

ITEM 8
ADOPTION OF COMMISSION ORDER TO INITIATE RULEMAKING
AMENDMENTS TO CONFLICT OF INTEREST CODE

PROPOSED AMENDMENTS TO
CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5
ARTICLE 9
SECTION 1189.10

EXECUTIVE SUMMARY

Section 1188.1(b) of the Commission on State Mandates' (Commission's) regulations authorizes the Commission to adopt an order to initiate rulemaking. Following adoption of the order, staff will publish a notice of intention to amend the Commission's conflict of interest code, along with the entire rulemaking package, to all interested persons for public comment.

The purpose of this rulemaking is to update the Commission's conflict of interest code to: (1) add, delete, and revise designated positions and specify disclosure categories for those positions in order to reflect changes to the Commission's workforce and assigned duties; (2) clarify the statement of economic interest (Form 700) filing obligations of Commission members and designees; and (3) add a new disclosure category (Category 4), which lists the economic interests in any source which contracts with the Commission for the provision of goods and which must be reported by any designated position subject to this category.

These changes are discussed in detail in the attached Initial Statement of Reasons (Exhibit D).

I. Exhibits

The proposed regulatory text is attached as Exhibit B. The proposed text is in ~~strikeout~~ and underline to show proposed changes to current regulatory language. Before filing with OAL, staff may make technical corrections, as required. The Notice of Intention to Amend Conflict of Interest Code is attached as Exhibit C and the Initial Statement of Reasons is attached as Exhibit D.

II. Timetable

If the order is adopted at the March 25, 2022 hearing of the Commission, staff will proceed pursuant to the following estimated timetable¹:

¹ These steps and corresponding estimate dates are based upon the applicable statutes and regulations and follow the guidance contained in How to Amend a State Agency's Conflict of Interest Code, California Fair Political Practices Commission (FPPC):
<https://www.fppc.ca.gov/content/dam/fppc/NS->

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| March 29, 2022 | Form 400, Notice of Rulemaking, Initial Statement of Reasons, and Proposed Text filed with the Office of Administrative Law (OAL) for publication. |
| April 8, 2022 | OAL issues and publishes the Notice of Intent to Amend Conflict of Interest Code. 45-day public comment period opens. Commission provides written notification to all employees and other officials. Commission provides copy of Form 400 and verification of employee notice to FPPC. ² |
| May 9, 2022 | Last day to request a public hearing. |
| May 23, 2022 | End of public comment period. Commission provides FPPC with public comments, if any. |
| May 27, 2022 | Public hearing, if requested. |
| July 22, 2022 or September 23, 2022 | Commission adopts proposed rulemaking package. Commission provides the Chief Executive Officer Declaration and any other required documentation to FPPC. |
| TBD | FPPC's Executive Director or designee approves conflict of interest code and sends approval letter to the Commission. ³ |
| No later than October 14, 2022 | File signed Form 400 and Adopted Regulations with OAL. ⁴ |
| No later than November 30, 2022 | OAL files signed Form 400 and Adopted Regulations with the Secretary of State (SOS). |
| TBD | SOS returns the signed Form 400 to OAL with endorsement date and OAL forwards this to the Commission. |

[Documents/TAD/COIC%20Documents/State%20COIC%20Documents/How_to_Amend_State_Agency_Conflict_of_Interest_Code.pdf](#) (accessed March 9, 2022).

² According to California Code of Regulations, title 2, section 18750(a)(2), An agency proposing a code or code amendments, should, but is not required to, seek FPPC preliminary review of the draft by FPPC. Preliminary review may expedite the FPPC's final approval and allow it to notice its consideration of the code or code amendment simultaneously with the agency's notice. Here, FPPC has conducted a preliminary review of the Commission's proposed code amendments and may notice its consideration of the code simultaneously with the Commission.

³ Government Code section 87303 provides that within 90 days after receiving proposed amendments to a conflict-of-interest code, the code reviewing body must: (a) approve as submitted; (b) revise and approve as revised; or (c) return for revision and resubmission within 60 days.

⁴ California Code of Regulations, title 2, section 18750(d) provides that after FPPC approval, the Commission has 30 days to transmit the code amendments to OAL.

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| TBD | The Commission provides a copy of the SOS-endorsed, signed Form 400 to the FPPC along with a clean version of the conflict of interest code. |
| TBD | Conflict of interest code is effective 30 days from the Secretary of State's endorsement date. |

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| TBD | The Commission provides a copy of the SOS-endorsed, signed Form 400 to the FPPC along with a clean version of the conflict of interest code. |
| TBD | Conflict of interest code is effective 30 days from the Secretary of State's endorsement date. |

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Staff Recommendation

Staff recommends the Commission adopt Proposed Order 22-01.