private utility providing a service available to subscribers throughout the area. Thus, it is not reasonably foreseeable that the decisions regarding a fiber optic project will have a material financial effect on the officials' real property interests.

Michael J. Maurer

[A-23-182](#)

Mayor with two rental properties may take part in decision regarding housing implementation plan including rent stabilization and tenant protection measures under the public generally exception. Notwithstanding a reasonably foreseeable material financial effect on the official's interests, the proposed plan would apply to all residential rental properties within the City other than those excepted by the Costa-Hawkins Rental Housing Act. Under Regulation 18703(e)(4), the financial effect is indistinguishable from that on the public generally.

Cindie K. McMahon

[A-24-011](#)

Under the Act's conflict of interest provisions, Mayor Pro Tem is prohibited from proposing and taking part in decisions involving gun control related secure storage laws due to the impermissible nexus between the proposed laws and income received in the previous 12 months as a director for a non-profit organization focused on gun violence prevention specifically including secure storage laws.

Revolving Door

Dyana Valencourt

[I-24-014](#)

Former agency employee is prohibited under the one-year ban from making appearances or communications in certain proceedings before her former agency as a consultant. However, the one-year ban does not prohibit the former employee from making appearances or communications before her former agency as a part of services performed to administer, implement, or fulfill the requirements of an existing permit, so long as those services do not involve the issuance, amendment awarding or revocation of the permit during the one-year ban period. The Act's permanent ban prohibits the former employee from participating in certain proceedings involving specific parties, or even assisting others in the proceedings, if the former employee previously participated in the proceedings while employed by the state agency, regardless of whether the proceeding is before the former employee's prior agency. The permanent ban would apply to an incidental take permit a former state employee previously participated in.

Section 1090

Brian A. Pierik

[A-24-001, A-24-002, A-24-003](#)

City council members who own real property within 500 feet of property under consideration for a Mills Act contract have a disqualifying financial interest in the decision under Regulation 18702.2(a)(7), unless there is clear and convincing evidence presented to establish that there would be no measurable impact on the property. Based on the facts provided, property under a

Mills Act contract can provide a general increase in property values in the neighborhood, with the greatest benefit to those properties closest in proximity. Thus, the council members are disqualified from taking part in the decisions under the Act. Under Section 1090, an officer does not however have a financial interest in a contract based solely on the proximity of the officer's property to the contract property, and the city is not prohibited from making the contracts.

Alan J. Peake

[A-24-006](#)

City is not prohibited from entering a contract with a construction contractor for construction of bike track, where the contractor designed the track as a subconsultant for another contractor during the design of the city's park project. Under Section 1097.6(a), the construction contractor is not an "officer" subject to Section 1090 because (1) it was an independent contractor under the initial contract with the city, and (2) the construction contractor's duties and services related to the initial contract did not include engaging in or advising on public contracting on behalf of the city.

Randy Crabtree

[A-24-009](#)

Under the remote interest exception in Section 1091(b)(13), a public agency is not prohibited from entering contracts with a district agricultural association, where its executive officer employee also serves on the district's board. The executive officer must recuse from the decision and the interest must be disclosed to the board and noted in the board's record. Additionally, the executive officer may not influence or attempt to influence another board member by discussing the elements of the contract with a board member, or any officer or employee of the district, and is also prohibited from participating in the contract as an employee of the agency.

Scott C. Nave

[A-24-012](#)

Section 1090 prohibits a hospital district from renewing a prior contract, or entering any new contract, to advertise in a local newspaper, where one of the hospital district's directors recently acquired an ownership interest in the newspaper.

Abel Salinas

[A-24-015](#)

Independent contractor who advised an agency on its request for proposals and contract for a progressive design-build project to serve as a template for future projects and contracts is an officer subject to Section 1090. However, where there are no facts indicating that the independent contractor has influence over the scope of future projects due to this work, the independent contractor has not "participated in making" all future projects and contracts and is not disqualified from these projects based solely on its previous services.

Scott Runyun

[A-24-016](#)

Section 1090 does not prohibit a fire district from contracting with a consultant to complete a project where the fire district entered an initial contract with the consultant to assist in preparing a grant to fund the project given the consultant was the intended provider of the services under the grant as confirmed by the grant application and proposed grant award agreement.

Richard D. Pio Roda

[A-24-019](#)

Under the Act, an uncompensated member of a fire district's board of directors does not have an economic interest in contracts between the district and his former employer, a second fire

district, given that his government employment-related retirement benefits and former salary do not constitute “income” under the Act. Additionally, because he is no longer employed by the fire district and there is no indication he would be financially impacted by a contract between the two districts, Section 1090 does not prohibit him from taking part in such contracts.

Alisha Patterson

[A-24-022](#)

Under the Act, a mayor is not prohibited from taking part in contract decisions between the city and the joint powers authority of which he is a board member, given that his stipends come from a government entity and are not considered potentially disqualifying “income” under the Act. Under Sections 1090 and 1091.5(a)(9), the mayor is not considered to have a financial interest in the contracts, as long as his interest in the joint powers authority as a board member receiving stipends is disclosed and noted in the city council’s records, given that the contract would not involve a direct financial gain to him and would not affect a department that employs him.

Commission Opinions

None.

Enforcement Matters

The following are summaries of significant enforcement actions approved by the Commission in the past quarter involving violations of the Act’s conflicts of interest, revolving door, or statement of economic interests. To receive a monthly report of all enforcement actions, please sign up for our [mailing list here](#).

Conflict of Interest

In the Matter of Kellie Schneider; FPPC No. 19/1775. Staff: Theresa Gilbertson, Senior Commission Counsel and Lance Hachigian, Special Investigator. Kellie Schneider was a former official at the California Earthquake Authority. In that capacity, Schneider had a conflict of interest under Government Code Section 87100 of the Political Reform Act and Government Code Section 1090 when she participated in and authorized a contract between the California Earthquake Authority and her financial interest, WeidnerCA (1 count.) Additionally, Schneider failed to timely report a financial interest on a statement of economic interest, in violation of Government Code Section 87300 (1 count.) **Fine: \$5,500.**

In the Matter of Shawn Farmer; FPPC No. 20/730. Staff: Jenna C. Rinehart, Senior Commission Counsel, and George Aradi, Special Investigator. Shawn Farmer, a member of the Galt City Council, made a governmental decision involving real property that had a reasonably foreseeable material financial effect on real properties located within 500 feet, including Farmer’s real property financial interest, in violation of Government Code Section 87100 (1 count). **Fine: \$3,000.**

Statement of Economic Interests Late Filer

In the Matter of Greg Eckert; FPPC No. 20/781. Staff: Jenna C. Rinehart, Commission Counsel. Greg Eckert, a Planning Commissioner for the Town of Mammoth Lakes, failed to timely file a 2020 and 2021 Annual Statement of Economic Interests, in violation of Government Code Section 87203 (2 counts). **Fine: \$1,200 (Tier Two).**

In the Matter of John Redmond; FPPC No. 21/211. Staff: Jenna C. Rinehart, Commission Counsel. John Redmond, a City Council Member for the City of Mount Shasta, failed to timely file a 2019 and 2020 Annual Statement of Economic Interests, in violation of Government Code Section 87203 (2 counts). **Fine: \$400 (Tier One).**

In the Matter of Lawrence Ratto; FPPC No. 23/748. Staff: James M. Lindsay, Chief of Enforcement and Amber Rodriguez, Staff Services Analyst. Lawrence Ratto, a Planning Commissioner for the County of Alameda, failed to timely file a 2022 Annual Statement of Economic Interests, in violation of Government Code Section 87203 (1 count). **Fine: \$200 (Tier One).**

In the Matter of Ivy Duarte; FPPC No. 23/749. Staff: James M. Lindsay, Chief of Enforcement and Amber Rodriguez, Staff Services Analyst. Ivy Duarte, a Planning Commissioner for the City of South Gate, failed to timely file a 2022 Annual Statement of Economic Interests, in violation of Government Code Section 87203 (1 count). **Fine: \$200 (Tier One).**

In the Matter of Robert Levin, FPPC No. 20/768. Staff: Bridgette Castillo, Senior Commission Counsel. The respondent is represented by Leroy Smith of Schneiders & Associates LLP. Levin is a Commissioner of Ventura County First 5. Levin failed to timely report 20 investments on their 2018 Annual Statement of Economic Interests and 25 investments on their 2019 Annual Statement of Economic Interests, in violation of Government Code Section 87302 (45 Counts). **Fine: \$4,500 (Tier One).**

In the Matter of Kevin Riley; FPPC No. 24/028. Staff: James M. Lindsay, Chief of Enforcement and Amber Rodriguez, Staff Services Analyst. Kevin Riley, a Planning Commissioner for the City of Antioch, failed to timely file a 2022 Annual Statement of Economic Interests, in violation of Government Code Section 87203 (1 count). **Fine: \$400 (Tier One).**

In the Matter of Dawn Donaldson; FPPC No. 23/494. Staff: James M. Lindsay, Chief of Enforcement and Shaina Elkin, Associate Governmental Program Analyst. Dawn Donaldson, as an alternate member for the Central Valley Schools JPA, failed to timely file the 2020 and 2021 Annual Statements of Economic Interest, in violation of Government Code Section 87203 (2 counts). **Fine: \$400 (Tier One).**

In the Matter of Jacob Mojarro; FPPC No. 24/006. Staff: James M. Lindsay, Chief of Enforcement and Amber Rodriguez, Staff Services Analyst. Jacob Mojarro, a Planning Commissioner for the City of Alhambra, failed to timely file a 2022 Annual Statement of Economic Interests, in violation of Government Code Section 87203 (1 count). **Fine: \$200 (Tier One).**

Legislation

AB 1170 (Valencia) – Electronic Filing of SEIs (Form 700s)

Status: Passed in the Assembly Elections Committee on 1/10/24 (7-0); passed in the Assembly Appropriations Committee on 1/18/24 (15-0); passed in the Assembly on 1/29/24 (77-0)

Short Summary: AB 1170 would (1) require officials whose filing officer is the Commission to file their SEIs (Form 700s) using the Commission’s electronic filing system, (2) require redaction of certain information from SEIs posted online by the Commission, and (3) allow for electronic retention of certain paper reports and statements.

Detailed Summary:

Electronic filing of SEIs: Existing law provides that the Commission is the filing officer for statewide elected officers and candidates and other specified public officials. Generally, these public officials file their SEIs with their agency or another person or entity, who retain a copy of the statement and then forward the original statement to the Commission. AB 1170 would instead require public officials for whom the Commission is the filing officer to file their SEIs directly with the Commission using the Commission’s electronic filing system.

Redaction of certain information: Existing law requires the Commission to redact private information, including signatures, from the data made available on the internet about SEIs filed through the Commission’s online filing system. The bill would provide that the information required to be redacted additionally includes the personal residential address and telephone number of the filer, and the street name and building number of the filer’s business address and any real property interests.

Electronic retention of reports and statements: Existing law requires filing officers to retain certain reports and statements filed by paper for 2 years in paper format before converting those filings to electronic or other specified formats. The bill would authorize filing officers to retain reports and statements filed by paper in electronic or other specified formats immediately upon receiving those reports or statements.

AB 2631 (Mike Fong) – Local Ethics Training Program

Status: Introduced on 2/14/24

Short Summary: AB 2631 would require the FPPC to create, maintain, and make available a local agency ethics training course that satisfies certain requirements.

Detailed Summary:

Existing law: Existing law, passed in 2005, requires local agency officials to receive at least two hours of ethics training every two years, which includes training on the Political Reform Act. After passage of the bill adding this requirement, the FPPC voluntarily created a free online local ethics training course that would satisfy these training requirements.

Establishes a permanent program: The bill would codify a requirement that the FPPC, in consultation with the Attorney General, create, maintain, and make available to local agency officials an ethics training course that satisfies these training requirements, thereby making this a permanent program.

AB 3008 (Ramos and Garcia) – Compensation from Tribal Governments

Status: Introduced on 2/16/24

Short Summary: AB 3008 would expand the government salary exception to the definition of “income” to include salary and reimbursement for expenses or per diem, and social security, disability, or other similar benefit payments received from a tribal government agency.

Detailed Summary:

Existing law in the PRA: Existing law exempts salary and reimbursement for expenses or per diem, and social security, disability, or other similar benefit payments received from a *state, local, or federal* government agency from the definition of “income” for purposes of the PRA’s conflict of interest provisions.

Existing law in Section 1090: For purposes of Section 1090, relating to conflicts of interest in government contracts, an interest may generally be deemed a remote interest or a noninterest if it is “salary, per diem, or reimbursement for expenses from a government entity.” The remote interest and noninterest provisions do not include language limiting its application to state, local or federal governments, unlike the income exception in the PRA. The FPPC’s Legal Division has interpreted Section 1090’s remote and non-interest exception to apply to tribal government workers.

Expands government salary exception: The bill would expand the government salary exception to the definition of “income,” for purposes of the PRA’s conflict of interest provisions, to include salary and reimbursement for expenses or per diem, and social security, disability, or other similar benefit payments received from a tribal government agency.

Note: The bill, as introduced, may be broader than the proposal contemplated by the Commission at its November 2023 meeting, which would have specifically excluded from the definition of “income” salary and other benefit payments from a tribal government to a tribal government employee.

SB 1155 (Hurtado) - Postgovernment employment restriction for former heads of state administrative agencies

Status: Referred to the Senate Elections Committee

Short Summary: SB 1155 would, for a period of one year after leaving office, prohibit the head of a state administrative agency from lobbying the Legislature or a state administrative agency for compensation.

Detailed Summary:

Existing law; one-year ban: Existing law prohibits certain officials, for one year after leaving state service, from representing any other person by appearing before or communicating with, for compensation, their former agency in an attempt to influence agency decisions that involve the making of general rules (such as regulations or legislation), or to influence certain proceedings involving a permit, license, contract, or transaction involving the sale or purchase of property or goods.

Existing law; permanent ban: Existing law prohibits former state officials from working on proceedings that they participated in while working for the state.

New one-year ban on lobbying activity: The bill would prohibit the head of an agency, defined to mean an elected state officer or an appointed official, from engaging in any activity, for compensation, for the purposes of influencing legislative or administrative action by the Legislature or any state administrative agency that would require the individual to register as a lobbyist under the PRA.

SB 1156 (Hurtado) - Financial disclosures for groundwater sustainability agencies

Status: Referred to the Senate Natural Resources Committee and the Senate Elections Committee; set for hearing in the Senate Natural Resources Committee on 4/9/24

Short Summary: The bill would amend the Water Code to create separate financial disclosure reporting requirements for members of the executive team, the board of directors, and other groundwater management decision makers of groundwater sustainability agencies.

Detailed Summary:

Existing law; local government agencies: The PRA defines “local government agency” to mean a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing.

Existing law; financial disclosure: Existing law requires every local government agency to adopt and promulgate a Conflict of Interest Code pursuant to the PRA. Individuals designated in a Conflict of Interest Code must submit annual Statements of Economic Interests (SEI). Additionally, all officials listed in Section 82000 must submit SEIs.

Separate disclosure requirements: The bill would require members of the executive team, the board of directors, and other groundwater management decision makers of groundwater sustainability agencies to annually disclose any economic or financial interests as required for other public officials under the PRA that may reasonably be considered to affect their decision-making related to groundwater management. The bill would specify certain minimum required disclosures.

Administered and enforced by the FPPC: These disclosure statements would be submitted to the FPPC and the FPPC would be required to establish guidelines for submission and review of these statements. The FPPC would be authorized to enforce these provisions and violations would be subject to penalties under the PRA.

Note: Staff have determined that groundwater sustainability agencies are “local government agencies” under the Political Reform Act and are subject to the existing Conflict of Interest Code and SEI filing requirements. Staff have suggested amendments to simply clarify that groundwater sustainability agencies are local government agencies for purposes of the PRA.

[SB 1476 \(Blakespear\) - State Bar of California](#)

Status: Referred to the Senate Elections Committee and the Senate Judiciary Committee

Short Summary: SB 1476 would clarify that the State Bar of California is required to adopt a Conflict of Interest Code and its designated employees are required to submit Statements of Economic Interests.

Detailed Summary:

Existing law: Existing law in the Business and Professions Code provides that state law that restricts or prescribes a mode of procedure for the exercise of powers of state public bodies or state agencies is not applicable to the State Bar, unless the Legislature expressly so declares.

Existing law; PRA: Existing law in the PRA references the State Bar of California in four sections, including one section that provides for who the code reviewing body is for the State Bar. Existing law in the PRA implies, but does not explicitly state, that the State Bar of California must adopt a conflict of interest code and that its designated employees must submit Statements of Economic Interests (SEI).

Existing law; public official: Existing law in the PRA excludes a member of the Board of Governors and designated employees of the State Bar of California from the definition of “public official,” thus excluding these individuals from the prohibition on participating in government decisions in which the public official has a financial interest and related provisions.

Clarifies which provisions apply to the State Bar: The bill would explicitly require the State Bar of California to maintain Conflict of Interest Codes for its board of trustees and designated employees that meet the requirements for Conflict of Interest Codes in the PRA. The bill would authorize the Commission to enforce these provisions.

Additional clarification needed: Additional clarification is needed regarding whether the intent is to subject State Bar officials to all of the conflicts provisions in the PRA, or only the Conflict of Interest Code and SEI provisions.