

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: October 9, 2019

From: SUSAN BRANSEN, Executive Director

Reference Number: 4.11, Action

Prepared By: Zilan Chen
Deputy Director

Published Date: September 27, 2019

Subject: Approval of Amendments to the Commission's Conflict of Interest Code

Issue:

Should the California Transportation Commission (Commission) approve the proposed amendments to the Commission's Conflict of Interest Code to include new and reclassified designated positions?

Recommendation:

Staff recommends the Commission:

1. Approve the proposed amendments to the Commission's Conflict of Interest Code as presented in the attachments.
2. Authorize staff to process the proposed amendments according to state law and transmit the proposed amendments to the Fair Political Practices Commission.

Background:

Amendments to the Commission's Conflict of Interest Code are proposed to add positions that involve the making, or participation in the making, of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of Section 87302 of the Government Code. The proposed amendments, statement of reasons for the amendments, and notice of intention to amend the existing Conflict of Interest Code are set forth in Attachments A, B and C respectively. The proposed amendments newly designate the positions of Staff Services Manager III; Staff Services Manager II – Programming, Legislation/Finance; Senior Transportation Engineer; Senior Transportation Planner; Associate Transportation Planner; Associate Governmental Program Analyst – Programming and Staff Services Analyst - Programming. The amendments also rename the Assistant Executive Director position to Deputy Director and delete the position of Administrative.

In accordance with the Political Reform Act (the "Act"), all public agencies are required to adopt a Conflict of Interest Code. A Conflict of Interest Code designates positions required to file Statements of Economic Interests (Form 700), and assigns disclosure categories specifying the types of interests to be reported. The Form 700 is a public document intended to alert public officials and members of the public to the types of financial interests that may create conflicts of interests.

The Commission's Conflict of Interest Code requires amendment to include positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in Government Code Section 87302 (a) which states "*Specific enumeration of the positions within the agency, other than those specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable. An investment, business position, interest in real property, or source of income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment or business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position.*"

California Code of Regulations, Title 2, Division 6 Section 18750 (c) requires that every agency which proposes to amend its existing conflict of interest code shall (1) conduct a public hearing or establish a written comment period; (2) prepare an initial proposed amendment; (3) prepare a Notice of Intention (notice) to amend an existing code that meets specific requirements; (4) file a copy of the notice with the Office of Administrative Law for publication in the California Notice Register at least 60 days before the public hearing or close of the comment period; (5) file a copy of the notice (endorsed by the Office of Administrative Law) with the FPPC at least 45 days before the public hearing or close of the written comment period; (6) provide notice to each employee of the agency affected by the proposed amendment at least 45 days before the hearing or the close of the comment period; (7) make the exact terms of the proposed code or amendment available for inspection and copying to interested persons for at least 45 days prior to the public hearing or the close of the comment period; (8) accept written comments from interested persons through the conclusion of the public hearing or close of the comment period; (9) conduct a public hearing if at least 15 days prior to the close of the comment period a public hearing is requested.

The code reviewing body for state agencies is the Fair Political Practices Commission (FPPC). The Commission has been in contact with FPPC staff regarding these amendments. Once the required amendment process described above is complete, the amendment must be filed with the FPPC for approval.

Attachments:

- Attachment A: Proposed Amendment to the California Transportation Commission's Conflict of Interest Code
- Attachment B: Explanation of Reasons for Amendments to the California Transportation Commission's Conflict of Interest Code
- Attachment C: Notice of Intention to Amend the Conflict-Of-Interest Code of the California Transportation Commission

**CALIFORNIA TRANSPORTATION COMMISSION
CONFLICT OF INTEREST CODE**

The Political Reform Act, (Government Code Sections 81000, et seq.), requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730), which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices designating positions and establishing disclosure categories shall constitute the conflict of interest code of the **California Transportation Commission (Commission)**.

Individuals holding designated positions shall file their statements of economic interests with the **Commission**, which will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) Upon receipt of the statements the Commissioners and the Executive Director, the **Commission** shall make and retain copies and forward the original statements to the **Fair Political Practices Commission**. All other statements will be retained by the **Commission**.

NOTE: Authority cited: Sections 81008, 87300, 87306, Government Code. Reference: Section 87302, Government Code.

**APPENDIX A
DESIGNATED POSITIONS**

Designated Positions	Assigned Disclosure Categories
Commissioners	1
Executive Director	1
Legal Counsel	1
Chief Deputy Director	1
Assistant Executive Deputy Director	1
Principal Transportation Engineer	1
Member, Technical Advisory Committee on Aeronautics	4
Staff Services Manager <u>III</u> (Administrative Officer)	2, 3
Supervising Transportation Planner	2, 3
Supervising Transportation Engineer	2, 3
Staff Services Manager II	2, 3
<u>Senior Transportation Engineer</u>	2, 3
<u>Senior Transportation Planner</u>	2, 3
<u>Associate Transportation Planner</u>	2, 3
<u>Associate Governmental Program Analyst – Programming</u>	2, 3
<u>Staff Services Analyst – Programming</u>	2, 3
Consultants/New Positions	*

* Consultants and new positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code (i.e., Category 1), subject to the following limitation:

The Executive Director may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant’s or new position’s duties and, based on that description, a statement of the extent of the disclosure requirements. The Executive Director’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code. (Gov. Code Sec. 81008.)

APPENDIX B DISCLOSURE CATEGORIES

Category 1

Designated positions assigned to this category must report:

All sources of income, including receipt of gifts, loans, and travel payments, interests in real property, and investments and business positions in business entities.

Category 2

Designated positions assigned to this category must report:

Business positions, investments in business entities, or income, including receipt of gifts, loans, and travel payments, from sources which manufacture or sell supplies, machinery, equipment, or services of the type utilized by the Commission.

Category 3

Designated positions assigned to this category must report:

Business positions, investments in business entities, or income, including receipt of gifts, loans, and travel payments, from sources that are contractors engaged in the performance of work or services of the type funded by the Commission.

Category 4

Designated positions assigned to this category must report:

1. Business positions, investments in business entities, or income, including receipt of gifts, loans, and travel payments, from sources that are engaged in the performance of work or services involving aviation, package delivery, aviation fuel, aviation maintenance or repair, pilot training, sales and purchases of aircraft, and ground transportation to and from airports, and from sources that own interests in real property located within airports, and from sources conducting business within airports,
2. Interests in real property located within an airport or within one and one half miles of the boundary of an airport,
3. Income, including rental income, from sources renting an interest in real property located within an airport or within one and one half miles of the boundary of an airport.

**California Transportation Commission
Proposed Amendments to Conflict of Interest Code
Explanation of Reasons**

In accordance with Title 2, Division 6, California Code of Regulations Section 18750 (c) (3) (G), the California Transportation Commission (Commission) provides the following explanation of reasons for proposing to amend the Commission's Conflict of Interest Code:

General Explanation of Reasons:

The Commission's Conflict of Interest Code requires amendment to include positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in Government Code Section 87302 (a) which states:

“Specific enumeration of the positions within the agency, other than those specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable. An investment, business position, interest in real property, or source of income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment or business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position.”

Designated Positions Need Renaming, Disclosure Category 1 - Deputy Director

The name of Assistant Executive Director position has been changed to Deputy Director.

**Current Designated Position Needs Deleting, Disclosure Category 2, 3 -
Administrative Officer**

Responsibilities for the Administrative Officer has been reclassified as the Deputy Director who is in a designated position that requires category 1 disclosure. Further, the Administrative Officer position has been dissolved.

Designated Position Additions, Disclosure Category 2, 3 - Staff Services Manager III, Staff Services Manager II, Senior Transportation Engineer, Senior Transportation Planner, Associate Transportation Planner, Associate Governmental Program Analyst - Programming and Staff Services Analyst - Programming

The Staff Services Manager III, Staff Services Manager II, Senior Transportation Engineer, Senior Transportation Planner, Associate Transportation Planner, Associate Governmental Program Analyst - Programming and Staff Services Analyst - Programming positions serve under the direction of the Commission's Deputy Directors and/or Supervising Transportation Planners, Supervising Transportation Engineer.

These positions serve as policy staff coordinating transportation policy, planning, programming and funding recommendations which involve the making, or participation in the making, of decisions by the Commission and/or the Commission's Committees that may foreseeably have a material effect on any financial interest, as described in Disclosure Category 2 and 3. Therefore, the Staff Services Manager III, Staff Services Manager II, Senior Transportation Engineer, Senior Transportation Planner, Associate Transportation Planner, Associate Governmental Program Analyst - Programming and Staff Services Analyst - Programming positions must file a statement of economic interests consistent with Disclosure Categories 2 and 3 of the Commission's Conflict of Interest Code.

NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE CALIFORNIA TRANSPORTATION COMMISSION

NOTICE IS HEREBY GIVEN that the California Transportation Commission, pursuant to the authority vested in it by Section 87306 of the Government Code, proposes amendments to its conflict-of-interest code. A comment period has been established commencing on October 25, 2019 and closing on December 9, 2019. All inquiries should be directed to the contact listed below.

The California Transportation Commission proposes to amend its conflict-of-interest code to include employee positions that involve the making, or participation in the making, of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of Section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the Conflict of Interest Code include: newly designating the positions of Staff Services Manager III, Staff Services Manager II - Programming, Legislation/Finance, Senior Transportation Engineer, Senior Transportation Planner, Associate Transportation Planner, Associate Governmental Program Analyst - Programming and Staff Services Analyst - Programming. The amendments also rename the Assistant Executive Director position to Deputy Director and delete the position of Administrative. Copies of the amended code are available and may be requested from the contact listed below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than December 9, 2019, or at the conclusion of the public hearing, if requested, whichever comes later, to the contact person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so not later than November 24, 2019.

The California Transportation Commission has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

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