

December 16, 2008 Special Meeting

**BENICIA CITY COUNCIL**

**SPECIAL MEETING AGENDA**

City Council Chambers

December 16, 2008

5:45 P.M. – 7:00 P.M.

*Times set forth for the agenda items are estimates. Items may be heard before or after the times designated.*

**I. CALL TO ORDER (5:45 P.M.):**

**II. CONVENE OPEN SESSION:**

**A. ROLL CALL**

**B. PLEDGE OF ALLEGIANCE**

**C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC**

**III. OPPORTUNITY FOR PUBLIC COMMENT:**

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the City Council from responding to or acting upon matters not listed on the agenda.

Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

**A. WRITTEN COMMENT**

**B. PUBLIC COMMENT**

**IV. CLOSED SESSION:**

**A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Subdivision (a) of Government Code Section 54956.9)**

Name of case: City of Benicia vs. Nationwide Auto Auction et al.

**B. Conference with Labor Negotiator (Government Code Section 54957.6 (a)) Agency negotiators: City Manager and Administrative Services Director**

**Employee Organizations: Benicia Senior Management Group, Benicia Middle Management Group, Police Management Group, Benicia Firefighters Association (BFA), Benicia Police Officers Association (BPOA), Benicia Dispatch Association (BDA), Local #1, Benicia Public Service Employees' Association (BPSEA), BPSEA Part-Time Unit, and Unrepresented Employees**

**V. RECONVENE OPEN SESSION:**

**VI. INFORMATIONAL ITEMS (6:00 P.M.):**

**[A. Annual review of protocols and rules. \(City Manager and City Attorney\)](#)**

The City Council will be provided with a review of the Brown Act, Conflict of Interest Rules, Open Government Ordinance, City Council Rules of Procedure and the City of Benicia Code of Conduct for Members of City Council, Boards, Commissions and Committees. Recommendation: Informational item, no action necessary.

## **ADJOURNMENT (7:00 P.M.):**

### **Public Participation**

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on non-agendized matters under public comment, and on agendized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than 5 minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

Should you have material you wish to enter into the record, please submit it to the City Manager.

### **Disabled Access**

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact Valerie Ruxton, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

### **Meeting Procedures**

All items listed on this agenda are for Council discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council.

Pursuant to Government Code Section 65009, if you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. You may also be limited by the ninety (90) day statute of limitations in which to challenge in court certain administrative decisions and orders (Code of Civil Procedure 1094.6) to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

The decision of the City Council is final as of the date of its decision unless judicial review is initiated pursuant to California Code of Civil Procedures Section 1094.5. Any such petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6.

### **Public Records**

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at [www.ci.benicia.ca.us](http://www.ci.benicia.ca.us) under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council.

 [SPECIAL MEETING.pdf](#)

**AGENDA ITEM**  
**SPECIAL CITY COUNCIL MEETING: DECEMBER 16, 2007**  
**INFORMATIONAL ITEMS**

**DATE** : December 9, 2008  
**TO** : City Council  
**FROM** : City Manager  
City Attorney   
**SUBJECT** : **ANNUAL REVIEW OF PROTOCOLS AND RULES**

**RECOMMENDATION:**

For information only, no action necessary.

**EXECUTIVE SUMMARY:**

The City Council will be provided with a review of the Brown Act, Conflict of Interest Rules, Open Government Ordinance, City Council Rules of Procedure and the City of Benicia Code of Conduct for Members of City Council, Boards, Commissions and Committees.

**STRATEGIC PLAN:**

Relevant Strategic Plan Goals and Strategies:

- Goal 8.00: Build Organizational Quality and Capacity

This annual review promotes organizational quality and capacity by ensuring that City staff and the City Council are up-to-date on current protocols and rules.

**BACKGROUND:**

This is an opportunity for the Council to review a number of key protocols and rules. Additionally, the Code of Conduct for Members of City Council, Boards, Commissions and Committees indicates that the Code should be reviewed annually and signed, to affirm they have read and understand the Code of Conduct.

Attachments:

- Brown Act
- Conflict of Interest Rules
- Open Government Ordinance
- City Council Rules of Procedure
- Code of Conduct

# **BROWN ACT**

**Special Meeting VI-A-2**

**OPEN MEETING LAWS**  
(Proposition 59 and the Brown Act)

**Proposition 59**  
**California Constitution, Article I § 3**

§ 3. Assembly, petition, open meetings

(a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.

(b) (1) The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

(2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

(3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.

(4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that a person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided in Section 7.

(5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

(6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions; nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

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**§ 54950. Declaration of public policy**

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

**§ 54950.5. Title of act**

This chapter shall be known as the Ralph M. Brown Act.

**§ 54951. “Local agency”**

As used in this chapter, “local agency” means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

**§ 54951.1. [Section repealed 1994.]**

**§ 54951.7. [Section repealed 1994.]**

**§ 54952. “Legislative body”**

As used in this chapter, “legislative body” means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c)(1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by

that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

### **§ 54952.1. Electee**

Any person elected to serve as a member of a legislative body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

### **§ 54952.2. "Meeting"**

(a) As used in this chapter, "meeting" includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

(b) Except as authorized pursuant to Section 54953, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body is prohibited.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person.

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss

among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

**§ 54952.3. [Section repealed 1994.]**

**§ 54952.5. [Section repealed 1994.]**

**§ 54952.6. "Action taken"**

As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

**§ 54952.7. Copy of chapter**

A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

**§ 54953. Open and public meetings; Teleconferencing;**

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b)(1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) No legislative body shall take action by secret ballot, whether preliminary or final.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), when a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and that number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(4) This subdivision shall remain in effect only until January 1, 2009.

### **§ 54953.1. Grand jury testimony**

The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

### **§ 54953.2. Americans With Disabilities Act**

All meetings of a legislative body of a local agency that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (*42 U.S.C. Sec. 12132*), and the federal rules and regulations adopted in implementation thereof.

### **§ 54953.3. Registration of attendance**

A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

### **§ 54953.5. Recording proceedings**

(a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording shall be provided without charge on a video or tape player made available by the local agency.

### **§ 54953.6. Restrictions on broadcasts of proceedings**

No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be

accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

### **§ 54953.7. Access to meetings beyond minimal standards**

Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

### **§ 54954. Rules for conduct of business; Time and place of meetings**

(a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

(1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.

(2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district, except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of an applicant for the position of the superintendent of the district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

### **§ 54954.1. Request for notice; Renewal; Annual Fee**

Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. If requested, the agenda and documents in the agenda packet shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 54954.2 and 54956 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

## **§ 54954.2. Posting of agenda; Non-agendized matters, Exceptions**

(a)(1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

### **§ 54954.3. Public comment at regular meetings**

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

### **§ 54954.4. State reimbursements; Legislative intent; Review of claims**

(a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of Section 54954.2, costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any

manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes of 1986 in a complete, faithful, and uninterrupted manner.

**§ 54954.5. Description of closed session items**

For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session)(If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION

(Subdivision (a) of Section 54956.9)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

#### CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision (b) of Section 54956.9.)

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

#### LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

#### THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)

#### PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

#### PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

#### PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

## PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

### CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

### CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

### REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

### HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

**CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW**

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

(j) With respect to every item of business to be discussed in closed session pursuant to Section 54956.96:

**CONFERENCE INVOLVING A JOINT POWERS AGENCY (Specify by name)**

Discussion will concern: (Specify closed session description used by the joint powers agency.)

Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to Section 54956.75:

**AUDIT BY BUREAU OF STATE AUDITS**

**§ 54954.6. Public meeting on new or increased general tax or assessment; Notice**

(a)(1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a local agency shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term "new or increased assessment" does not include any of the following:

(A) A fee that does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district's principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment that does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) and that was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b)(1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c)(1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property shall be accomplished through a mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll or the State Board of Equalization assessment roll, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The estimated amount of the assessment per parcel. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice shall also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment that is proposed exclusively for operation and maintenance expenses imposed throughout the entire local agency,

or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with Section 22500) of Division 2 of the Streets and Highways Code by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with Section 35100) of, the Public Resources Code, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the local agency imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

(h) Any new or increased assessment that is subject to the notice and hearing provisions of Article XIII C or XIII D of the California Constitution is not subject to the notice and hearing requirements of this section.

### **§ 54955. Adjournment of meetings**

The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular,

special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

### **§ 54955.1. Continuance of hearing**

Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the legislative body in the same manner and to the same extent set forth in Section 54955 for the adjournment of meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

### **§ 54956. Special meetings; Notice**

A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

### **§ 54956.5. Emergency meetings; Notice**

(a) For purposes of this section, "emergency situation" means both of the following:

(1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting

under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b)(1) Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

#### **§ 54956.6. Fees**

No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as specifically authorized by this chapter.

#### **§ 54956.7. Closed session regarding application from person with criminal record**

Whenever a legislative body of a local agency determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the legislative body may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion

and making the determination. If the legislative body determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the legislative body shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

**§ 54956.75. Closed session for response to final draft audit report from the Bureau of State Audits**

(a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a legislative body of a local agency meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

**§ 54956.8. Closed sessions regarding real property negotiations**

Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

For purposes of this section, negotiators may be members of the legislative body of the local agency.

For purposes of this section, "lease" includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

**§ 54956.81. Closed sessions regarding purchase or sale of pension fund investments**

Notwithstanding any other provision of this chapter, a legislative body of a local agency that invests pension funds may hold a closed session to consider the purchase or sale of particular, specific pension fund investments. All investment transaction decisions made during the closed session shall be made by rollcall vote entered into the minutes of the closed session as provided in subdivision (a) of Section 54957.2.

**§ 54956.86. Closed session for health plan member**

Notwithstanding any other provision of this chapter, a legislative body of a local agency which provides services pursuant to Section 14087.3 of the Welfare and Institutions Code may hold a closed session to hear a charge or complaint from a member enrolled in its health plan if the member does not wish to have his or her name, medical status, or other information that is protected by federal law publicly disclosed. Prior to holding a closed session pursuant to this section, the legislative body shall inform the member, in writing, of his or her right to have the charge or complaint heard in an open session rather than a closed session.

**§ 54956.87. Disclosure of records and information; Meetings in closed session**

(a) Notwithstanding any other provision of this chapter, the records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulas or calculations for these payments, and contract negotiations with providers of health care for alternative rates are exempt from disclosure for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption.

(b) Notwithstanding any other provision of law, the governing board of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors may order that a meeting held solely for the purpose of discussion or taking action on health plan trade secrets, as defined in subdivision (f), shall be held in closed session. The requirements of making a public report of action taken in closed session, and the vote or abstention of every member present, may be limited to a brief general description without the information constituting the trade secret.

(c) Notwithstanding any other provision of law, the governing board of a health plan may meet in closed session to consider and take action on matters pertaining to contracts and contract negotiations by the health plan with providers of health care services concerning all matters

related to rates of payment. The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session held pursuant to subdivision (b) that are provided to persons who have made the timely or standing request.

(d) Nothing in this section shall be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(e) The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the Department of Corporations in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(f) For purposes of this section, "health plan trade secret" means a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, that also meets both of the following criteria:

(1) The secrecy of the information is necessary for the health plan to initiate a new service, program, marketing strategy, business plan, or technology, or to add a benefit or product.

(2) Premature disclosure of the trade secret would create a substantial probability of depriving the health plan of a substantial economic benefit or opportunity.

### **§ 54956.9. Closed sessions concerning pending litigation; Lawyer-client privilege**

Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(a) Litigation, to which the local agency is a party, has been initiated formally.

(b)(1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

(3) For purposes of paragraphs (1) and (2), "existing facts and circumstances" shall consist only of one of the following:

(A) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(B) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(C) The receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.

(D) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(E) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(F) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the subdivision of this section that authorizes the

closed session. If the session is closed pursuant to subdivision (a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

### **§ 54956.95. Closed sessions regarding insurance pools or joint powers authority losses**

(a) Nothing in this chapter shall be construed to prevent a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, for purposes of insurance pooling, or a local agency member of the joint powers agency, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the joint powers agency or a local agency member of the joint powers agency.

(b) Nothing in this chapter shall be construed to prevent the Local Agency Self-Insurance Authority formed pursuant to Chapter 5.5 (commencing with Section 6599.01) of Division 7 of Title 1, or a local agency member of the authority, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the authority or a local agency member of the authority.

(c) Nothing in this section shall be construed to affect Section 54956.9 with respect to any other local agency.

### **§ 54956.96. Disclosure of specified information in closed session of joint powers agency; Authorization of designated alternate to attend closed session; Closed session of legislative body of local agency member**

(a) Nothing in this chapter shall be construed to prevent the legislative body of a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, from adopting a policy or a bylaw or including in its joint powers agreement provisions that authorize either or both of the following:

(1) All information received by the legislative body of the local agency member in a closed session related to the information presented to the joint powers agency in closed session shall be confidential. However, a member of the legislative body of a member local agency may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:

(A) Legal counsel of that member local agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that member local agency.

(B) Other members of the legislative body of the local agency present in a closed session of that member local agency.

(2) Any designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the joint powers agency in lieu of a local agency member's regularly appointed member to attend closed sessions of the joint powers agency.

(b) If the legislative body of a joint powers agency adopts a policy or a bylaw or includes provisions in its joint powers agreement pursuant to subdivision (a), then the legislative body of the local agency member, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the joint powers agency pursuant to paragraph (1) of subdivision (a).

**§ 54957. Closed session regarding public security, facilities, employees, national security, examination of witness**

(a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities.

(b)(1) Subject to paragraph (2), nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. Nothing in this subdivision shall limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

**§ 54957.1. Public report of action taken in closed session; Form; Availability; Actions for injury to interests**

(a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention on that action of every member present, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as follows:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as follows:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(7) Pension fund investment transaction decisions made pursuant to Section 54956.81 shall be disclosed at the first open meeting of the legislative body held after the earlier of the close of the investment transaction or the transfer of pension fund assets for the investment transaction.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in subdivision (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

(f) This section is necessary to implement, and reasonably within the scope of, paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

### **§ 54957.2. Minute book for closed sessions**

(a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

### **§ 54957.5. Agendas and other writings as public records; Distribution**

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

(b)(1) If a writing that is a public record under subdivision (a), and that relates to an agenda item for an open session of a regular meeting of the legislative body of a local agency, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose. Each local agency shall list the address of this office or location on the agendas for all meetings of the legislative body of that agency. The local agency also may post the writing on the local agency's Internet Web site in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(3) This subdivision shall become operative on July 1, 2008.

(c) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

#### **§ 54957.6. Closed sessions regarding salaries and benefits**

(a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives.

Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

Closed sessions with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

Closed sessions held pursuant to this section shall not include final action on the proposed compensation of one or more unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

### **§ 54957.7. Disclosure of items to be discussed at closed session**

(a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

### **§ 54957.8. Closed sessions of multijurisdictional drug law enforcement agencies**

(a) For purposes of this section, "multijurisdictional law enforcement agency" means a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 that provides law enforcement services for the parties to the joint powers agreement for the purpose of investigating criminal activity involving drugs; gangs; sex crimes; firearms trafficking or felony possession of a firearm; high technology, computer, or identity theft; human trafficking; or vehicle theft.

(b) Nothing contained in this chapter shall be construed to prevent the legislative body of a multijurisdictional law enforcement agency, or an advisory body of a multijurisdictional law enforcement agency, from holding closed sessions to discuss the case records of any ongoing criminal investigation of the multijurisdictional law enforcement agency or of any party to the joint powers agreement, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

**§ 54957.9. Authorization to clear room where meeting willfully interrupted; Readmission**

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

**§ 54957.10. Closed sessions regarding application for early withdrawal of deferred compensation plan funds**

Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions to discuss a local agency employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan.

**§ 54958. Application of chapter**

The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

**§ 54959. Criminal penalty for violation of chapter**

Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

**§ 54960. Proceeding to prevent violation of chapter; Recording closed sessions; Procedure for discovery of tapes**

(a) The district attorney or any interested person may commence an action by mandamus, injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body, or to determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the legislative body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6, order the legislative body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c)(1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959, 54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session which has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency which has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency which has custody and control of the recording.

(ii) An affidavit which contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications which are protected by the attorney-client privilege.

### **§ 54960.1. Proceeding to determine validity of action; Demand for correction**

(a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6,

54956, or 54956.5 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

(c)(1) The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken.

(2) Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

(3) If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires.

(4) Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(d) An action taken that is alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.5, 54954.6, 54956, and 54956.5.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5, because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions, had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken, if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(e) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(f) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

#### **§ 54960.5. Costs and attorney fees**

A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960 or 54960.1 where it is found that a legislative body of the local agency has violated this chapter. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 or 54960.1 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

#### **§ 54961. Meeting place with discriminatory admission policies; Identification of victim of sexual or child abuse**

(a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

**§ 54962. Prohibition against closed sessions except as expressly authorized**

Except as expressly authorized by this chapter, or by Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code, or by Sections 37606, 37606.1, and 37624.3 of the Government Code as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

**§ 54963. Disclosure of confidential information acquired in closed session prohibited; Disciplinary action for violation**

(a) A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, "confidential information" means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grand jury.

(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section.

(e) A local agency may not take any action authorized by subdivision (c) against a person, nor shall it be deemed a violation of this section, for doing any of the following:

(1) Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be taken by a legislative body of a local agency.

(2) Expressing an opinion concerning the propriety or legality of actions taken by a

legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclosing information acquired by being present in a closed session under this chapter that is not confidential information.

(f) Nothing in this section shall be construed to prohibit disclosures under the whistleblower statutes contained in Section 1102.5 of the Labor Code or Article 4.5 (commencing with Section 53296) of Chapter 2 of this code.

# **CONFLICT OF INTEREST**

**Special Meeting VI-A-41**

# **Political Reform**

# **Act**



# **2008**

Fair Political Practices Commission

**Special Meeting VI-A-42**

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**The Commissioners  
of the  
California Fair Political Practices Commission**

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**Commission Chairman Ross Johnson** was appointed chairman of the Fair Political Practices Commission in February of 2007. An attorney and former legislative leader, Johnson is a longtime proponent of political reform law and policy. He represented Orange County in the California State Legislature for 26 years before his appointment to the FPPC. He served in the California State Assembly from 1978 to 1995 and the California State Senate from 1995 to 2004, becoming the first person to serve as a party leader in both legislative chambers. Throughout his tenure as a legislator, Johnson authored and supported major political reform legislation and ballot measures, and was a strong advocate for campaign finance, election, and political reforms. He was principal author of Proposition 73, a reform measure passed by California voters in 1988. He also was a leading proponent of Proposition 34, a sweeping campaign reform and contribution limits measure that was approved by California voters in 2000. Johnson earned a Bachelor of Arts degree from California State University, Fullerton, and a Juris Doctorate degree from Western State University College of Law. He is a former ironworker and a U.S. Navy veteran. He and his wife, Diane, now live in the Sacramento area. They have two grown daughters and five grandchildren. A Republican, Johnson was appointed by Gov. Arnold Schwarzenegger. His term expires January 31, 2011.

**Commissioner Timothy A. Hodson** is the executive director of the Center for California Studies, California State University, Sacramento. The mission of the Center is to strengthen democratic governance in California through preparing people for public service and leadership, helping to solve problems of public policy and multidisciplinary education. Hodson is a full professor in the Government Department and Graduate Program in Public Policy and Administration at Sacramento State. He has held both positions at the university since 1993. From 1987 to 1993, Hodson was staff director for the California Senate Elections and Reapportionment Committee. His responsibilities included analysis and development of election law legislation and providing principal staff support in developing the bipartisan legislative ethics reforms of 1990. Hodson was principal consultant for the California Senate Office of Research from 1983 to 1987, served as an associate consultant to the Senate Select Committees on Government Regulation and Political Reform from 1978 until 1982, and previously

was an assistant professor in the Department of Political Science at Claremont McKenna College. Hodson earned his Ph.D in Political Science and his Master's Degree in Political Science from the University of California, Santa Barbara. He received his Bachelor's degree in Political Science from California State University, Fullerton. A Democrat, Hodson was appointed by Gov. Arnold Schwarzenegger. His term expires January 31, 2011.

**Commissioner A. Eugene Huguenin, Jr.** is a Sacramento-area attorney who practices labor, employment and education law in Elk Grove, Calif. Prior to relocating to Sacramento in 2000 from the Bay Area, he practiced labor and education law in Los Angeles and Burlingame, advising and representing the California Teachers Association and its locals throughout the state for 27 years. He continues to advise and represent public employees and their organizations in judicial and administrative proceedings, as well as provide consultation on educational policy and procedures. He is a member of the California Association of Political Attorneys, the Sacramento and Los Angeles County Bar Associations, the State Bar of California and the American Bar Association. He received his Bachelor's degree in Business Administration in 1966, and his Juris Doctorate in 1969, from the University of Washington. Prior to joining CTA, Huguenin worked in the Seattle area with a local teachers association and a national accounting firm. A Democrat, he was appointed by Secretary of State Kevin Shelley. His term expires January 31, 2009.

**Commissioner Robert Leidigh** is a veteran attorney who has broad experience with California's Political Reform Act as well as other ethics and election laws. Prior to his appointment to the Commission, he served from 2000 until his retirement in December 2006 as Deputy Attorney General in the Government Law Section of the Office of the Attorney General. His responsibilities included political law and ethics issues. Among his assignments was defending provisions of the Political Reform Act in major litigation. He was also responsible for developing the state's web-based ethics training and co-edited the Attorney General's handbook on conflicts of interest. From 1988 until 2000, Mr. Leidigh was in private practice at the Sacramento law firm of Olson, Hagel, Fong, Leidigh, Waters & Fishburn, where he represented numerous

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**The Commissioners  
of the  
California Fair Political Practices Commission  
(continued)**

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clients on election, ethics and other political law matters. During that time he served on the Board of Directors of the California Political Attorneys Association, including a term as president. From 1981 until 1988, he served as staff counsel to the Fair Political Practices Commission, including two stints as legislative liaison for the Commission. From 1977 until 1981, he was directing attorney and a registered lobbyist for California Rural Legal Assistance in Sacramento. Previously, he was a trial attorney for the U.S. Equal Employment Opportunity Commission, in San Francisco. From 1972 until 1976, Mr. Leidigh represented indigent clients as an attorney and directing attorney for the Legal Aid Society of Sacramento County (now Legal Services of Northern California). An El Dorado County resident, he graduated from King Hall School of Law, University of California, Davis, in 1971. A Democrat, he was appointed by Attorney General Bill Lockyer. His term expires on January 31, 2009.

*Commissioner Ray Remy* is president of RR Consulting of South Pasadena. He previously served as director of the state Employment Development Department and was the longtime president of the Los Angeles Area Chamber of Commerce. He also served as Deputy Mayor and Chief of Staff under former Los Angeles Mayor Tom Bradley, is a former Executive Director of the Southern California Association of Governments and former Assistant Director of the League of California Cities. He is a member of the American Society for Public Administration and previously served as that group's national president. He currently is a member of the Board of Trustees and the Executive Committee of Claremont McKenna College, and also is a member of the Executive Committee of the Association of Independent Colleges of California. He is a former president of the Institute for Local Self Government. He received a Master's degree in Public Administration from the University of California, Berkeley, and received his undergraduate degree from Claremont McKenna. A Republican, he was appointed by state Controller Steve Westly. Commissioner Remy's term expires January 31, 2009.

**POLITICAL REFORM ACT — 2008***Introduction*

This 2008 version of the Political Reform Act (the "Act") is not an official publication of the Government Code. It has been produced for use by the public and staff of the Fair Political Practices Commission. The boldface title before each Government Code Section and the histories following some sections have been added for clarity and are not part of the Act.

Proposition 34, which was passed by the voters on November 7, 2000, added new campaign finance provisions and made some changes to the disclosure and enforcement provisions of the Act. Proposition 34 took effect on January 1, 2001, except that Section 83 of the measure deferred to November 6, 2002, applicability of portions of Chapter 5 (commencing with Section 85100) of Title 9, to candidates for statewide elective office. Uncodified Sections 83-86 of Proposition 34 appear in Appendix I.

Commission regulations implementing the Act are contained in the California Code of Regulations, Title 2, Division 6 (Sections 18110-18997). References to applicable regulations and opinions follow each statute. These references were accurate as of January 1, 2008, but changes may have occurred since then. Thus, the references are provided for convenience only and should not be relied upon. Opinion summaries appear in Appendix II. Enforcement decision citations appear in Appendix III. Enforcement decision summaries appear in Appendix IV. In addition, Commission opinions and advice letters are available on Westlaw and Lexis-Nexis.

If you need more detailed information or have questions about the Political Reform Act, please call the Fair Political Practices Commission at 1-866-275-3772. The Commission is located at 428 J Street, Ste. 620, Sacramento, CA 95814. Web site: <http://www.fppc.ca.gov>.

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- 2. Definitions. § 82000 - 82055
- 3. Fair Political Practices Commission. § 83100 - 83124
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- 5. Limitations on Contributions. § 85100 - 85802
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- 7. Conflicts of Interests. § 87100 - 87500
- 8. Ballot Pamphlet. § 88000 - 88007
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- 9.5. Ethics. § 89500 - 89522
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- 11. Enforcement. § 91000 - 91015

**Chapter 1. General.  
§ 81000 - 81016**

- § 81000. Title.
- § 81001. Findings and Declarations.
- § 81002. Purposes of Title.
- § 81003. Construction of Title.
- § 81004. Reports and Statements; Perjury; Verification.
- § 81004.5. Reports and Statements; Amendments.
- § 81005. Campaign Reports and Statements; Where to File. [Repealed]
- § 81005.1. Lobbying Reports and Statements; Where to File. [Repealed]
- § 81005.2. Statements of Economic Interests; Where to File. [Repealed]
- § 81006. Filing Fees Prohibition.
- § 81007. Mailing of Report or Statement.
- § 81007.5. Faxing of Report or Statement.
- § 81008. Public Records; Inspection; Reproduction; Time; Charges.
- § 81009. Preservation of Reports and Statements.
- § 81009.5. Local Ordinances.
- § 81010. Duties of the Filing Officer.
- § 81011. Valuation of Goods, Services and Facilities; Fair Market Value. [Repealed]
- § 81011.5. Information on Statewide Petitions.
- § 81012. Amendment or Repeal of Title.
- § 81013. Imposition of Additional Requirements.
- § 81014. Regulations.
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- § 81016. Effective Date.

**§ 81000. Title.**

This title shall be known and may be cited as the "Political Reform Act of 1974."

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18200

**§ 81001. Findings and Declarations.**

The people find and declare as follows:

(a) State and local government should serve the needs and respond to the wishes of all citizens equally, without regard to their wealth;

(b) Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them;

(c) Costs of conducting election campaigns have increased greatly in recent years, and candidates have been forced to finance their campaigns by seeking large contributions from lobbyists and organizations who thereby gain disproportionate influence over governmental decisions;

(d) The influence of large campaign contributors is increased because existing laws for disclosure of campaign receipts and expenditures have proved to be inadequate;

(e) Lobbyists often make their contributions to incumbents who cannot be effectively challenged because of election laws and abusive practices which give the incumbent an unfair advantage;

(f) The wealthy individuals and organizations which make large campaign contributions frequently extend their influence by employing lobbyists and spending large amounts to influence legislative and administrative actions;

(g) The influence of large campaign contributors in ballot measure elections is increased because the ballot pamphlet mailed to the voters by the state is difficult to read and almost impossible for a layman to understand; and

(h) Previous laws regulating political practices have suffered from inadequate enforcement by state and local authorities.

**§ 81002. Purposes of Title.**

The people enact this title to accomplish the following purposes:

(a) Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.

(b) The activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials.

(c) Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided.

(d) The state ballot pamphlet should be converted into a useful document so that voters will not be entirely dependent on paid advertising for information regarding state measures.

(e) Laws and practices unfairly favoring incumbents should be abolished in order that elections may be conducted more fairly.

(f) Adequate enforcement mechanisms should be provided to public officials and private citizens in order that this title will be vigorously enforced.

History: Amended by Stats. 1980, Ch. 289.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18702  
2 Cal. Code of Regs. Section 18702.1  
2 Cal. Code of Regs. Section 18708

**§ 81003. Construction of Title.**

This title should be liberally construed to accomplish its purposes.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18702  
2 Cal. Code of Regs. Section 18702.1  
2 Cal. Code of Regs. Section 18708

**§ 81004. Reports and Statements; Perjury; Verification.**

(a) All reports and statements filed under this title shall be signed under penalty of perjury and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his knowledge it is true and complete.

(b) A report or statement filed by a committee which qualifies under subdivision (a) of Section 82013 shall be signed and verified by the treasurer, and a report or statement filed by any other person shall be signed and verified by the filer. If the filer is an entity other than an individual, the report or statement shall be signed and verified by a responsible officer of the entity or by an attorney or a certified public accountant acting as agent for the entity. Every person who signs and verifies any report or statement required to be filed under this title which contains material matter which he knows to be false is guilty of perjury.

History: Amended by Stats. 1985, Ch. 775.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18426.1  
2 Cal. Code of Regs. Section 18427  
2 Cal. Code of Regs. Section 18539.2

Opinions: In re Layton (1975) 1 FPPC Ops. 113  
In re Augustine (1975) 1 FPPC Ops. 69

**§ 81004.5. Reports and Statements; Amendments.**

Any report or statement filed pursuant to this title may be amended by the filer at any time. Amending an incorrect or incomplete report or statement may be considered as evidence of good faith.

History: Added by Stats. 1976, Ch. 1161.

**§ 81005. Campaign Reports and Statements; Where to File. [Repealed]**

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1976, Ch. 415, effective July 10, 1976; amended by Stats. 1977, Ch. 1193; repealed by Stats. 1980, Ch. 289. (Reenacted as amended and renumbered Section 84215.)

**§ 81005.1. Lobbying Reports and Statements; Where to File. [Repealed]**

History: Added by Stats. 1977, Ch. 1193; repealed by Stats. 1979, Ch. 592. (Reenacted as amended and renumbered Section 86111.)

**§ 81005.2. Statements of Economic Interests; Where to File. [Repealed]**

History: Added by Stats. 1977, Ch. 1193; repealed by Stats. 1979, Ch. 674. (Reenacted as amended and renumbered Section 87500.)

**§ 81006. Filing Fees Prohibition.**

Except as provided in this title, no fee or charge shall be collected by any officer for the filing of any report or statement or for the forms upon which reports or statements are to be prepared.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

**§ 81007. Mailing of Report or Statement.**

When a report or statement or copies thereof required to be filed with any officer under this title have been sent by first-class mail or by any other guaranteed overnight delivery service addressed to the officer, it shall for purposes of any deadline be deemed to have been received by him or her on the date of the deposit in the mail or of receipt by that delivery service. It shall be presumed until the contrary is established that any date stamped by the post office on the envelope or contained on the delivery service receipt containing the report or statement is the date it was deposited in the mail or received by the delivery

service. Mail which is not received by the filing officer shall be presumed not to have been sent unless the filer possesses a post office or delivery service receipt establishing the date of deposit and the name and address of the addressee.

History: Amended by Stats. 1976, Ch. 1106; amended by Stats. 1994, Ch. 638.

**§ 81007.5. Faxing of Report or Statement.**

(a) Any report or statement or copies thereof required to be filed with any official under Chapter 4 (commencing with Section 84100) or Chapter 7 (commencing with Section 87100) may be faxed by the applicable deadline, provided that the required originals or paper copies are sent by first-class mail or by any other personal delivery or guaranteed overnight delivery service within 24 hours of the applicable deadline and provided that the total number of pages of each report or statement faxed is no more than 30 pages.

(b) A faxed report or statement shall not be deemed filed if the faxed report or statement is not a true and correct copy of the original or copy of the report or statement personally delivered or sent by first-class mail or guaranteed overnight delivery service pursuant to subdivision (a).

(c) A filing officer who receives a faxed report or statement shall make the report or statement available to the public in the same manner as provided in Section 81008. If the faxed report or statement is requested prior to the receipt of the original or copy of the report or statement by the filing officer, the filing officer shall inform the requester that the faxed report or statement will not be considered a filed report or statement if the requirements of subdivision (b) have not been met by the filer.

History: Added by Stats. 1994, Ch. 638; amended by Stats. 1997, Ch. 394.

**§ 81008. Public Records; Inspection; Reproduction; Time; Charges.**

(a) Every report and statement filed pursuant to this title is a public record open for public inspection and reproduction during regular business hours, commencing as soon as practicable, but in any event not later than the second business day following the day on which it was received. No conditions whatsoever shall be imposed upon persons desiring to inspect or reproduce reports and statements filed under this title, nor shall any information or identification be required from these persons. Copies shall be provided at a charge not to exceed ten cents (\$0.10) per page. In addition, the filing officer may charge a retrieval fee not to exceed five dollars (\$5) per request for copies of

reports and statements which are five or more years old. A request for more than one report or statement or report and statement at the same time shall be considered a single request.

(b) Campaign statements shall be open for public inspection and reproduction from 9:00 a.m. to 5:00 p.m. on the Saturday preceding a statewide primary or statewide general election in the offices of the Secretary of State, Registrar-Recorder of Los Angeles County, Registrar of Voters of San Diego County, and Registrar of Voters of the City and County of San Francisco.

History: Amended by Stats. 1979, Ch. 531; amended by Stats. 1988, Ch. 1208; amended by Stats. 2004, Ch. 478, effective September 10, 2004.

**§ 81009. Preservation of Reports and Statements.**

(a) Statements of organization, registration statements, and original campaign statements of persons holding elective state office, candidates for any such office, committees supporting any such officeholder or candidate, and committees supporting or opposing statewide measures, shall be retained by filing officers indefinitely.

(b) Original campaign statements of mayors, city council members, county supervisors, candidates for any of these offices, and committees supporting any officeholder or candidate shall be retained indefinitely, except that original campaign statements of candidates not elected to these offices and of committees supporting candidates not elected to these offices shall be retained by filing officers for a period of not less than five years.

(c) Original campaign statements of all other persons shall be retained by filing officers for a period of not less than seven years.

(d) Original statements of economic interests of persons holding statewide elective office shall be retained by filing officers indefinitely.

(e) Original reports and statements not specified above in this section shall be retained by filing officers for a period of not less than seven years.

(f) Copies of reports or statements shall be retained by the officer with whom they are filed for a period of not less than four years, provided, however, that a filing officer is not required to retain more than one copy of a report or statement.

(g) After an original report or statement or a copy has been on file for at least two years, the officer with whom it is filed may comply with this section by retaining a copy on microfilm or other space-saving materials available for public inspection instead of the original report or statement or copy. Upon request, the

§ 81009.5.

§ 81013.

officer shall provide copies of such statements pursuant to Section 81008.

History: Amended by Stats. 1976, Ch. 1106; amended by Stats. 1979, Ch. 531; amended by Stats. 1984, Ch. 390, effective July 11, 1984; amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

§ 81009.5. Local Ordinances.

(a) Any local government agency which has enacted, enacts, amends, or repeals an ordinance or other provision of law affecting campaign contributions and expenditures shall file a copy of the action with the Commission.

(b) Notwithstanding Section 81013, no local government agency shall enact any ordinance imposing filing requirements additional to or different from those set forth in Chapter 4 (commencing with Section 84100) for elections held in its jurisdiction unless the additional or different filing requirements apply only to the candidates seeking election in that jurisdiction, their controlled committees or committees formed or existing primarily to support or oppose their candidacies, and to committees formed or existing primarily to support or oppose a candidate or to support or oppose the qualification of, or passage of, a local ballot measure which is being voted on only in that jurisdiction, and to city or county general purpose committees active only in that city or county, respectively.

History: Added by Stats. 1979, Ch. 531; amended by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 542; amended by Stats. 1991, Ch. 674.

References at the time of publication (see page 3):

Opinions: In re Olson (2001) 15 FPPC Ops. 13

§ 81010. Duties of the Filing Officer.

With respect to reports and statements filed with him pursuant to this title, the filing officer shall:

- (a) Supply the necessary forms and manuals prescribed by the Commission;
- (b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this title;
- (c) Notify promptly all persons and known committees who have failed to file a report or statement in the form and at the time required by this title;
- (d) Report apparent violations of this title to the appropriate agencies; and
- (e) Compile and maintain a current list of all reports and statements filed with this office.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18110  
2 Cal. Code of Regs. Section 18115  
2 Cal. Code of Regs. Section 18117

2 Cal. Code of Regs. Section 18363  
2 Cal. Code of Regs. Section 18732.5

Opinions: In re Rundstrom (1975) 1 FPPC Ops. 188  
In re Layton (1975) 1 FPPC Ops. 113

§ 81011. Valuation of Goods, Services and Facilities; Fair Market Value. [Repealed]

History: Repealed by Stats. 1985, Ch. 775.

§ 81011.5. Information on Statewide Petitions.

Any provision of law to the contrary notwithstanding, the election precinct of a person signing a statewide petition shall not be required to appear on the petition when it is filed with the county clerk, nor any additional information regarding a signer other than the information required to be written by the signer.

History: Added by Stats. 1977, Ch. 1095; (Identical to former Section 85203, repealed by Stats. 1977, Ch. 1095).

§ 81012. Amendment or Repeal of Title.

This title may be amended or repealed by the procedures set forth in this section. If any portion of subdivision (a) is declared invalid, then subdivision (b) shall be the exclusive means of amending or repealing this title.

(a) This title may be amended to further its purposes by statute, passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring and signed by the Governor, if at least 12 days prior to passage in each house the bill in its final form has been delivered to the Commission for distribution to the news media and to every person who has requested the Commission to send copies of such bills to him or her.

(b) This title may be amended or repealed by a statute that becomes effective only when approved by the electors.

History: Amended by Stats. 1976, Ch. 883, effective September 13, 1976; amended by Stats. 1985, Ch. 1200.

§ 81013. Imposition of Additional Requirements.

Nothing in this title prevents the Legislature or any other state or local agency from imposing additional requirements on any person if the requirements do not prevent the person from complying with this title. If any act of the Legislature conflicts with the provisions of this title, this title shall prevail.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18312

Opinions: In re Alperin (1977) 3 FPPC Ops. 77  
In re Miller (1976) 2 FPPC Ops. 91

**§ 81014. Regulations.**

Whenever any reference is made in this title to a federal or state statute and that statute has been or is subsequently repealed or amended, the Commission may promulgate regulations to carry out the intent of this title as nearly as possible.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18312

**§ 81015. Severability.**

If any provision of this title, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this title to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this title are severable.

**§ 81016. Effective Date.**

Chapter 8 of this title shall go into effect immediately. The Director of Finance shall make sufficient funds available to the Secretary of State out of the emergency fund or any other fund of the state for the immediate implementation of Chapter 8. The remainder of this title shall go into effect on January 7, 1975. Wherever reference is made in this title to the effective date of this title, the date referred to is January 7, 1975.

**Chapter 2. Definitions.**

**§ 82000 - 82055**

- § 82000. Interpretation of This Title.
- § 82001. Adjusting an Amount for Cost of Living Changes.
- § 82002. Administrative Action.
- § 82003. Agency.
- § 82004. Agency Official.
- § 82005. Business Entity.
- § 82006. Campaign Statement.
- § 82007. Candidate.
- § 82008. City.
- § 82009. Civil Service Employee.
- § 82009.5. Clerk.
- § 82010. Closing Date.
- § 82011. Code Reviewing Body.
- § 82012. Commission.
- § 82013. Committee.
- § 82014. Conflict of Interest Code.
- § 82015. Contribution.
- § 82016. Controlled Committee.
- § 82017. County.
- § 82018. Cumulative Amount.

- § 82019. Designated Employee.
- § 82020. Elected Officer.
- § 82021. Elected State Officer.
- § 82022. Election.
- § 82023. Elective Office.
- § 82024. Elective State Office.
- § 82025. Expenditure.
- § 82025.5. Fair Market Value.
- § 82026. Filer.
- § 82027. Filing Officer.
- § 82027.5. General Purpose Committee.
- § 82028. Gift.
- § 82029. Immediate Family.
- § 82030. Income.
- § 82030.5. Income; Earned.
- § 82031. Independent Expenditure.
- § 82031.5. Independent Expenditure. [Repealed]
- § 82032. Influencing Legislative or Administrative Action.
- § 82033. Interest in Real Property.
- § 82034. Investment.
- § 82035. Jurisdiction.
- § 82036. Late Contribution.
- § 82036.5. Late Independent Expenditure.
- § 82037. Legislative Action.
- § 82038. Legislative Official.
- § 82038.5. Lobbying Firm.
- § 82039. Lobbyist.
- § 82039.5. Lobbyist Employer.
- § 82040. Lobbyist's Account. [Repealed]
- § 82041. Local Government Agency.
- § 82041.5. Mass Mailing.
- § 82042. Mayor.
- § 82043. Measure.
- § 82044. Payment.
- § 82045. Payment to Influence Legislative or Administrative Action.
- § 82046. Period Covered.
- § 82047. Person.
- § 82047.5. Primarily Formed Committee.
- § 82047.6. Proponent of a State Ballot Measure.
- § 82048. Public Official.
- § 82048.3. Slate Mailer.
- § 82048.4. Slate Mailer Organization.
- § 82048.5. Special District.
- § 82048.7. Sponsored Committee.
- § 82049. State Agency.
- § 82050. State Candidate.
- § 82051. State Measure.
- § 82052. Statewide Candidate.
- § 82052.5. Statewide Election.
- § 82053. Statewide Elective Office.
- § 82054. Statewide Petition.
- § 82055. Voting Age Population. [Repealed]

**§ 82000. Interpretation of This Title.**

Unless the contrary is stated or clearly appears from the context, the definitions set forth in this chapter shall govern the interpretation of this title.

**§ 82001. Adjusting an Amount for Cost of Living Changes.**

"Adjusting an amount for cost-of-living changes" means adjusting the amount received the previous year by an amount determined at the beginning of each fiscal year by the Director of Finance corresponding to amounts authorized from the salary and price increase items as set forth in the Budget Act and other cost-of-living adjustments on the same basis as those applied routinely to other state agencies.

History: Amended by Stats. 1978, Ch. 199, effective June 6, 1978.

**§ 82002. Administrative Action.**

(a) "Administrative action" means the proposal, drafting, development, consideration, amendment, enactment, or defeat by any state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding, which shall include any proceeding governed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(b) "Ratemaking proceeding" means, for the purposes of a proceeding before the Public Utilities Commission, any proceeding in which it is reasonably foreseeable that a rate will be established, including, but not limited to, general rate cases, performance-based ratemaking, and other ratesetting mechanisms.

(c) "Quasi-legislative proceeding" means, for purposes of a proceeding before the Public Utilities Commission, any proceeding that involves consideration of the establishment of a policy that will apply generally to a group or class of persons including, but not limited to, rulemakings and investigations that may establish rules affecting an entire industry.

History: Amended by Stats. 1991, Ch. 491; amended by Stats. 2001, Ch. 921.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18202

Opinions: In re Evans (1978) 4 FPPC Ops. 84  
In re Leonard (1976) 2 FPPC Ops. 54  
In re Nida (1976) 2 FPPC Ops. 1  
In re Carson (1975) 1 FPPC Ops. 46

**§ 82003. Agency.**

"Agency" means any state agency or local government agency.

**§ 82004. Agency Official.**

"Agency official" means any member, officer, employee or consultant of any state agency who as part of his official responsibilities participates in any administrative action in other than a purely clerical, secretarial or ministerial capacity.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18249

Opinions: In re Morrissey (1976) 2 FPPC Ops. 120  
In re Morrissey (1976) 2 FPPC Ops. 84  
In re Wallace (1975) 1 FPPC Ops. 118

**§ 82005. Business Entity.**

"Business entity" means any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

**§ 82006. Campaign Statement.**

"Campaign statement" means an itemized report which is prepared on a form prescribed by the Commission and which provides the information required by Chapter 4 of this title.

References at the time of publication (see page 3):

Opinions: In re Lavton (1975) 1 FPPC Ops. 113

**§ 82007. Candidate.**

"Candidate" means an individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials, for nomination for or election to any elective office, or who receives a contribution or makes an expenditure or gives his or her consent for any other person to receive a contribution or make an expenditure with a view to bringing about his or her nomination or election to any elective office, whether or not the specific elective office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time. "Candidate" also includes any officeholder who is the subject of a recall election. An individual who becomes a candidate shall retain his or her status as a candidate until such time as that status is terminated pursuant to Section 84214. "Candidate" does not include any person within the meaning of Section 301(b) of the Federal Election Campaign Act of 1971.

History: Amended by Stats. 1980, Ch. 289.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18404  
2 Cal. Code of Regs. Section 18531.5

Opinions: In re Johnson (1989) 12 FPPC Ops. 1

In re Lui (1987) 10 FPPC Ops. 10  
In re Juvinali, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110

**§ 82008. City.**

“City” means a general law or a chartered city.

**§ 82009. Civil Service Employee.**

“Civil service employee” means any state employee who is covered by the state civil service system or any employee of a local government agency who is covered by a similar personnel system.

**§ 82009.5. Clerk.**

“Clerk” refers to the city or county clerk unless the city council or board of supervisors has designated any other agency to perform the specified function.

**§ 82010. Closing Date.**

“Closing date” means the date through which any report or statement filed under this title is required to be complete.

**§ 82011. Code Reviewing Body.**

“Code reviewing body” means all of the following:

(a) The commission, with respect to the conflict-of-interest code of a state agency other than an agency in the judicial branch of government, or any local government agency with jurisdiction in more than one county.

(b) The board of supervisors, with respect to the conflict-of-interest code of any county agency other than the board of supervisors, or any agency of the judicial branch of government, and of any local government agency, other than a city agency, with jurisdiction wholly within the county.

(c) The city council, with respect to the conflict-of-interest code of any city agency other than the city council.

(d) The Attorney General, with respect to the conflict-of-interest code of the commission.

(e) The Chief Justice or his or her designee, with respect to the conflict-of-interest code of the members of the Judicial Council, Commission on Judicial Performance, and Board of Governors of the State Bar of California.

(f) The Board of Governors of the State Bar of California with respect to the conflict-of-interest code of the State Bar of California.

(g) The Chief Justice of California, the administrative presiding judges of the courts of appeal, and the presiding judges of superior and municipal

courts, or their designees, with respect to the conflict-of-interest code of any agency of the judicial branch of government subject to the immediate administrative supervision of that court.

(h) The Judicial Council of California, with respect to the conflict-of-interest code of any state agency within the judicial branch of government not included under subdivisions (e), (f), and (g).

History: Amended by Stats. 1980, Ch. 779; amended by Stats. 1984, Ch. 727, operative July 1, 1985; amended by Stats. 1985, Ch. 775; amended by Stats. 1995, Ch. 587.

**§ 82012. Commission.**

“Commission” means the Fair Political Practices Commission.

**§ 82013. Committee.**

“Committee” means any person or combination of persons who directly or indirectly does any of the following:

(a) Receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year;

(b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year; or

(c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees.

A person or combination of persons that becomes a committee shall retain its status as a committee until such time as that status is terminated pursuant to Section 84214.

History: Amended by Stats. 1977, Ch. 1213; amended by Stats. 1980, Ch. 289; amended by Stats. 1984, Ch. 670; amended by Stats. 1987, Ch. 632.

References at the time of publication ( see page 3):

Regulations: 2 Cal. Code of Regs. Section 18413

Opinions: In re Johnson (1989) 12 FPPC Ops. 1  
In re Welsh (1978) 4 FPPC Ops. 78  
In re Kahn (1976) 2 FPPC Ops. 151  
In re Lumsdon (1976) 2 FPPC Ops. 140  
In re Cannon (1976) 2 FPPC Ops. 133  
In re Masini (1976) 2 FPPC Ops. 38  
In re Fontana (1976) 2 FPPC Ops. 25  
In re Christiansen (1975) 1 FPPC Ops. 69  
In re Augustine (1975) 1 FPPC Ops. 69

**§ 82014. Conflict of Interest Code.**

“Conflict of Interest Code” means a set of rules and regulations adopted by an agency pursuant to Chapter 7 of this title.

**§ 82015. Contribution.**

(a) “Contribution” means a payment, a forgiveness of a loan, a payment of a loan by a third

party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

(b) (1) A payment made at the behest of a committee as defined in subdivision (a) of Section 82013 is a contribution to the committee unless full and adequate consideration is received from the committee for making the payment.

(2) A payment made at the behest of a candidate is a contribution to the candidate unless the criteria in either subparagraph (A) or (B) are satisfied:

(A) Full and adequate consideration is received from the candidate.

(B) It is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The following types of payments are presumed to be for purposes unrelated to a candidate's candidacy for elective office:

(i) A payment made principally for personal purposes, in which case it may be considered a gift under the provisions of Section 82028. Payments that are otherwise subject to the limits of Section 86203 are presumed to be principally for personal purposes.

(ii) A payment made by a state, local, or federal governmental agency or by a nonprofit organization that is exempt from taxation under Section 501(c) (3) of the Internal Revenue Code.

(iii) A payment not covered by clause (i), made principally for legislative, governmental, or charitable purposes, in which case it is neither a gift nor a contribution. However, payments of this type that are made at the behest of a candidate who is an elected officer shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars (\$5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the elected officer with the elected officer's agency and shall be a public record subject to inspection and copying pursuant to the provisions of subdivision (a) of Section 81008. The report shall contain the following information: name of payor, address of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment or payments were made. Once the five thousand dollars (\$5,000) aggregate threshold from a single source has been reached for a calendar year, all

payments for the calendar year made by that source must be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, state agencies shall forward a copy of these reports to the Fair Political Practices Commission, and local agencies shall forward a copy of these reports to the officer with whom elected officers of that agency file their campaign statements.

(C) For purposes of subparagraph (B), a payment is made for purposes related to a candidate's candidacy for elective office if all or a portion of the payment is used for election-related activities. For purposes of this subparagraph, "election-related activities" shall include, but are not limited to, the following:

(i) Communications that contain express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

(ii) Communications that contain reference to the candidate's candidacy for elective office, the candidate's election campaign, or the candidate's or his or her opponent's qualifications for elective office.

(iii) Solicitation of contributions to the candidate or to third persons for use in support of the candidate or in opposition to his or her opponent.

(iv) Arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication or activity described in clauses (i), (ii), or (iii), above.

(v) Recruiting or coordinating campaign activities of campaign volunteers on behalf of the candidate.

(vi) Preparing campaign budgets.

(vii) Preparing campaign finance disclosure statements.

(viii) Communications directed to voters or potential voters as part of activities encouraging or assisting persons to vote if the communication contains express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

(D) A contribution made at the behest of a candidate for a different candidate or to a committee not controlled by the behesting candidate is not a contribution to the behesting candidate.

(c) The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate's own money or property used on behalf of his or her candidacy other than personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections

Code; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(d) The term "contribution" further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(e) The term "contribution" does not include amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(f) The term "contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

(g) Notwithstanding the foregoing definition of "contribution," the term does not include volunteer personal services or payments made by an individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

History: Amended by Stats. 1980, Ch. 289; amended by Stats. 1997, Ch. 450, effective September 24, 1997.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18215  
2 Cal. Code of Regs. Section 18215.1  
2 Cal. Code of Regs. Section 18216  
2 Cal. Code of Regs. Section 18225.7  
2 Cal. Code of Regs. Section 18421.1  
2 Cal. Code of Regs. Section 18423  
2 Cal. Code of Regs. Section 18428  
2 Cal. Code of Regs. Section 18530.3  
2 Cal. Code of Regs. Section 18531.7  
2 Cal. Code of Regs. Section 18540  
2 Cal. Code of Regs. Section 18572  
2 Cal. Code of Regs. Section 18950  
2 Cal. Code of Regs. Section 18950.4

Opinions: In re Montoya (1989) 12 FPPC Ops. 7  
In re Johnson (1989) 12 FPPC Ops. 1  
In re Bell (1988) 11 FPPC Ops. 1  
In re Nielsen (1979) 5 FPPC Ops. 18  
In re Buchanan (1979) 5 FPPC Ops. 14  
In re Reinhardt (1977) 3 FPPC Ops. 83  
In re Cannon (1976) 2 FPPC Ops. 133

In re Willmarth (1976) 2 FPPC Ops. 130  
In re Adams (1976) 2 FPPC Ops. 127  
In re Dixon (1976) 2 FPPC Ops. 70  
In re McCormick (1976) 2 FPPC Ops. 42  
In re Burciaga (1976) 2 FPPC Ops. 17  
In re Hayes (1975) 1 FPPC Ops. 210  
In re Christiansen (1975) 1 FPPC Ops. 170  
In re Cory (1975) 1 FPPC Ops. 137

#### § 82016. Controlled Committee.

(a) "Controlled committee" means a committee that is controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

(b) Notwithstanding subdivision (a), a political party committee, as defined in Section 85205, is not a controlled committee.

History: Amended by Stats. 1983, Ch. 898; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18217  
2 Cal. Code of Regs. Section 18521

#### § 82017. County.

"County" includes a city and county.

#### § 82018. Cumulative Amount.

(a) Except as provided in subdivisions (b), (c), and (d), "cumulative amount" means the amount of contributions received or expenditures made in the calendar year.

(b) For a filer required to file a campaign statement or independent expenditure report in one year in connection with an election to be held in another year, the period over which the cumulative amount is calculated shall end on the closing date of the first semiannual statement filed after the election.

(c) For a filer required to file a campaign statement in connection with the qualification of a measure which extends into two calendar years, the period over which the cumulative amount is calculated shall end on December 31 of the second calendar year.

(d) For a person filing a campaign statement with a period modified by the provisions of this section, the next period over which the cumulative amount is calculated shall begin on the day after the closing date of the statement.

History: Amended by Stats. 1976, Ch. 1106; repealed and reenacted as amended by Stats. 1980, Ch. 289; amended by Stats.

1985, Ch. 1456; amended by Stats. 1992, Ch. 405; amended by Stats. 1993, Ch. 769.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.4

**§ 82019. Designated Employee.**

(a) "Designated employee" means any officer, employee, member, or consultant of any agency whose position with the agency:

(1) Is exempt from the state civil service system by virtue of subdivision (a), (c), (d), (e), (f), (g), or (m) of Section 4 of Article VII of the Constitution, unless the position is elective or solely secretarial, clerical, or manual.

(2) Is elective, other than an elective state office.

(3) Is designated in a Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.

(4) Is involved as a state employee at other than a clerical or ministerial level in the functions of negotiating or signing any contract awarded through competitive bidding, in making decisions in conjunction with the competitive bidding process, or in negotiating, signing, or making decisions on contracts executed pursuant to Section 10122 of the Public Contract Code.

(b)(1) "Designated employee" does not include an elected state officer, any unsalaried member of any board or commission which serves a solely advisory function, any public official specified in Section 87200, and also does not include any unsalaried member of a nonregulatory committee, section, commission, or other such entity of the State Bar of California.

(2) "Designated employee" does not include a federal officer or employee serving in an official federal capacity on a state or local government agency. The state or local government agency shall annually obtain, and maintain in its files for public inspection, a copy of any public financial disclosure report filed by the federal officer or employee pursuant to federal law.

History: Amended by Stats. 1979, Ch. 674; amended by Stats. 1983, Ch. 1108; amended by Stats. 1984, Ch. 727, operative July 1, 1985; amended by Stats. 1985, Ch. 611; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18701

**§ 82020. Elected Officer.**

"Elected officer" means any person who holds an elective office or has been elected to an elective office but has not yet taken office. A person who is

appointed to fill a vacant elective office is an elected officer.

**§ 82021. Elected State Officer.**

"Elected state officer" means any person who holds an elective state office or has been elected to an elective state office but has not yet taken office. A person who is appointed to fill a vacant elective state office is an elected state officer.

**§ 82022. Election.**

"Election" means any primary, general, special or recall election held in this state. The primary and general or special elections are separate elections for purposes of this title.

**§ 82023. Elective Office.**

"Elective office" means any state, regional, county, municipal, district or judicial office which is filled at an election. "Elective office" also includes membership on a county central committee of a qualified political party, and members elected to the Board of Administration of the Public Employees' Retirement System.

History: Amended by Stats. 1998, Ch. 923.

**§ 82024. Elective State Office.**

"Elective state office" means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Member of the Legislature, member elected to the Board of Administration of the Public Employees' Retirement System, and member of the State Board of Equalization.

History: Amended by Stats. 1991, Ch. 674; amended by Stats. 1998, Ch. 923.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18723

**§ 82025. Expenditure.**

"Expenditure" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. "Expenditure" does not include a candidate's use of his or her own money to pay for either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

History: Amended by Stats. 1997, Ch. 394.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18225  
 2 Cal. Code of Regs. Section 18225.4  
 2 Cal. Code of Regs. Section 18225.7  
 2 Cal. Code of Regs. Section 18421.1  
 2 Cal. Code of Regs. Section 18421.6  
 2 Cal. Code of Regs. Section 18423  
 2 Cal. Code of Regs. Section 18450.11  
 2 Cal. Code of Regs. Section 18530.3  
 2 Cal. Code of Regs. Section 18531.7

Opinions: In re Lui (1987) 10 FPPC Ops. 10  
In re Buchanan (1979) 5 FPPC Ops. 14  
In re Welsh (1978) 4 FPPC Ops. 78  
In re Cannon (1976) 2 FPPC Ops. 133  
In re Juvinali, Shull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110  
In re Sobieski (1976) 2 FPPC Ops. 73  
In re Hayes (1975) 1 FPPC Ops. 210  
In re Christiansen (1975) 1 FPPC Ops. 170  
In re Kelly, Masini (1975) 1 FPPC Ops. 162

#### § 82025.5. Fair Market Value.

"Fair market value" means the estimated fair market value of goods, services, facilities or anything of value other than money. Whenever the amount of goods, services, facilities, or anything of value other than money is required to be reported under this title, the amount reported shall be the fair market value, and a description of the goods, services, facilities, or other thing of value shall be appended to the report or statement. "Full and adequate consideration" as used in this title means fair market value.

History: Added by Stats. 1985, Ch. 775.

References at the time of publication (see page 3):

Opinions: In re Hopkins (1977) 3 FPPC Ops. 107  
In re Stone (1977) 3 FPPC Ops. 52  
In re Thomas (1977) 3 FPPC Ops. 30  
In re Corv (1975) 1 FPPC Ops. 153

#### § 82026. Filer.

"Filer" means the person filing or required to file any statement or report under this title.

#### § 82027. Filing Officer.

"Filing officer" means the office or officer with whom any statement or report is required to be filed under this title. If copies of a statement or report are required to be filed with more than one office or officer, the one first named is the filing officer, and the copy filed with him shall be signed in the original and shall be deemed the original copy.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18227

#### § 82027.5. General Purpose Committee.

(a) "General purpose committee" means all committees pursuant to subdivision (b) or (c) of

Section 82013, and any committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose more than one candidate or ballot measure, except as provided in Section 82047.5.

(b) A "state general purpose committee" is a political party committee, as defined in Section 85205, or a committee to support or oppose candidates or measures voted on in a state election, or in more than one county.

(c) A "county general purpose committee" is a committee to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county.

(d) A "city general purpose committee" is a committee to support or oppose candidates or measures voted on in only one city.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 2004, Ch. 623, effective September 21, 2004.

#### § 82028. Gift.

(a) "Gift" means, except as provided in subdivision (b), any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

(b) The term "gift" does not include:

(1) Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."

(2) Gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.

(3) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.

(4) Campaign contributions required to be reported under Chapter 4 of this title.

(5) Any devise or inheritance.

(6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).

History: Amended by Stats. 1978, Ch. 641; amended by Stats. 1986, Ch. 654; amended by Stats. 1997, Ch. 450, effective September 24, 1997.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18229  
2 Cal. Code of Regs. Section 18727.5  
2 Cal. Code of Regs. Section 18932.4  
2 Cal. Code of Regs. Section 18940  
2 Cal. Code of Regs. Section 18941  
2 Cal. Code of Regs. Section 18941.1  
2 Cal. Code of Regs. Section 18942  
2 Cal. Code of Regs. Section 18942.1  
2 Cal. Code of Regs. Section 18944  
2 Cal. Code of Regs. Section 18944.1  
2 Cal. Code of Regs. Section 18944.2  
2 Cal. Code of Regs. Section 18945  
2 Cal. Code of Regs. Section 18945.4  
2 Cal. Code of Regs. Section 18946-18946.5  
2 Cal. Code of Regs. Section 18950-18950.4

Opinions: In re Roberts (2004) 17 FPPC Ops. 9  
In re Hopkins (1977) 3 FPPC Ops. 107  
In re Stone (1977) 3 FPPC Ops. 52  
In re Gutierrez (1977) 3 FPPC Ops. 44  
In re Thomas (1977) 3 FPPC Ops. 30  
In re Nida (1977) 3 FPPC Ops. 1  
In re Torres (1976) 2 FPPC Ops. 31  
In re Brown (1975) 1 FPPC Ops. 677  
In re Hayes (1975) 1 FPPC Ops. 210  
In re Russel (1975) 1 FPPC Ops. 191  
In re Cory (1975) 1 FPPC Ops. 153  
In re Cory (1975) 1 FPPC Ops. 137  
In re Cory (1976) 1 FPPC Ops. 48  
In re Spellman (1975) 1 FPPC Ops. 16  
In re Lunardi (1975) 1 FPPC Ops. 9

### § 82029. Immediate Family.

“Immediate family” means the spouse and dependent children.

History: Amended by Stats. 1980, Ch. 1000.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18229  
2 Cal. Code of Regs. Section 18234

Opinions: In re Roberts (2004) 17 FPPC Ops. 9

### § 82030. Income.

(a) “Income” means, except as provided in subdivision (b), a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in the income of a spouse. Income also includes an outstanding loan. Income of an

individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater. “Income,” other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title.

(b) “Income” also does not include:

(1) Campaign contributions required to be reported under Chapter 4 (commencing with Section 84100).

(2) 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 and reimbursement for travel expenses and per diem received from a bona fide nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(3) Any devise or inheritance.

(4) Interest, dividends, or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency.

(5) Dividends, interest, or any other return on a security which is registered with the Securities and Exchange Commission of the United States government or a commodity future registered with the Commodity Futures Trading Commission of the United States government, except proceeds from the sale of these securities and commodities futures.

(6) Redemption of a mutual fund.

(7) Alimony or child support payments.

(8) Any loan or loans from a commercial lending institution which are made in the lender’s regular course of business on terms available to members of the public without regard to official status.

(9) Any loan from or payments received on a loan made to an individual’s spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, or first cousin, or the spouse of any such person, provided that a loan or loan payment received from any such person shall be considered income if he or she is acting as an agent or intermediary for any person not covered by this paragraph.

(10) Any indebtedness created as part of a retail installment or credit card transaction if made in the lender’s regular course of business on terms available

to members of the public without regard to official status.

(11) Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).

(12) Proceeds from the sale of securities registered with the Securities and Exchange Commission of the United States government or from the sale of commodities futures registered with the Commodity Futures Trading Commission of the United States government if the filer sells the securities or the commodities futures on a stock or commodities exchange and does not know or have reason to know the identity of the purchaser.

History: Amended by Stats. 1976, Ch. 1161; amended by Stats. 1977, Ch. 230, effective July 7, 1977; amended by Stats. 1977, Ch. 344, effective August 20, 1977; amended by Stats. 1978, Ch. 641; amended by Stats. 1979, Ch. 686; amended by Stats. 1980, Ch. 183; amended by Stats. 1984, Ch. 931; amended by Stats. 1987, Ch. 936; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2002, Ch. 172; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18229  
 2 Cal. Code of Regs. Section 18230  
 2 Cal. Code of Regs. Section 18232  
 2 Cal. Code of Regs. Section 18234  
 2 Cal. Code of Regs. Section 18235  
 2 Cal. Code of Regs. Section 18727.5  
 2 Cal. Code of Regs. Section 18728.5  
 2 Cal. Code of Regs. Section 18940  
 2 Cal. Code of Regs. Section 18944.2  
 2 Cal. Code of Regs. Section 18946.5  
 2 Cal. Code of Regs. Section 18950.3

Opinions: In re Roberts (2004) 17 FPPC Ops. 9  
In re Elmore (1978) 4 FPPC Ops. 8  
In re Carey (1977) 3 FPPC Ops. 99  
In re Moore (1977) 3 FPPC Ops. 33  
In re Hayes (1975) 1 FPPC Ops. 210  
In re Brown (1975) 1 FPPC Ops. 67

**§ 82030.5. Income; Earned.**

(a) For purposes of this title, "earned income" means, except as provided in subdivision (b), income from wages, salaries, professional fees, and other amounts received or promised to be received as compensation for personal services rendered.

(b) Income which is not "earned income" includes, but is not limited to, the following:

(1) Any income derived from stocks, bonds, property, or other investments, or from retail or wholesale sales.

(2) Any amount paid by, or on behalf of, an elected state officer to a tax-qualified pension, profit sharing, or stock bonus plan and received by the elected state officer from the plan.

(3) The community property interest in the income of a spouse.

History: Added by Stats. 1990, Ch. 1075.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18229  
 2 Cal. Code of Regs. Section 18932

Opinions: In re Roberts (2004) 17 FPPC Ops. 9

**§ 82031. Independent Expenditure.**

"Independent expenditure" means an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

History: Formerly titled "Independent Committee." Repealed by Stats. 1979, Ch. 779. Added by Stats. 1980, Ch. 289. (Formerly Section 82031.5.)

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18225.7  
 2 Cal. Code of Regs. Section 18530.3

**§ 82031.5. Independent Expenditure. [Repealed]**

History: Added by Stats. 1979, Ch. 779; repealed by Stats. 1980, Ch. 289. (Reenacted as amended and renumbered Section 82031.)

**§ 82032. Influencing Legislative or Administrative Action.**

"Influencing legislative or administrative action" means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including but not limited to the provision or use of information, statistics, studies or analyses.

References at the time of publication (see page 3):

Opinions: In re Evans (1978) 4 FPPC Ops. 54  
In re Leonard (1976) 2 FPPC Ops. 54  
In re Nida (1976) 2 FPPC Ops. 1

**§ 82033. Interest in Real Property.**

"Interest in real property" includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is two thousand dollars (\$2,000) or more. Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10-percent interest or greater.

History: Amended by Stats. 1978, Ch. 607; amended by Stats. 1980, Ch. 1000; amended by Stats. 1984, Ch. 931; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18233
- 2 Cal. Code of Regs. Section 18234
- 2 Cal. Code of Regs. Section 18235
- 2 Cal. Code of Regs. Section 18702.3
- 2 Cal. Code of Regs. Section 18729

Opinions: In re Overstreet (1981) 6 FPPC Ops. 12

**§ 82034. Investment.**

“Investment” means any financial interest in or security issued by a business entity, including, but not limited to, common stock, preferred stock, rights, warrants, options, debt instruments, and any partnership or other ownership interest owned directly, indirectly, or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. An asset shall not be deemed an investment unless its fair market value equals or exceeds two thousand dollars (\$2,000). The term “investment” does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or in a common trust fund created pursuant to Section 1564 of the Financial Code, interest in a government defined-benefit pension plan, or any bond or other debt instrument issued by any government or government agency. Investments of an individual includes a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly, or beneficially, a 10-percent interest or greater. The term “parent, subsidiary or otherwise related business entity” shall be specifically defined by regulations of the commission.

History: Amended by Stats. 1978, Ch. 607; amended by Stats. 1980, Ch. 1000; amended by Stats. 1984, Ch. 931; amended by Stats. 2000, Ch. 130; amended by Stats. 2007, Ch. 348.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18230
- 2 Cal. Code of Regs. Section 18234
- 2 Cal. Code of Regs. Section 18235

Opinions: In re Nord (1983) 8 FPPC Ops. 6  
In re Baty (1979) 5 FPPC Ops. 10  
In re Elmore (1978) 4 FPPC Ops. 8

**§ 82035. Jurisdiction.**

“Jurisdiction” means the state with respect to a state agency and, with respect to a local government agency, the region, county, city, district or other geographical area in which it has jurisdiction. Real property shall be deemed to be “within the jurisdiction” with respect to a local government agency if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

History: Amended by Stats. 1975, Ch. 499, effective September 5, 1975; amended by Stats. 1993, Ch. 769.

**§ 82036. Late Contribution.**

“Late contribution” means any of the following:

(a) Any contribution, including a loan, that totals in the aggregate one thousand dollars (\$1,000) or more that is made to or received by a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure before the date of the election at which the candidate or measure is to be voted on but after the closing date of the last campaign statement required to be filed before the election.

(b) Any contribution, including a loan, that totals in the aggregate one thousand dollars (\$1,000) or more that is made to or received by a political party committee, as defined in Section 85205, before the date of any state election, but after the closing date of the last campaign statement required to be filed before the election.

History: Amended by Stats. 1977, Ch. 344, effective August 20, 1977; repealed and reenacted as amended by Stats. 1980, Ch. 289; amended by Stats. 2004, Ch. 623, effective September 21, 2004; amended by Stats. 2005, Ch. 22.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18116
- 2 Cal. Code of Regs. Section 18425

**§ 82036.5. Late Independent Expenditure.**

“Late independent expenditure” means any independent expenditure which totals in the aggregate one thousand dollars (\$1,000) or more and is made for or against any specific candidate or measure involved in an election before the date of the election but after the closing date of the last campaign statement required to be filed prior to the election by a candidate or committee participating in such election.

History: Added by Stats. 1980, Ch. 289.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18116

**§ 82037. Legislative Action.**

"Legislative action" means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a member or employee of the Legislature acting in his official capacity. "Legislative action" also means the action of the Governor in approving or vetoing any bill.

References at the time of publication (see page 3):

Opinions: In re Cohen (1975) 1 FPPC Ops. 10

**§ 82038. Legislative Official.**

"Legislative official" means any employee or consultant of the Legislature whose duties are not solely secretarial, clerical or manual.

References at the time of publication (see page 3):

Opinions: In re Morrissey (1976) 2 FPPC Ops. 120

**§ 82038.5. Lobbying Firm.**

(a) "Lobbying firm" means any business entity, including an individual contract lobbyist, which meets either of the following criteria:

(1) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a lobbyist.

(2) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing legislative or administrative action.

(b) No business entity is a lobbying firm by reason of activities described in Section 86300.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 905.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18238.5  
2 Cal. Code of Regs. Section 18614

**§ 82039. Lobbyist.**

(a) "Lobbyist" means any individual who receives two thousand dollars (\$2,000) or more in economic consideration in a calendar month, other

than reimbursement for reasonable travel expenses, or whose principal duties as an employee are, to communicate directly or through his or her agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action. An individual is not a lobbyist by reason of activities described in Section 86300.

(b) For the purposes of subdivision (a), a proceeding before the Public Utilities Commission constitutes "administrative action" if it meets any of the definitions set forth in subdivision (b) or (c) of Section 82002. However, a communication made for the purpose of influencing this type of Public Utilities Commission proceeding is not within subdivision (a) if the communication is made at a public hearing, public workshop or other public forum that is part of the proceeding, or if the communication is included in the official record of the proceeding.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1984, Ch. 161; amended by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2001, Ch. 921.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18239  
2 Cal. Code of Regs. Section 18601

Opinions: In re Evans (1978) 4 FPPC Ops. 54  
In re Morrissey (1976) 2 FPPC Ops. 84  
In re Leonard (1976) 2 FPPC Ops. 54  
In re Zenz (1975) 1 FPPC Ops. 195  
In re Hardie (1975) 1 FPPC Ops. 140  
In re Stern (1975) 1 FPPC Ops. 59  
In re McCarthy (1975) 1 FPPC Ops. 50  
In re Carson (1975) 1 FPPC Ops. 46  
In re California Labor Federation (1975) 1 FPPC Ops. 28  
In re Cohen (1975) 1 FPPC Ops. 10

**§ 82039.5. Lobbyist Employer.**

"Lobbyist employer" means any person, other than a lobbying firm, who:

(a) Employs one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action, or

(b) Contracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expense, for the purpose of influencing legislative or administrative action.

History: Added by Stats. 1985, Ch. 1183, Effective September 29, 1985.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18239.5  
2 Cal. Code of Regs. Section 18614

**§ 82040. Lobbyist's Account. [Repealed]**

History: Repealed by Stats. 1985, Ch. 1183, effective September 29, 1985.

**§ 82041. Local Government Agency.**

"Local government agency" means 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.

History: Amended by Stats. 1984, Ch. 727, effective July 1, 1985.

References at the time of publication (see page 3):

Opinions: In re Rotman (1987) 10 FPPC Ops. 1  
In re Leach (1978) 4 FPPC Ops. 48  
In re Siegel (1977) 3 FPPC Ops. 62  
In re Witt (1975) 1 FPPC Ops. 1

**§ 82041.5. Mass Mailing.**

"Mass mailing" means over two hundred substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry.

History: Amended by Proposition 73 on the June 1988 statewide primary ballot, effective June 8, 1988; amended by Stats. 1988, Ch. 1027.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18435  
 2 Cal. Code of Regs. Section 18901

Opinions: In re Welsh (1978) 4 FPPC Ops. 78  
In re Juvinal, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110  
In re Sobieski (1976) 2 FPPC Ops. 73  
In re Valdez (1976) 2 FPPC Ops. 21

**§ 82042. Mayor.**

"Mayor" of a city includes mayor of a city and county.

**§ 82043. Measure.**

"Measure" means any constitutional amendment or other proposition which is submitted to a popular vote at an election by action of a legislative body, or which is submitted or is intended to be submitted to a popular vote at an election by initiative, referendum or recall procedure whether or not it qualifies for the ballot.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18531.5  
 Opinions: In re Fontana (1976) 2 FPPC Ops. 25

**§ 82044. Payment.**

"Payment" means a payment, distribution, transfer, loan, advance, deposit, gift or other rendering

of money, property, services or anything else of value, whether tangible or intangible.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18944.2

Opinions: In re Johnson (1989) 12 FPPC Ops. 1  
In re Gutierrez (1977) 3 FPPC Ops. 44  
In re McCormick (1976) 2 FPPC Ops. 42  
In re Burciaga (1976) 2 FPPC Ops. 17  
In re Cory (1975) 1 FPPC Ops. 137

**§ 82045. Payment to Influence Legislative or Administrative Action.**

"Payment to influence legislative or administrative action" means any of the following types of payment:

(a) Direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose, by a person employing or contracting for the services of the lobbyist separately or jointly with other persons;

(b) Payment in support or assistance of a lobbyist or his activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(c) Payment which directly or indirectly benefits any elective state official, legislative official or agency official or a member of the immediate family of any such official;

(d) Payment, including compensation, payment or reimbursement for the services, time or expenses of an employee, for or in connection with direct communication with any elective state official, legislative official or agency official;

(e) Payment for or in connection with soliciting or urging other persons to enter into direct communication with any elective state official, legislative official or agency official.

References at the time of publication (see page 3):

Opinions: In re Kovall (1978) 4 FPPC Ops. 95  
In re Nida (1977) 3 FPPC Ops. 1  
In re Morrissey (1976) 2 FPPC Ops. 84  
In re Naylor (1976) 2 FPPC Ops. 65  
In re Leonard (1976) 2 FPPC Ops. 54  
In re Gillies (1975) 1 FPPC Ops. 165  
In re Morrissey (1975) 1 FPPC Ops. 130

**§ 82046. Period Covered.**

(a) "Period covered" by a statement or report required to be filed by this title, other than a campaign statement, means, unless a different period is specified, the period beginning with the day after the closing date of the most recent statement or report which was required to be filed, and ending with the closing date of the statement or report in question. If the person filing the statement or report has not previously filed a statement or report of the same type,

the period covered begins on the day on which the first reportable transaction occurred. Nothing in this chapter shall be interpreted to exempt any person from disclosing transactions which occurred prior to the effective date of this title according to the laws then in effect.

(b) "Period covered" by a campaign statement required to be filed by this title means, unless a different period is specified, the period beginning the day after the closing date of the most recent campaign statement which was required to be filed and ending with the closing date of the statement in question. If a person has not previously filed a campaign statement, the period covered begins on January 1.

History: Amended by Stats. 1976, Ch. 1106; amended by Stats. 1980, Ch. 289.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18420.5

Opinions: In re Welsh (1978) 4 FPPC Ops. 78  
In re Juvinall, Stull, Meyers, Republican Central Committee of Orange County, Tutor (1976) 2 FPPC Ops. 110  
In re Sobieski (1976) 2 FPPC Ops. 73  
In re Valdez (1976) 2 FPPC Ops. 21

**§ 82047. Person.**

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

History: Amended by Stats. 1994, Ch. 1010.

References at the time of publication (see page 3):

Opinions: In re Lumsdon (1976) 2 FPPC Ops. 140  
In re Witt (1975) 1 FPPC Ops. 1

**§ 82047.5. Primarily Formed Committee.**

"Primarily formed committee" means a committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose any of the following:

- (a) A single candidate.
- (b) A single measure.
- (c) A group of specific candidates being voted upon in the same city, county, or multicounty election.
- (d) Two or more measures being voted upon in the same city, county, multicounty, or state election.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1990, Ch. 626; amended by Stats. 1991, Ch. 191; amended by Stats. 1995, Ch. 295.

**§ 82047.6. Proponent of a State Ballot Measure.**

"Proponent of a state ballot measure" means "proponent" as defined in Section 9002 of the Elections Code.

History: Added by Stats. 1988, Ch. 704; amended by Stats. 1994, Ch. 923.

**§ 82048. Public Official.**

(a) "Public official" means every member, officer, employee or consultant of a state or local government agency.

(b) Notwithstanding subdivision (a), "public official" does not include the following:

- (1) A judge or court commissioner in the judicial branch of government.
- (2) A member of the Board of Governors and designated employees of the State Bar of California.
- (3) A member of the Judicial Council.
- (4) A member of the Commission on Judicial Performance, provided that he or she is subject to the provisions of Article 2.5 (commencing with Section 6035) of Chapter 4 of Division 3 of the Business and Professions Code as provided in Section 6038 of that article.

(5) A federal officer or employee serving in an official federal capacity on a state or local government agency.

History: Amended by Stats. 1984, Ch. 727, operative July 1, 1985; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18701

Opinions: In re Rotman (1987) 10 FPPC Ops. 1  
In re Maloney (1977) 3 FPPC Ops. 69  
In re Siegel (1977) 3 FPPC Ops. 62

**§ 82048.3. Slate Mailer.**

"Slate mailer" means a mass mailing which supports or opposes a total of four or more candidates or ballot measures.

History: Added by Stats. 1987, Ch. 905.

**§ 82048.4. Slate Mailer Organization.**

(a) "Slate mailer organization" means, except as provided in subdivision (b), any person who, directly or indirectly, does all of the following:

(1) Is involved in the production of one or more slate mailers and exercises control over the selection of the candidates and measures to be supported or opposed in the slate mailers.

(2) Receives or is promised payments totaling five hundred dollars (\$500) or more in a calendar year for the production of one or more slate mailers.

(b) Notwithstanding subdivision (a), a slate mailer organization shall not include any of the following:

- (1) A candidate or officeholder or a candidate's or officeholder's controlled committee.
- (2) An official committee of any political party.

(3) A legislative caucus committee.

(4) A committee primarily formed to support or oppose a candidate, officeholder, or ballot measure.

(c) The production and distribution of slate mailers by a slate mailer organization shall not be considered making contributions or expenditures for purposes of subdivision (b) or (c) of Section 82013. If a slate mailer organization makes contributions or expenditures other than by producing or distributing slate mailers, and it reports those contributions and expenditures pursuant to Sections 84218 and 84219, no additional campaign reports shall be required of the slate mailer organization pursuant to Section 84200 or 84200.5.

History: Added by Stats. 1987, Ch. 905; renumbered by Stats. 1988, Ch. 160.

**§ 82048.5. Special District.**

“Special district” means any agency of the state established for the local performance of governmental or proprietary functions within limited boundaries. “Special district” includes a county service area, a maintenance district or area, an improvement district or zone, an air pollution control district, or a redevelopment agency. “Special district” shall not include a city, county, city and county, or school district.

History: Added by Stats. 1994, Ch. 36.

**§ 82048.7. Sponsored Committee.**

(a) “Sponsored committee” means a committee, other than a candidate controlled committee, which has one or more sponsors. Any person, except a candidate or other individual, may sponsor a committee.

(b) A person sponsors a committee if any of the following apply:

(1) The committee receives 80 percent or more of its contributions from the person or its members, officers, employees, or shareholders.

(2) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(3) The person, alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

(4) The person, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

History: Added by Stats. 1985, Ch. 498; amended by Stats. 1988, Ch. 1155; amended by Stats. 1991, Ch. 130; amended by Stats. 2005, Ch. 200.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18419  
2 Cal. Code of Regs. Section 18421.1

**§ 82049. State Agency.**

“State agency” means every state office, department, division, bureau, board and commission, and the Legislature.

History: Amended by Stats. 1984, Ch. 727, operative July 1, 1985.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18249

**§ 82050. State Candidate.**

“State candidate” means a candidate who seeks nomination or election to any elective state office.

**§ 82051. State Measure.**

“State measure” means any measure which is submitted or is intended to be submitted to the voters of the state.

**§ 82052. Statewide Candidate.**

“Statewide candidate” means a candidate who seeks election to any statewide elective office.

**§ 82052.5. Statewide Election.**

“Statewide election” means an election for statewide elective office.

**§ 82053. Statewide Elective Office.**

“Statewide elective office” means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction and member of the State Board of Equalization.

History: Amended by Stats. 1991, Ch. 674; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 82054. Statewide Petition.**

“Statewide petition” means a petition to qualify a proposed state measure.

**§ 82055. Voting Age Population. [Repealed]**

History: Repealed by Stats. 1979, Ch. 779.

**Chapter 3. Fair Political Practices Commission.**

**§ 83100 - 83124**

§ 83100. Establishment; Membership.

§ 83101. Appointment by Governor.

§ 83102. Appointment by Attorney General, Secretary of State and Controller.

§ 83103. Terms of Office.

§ 83104. Vacancies; Quorum.

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- § 83107. Executive Officer; Staff; Staff Compensation.
- § 83108. Delegation of Authority.
- § 83109. Civil Service Classification.
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- § 83113. Additional Duties.
- § 83114. Requests For and Issuances of Opinions; Advice.
- § 83115. Investigations; Notice.
- § 83115.5. Findings of Probable Cause; Requirements.
- § 83116. Violation of Title.
- § 83116.3. Administrative Law Judge; Rejection.
- § 83116.5. Liability for Violations; Administrative.
- § 83117. Authority of Commission.
- § 83117.5. Receipt of Gift.
- § 83117.6. Financial Disclosure Statement: First Filing by Commission Members.  
[Repealed]
- § 83118. Subpoena Powers.
- § 83119. Self-Incrimination.
- § 83120. Judicial Review.
- § 83121. Judicial Advancement of Action.
- § 83122. Fair Political Practices Commission; Appropriation.
- § 83123. Local Enforcement.
- § 83124. Cost of Living Adjustment.

**§ 83100. Establishment; Membership.**

There is hereby established in state government the Fair Political Practices Commission. The Commission shall have five members, including the chairman. No more than three members of the Commission shall be members of the same political party.

**§ 83101. Appointment by Governor.**

The chairman and one additional member of the Commission shall be appointed by the Governor. The Governor's appointees shall not be members of the same political party.

**§ 83102. Appointment by Attorney General, Secretary of State and Controller.**

(a) The Attorney General, the Secretary of State and the Controller shall each appoint one member of the Commission.

(b) If the Attorney General, the Secretary of State and the Controller are all members of the same political party, the chairman of the state central committee of any other political party with a registration of more than five hundred thousand may submit to the Controller a list of not less than five persons who are qualified and willing to be members of the Commission. The list shall be submitted not less than ten days after the effective date of this chapter for the Controller's initial appointment, and not later than January 2 immediately prior to any subsequent appointment by the Controller. If the Controller receives one or more lists pursuant to this section, his appointment shall be made from one of such lists.

**§ 83103. Terms of Office.**

Members and the chairman of the Commission shall serve four-year terms beginning on February 1 and ending on January 31 or as soon thereafter as their successors are qualified, except that the initial appointees under Section 83102 shall serve six-year terms. No member or chairman who has been appointed at the beginning of a term is eligible for reappointment.

History: Amended by Stats. of 1987, Ch. 624.

**§ 83104. Vacancies; Quorum.**

Vacancies on the Commission shall be filled, within thirty days, by appointment of the same official who appointed the prior holder of the position. The provisions of Section 83102 (b) are not applicable to the filling of vacancies. Appointments to fill vacancies shall be for the unexpired term of the member or chairman whom the appointee succeeds. A vacancy or vacancies shall not impair the right of the remaining members to exercise all of the powers of the board. Three members shall constitute a quorum.

**§ 83105. Qualifications; Removal.**

Each member of the Commission shall be an elector. No member of the Commission, during his or her tenure, shall hold, any other public office, serve as an officer of any political party or partisan organization, participate in or contribute to an election campaign, or employ or be employed as a lobbyist nor, during his or her term of appointment, seek election to any other public office. Members of the Commission may be removed by the Governor, with concurrence of the Senate, for substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office or violation of this section, after written notice and opportunity for a reply.

History: Amended by Stats. 1986, Ch. 620.

**§ 83106. Compensation; Expenses.**

The chairman of the Commission shall be compensated at the same rate as the president of the Public Utilities Commission. Each remaining member shall be compensated at the rate of one hundred dollars (\$100) for each day on which he engages in official duties. The members and chairman of the Commission shall be reimbursed for expenses incurred in performance of their official duties.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18307

**§ 83107. Executive Officer; Staff; Staff Compensation.**

The Commission shall appoint an executive director who shall act in accordance with Commission policies and regulations and with applicable law. The Commission shall appoint and discharge officers, counsel and employees, consistent with applicable civil service laws, and shall fix the compensation of employees and prescribe their duties.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18327

**§ 83108. Delegation of Authority.**

The Commission may delegate authority to the chairman or the executive director to act in the name of the Commission between meetings of the Commission.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18319  
2 Cal. Code of Regs. Section 18327  
2 Cal. Code of Regs. Section 18361.9  
2 Cal. Code of Regs. Section 18363

**§ 83109. Civil Service Classification.**

For purposes of Section 18801 of the Government Code, no non-clerical position under the Commission shall be included in the same class in the civil service classification plan with any position of any other department or agency.

**§ 83110. Offices; Public Meetings.**

The principal office of the Commission shall be in Sacramento but it may establish offices, meet, and exercise its powers at any other place in the state. Meetings of the Commission shall be public except that the Commission may provide otherwise for discussions of personnel and litigation.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18310  
2 Cal. Code of Regs. Section 18327

**§ 83111. Administration and Implementation of Title.**

The Commission has primary responsibility for the impartial, effective administration and implementation of this title.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18200  
2 Cal. Code of Regs. Section 18327  
2 Cal. Code of Regs. Section 18361.10

**§ 83111.5. Actions to Implement Title.**

The Commission shall take no action to implement this title that would abridge constitutional guarantees of freedom of speech, that would deny any person of life, liberty, or property without due process of law, or that would deny any person the equal protection of the laws.

History: Added by Stats. 1999, Ch. 225, effective August 24, 1999.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18327

**§ 83112. Rules and Regulations.**

The Commission may adopt, amend and rescind rules and regulations to carry out the purposes and provisions of this title, and to govern procedures of the Commission. These rules and regulations shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5, Sections 11371 et seq.) and shall be consistent with this title and other applicable law.

History: Fair Political Practices Commission v. Office of Administrative Law and Linda Stockdale Brewer, Sacramento County Superior Court, Case No. 512795 (affirmed by Court of Appeal, Third District (April 27, 1992), Case No. C010924).

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18200  
2 Cal. Code of Regs. Section 18312  
2 Cal. Code of Regs. Section 18327  
2 Cal. Code of Regs. Section 18539.2

**§ 83113. Additional Duties.**

The Commission shall, in addition to its other duties, do all of the following:

(a) Prescribe forms for reports, statements, notices and other documents required by this title.

(b) Prepare and publish manuals and instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with and enforcement of this title, and explaining the duties of persons and committees under this title.

(c) Provide assistance to agencies and public officials in administering the provisions of this title.

(d) Maintain a central file of local campaign contribution and expenditure ordinances forwarded to it by local government agencies.

(e) Annually publish a booklet not later than March 1 that sets forth the provisions of this title and includes other information the Commission deems pertinent to the interpretation and enforcement of this title. The Commission shall provide a reasonable number of copies of the booklet at no charge for the use of governmental agencies and subdivisions thereof that request copies of the booklet.

The Commission may charge a fee, not to exceed the prorated cost of producing the booklet, for providing copies of the booklet to other persons and organizations.

History: Amended by Stats. 1979, Ch. 531; amended by Stats. 1999, Ch. 855.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18313  
2 Cal. Code of Regs. Section 18327

**§ 83114. Requests For and Issuances of Opinions; Advice.**

(a) Any person may request the Commission to issue an opinion with respect to his duties under this title. The Commission shall, within 14 days, either issue the opinion or advise the person who made the request whether an opinion will be issued. No person who acts in good faith on an opinion issued to him by the Commission shall be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. The Commission's opinions shall be public records and may from time to time be published.

(b) Any person may request the Commission to provide written advice with respect to the person's duties under this title. Such advice shall be provided within 21 working days of the request, provided that the time may be extended for good cause. It shall be a complete defense in any enforcement proceeding initiated by the Commission, and evidence of good faith conduct in any other civil or criminal proceeding, if the requester, at least 21 working days prior to the alleged violation, requested written advice from the Commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice or because of the failure of the Commission to provide advice within 21 days of the request or such later extended time.

History: Amended by Stats. 1976, Ch. 1080.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18320  
2 Cal. Code of Regs. Section 18321  
2 Cal. Code of Regs. Section 18322

2 Cal. Code of Regs. Section 18324  
2 Cal. Code of Regs. Section 18326  
2 Cal. Code of Regs. Section 18327  
2 Cal. Code of Regs. Section 18329  
2 Cal. Code of Regs. Section 18329.5

**§ 83115. Investigations; Notice.**

Upon the sworn complaint of any person or on its own initiative, the Commission shall investigate possible violations of this title relating to any agency, official, election, lobbyist or legislative or administrative action. Within 14 days after receipt of a complaint under this section, the Commission shall notify in writing the person who made the complaint of the action, if any, the Commission has taken or plans to take on the complaint, together with the reasons for such action or nonaction. If no decision has been made within 14 days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

History: Amended by Stats. 1985, Ch. 775.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18327  
2 Cal. Code of Regs. Section 18360  
2 Cal. Code of Regs. Section 18361  
2 Cal. Code of Regs. Section 18361.1  
2 Cal. Code of Regs. Section 18361.2  
2 Cal. Code of Regs. Section 18361.3  
2 Cal. Code of Regs. Section 18361.4  
2 Cal. Code of Regs. Section 18361.5  
2 Cal. Code of Regs. Section 18361.6  
2 Cal. Code of Regs. Section 18361.7  
2 Cal. Code of Regs. Section 18361.8  
2 Cal. Code of Regs. Section 18362

**§ 83115.5. Findings of Probable Cause; Requirements.**

No finding of probable cause to believe this title has been violated shall be made by the Commission unless, at least 21 days prior to the Commission's consideration of the alleged violation, the person alleged to have violated this title is notified of the violation by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of his right to be present in person and represented by counsel at any proceeding of the Commission held for the purpose of considering whether probable cause exists for believing the person violated this title. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the Commission a written request that the proceeding be public.

History: Added by Stats. 1976, Ch. 1080.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18327
- 2 Cal. Code of Regs. Section 18361
- 2 Cal. Code of Regs. Section 18361.1
- 2 Cal. Code of Regs. Section 18361.2
- 2 Cal. Code of Regs. Section 18361.3
- 2 Cal. Code of Regs. Section 18361.4
- 2 Cal. Code of Regs. Section 18361.5
- 2 Cal. Code of Regs. Section 18361.6
- 2 Cal. Code of Regs. Section 18361.7
- 2 Cal. Code of Regs. Section 18361.8
- 2 Cal. Code of Regs. Section 18362

**§ 83116. Violation of Title.**

When the commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The commission shall have all the powers granted by that chapter. When the commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

- (a) Cease and desist violation of this title.
- (b) File any reports, statements, or other documents or information required by this title.
- (c) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

History: Amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18316.5
- 2 Cal. Code of Regs. Section 18327
- 2 Cal. Code of Regs. Section 18361
- 2 Cal. Code of Regs. Section 18361.1
- 2 Cal. Code of Regs. Section 18361.2
- 2 Cal. Code of Regs. Section 18361.3
- 2 Cal. Code of Regs. Section 18361.4
- 2 Cal. Code of Regs. Section 18361.5
- 2 Cal. Code of Regs. Section 18361.6
- 2 Cal. Code of Regs. Section 18361.7
- 2 Cal. Code of Regs. Section 18361.8
- 2 Cal. Code of Regs. Section 18361.9
- 2 Cal. Code of Regs. Section 18361.10
- 2 Cal. Code of Regs. Section 18362

**§ 83116.3. Administrative Law Judge; Rejection.**

Whenever the Commission rejects the decision of an administrative law judge made pursuant to Section 11517, the Commission shall state the reasons in writing for rejecting the decision.

History: Added by Stats. 1999, Ch. 297.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18327

**§ 83116.5. Liability for Violations; Administrative.**

Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter. However, this section shall apply only to persons who have filing or reporting obligations under this title, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by this title, and a violation of this section shall not constitute an additional violation under Chapter 11 (commencing with Section 91000).

History: Added by Stats. 1984, Ch. 670; amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18316.5
- 2 Cal. Code of Regs. Section 18327

**§ 83117. Authority of Commission.**

The Commission may:

- (a) Accept grants, contributions and appropriations;
- (b) Contract for any services which cannot satisfactorily be performed by its employees;
- (c) Employ legal counsel. Upon request of the Commission, the Attorney General shall provide legal advice and representation without charge to the Commission.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18327

**§ 83117.5. Receipt of Gift.**

It shall be unlawful for a member of the Commission to receive a gift of ten dollars (\$10) or more per month.

"Gift" as used in this section means a gift made directly or indirectly by a state candidate, an elected state officer, a legislative official, an agency official, or a lobbyist or by any person listed in Section 87200.

History: Added by Stats. 1975, Ch. 797, effective September 16, 1975.

**§ 83117.6. Financial Disclosure Statement: First Filing by Commission Members. [Repealed]**

History: Added by Stats. 1975, Ch. 797, effective September 16, 1975; repealed by Stats. 1978, Ch. 566.

**§ 83118. Subpoena Powers.**

The Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the Commission's duties or exercise of its powers.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18363

**§ 83119. Self-Incrimination.**

The Commission may refuse to excuse any person from testifying, or from producing books, records, correspondence, documents or other evidence in obedience to the subpoena of the Commission notwithstanding an objection that the testimony or evidence required of him may tend to incriminate him. No individual shall be prosecuted in any manner or subjected to any penalty or forfeiture whatever for or on account of any transaction, act, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. No immunity shall be granted to any witness under this section unless the Commission has notified the Attorney General of its intention to grant immunity to the witness at least thirty days in advance, or unless the Attorney General waives this requirement.

**§ 83120. Judicial Review.**

An interested person may seek judicial review of any action of the Commission.

**§ 83121. Judicial Advancement of Action.**

If judicial review is sought of any action of the Commission relating to a pending election, the matter shall be advanced on the docket of the court and put ahead of other actions. The court may, consistent with due process of law, shorten deadlines and take other steps necessary to permit a timely decision.

**§ 83122. Fair Political Practices Commission; Appropriation.**

There is hereby appropriated from the General Fund of the state to the Fair Political Practices Commission the sum of five hundred thousand dollars (\$500,000) during the fiscal year of 1974-1975, and the sum of one million dollars (\$1,000,000), adjusted for cost-of-living changes, during each fiscal year thereafter, for expenditure to support the operations of the Commission pursuant to this title. The expenditure of funds under this appropriation shall be subject to the

normal administrative review given to other state appropriations. The Legislature shall appropriate such additional amounts to the Commission and other agencies as may be necessary to carry out the provisions of this title.

The Department of Finance, in preparing the state budget and the Budget Bill submitted to the Legislature, shall include an item for the support of the Political Reform Act of 1974, which item shall indicate all of the following: (1) the amounts to be appropriated to other agencies to carry out their duties under this title, which amounts shall be in augmentation of the support items of such agencies; (2) the additional amounts required to be appropriated by the Legislature to the Commission to carry out the purposes of this title, as provided for in this section; and (3) in parentheses, for informational purposes, the continuing appropriation during each fiscal year of one million dollars (\$1,000,000) adjusted for cost-of-living changes made to the Commission by this section.

The definition of "expenditure" in Section 82025 is not applicable to this section.

History: Amended by Stats. 1976, Ch. 1075, effective September 21, 1976.

**§ 83123. Local Enforcement.**

The Commission shall establish a division of local enforcement to administer, interpret, and enforce, in accordance with the findings, declarations, purposes, and provisions of this title, those provisions relating to local government agencies as defined in Section 82041.

History: Added by Stats. 1984, Ch. 1681, effective September 30, 1984.

**§ 83124. Cost of Living Adjustment.**

The commission shall adjust the contribution limitations and voluntary expenditure limitations provisions in Sections 85301, 85302, 85303, and 85400 in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100) for limitations on contributions and one thousand dollars (\$1,000) for limitations on expenditures.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18544  
2 Cal. Code of Regs. Section 18545

**Chapter 4. Campaign Disclosure.****§ 84100 - 84511**

Article 1. Organization of Committees.

§ 84100 - 84108

2. Filing of Campaign Statements.  
§ 84200 - 84225
3. Prohibitions. § 84300 - 84310
4. Exemptions. § 84400
5. Advertisements. § 84501 - 84511

### Article 1. Organization of Committees.

#### § 84100 - 84108

- § 84100. Treasurer.
- § 84101. Statement of Organization; Filing.
- § 84102. Statement of Organization;  
Contents.
- § 84103. Statement of Organization;  
Amendment.
- § 84104. Recordkeeping.
- § 84105. Notification of Contributors.
- § 84106. Sponsored Committee;  
Identification.
- § 84107. Ballot Measure Committee;  
Identification.
- § 84108. Slate Mailer Organization;  
Statement of Organization.

#### § 84100. Treasurer.

Every committee shall have a treasurer. No expenditure shall be made by or on behalf of a committee without the authorization of the treasurer or that of his or her designated agents. No contribution or expenditure shall be accepted or made by or on behalf of a committee at a time when there is a vacancy in the office of treasurer.

History: Repealed and reenacted as amended by Stats. 1979, Ch. 779.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18404  
2 Cal. Code of Regs. Section 18421.2  
2 Cal. Code of Regs. Section 18426.1  
2 Cal. Code of Regs. Section 18427

Opinions: In re Augustine (1975) 1 FPPC Ops. 69

#### § 84101. Statement of Organization; Filing.

(a) A committee that is a committee by virtue of subdivision (a) of Section 82013 shall file with the Secretary of State a statement of organization within 10 days after it has qualified as a committee. The committee shall file the original of the statement of organization with the Secretary of State and shall also file a copy of the statement of organization with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215. The original and copy of the statement of organization shall be filed within 10 days after the committee has qualified as a committee. The Secretary of State shall assign a number to each

committee that files a statement of organization and shall notify the committee of the number. The Secretary of State shall send a copy of statements filed pursuant to this section to the county elections official of each county which he or she deems appropriate. A county elections official who receives a copy of a statement of organization from the Secretary of State pursuant to this section shall send a copy of the statement to the clerk of each city in the county that he or she deems appropriate.

(b) In addition to filing the statement of organization as required by subdivision (a), if a committee qualifies as a committee under subdivision (a) of Section 82013 before the date of an election in connection with which the committee is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84200.7 or 84200.8, the committee shall file, by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this subdivision shall be filed with the filing officer with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(c) If an independent expenditure committee qualifies as a committee pursuant to subdivision (a) of Section 82013 during the time period described in Section 82036.5 and makes independent expenditures of one thousand dollars (\$1,000) or more to support or oppose a candidate or candidates for office, the committee shall file by facsimile transmission, online transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this section shall be filed with the filing officer with whom the committee is required to file the original of its campaign reports pursuant to Section 84215, and to file at all locations required for the candidate or candidates supported or opposed by the independent expenditures. The filings required by this section are in addition to filings that may be required by Sections 84203.5 and 84204.

(d) For purposes of this section, in calculating whether one thousand dollars (\$1,000) in contributions has been received, payments for a filing fee or for a statement of qualifications to appear in a sample ballot shall not be included if these payments have been made from the candidate's personal funds.

History: Amended by Stats. 1978, Ch. 551; amended by Stats. 1979, Ch. 531; amended by Stats. 1986, Ch. 544; amended by Stats.

1992, Ch. 405; amended by Stats. 2001, Ch. 901; amended by Stats. 2004, Ch. 478, effective September 10, 2004.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18404
- 2 Cal. Code of Regs. Section 18421.2
- 2 Cal. Code of Regs. Section 18503
- 2 Cal. Code of Regs. Section 18520
- 2 Cal. Code of Regs. Section 18521

**§ 84102. Statement of Organization; Contents.**

The statement of organization required by Section 84101 shall include:

(a) The name, street address, and telephone number, if any, of the committee. In the case of a sponsored committee, the name of the committee shall include the name of its sponsor. Whenever a committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, a term identifying that industry or group shall be included in the name of the committee.

(b) In the case of a sponsored committee, the name, street address, and telephone number of each sponsor.

(c) The full name, street address, and telephone number, if any, of the treasurer and other principal officers.

(d) The full name and office sought by any candidate and the title and ballot number, if any, of any measure, which the committee supports or opposes as its primary activity. A committee which does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether such candidates or measures have common characteristics such as a political party affiliation.

(e) A statement whether the committee is independent or controlled, and if it is controlled, the name of each candidate, or state measure proponent by which it is controlled, or the name of any controlled committee with which it acts jointly. If a committee is controlled by a candidate for partisan office, the controlled committee shall indicate the political party, if any, with which the candidate is affiliated.

(f) For a committee controlled by a candidate for his or her election, the name and address of the financial institution where the committee has established an account and the account number.

(g) Such other information as shall be required by the rules or regulations of the Commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1977, Ch. 1095; amended by Stats. 1985, Ch. 498; amended by Stats. 1986, Ch. 546; amended by Stats.

1990, Ch. 655; amended by Stats. 1992, Ch. 223; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18402
- 2 Cal. Code of Regs. Section 18404.1
- 2 Cal. Code of Regs. Section 18419
- 2 Cal. Code of Regs. Section 18421.2
- 2 Cal. Code of Regs. Section 18430
- 2 Cal. Code of Regs. Section 18503

Opinions: In re Petris (1975) 1 FPCC Ops. 20

**§ 84103. Statement of Organization; Amendment.**

(a) Whenever there is a change in any of the information contained in a statement of organization, an amendment shall be filed within 10 days to reflect the change. The committee shall file the original of the amendment with the Secretary of State and shall also file a copy of the amendment with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(b) In addition to filing an amendment to a statement of organization as required by subdivision (a), a committee as defined in subdivision (a) of Section 82013 shall, by facsimile transmission, online transmission, guaranteed overnight delivery, or personal delivery within 24 hours, notify the filing officer with whom it is required to file the originals of its campaign reports pursuant to Section 84215 when the change requiring the amendment occurs before the date of the election in connection with which the committee is required to file a preelection statement, but after the closing date of the last preelection statement required to be filed for the election pursuant to Section 84200.7 or 84200.8, if any of the following information is changed:

- (1) The name of the committee.
- (2) The name of the treasurer or other principal officers.
- (3) The name of any candidate or committee by which the committee is controlled or with which it acts jointly.

The notification shall include the changed information, the date of the change, the name of the person providing the notification, and the committee's name and identification number.

A committee may file a notification online only if the appropriate filing officer is capable of receiving the notification in that manner.

History: Amended by Stats. 1986, Ch. 544; amended by Stats. 1987, Ch. 479; amended by Stats. 2000, Ch. 853; amended by Stats. 2004, Ch. 478, effective September 10, 2004.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
 2 Cal. Code of Regs. Section 18401  
 2 Cal. Code of Regs. Section 18404.1  
 2 Cal. Code of Regs. Section 18421.2  
 2 Cal. Code of Regs. Section 18503

#### § 84104. Recordkeeping.

It shall be the duty of each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to otherwise comply with the provisions of this chapter. The detailed accounts, records, bills, and receipts shall be retained by the filer for a period specified by the commission. However, the commission shall not require retention of records for a period longer than the statute of limitations specified in Section 91000.5 or two years after the adoption of an audit report pursuant to Chapter 10 (commencing with Section 90000), whichever is less.

History: Added by Stats. 1979, Ch. 779; amended by Stats. 2004, Ch. 483.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
 2 Cal. Code of Regs. Section 18421.2  
 2 Cal. Code of Regs. Section 18426.1  
 2 Cal. Code of Regs. Section 18531.62

#### § 84105. Notification of Contributors.

A candidate or committee which receives contributions of five thousand dollars (\$5,000) or more from any person shall inform the contributor that he or she may be required to file campaign reports. The notification shall occur within two weeks of receipt of the contributions but need not be sent to any contributor who has an identification number assigned by the Secretary of State issued pursuant to Section 84101.

History: Added by Stats. 1984, Ch. 670.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
 2 Cal. Code of Regs. Section 18421.2  
 2 Cal. Code of Regs. Section 18427.1

#### § 84106. Sponsored Committee; Identification.

(a) Whenever identification of a sponsored committee is required by this title, the identification shall include the full name of the committee as required in its statement of organization.

(b) A sponsored committee shall use only one name in its statement of organization.

History: Added by Stats. 1985, Ch. 498; amended by Stats. 1986, Ch. 546; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
 2 Cal. Code of Regs. Section 18419  
 2 Cal. Code of Regs. Section 18421.2

#### § 84107. Ballot Measure Committee; Identification.

Within 30 days of the designation of the numerical order of propositions appearing on the ballot, any committee which is primarily formed to support or oppose a ballot measure, shall, if supporting the measure, include the statement, "a committee for Proposition \_\_\_\_," or, if opposing the measure, include the statement, "a committee against Proposition \_\_\_\_," in any reference to the committee required by law.

History: Added by Stats. 1985, Ch. 498; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
 2 Cal. Code of Regs. Section 18421.2  
 2 Cal. Code of Regs. Section 18531.5

#### § 84108. Slate Mailer Organization; Statement of Organization.

(a) Every slate mailer organization shall comply with the requirements of Sections 84100, 84101, 84103, and 84104.

(b) The statement of organization of a slate mailer organization shall include:

(1) The name, street address, and telephone number of the organization. In the case of an individual or business entity that qualifies as a slate mailer organization, the name of the slate mailer organization shall include the name by which the individual or entity is identified for legal purposes. Whenever identification of a slate mailer organization is required by this title, the identification shall include the full name of the slate mailer organization as contained in its statement of organization.

(2) The full name, street address, and telephone number of the treasurer and other principal officers.

(3) The full name, street address, and telephone number of each person with final decisionmaking authority as to which candidates or measures will be supported or opposed in the organization's slate mailers.

(c) The statement of organization shall be filed with the Secretary of State within 10 days after the slate mailer organization receives or is promised five hundred dollars (\$500) or more for producing one or more slate mailers. However, if an entity qualifies as a slate mailer organization before the date of an election in which it is required to file preelection statements, but after the closing date of the last campaign

statement required to be filed before the election pursuant to Section 84218, the slate mailer organization shall file with the Secretary of State, by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a slate mailer organization, the information required to be reported in the statement of organization.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 1996, Ch. 892; amended by Stats. 2004, Ch. 478, effective September 10, 2004.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18421.2

## Article 2. Filing of Campaign Statements.

### § 84200 - 84225

- § 84200. Semi-Annual Statements.
- § 84200.3. Odd-Year Reports in Connection with a Statewide Direct Primary Election Held in March of an Even-Numbered Year. [Repealed]
- § 84200.4. Time for Filing Reports Required Pursuant to § 84200.3. [Repealed]
- § 84200.5. Preelection Statements.
- § 84200.6. Special Campaign Statements and Reports.
- § 84200.7. Time for Filing Preelection Statements for Elections Held in June or November of an Even-Numbered Year.
- § 84200.8. Time for Filing Preelection Statements for Elections Not Held in June or November of an Even-Numbered Year.
- § 84201. Combination of Statements. [Repealed]
- § 84202. Closing Dates. [Repealed]
- § 84202.3. Campaign Statements; Ballot Measure Committees.
- § 84202.5. Supplemental Preelection Statement.
- § 84202.7. Time for Filing by Committees of Odd-Numbered Year Reports.
- § 84203. Late Contribution; Reports.
- § 84203.3. Late In-Kind Contributions.
- § 84203.5. Supplemental Independent Expenditure Report.
- § 84204. Late Independent Expenditures; Reports.
- § 84204.1. Election Statements; Exemption from Filing; Abbreviated Statements. [Repealed]
- § 84204.2. Preelection Statements; Final. [Repealed]

- § 84204.5. Ballot Measure Contributions and Expenditures; Reports
- § 84205. Combination of Statements.
- § 84206. Candidates Who Receive or Spend Less than \$1,000.
- § 84207. Late Independent Expenditures; Reports. [Repealed]
- § 84207.5. Appointments to Office; Filing Requirements. [Repealed]
- § 84208. Independent Expenditures; Reports. [Repealed]
- § 84209. Consolidated Statements.
- § 84210. Special Election Reports. [Repealed]
- § 84211. Contents of Campaign Statement.
- § 84212. Forms; Loans.
- § 84213. Candidate Verification.
- § 84214. Termination.
- § 84215. Campaign Reports and Statements; Where to File.
- § 84216. Loans.
- § 84216.5. Loans Made by a Candidate or Committee.
- § 84217. Federal Office Candidates; Places Filed.
- § 84218. Slate Mailer Organization; Campaign Statements.
- § 84219. Slate Mailer Organization; Semi-Annual Statements; Contents.
- § 84220. Slate Mailer Organization; Late Payments.
- § 84221. Slate Mailer Organization; Termination.
- § 84222. Blank.
- § 84223. Blank.
- § 84224. Blank.
- § 84225. Public Employees' Retirement Board Candidates.

### § 84200. Semi-Annual Statements.

(a) Except as provided in paragraphs (1), (2), and (3), elected officers, candidates, and committees pursuant to subdivision (a) of Section 82013 shall file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(1) A candidate who, during the past six months has filed a declaration pursuant to Section 84206 shall not be required to file a semiannual statement for that six-month period.

(2) Elected officers whose salaries are less than two hundred dollars (\$200) a month, judges, judicial candidates, and their controlled committees shall not file semiannual statements pursuant to this subdivision for

any six-month period in which they have not made or received any contributions or made any expenditures.

(3) A judge who is not listed on the ballot for reelection to, or recall from, any elective office during a calendar year shall not file semiannual statements pursuant to this subdivision for any six-month period in that year if both of the following apply:

(A) The judge has not received any contributions.

(B) The only expenditures made by the judge during the calendar year are contributions from the judge's personal funds to other candidates or committees totaling less than one thousand dollars (\$1,000).

(b) All committees pursuant to subdivision (b) or (c) of Section 82013 shall file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent expenditures, including payments to a slate mailer organization, during the six-month period before the closing date of the statements.

History: Amended by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing Campaign Statements in Connection with Elections Held at Times Other Than the State Direct Primary or the State General Election.") Amended by Stats. 1981, Ch. 78; amended by Stats. 1982, Ch. 1069; amended by Stats. 1983, Ch. 898; amended by Stats. 1984, Ch. 1368; repealed and reenacted as amended by Stats. 1985, Ch. 1456; amended by Stats. 1988, Ch. 708; amended by Stats. 1990, Ch. 581; amended by Stats. 1994, Ch. 1129; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18420  
2 Cal. Code of Regs. Section 18420.5  
2 Cal. Code of Regs. Section 18421.2  
2 Cal. Code of Regs. Section 18426

Opinions: In re Lui (1987) 10 FPPC Ops. 10  
In re Sampson (1975) 1 FPPC Ops. 183  
In re Kelly, Masini (1975) 1 FPPC Ops. 162  
In re Goodwin (1975) 1 FPPC Ops. 24

**§ 84200.3. Odd-Year Reports in Connection with a Statewide Direct Primary Election Held in March of an Even-Numbered Year. [Repealed]**

History: Added by Stats. 1999, Ch. 158, effective July 23, 1999; amended by Stats. 1999, Ch. 433, effective September 16, 1999; repealed by Stats. 2005, Ch. 200.

**§ 84200.4. Time for Filing Reports Required Pursuant to § 84200.3. [Repealed]**

History: Added and repealed by Stats. 1995, Ch. 470. (Formerly titled "Campaign Statements. (March 26, 1996.);" added by Stats. 1999, Ch. 158, effective July 23, 1999; repealed by Stats. 2005, Ch. 200.

**§ 84200.5. Preelection Statements.**

In addition to the campaign statements required by Section 84200, elected officers, candidates, and committees shall file preelection statements as follows:

(a) During an even-numbered year, all candidates for elective state office being voted upon in the statewide direct primary election or the statewide general election, their controlled committees, and committees primarily formed to support or oppose an elected state officer or a state candidate being voted upon, shall file the applicable preelection statements specified in Section 84200.7 or 84200.8. All elected state officers who, during the applicable reporting periods covered by Section 84200.7 or 84200.8, contribute to any committee required to report receipts, expenditures, or contributions pursuant to this title, or make an independent expenditure, shall file the applicable preelection statements specified in Section 84200.7 or 84200.8. However, a candidate who is not being voted upon in the November election, his or her controlled committee, and any committee primarily formed to support or oppose that candidate is not required to file statements in connection with the November election pursuant to subdivision (b) of Section 84200.7 unless, during the reporting periods covered by Section 84200.7, the candidate, his or her controlled committee, or any committee primarily formed to support or oppose that candidate contributes to any committee required to report receipts, expenditures, or contributions pursuant to this title or makes independent expenditures.

(b) During an even-numbered year, all candidates not specified in subdivision (a) who are being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose those candidates or a measure being voted upon on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in subdivision (a) of Section 84200.7 in the case of a June election, or subdivision (b) of Section 84200.7 in the case of a November election.

(c) All candidates being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year, their controlled committees, and committees primarily formed to support or oppose a candidate or a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8.

(d) In an even-numbered year in which the statewide direct primary election is held on the first

Tuesday after the first Monday in June, a state or county general purpose committee formed pursuant to subdivision (a) of Section 82013, other than a political party committee as defined in Section 85205, shall file the preelection statements specified in Section 84200.7 if it makes contributions or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by the preelection statement. A state or county general purpose committee formed pursuant to subdivision (b) or (c) of Section 82013 is not required to file the statements specified in Section 84200.7.

(e) During an even-numbered year in which the statewide direct primary election is held on a date other than the first Tuesday after the first Monday in June, a state or county general purpose committee formed pursuant to subdivision (a) of Section 82013, other than a political party committee as defined in Section 85205, shall file the preelection statements specified in Section 84200.8 if it makes contributions or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by the preelection statement. A state or county general purpose committee formed pursuant to subdivision (b) or (c) of Section 82013 is not required to file the statements specified in Section 84200.8.

(f) A political party committee as defined in Section 85205 shall file the applicable preelection statements specified in Section 84200.7 or 84200.8 in connection with a state election if the committee receives contributions totaling one thousand dollars (\$1,000) or more, or if it makes contributions or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by the preelection statement.

(g) City general purpose committees shall file statements as follows:

(1) City general purpose committees in a city which has an election on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the statements specified in subdivision (a) or (b) of Section 84200.7 for the six-month period in which the city election is held, if they make contributions or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by the preelection statement.

(2) City general purpose committees in a city which has an election on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8 if they make contributions or independent expenditures totaling five

hundred dollars (\$500) or more during the period covered by the preelection statement.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 542; amended by Stats. 1988, Ch. 1281 effective September 26, 1988; amended by Stats. 1991, Ch. 505; amended by Stats. 1991, Ch. 1077; amended by Stats. 1993, Ch. 769; amended by Stats. 1999, Ch. 158, effective July 23, 1999; amended by Stats. 1999, Ch. 855; amended by Stats. 2004, Ch. 623, effective September 21, 2004.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18420.5  
2 Cal. Code of Regs. Section 18421.2

**§ 84200.6. Special Campaign Statements and Reports.**

In addition to the campaign statements required by Sections 84200 and 84200.5, all candidates and committees shall file the following special statements and reports:

(a) Supplemental preelection statements when required by Section 84202.5.

(b) Late contribution reports when required by Section 84203.

(c) Independent expenditure reports when required by Section 84203.5.

(d) Late independent expenditure reports when required by Section 84204.

History: Added by Stats. 1985, Ch. 1456.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18420.5  
2 Cal. Code of Regs. Section 18421.2

**§ 84200.7. Time for Filing Preelection Statements for Elections Held in June or November of an Even-Numbered Year.**

(a) Preelection statements for the June election period shall be filed as follows:

(1) For the period ending March 17, a statement to be filed no later than March 22. However, for a special election called after March 17, or for which the period for filing nomination documents, as defined in Section 333 of the Elections Code, ends after March 17, a preelection statement for the period ending 45 days before the election shall be filed no later than 40 days before the election.

(2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. All candidates being voted upon in the June election, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in the June

election shall file this statement by guaranteed overnight delivery service or by personal delivery.

(b) Preelection statements for the November election period shall be filed as follows:

(1) For the period ending September 30, a statement to be filed no later than October 5.

(2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. All candidates being voted upon in the November election, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in the November election shall file this statement by guaranteed overnight delivery service or by personal delivery.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 984; amended by Stats. 1994, Ch. 923.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18420.5
- 2 Cal. Code of Regs. Section 18421.2

**§ 84200.8. Time for Filing Preelection Statements for Elections Not Held in June or November of an Even-Numbered Year.**

Preelection statements shall be filed under this section as follows:

(a) For the period ending 45 days before the election, the statement shall be filed no later than 40 days before the election.

(b) For the period ending 17 days before the election, the statement shall be filed no later than 12 days before the election. All candidates being voted upon in the election in connection with which the statement is filed, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in that election shall file this statement by guaranteed overnight delivery service or by personal delivery.

(c) For runoff elections held within 60 days of the qualifying election, an additional preelection statement for the period ending 17 days before the runoff election shall be filed no later than 12 days before the election. All candidates being voted upon in the election in connection with which the statement is filed, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in that election shall file this statement by guaranteed overnight delivery service or by personal delivery.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 984.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117

- 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18420.5
- 2 Cal. Code of Regs. Section 18421.2

**§ 84201. Combination of Statements. [Repealed]**

History: Added by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing Campaign Statements in Connection with Elections Held on the State Direct Primary or State General Election Dates"); repealed by Stats. 1985, Ch. 1456. Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Contents of Campaign Statements; Reporting Threshold"); repealed by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 84202. Closing Dates. [Repealed]**

History: Added by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1976, Ch. 1106; amended and renumbered by Stats. 1977, Ch. 1193. (Formerly Section 84200.5.) Repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing Central Committee Candidate Campaign Statements"); Repealed by Stats. 1985, Ch. 1456.

**§ 84202.3. Campaign Statements; Ballot Measure Committees.**

(a) In addition to the campaign statements required by Section 84200, committees pursuant to subdivision (a) of Section 82013 that are primarily formed to support or oppose the qualification, passage, or defeat of a measure and proponents of a state ballot measure who control a committee formed or existing primarily to support the qualification, passage, or defeat of a state ballot measure, shall file campaign statements on the following dates:

(1) No later than April 30 for the period January 1 through March 31.

(2) No later than October 31 for the period July 1 through September 30.

(b) This section shall not apply to a committee during any semiannual period in which the committee is required to file preelection statements pursuant to subdivision (a), (b), or (c) of Section 84200.5.

(c) This section shall not apply to a committee following the election at which the measure is voted upon unless the committee makes contributions or expenditures to support or oppose the qualification or passage of another ballot measure.

History: Added by Stats. 1991, Ch. 696; amended by Stats. 1993, Ch. 769.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18420.5
- 2 Cal. Code of Regs. Section 18421.2

**§ 84202.5. Supplemental Preelection Statement.**

(a) Any candidate or any committee pursuant to subdivision (a) of Section 82013 which makes contributions totaling ten thousand dollars (\$10,000) or more in connection with an election, including a runoff election, shall file a supplemental preelection statement no later than 12 days before the election, for the period ending 17 days before the election. This statement shall be filed by guaranteed overnight delivery service or by personal delivery with each office with which the candidate or committee filing the statement is required to file its next campaign statement pursuant to Section 84215.

(b) This section shall not apply to candidates or committees during any semiannual period in which the candidate or committee is required to file preelection statements pursuant to Section 84200.5.

(c) If a candidate or committee makes contributions totaling ten thousand dollars (\$10,000) or more in connection with an election and all of those contributions are reported pursuant to Section 84200 or 84202.7 on or before the closing date specified in subdivision (a), the candidate or committee shall not be required to file additional statements for that period pursuant to this section.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 984; amended by Stats. 1992, Ch. 89; amended by Stats. 2000, Ch. 130; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18402.5  
2 Cal. Code of Regs. Section 18420.5  
2 Cal. Code of Regs. Section 18421.2

**§ 84202.7. Time for Filing by Committees of Odd-Numbered Year Reports.**

(a) Except as provided in subdivision (b), during an odd-numbered year, any committee by virtue of Section 82013 that makes contributions totaling ten thousand dollars (\$10,000) or more to elected state officers, their controlled committees, or committees primarily formed to support or oppose any elected state officer during a period specified below shall file campaign statements on the following dates:

(1) No later than April 30 for the period of January 1 through March 31.

(2) No later than October 31 for the period of July 1 through September 30.

(b) If a committee makes contributions totaling ten thousand dollars (\$10,000) or more to elected state officers, their controlled committees, or committees primarily formed to support or oppose any elected state officer during a period specified in subdivision

(a), and all of those contributions are reported pursuant to Section 84202.5 on or before the time specified in subdivision (a), the committee shall not be required to file additional statements for that period pursuant to this section.

History: Added by Stats. 1986, Ch. 984; amended by Stats. 1993, Ch. 218; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18420.5  
2 Cal. Code of Regs. Section 18421.2

**§ 84203. Late Contribution; Reports.**

(a) Each candidate or committee that makes or receives a late contribution, as defined in Section 82036, shall report the late contribution to each office with which the candidate or committee is required to file its next campaign statement pursuant to Section 84215. The candidate or committee that makes the late contribution shall report his or her full name and street address and the full name and street address of the person to whom the late contribution has been made, the office sought if the recipient is a candidate, or the ballot measure number or letter if the recipient is a committee primarily formed to support or oppose a ballot measure, and the date and amount of the late contribution. The recipient of the late contribution shall report his or her full name and street address, the date and amount of the late contribution, and whether the contribution was made in the form of a loan. The recipient shall also report the full name of the contributor, his or her street address, occupation, and the name of his or her employer, or if self-employed, the name of the business.

(b) A late contribution shall be reported by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made in the case of the candidate or committee that makes the contribution and within 24 hours of the time it is received in the case of the recipient. A late contribution shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(c) A late contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor within 24 hours of its receipt.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this chapter.

(e) The report required pursuant to this section is not required to be filed by a candidate or committee

that has disclosed the late contribution pursuant to subdivision (a) or (b) of Section 85309.

History: Amended and renumbered by Stats. 1977, Ch. 1193. (Formerly Section 84201.) (Former Section 84203, titled "Measure; Committee; Time for Filing Campaign Statement," repealed by Stats. 1977, Ch. 1193.) Repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing When a Special, General or Runoff Election is Held Less than 60 Days Following the Primary Election.") Repealed and reenacted as amended by Stats. 1985, Ch. 1456. (Formerly titled "Designation of Final Committee Preelection Statement."); amended by Stats. 1992, Ch. 89; amended by Stats. 2002, Ch. 211; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2005, Ch. 200.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18116
- 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18420.5
- 2 Cal. Code of Regs. Section 18421.1
- 2 Cal. Code of Regs. Section 18421.2
- 2 Cal. Code of Regs. Section 18425

**§ 84203.3. Late In-Kind Contributions.**

(a) Any candidate or committee that makes a late contribution that is an in-kind contribution shall notify the recipient in writing of the value of the in-kind contribution. The notice shall be received by the recipient within 24 hours of the time the contribution is made.

(b) Nothing in this section shall relieve a candidate or committee that makes a late in-kind contribution or the recipient of a late in-kind contribution from the requirement to file late contribution reports pursuant to Section 84203. However, a report filed by the recipient of a late in-kind contribution shall be deemed timely filed if it is received by the filing officer within 48 hours of the time the contribution is received.

History: Added by Stats. 1995, Ch. 77.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18420.5
- 2 Cal. Code of Regs. Section 18421.2

**§ 84203.5. Supplemental Independent Expenditure Report.**

(a) In addition to any campaign statements required by this article, if a candidate or committee has made independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year to support or oppose a candidate, a measure or qualification of a measure, it shall file independent expenditure reports at the same time, covering the same periods, and in the places where the candidate or committee would be required to file campaign statements under this article, as if it were formed or existing primarily to support or

oppose the candidate or measure or qualification of the measure. No independent expenditure report need be filed to cover a period for which there has been no activity to report.

(b) An independent expenditure report shall contain the following information:

(1) The name, street address, and telephone number of the candidate or committee making the expenditure and of the committee's treasurer, and the number assigned to the committee by the Secretary of State.

(2) If the report is related to a candidate, the full name of the candidate and the office and district for which the candidate seeks nomination or election. If the report is related to a measure or qualification of a measure, the number or letter of the measure, or if none has yet been assigned, a brief description of the subject matter of the measure, and the jurisdiction in which the measure is to be voted on or would be voted on if it qualified.

(3) The total amount of expenditures related to the candidate or measure during the period covered by the report made to persons who have received less than one hundred dollars (\$100).

(4) The total amount of expenditures related to the candidate or measure during the period covered by the report made to persons who have received one hundred dollars (\$100) or more.

(5) For each person to whom an expenditure of one hundred dollars (\$100) or more related to the candidate or measure has been made during the period covered by the report and for each person who has provided consideration for an expenditure of one hundred dollars (\$100) or more during the period covered by the report:

- (A) His or her full name.
  - (B) His or her street address.
  - (C) If the person is a committee, the name of the committee, the number assigned to the committee by the Secretary of State, or if no number has been assigned, the full name and street address of the treasurer of the committee.
  - (D) The date of the expenditure.
  - (E) The amount of the expenditure.
  - (F) A brief description of the consideration for which each expenditure was made and the value of the consideration if less than the total amount of the expenditure.
  - (G) The cumulative amount of expenditures to such person.
- (6) A list of all the filing officers with whom the committee filed its most recent campaign statement.

(c) Filing officers shall maintain paper reports filed pursuant to this section under the name of the candidate or measure supported or opposed by the independent expenditure.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 2000, Ch. 130; amended by Stats. 2004, Ch. 483.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18420.5
- 2 Cal. Code of Regs. Section 18421.2

**§ 84204. Late Independent Expenditures; Reports.**

(a) A committee that makes a late independent expenditure, as defined in Section 82036.5, shall report the late independent expenditure by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made. A late independent expenditure shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(b) A committee that makes a late independent expenditure shall report its full name and street address, as well as the name, office, and district of the candidate if the report is related to a candidate, or if the report is related to a measure, the number or letter of the measure, the jurisdiction in which the measure is to be voted upon, and the amount and the date, as well as a description of goods or services for which the late independent expenditure was made. In addition to the information required by this subdivision, a committee that makes a late independent expenditure shall include with its late independent expenditure report the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, covering the period from the day after the closing date of the last campaign report filed to the date of the late independent expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the late independent expenditure. No information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, that is required to be reported with a late independent expenditure report by this subdivision, is required to be reported on more than one late independent expenditure report.

(c) A committee that makes a late independent expenditure shall file a late independent expenditure report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the candidate or measure for or against which it is making the late independent expenditure.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this article.

(e) Expenditures that have been disclosed by candidates and committees pursuant to Section 85500 are not required to be disclosed pursuant to this section.

History: Former Section 84204, titled "Support of Both Candidates and Measures; Filing Requirements," repealed by Stats. 1977, Ch. 1193; former Section 84202 amended by Stats. 1976, Ch. 1106; renumbered to 84204 by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing; Committees Supporting or Opposing the Qualification of a Measure and Proponents of State Measures"); repealed and reenacted as amended by Stats. 1985, Ch. 1456. (Formerly titled "Designation of Final Candidate Preelection Statement"); amended by Stats. 1992, Ch. 89; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2005, Ch. 200.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18116
- 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18413
- 2 Cal. Code of Regs. Section 18420.5
- 2 Cal. Code of Regs. Section 18421.2

**§ 84204.1. Election Statements; Exemption from Filing; Abbreviated Statements. [Repealed]**

History: Added by Stats. 1976, Ch. 1106; repealed by Stats. 1980, Ch. 289.

**§ 84204.2. Preelection Statements; Final. [Repealed]**

History: Added by Stats. 1976, Ch. 1105; amended by Stats. 1978, Ch. 1408, effective October 1, 1978; repealed by Stats. 1980, Ch. 289.

**§ 84204.5. Ballot Measure Contributions and Expenditures; Reports.**

(a) In addition to any other report required by this title, a committee pursuant to subdivision (a) of Section 82013 that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State each time it makes contributions totaling five thousand dollars (\$5,000) or more or each time it makes independent expenditures totaling five thousand dollars (\$5,000) or more to support or oppose the qualification or passage of a single state ballot measure. The report shall be filed within 10 business days of making the contributions or independent expenditures and shall contain all of the following:

- (1) The full name, street address, and identification number of the committee.

(2) The number or letter of the measure if the measure has qualified for the ballot and has been assigned a number or letter; the title of the measure if the measure has not been assigned a number or letter but has been issued a title by the Attorney General; or the subject of the measure if the measure has not been assigned a number or letter and has not been issued a title by the Attorney General.

(3) In the case of a contribution, the date and amount of the contribution and the name, address, and identification number of the committee to whom the contribution was made. In addition, the report shall include the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, regarding contributions or loans received from a person described in that subdivision, covering the period from the day after the closing date of the last campaign report filed to the date of the contribution requiring a report under this section, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the contribution requiring a report under this section. No information described in paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported pursuant to this subdivision is required to be reported in more than one report provided for in this subdivision for each contribution or loan received from a person described in subdivision (f) of Section 84211.

(4) In the case of an independent expenditure, the date, amount, and a description of the goods or services for which the expenditure was made. In addition, the report shall include the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 regarding contributions or loans received from a person described in that subdivision, covering the period from the day after the closing date of the last campaign report filed to the date of the expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the expenditure. No information described in paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported pursuant to this subdivision is required to be reported in more than one report provided for in this subdivision for each contribution or loan received from a person described in subdivision (f) of Section 84211.

(b) Reports required by this section are not required to be filed by a committee primarily formed to support or oppose the qualification or passage of a state ballot measure for expenditures made on behalf

of the ballot measure or measures for which it is formed.

(c) Independent expenditures that have been disclosed by a committee pursuant to Section 84204 or 85500 are not required to be disclosed pursuant to this section.

History: Added by Stats. 2006, Ch. 438.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18420.5  
2 Cal. Code of Regs. Section 18421.2  
2 Cal. Code of Regs. Section 18466

#### § 84205. Combination of Statements.

The Commission may by regulation or written advice permit candidates and committees to file campaign statements combining statements and reports required to be filed by this title.

History: Amended by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Closing Dates"); amended by Stats. 1981, Ch. 78; repealed and reenacted by Stats. 1985, Ch. 1456. (Formerly titled "Candidates Who Receive or Spend Less than \$500.")

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18420.5  
2 Cal. Code of Regs. Section 18421.2

#### § 84206. Candidates Who Receive or Spend Less Than \$1,000.

(a) The Commission shall provide by regulation for a short form for filing reports required by this article for candidates or officeholders who receive contributions of less than one thousand dollars (\$1,000), and who make expenditures of less than one thousand dollars (\$1,000), in a calendar year.

(b) For the purposes of this section, in calculating whether one thousand dollars (\$1,000) in expenditures have been made, payments for a filing fee or for a statement of qualification shall not be included if these payments have been made from the candidate's personal funds.

(c) Every candidate or officeholder who has filed a short form pursuant to subdivision (a), and who thereafter receives contributions or makes expenditures totaling one thousand dollars (\$1,000) or more in a calendar year, shall send written notification to the Secretary of State, the local filing officer, and each candidate contending for the same office within 48 hours of receiving or expending a total of one thousand dollars (\$1,000). The written notification shall revoke the previously filed short form statement.

History: Repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Semi-Annual Campaign Statements"); repealed and reenacted as amended by Stats. 1985, Ch. 1456.

(Formerly titled "Late Contributions; Reports"); amended by Stats. 1987, Ch. 632; amended by Stats. 1993, Ch. 391.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18406  
2 Cal. Code of Regs. Section 18421.2

Opinions: *In re Lui* (1987) 10 FPPC Ops. 10

### § 84207. Late Independent Expenditures; Reports. [Repealed]

History: Amended by Stats. 1977, Ch. 1193, effective January 1, 1978; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Candidate for Reelection to Judicial Office"); repealed by Stats. 1985, Ch. 1456.

### § 84207.5. Appointments to Office; Filing Requirements. [Repealed]

History: Added by Stats. 1976, Ch. 1106; repealed by Stats. 1980, Ch. 289.

### § 84208. Independent Expenditures; Reports. [Repealed]

History: Added by Stats. 1980, Ch. 289; repealed by Stats. 1985, Ch. 1456.

### § 84209. Consolidated Statements.

A candidate or state measure proponent and any committee or committees which the candidate or a state measure proponent controls may file consolidated campaign statements under this chapter. Such consolidated statements shall be filed in each place each of the committees and the candidate or state measure proponent would be required to file campaign statements if separate statements were filed.

History: Added by Stats. 1980, Ch. 289.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18421.2

### § 84210. Special Election Reports. [Repealed]

History: Amended by Stats. 1978, Ch. 650; repealed and reenacted as amended by Stats. 1980, Ch. 289; (Formerly titled "Contents of Campaign Statement."); repealed by Stats. 1985, Ch. 1456.

### § 84211. Contents of Campaign Statement.

Each campaign statement required by this article shall contain all of the following information:

(a) The total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.

(b) The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars (\$100) or more.

(d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars (\$100).

(e) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars (\$100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) His or her occupation.
- (4) The name of his or her employer, or if self-employed, the name of the business.

(5) The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan.

(6) The cumulative amount of contributions.

(g) If the cumulative amount of loans received from or made to a person is one hundred dollars (\$100) or more, and a loan has been received from or made to a person during the period covered by the campaign statement, or is outstanding during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) His or her occupation.
- (4) The name of his or her employer, or if self-employed, the name of the business.

(5) The original date and amount of each loan.

(6) The due date and interest rate of the loan.

(7) The cumulative payment made or received to date at the end of the reporting period.

(8) The balance outstanding at the end of the reporting period.

(9) The cumulative amount of contributions.

(h) For each person, other than the filer, who is directly, indirectly, or contingently liable for repayment of a loan received or outstanding during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.

- (3) His or her occupation.
- (4) The name of his or her employer, or if self-employed, the name of the business.
- (5) The amount of his or her maximum liability outstanding.
- (i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars (\$100) or more.
- (j) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars (\$100).
- (k) For each person to whom an expenditure of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement, all of the following:
- (1) His or her full name.
  - (2) His or her street address.
  - (3) The amount of each expenditure.
  - (4) A brief description of the consideration for which each expenditure was made.
- (5) In the case of an expenditure which is a contribution to a candidate, elected officer, or committee or an independent expenditure to support or oppose a candidate or measure, in addition to the information required in paragraphs (1) to (4) above, the date of the contribution or independent expenditure, the cumulative amount of contributions made to a candidate, elected officer, or committee, or the cumulative amount of independent expenditures made relative to a candidate or measure; the full name of the candidate, and the office and district for which he or she seeks nomination or election, or the number or letter of the measure; and the jurisdiction in which the measure or candidate is voted upon.
- (6) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for an expenditure of five hundred dollars (\$500) or more during the period covered by the campaign statement.
- For purposes of subdivisions (i), (j), and (k) only, the terms "expenditure" or "expenditures" mean any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.
- (l) In the case of a controlled committee, an official committee of a political party, or an organization formed or existing primarily for political purposes, the amount and source of any miscellaneous receipt.

(m) If a committee is listed pursuant to subdivision (f), (g), (h), (k), (l), or (q), the number assigned to the committee by the Secretary of State shall be listed, or if no number has been assigned, the full name and street address of the treasurer of the committee.

(n) In a campaign statement filed by a candidate who is a candidate in both a state primary and general election, his or her controlled committee, or a committee primarily formed to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30 and the total amount of contributions received and expenditures made for the period July 1 through December 31.

(o) The full name, residential or business address, and telephone number of the filer, or in the case of a campaign statement filed by a committee defined by subdivision (a) of Section 82013, the name, street address, and telephone number of the committee and of the committee treasurer. In the case of a committee defined by subdivision (b) or (c) of Section 82013, the name that the filer uses on campaign statements shall be the name by which the filer is identified for other legal purposes or any name by which the filer is commonly known to the public.

(p) If the campaign statement is filed by a candidate, the name, street address, and treasurer of any committee of which he or she has knowledge which has received contributions or made expenditures on behalf of his or her candidacy and whether the committee is controlled by the candidate.

(q) A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

(r) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (k) and 50 percent or more of the business entity is owned by a candidate or person controlling the committee, by an officer or employee of the committee, or by a spouse of any of these individuals, the committee's campaign statement shall also contain, in addition to the information required by subdivision (k), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(s) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an

expenditure to a business entity pursuant to subdivision (k), and a candidate or person controlling the committee, an officer or employee of the committee, or a spouse of any of these individuals is an officer, partner, consultant, or employee of the business entity, the committee's campaign statement shall also contain, in addition to the information required by subdivision (k), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(t) If the campaign statement is filed by a committee, as defined in subdivision (b) or (c) of Section 82013, information sufficient to identify the nature and interests of the filer, including:

(1) If the filer is an individual, the name and address of the filer's employer, if any, or his or her principal place of business if the filer is self-employed, and a description of the business activity in which the filer or his or her employer is engaged.

(2) If the filer is a business entity, a description of the business activity in which it is engaged.

(3) If the filer is an industry, trade, or professional association, a description of the industry, trade, or profession which it represents, including a specific description of any portion or faction of the industry, trade, or profession which the association exclusively or primarily represents.

(4) If the filer is not an individual, business entity, or industry, trade, or professional association, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived.

History: Amended by Stats. 1978, Ch. 650; repealed and reenacted as amended by Stats. 1980, Ch. 289; (Formerly titled "Consideration of Cumulative Amount"); amended by Stats. 1982, Ch. 377; amended by Stats. 1985, Ch. 899; amended by Stats. 1988, Ch. 704; amended by Stats. 1989, Ch. 1452; amended by Stats. 1990, Ch. 581; amended by Stats. 1991, Ch. 674; amended by Stats. 1993, Ch. 1140; amended by Stats. 2000, Ch. 161; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18229
- 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421
- 2 Cal. Code of Regs. Section 18421.1
- 2 Cal. Code of Regs. Section 18421.2
- 2 Cal. Code of Regs. Section 18421.3
- 2 Cal. Code of Regs. Section 18421.4
- 2 Cal. Code of Regs. Section 18421.6
- 2 Cal. Code of Regs. Section 18423
- 2 Cal. Code of Regs. Section 18428
- 2 Cal. Code of Regs. Section 18430
- 2 Cal. Code of Regs. Section 18531.5
- 2 Cal. Code of Regs. Section 18537

- Opinions: In re Roberts (2004) 17 FPPC Ops. 9  
In re Nielsen (1979) 5 FPPC Ops. 18  
In re Buchanan (1979) 5 FPPC Ops. 14  
In re Kahn (1976) 2 FPPC Ops. 151  
In re Lumsdon (1976) 2 FPPC Ops. 140  
In re McCormick (1976) 2 FPPC Ops. 42  
In re Burciaga (1976) 2 FPPC Ops. 17  
In re Hayes (1975) 1 FPPC Ops. 210  
In re Cory (1975) 1 FPPC Ops. 137

**§ 84212. Forms; Loans.**

The forms promulgated by the Commission for disclosure of the information required by this chapter shall provide for the reporting of loans and similar transactions in a manner that does not result in substantial overstatement or understatement of total contributions and expenditures.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Candidates Who Receive and Spend \$200 or Less."); amended by Stats. 1985, Ch. 1456.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421.2

**§ 84213. Candidate Verification.**

A candidate and state measure proponent shall verify his or her campaign statement and the campaign statement of each committee subject to his or her control. The verification shall be in accordance with the provisions of Section 81004 except that it shall state that to the best of his or her knowledge the treasurer of each controlled committee used all reasonable diligence in the preparation of the committee's statement. This section does not relieve the treasurer of any committee from the obligation to verify each campaign statement filed by the committee pursuant to Section 81004.

History: Former Section 84213, titled "Consolidated Statements; Candidates and Committees," amended by Stats. 1976, Ch. 1106; repealed by Stats. 1980, Ch. 289. Former Section 84209 amended and renumbered Section 84216.5 by Stats. 1979; Section 842165.5 renumbered Section 84213 by Stats. 1980, Ch. 289; amended by Stats. 1983, Ch. 898.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421.2
- 2 Cal. Code of Regs. Section 18427
- 2 Cal. Code of Regs. Section 18430
- 2 Cal. Code of Regs. Section 18570

**§ 84214. Termination.**

Committees and candidates shall terminate their filing obligation pursuant to regulations adopted by the Commission which insure that a committee or candidate will have no activity which must be disclosed pursuant to this chapter subsequent to the

termination. Such regulations shall not require the filing of any campaign statements other than those required by this chapter. In no case shall a committee which qualifies solely under subdivision (b) or (c) of Section 82013 be required to file any notice of its termination.

History: Repealed and reenacted as amended by Stats. 1977, Ch. 344, effective August 20, 1977; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Late Contributions; Reports.")

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18404  
2 Cal. Code of Regs. Section 18404.1  
2 Cal. Code of Regs. Section 18421.2  
2 Cal. Code of Regs. Section 18537.1

#### § 84215. Campaign Reports and Statements; Where to File.

All candidates and elected officers and their controlled committees, except as provided in subdivision (e), shall file one copy of the campaign statements required by Section 84200 with the elections official of the county in which the candidate or elected official is domiciled, as defined in subdivision (b) of Section 349 of the Elections Code. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers and candidates for these offices other than the Board of Equalization, supreme court justices, their controlled committees, committees formed or existing primarily to support or oppose these candidates, elected officers, supreme court justices, or statewide measures, or the qualification of state ballot measures, and all state general purpose committees and filers not specified in subdivisions (b) to (e), inclusive:

(1) The original and one copy with the Secretary of State.

(2) One copy with the Registrar-Recorder of Los Angeles County.

(3) One copy with the Registrar of Voters of the City and County of San Francisco.

(b) Members of the Legislature or Board of Equalization, court of appeal justices, superior court judges, candidates for those offices, their controlled committees, and committees formed or existing primarily to support or oppose these candidates or officeholders:

(1) The original and one copy with the Secretary of State.

(2) One copy with the elections official of the county with the largest number of registered voters in the districts affected.

(c) Elected officers in jurisdictions other than legislative districts, Board of Equalization districts, or appellate court districts that contain parts of two or more counties, candidates for these offices, their controlled committees, and committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one of these jurisdictions shall file the original and one copy with the elections official of the county with the largest number of registered voters in the jurisdiction.

(d) County elected officers, candidates for these offices, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in any number of jurisdictions within one county, other than those specified in subdivision (e), and county general purpose committees shall file the original and one copy with the elections official of the county.

(e) City elected officers, candidates for city office, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one city, and city general purpose committees shall file the original and one copy with the clerk of the city. These elected officers, candidates, and committees need not file with the elections official of the county in which they are domiciled.

(f) Notwithstanding the above, a committee, candidate, or elected officer is not required to file more than the original and one copy, or one copy, of a campaign statement with any one county elections official or city clerk or with the Secretary of State.

(g) If a committee is required to file campaign statements required by Section 84200 or 84200.5 in places designated in subdivisions (d) and (e), it shall continue to file these statements in those places, in addition to any other places required by this title, until the end of the calendar year.

History: Added by Stats. 1978, Ch. 1408, effective October 1, 1978; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Combination of Pre-election and Semiannual Statements"); amended by Stats. 1982, Ch. 1060; amended by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 490; amended by Stats. 1990, Ch. 581; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2007, Ch. 54.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18227  
2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18404.1  
2 Cal. Code of Regs. Section 18421.2

#### § 84216. Loans.

(a) Notwithstanding Section 82015, a loan received by a candidate or committee is a contribution unless the loan is received from a commercial lending

institution in the ordinary course of business, or it is clear from the surrounding circumstances that it is not made for political purposes.

(b) A loan, whether or not there is a written contract for the loan, shall be reported as provided in Section 84211 when any of the following apply:

- (1) The loan is a contribution.
- (2) The loan is received by a committee.
- (3) The loan is received by a candidate and is used for political purposes.

History: Added by Stats. 1977, Ch. 1119; amended by Stats. 1980, Ch. 289; amended by Stats. 1982, Ch. 29; repealed and reenacted as amended by Stats. 1985, Ch. 899; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421.2

**§ 84216.5. Loans Made by a Candidate or Committee.**

A loan of campaign funds, whether or not there is a written contract for the loan, made by a candidate or committee shall be reported as provided in Section 84211.

History: Former Section 84216.5 renumbered 84213 by Stats. 1980, Ch. 289; new section added by Stats. 1985, Ch. 899; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421.2

**§ 84217. Federal Office Candidates; Places Filed.**

When the Secretary of State receives any campaign statement filed pursuant to the Federal Election Campaign Act, (2 U.S.C.A. Section 431 et seq.) the Secretary of State shall send a copy of the statement to the following officers:

(a) Statements of candidates for President, Vice President or United States Senator and committees supporting such candidates - one copy with the Registrar-Recorder of Los Angeles County and one copy with the Registrar of Voters of the City and County of San Francisco;

(b) Statements of candidates for United States Representative in Congress and committees supporting such candidates - one copy with the clerk of the county which contains the largest percentage of the registered voters in the election district which the candidate or any of the candidates seek nomination or election and one copy with the clerk of the county within which the candidate resides or in which the committee is domiciled, provided that if the committee is not domiciled in California the statement shall be sent to the Registrar-Recorder of Los Angeles County. No

more than one copy of each statement need be filed with the clerk of any county.

History: Amended by Stats. 1977, Ch. 1095; amended and renumbered Section 84226 by Stats. 1979, Ch. 779. (Formerly Section 84208); amended and renumbered by Stats. 1980, Ch. 289. (Formerly Section 84226.)

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421.2

- Opinions: In re Dennis-Strathmeyer (1976) 2 FPPC Ops. 61

**§ 84218. Slate Mailer Organization; Campaign Statements.**

(a) A slate mailer organization shall file semiannual campaign statements for each period in which it has received payments totaling five hundred dollars (\$500) or more from any person for the support of or opposition to candidates or ballot measures in a slate mailer, or in which it has expended five hundred dollars (\$500) or more to produce one or more slate mailers. The semiannual statements shall be filed no later than July 31 for the period ending June 30, and no later than January 31, for the period ending December 31.

(b) In addition to the semiannual statements required by subdivision (a), slate mailer organizations shall file preelection statements as follows:

(1) Any slate mailer organization which produces a slate mailer supporting or opposing candidates or measures being voted on in an election held upon the first Tuesday after the first Monday in June or November of an even-numbered year shall file the statements specified in Section 84200.7 if, during the period covered by the preelection statement, the slate mailer organization receives payments totaling five hundred dollars (\$500) or more from any person for the support of or opposition to candidates or ballot measures in one or more slate mailers, or expends five hundred dollars (\$500) or more to produce one or more slate mailers.

(2) Any slate mailer organization which produces a slate mailer supporting or opposing candidates or measures being voted on in an election held on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the statements specified in Section 84200.8 if, during the period covered by the preelection statement, the slate mailer organization receives payments totaling five hundred dollars (\$500) or more from any person for the support of or opposition to candidates or ballot measures in one or more slate mailers, or expends five hundred dollars (\$500) or more to produce one or more slate mailers.

(c) A slate mailer organization shall file two copies of its campaign reports with the clerk of the county in which it is domiciled. A slate mailer organization is domiciled at the address listed on its statement of organization unless it is domiciled outside California, in which case its domicile shall be deemed to be Los Angeles County for purposes of this section.

In addition, slate mailer organizations shall file campaign reports as follows:

(1) A slate mailer organization which produces one or more slate mailers supporting or opposing candidates or measures voted on in a state election, or in more than one county, shall file campaign reports in the same manner as state general purpose committees pursuant to subdivision (a) of Section 84215.

(2) A slate mailer organization which produces one or more slate mailers supporting or opposing candidates or measures voted on in only one county, or in more than one jurisdiction within one county, shall file campaign reports in the same manner as county general purpose committees pursuant to subdivision (d) of Section 84215.

(3) A slate mailer organization which produces one or more slate mailers supporting or opposing candidates or measures voted on in only one city shall file campaign reports in the same manner as city general purpose committees pursuant to subdivision (e) of Section 84215.

(4) Notwithstanding the above, no slate mailer organization shall be required to file more than the original and one copy, or two copies, of a campaign report with any one county or city clerk or with the Secretary of State.

History: Added by Stats. 1987, Ch. 905.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18421.2

#### **§ 84219. Slate Mailer Organization; Semi-Annual Statements; Contents.**

Whenever a slate mailer organization is required to file campaign reports pursuant to Section 84218, the campaign report shall include the following information:

(a) The total amount of receipts during the period covered by the campaign statement and the total cumulative amount of receipts. For purposes of this section only, "receipts" means payments received by a slate mailer organization for production and distribution of slate mailers.

(b) The total amount of disbursements made during the period covered by the campaign statement and the total cumulative amount of disbursements. For

purposes of this section only, "disbursements" means payment made by a slate mailer organization for the production or distribution of slate mailers.

(c) For each candidate or committee that is a source of receipts totaling one hundred dollars (\$100) or more during the period covered by the campaign statement:

(1) The name of the candidate or committee, identification of the jurisdiction and the office sought or ballot measure number or letter, and if the source is a committee, the committee's identification number, street address, and the name of the candidate or measure on whose behalf or in opposition to which the payment is made.

(2) The date and amount received for each receipt totaling one hundred dollars (\$100) or more during the period covered by the campaign statement.

(3) The cumulative amount of receipts on behalf of or in opposition to the candidate or measure.

(d) For each person other than a candidate or committee who is a source of receipts totaling one hundred dollars (\$100) or more during the period covered by the campaign statement:

(1) Identification of the jurisdiction, office or ballot measure, and name of the candidate or measure on whose behalf or in opposition to which the payment was made.

(2) Full name, street address, name of employer, or, if self-employed, name of business of the source of receipts.

(3) The date and amount received for each receipt totaling one hundred dollars (\$100) or more during the period covered by the campaign statement.

(4) The cumulative amount of receipts on behalf of or in opposition to the candidate or measure.

(e) For each candidate or ballot measure not reported pursuant to subdivision (c) or (d), but who was supported or opposed in a slate mailer sent by the slate mailer organization during the period covered by the report, identification of jurisdiction, office or ballot measure, and name of the candidate or measure who was supported or opposed.

(f) The total amount of disbursements made during the period covered by the campaign statement to persons who have received one hundred dollars (\$100) or more.

(g) The total amount of disbursements made during the period covered by the campaign statement to persons who have received less than one hundred dollars (\$100).

(h) For each person to whom a disbursement of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement:

- (1) His or her full name.
- (2) His or her street address.
- (3) The amount of each disbursement.
- (4) A brief description of the consideration for which each disbursement was made.

(5) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for a disbursement of five hundred dollars (\$500) or more during the period covered by the campaign statement.

(i) Cumulative disbursements, totaling one thousand dollars (\$1,000) or more, made directly or indirectly to any person listed in the slate mailer organization's statement of organization. For purposes of this subdivision, a disbursement is made indirectly to a person if it is intended for the benefit of or use by that person or a member of the person's immediate family, or if it is made to a business entity in which the person or member of the person's immediate family is a partner, shareholder, owner, director, trustee, officer, employee, consultant, or holds any position of management or in which the person or member of the person's immediate family has an investment of one thousand dollars (\$1,000) or more. This subdivision shall not apply to any disbursement made to a business entity whose securities are publicly traded.

(j) The full name, street address, and telephone number of the slate mailer organization and of the treasurer.

(k) Whenever a slate mailer organization also qualifies as a general purpose committee pursuant to Section 82027.5, the campaign report shall include, in addition to the information required by this section, the information required by Section 84211.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18421.2

**§ 84220. Slate Mailer Organization; Late Payments.**

If a slate mailer organization receives a payment of two thousand five hundred dollars (\$2,500) or more for purposes of supporting or opposing any candidate or ballot measure in a slate mailer, and the payment is received at a time when, if the payment were a contribution it would be considered a late contribution, then the slate mailer organization shall report the payment in the manner set forth in Section 84203 for candidates and committees when reporting late contributions received. The slate mailer organization shall, in addition to reporting the information required by Section 84203, identify the candidates or measures

whose support or opposition is being paid for, in whole or in part, by each late payment.

History: Added by Stats. 1987, Ch. 905.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18421.2

**§ 84221. Slate Mailer Organization; Termination.**

Slate mailer organizations shall terminate their filing obligations in the same manner as applies to committees qualifying under subdivision (a) of Section 82013.

History: Added by Stats. 1987, Ch. 905.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18421.2

**§ 84222. Blank.**

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**§ 84224. Blank.**

**§ 84225. Public Employees' Retirement Board Candidates.**

(a) For the purposes of this section only, "board" means the Board of Administration of the Public Employees' Retirement System, as established under Article 1 (commencing with Section 20090) of Chapter 2 of Part 3 of Division 5 of Title 2 of the Government Code.

(b) Except as provided in this section, the provisions of this article do not apply to candidates for the board, including incumbent board members running for reelection, as such candidates are described in subdivision (g) of Section 20090.

(c) Candidates for board seats described in subdivision (g) of Section 20090, including incumbent board members running for reelection, shall file campaign statements with the Secretary of State no later than two days before the beginning of the ballot period, as determined by the board, for the period ending five days before the beginning of the ballot period, and no later than January 10, for the period ending December 31.

(1) The campaign statements shall contain an itemized report that is prepared on a form prescribed by the Commission, with the assistance of the board, that provides the information contained in campaign statements required under Section 84211 to the extent that the information is applicable to a board election.

(2) The original of a campaign statement shall be filed with the Secretary of State and a copy shall be

retained at the board's office in Sacramento and is a public record.

History: Added by Stats. 1998, Ch. 923.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421.2
- 2 Cal. Code of Regs. Section 18451
- 2 Cal. Code of Regs. Section 18452

**Article 3. Prohibitions.**

**§ 84300 - 84309**

- § 84300. Cash and In-Kind Contributions; Cash Expenditures.
- § 84301. Contributions Made Under Legal Name.
- § 84302. Contributions by Intermediary or Agent.
- § 84303. Expenditure by Agent or Independent Contractor.
- § 84304. Anonymous Contributions.
- § 84305. Requirements for Mass Mailing.
- § 84305.5. Slate Mailer Identification and Disclaimer Requirements.
- § 84305.6. Slate Mailer Disclosure Requirements; Official Political Party Position. [Repealed]
- § 84306. Contributions Received by Agents of Candidates or Committees.
- § 84307. Commingling with Personal Funds.
- § 84308. Contributions to Officers; Disqualification.
- § 84309. Transmittal of Campaign Contributions in State Office Buildings.
- § 84310. Identification Requirements for Telephone Calls.

**§ 84300. Cash and In-Kind Contributions; Cash Expenditures.**

(a) No contribution of one hundred dollars (\$100) or more shall be made or received in cash.

A cash contribution shall not be deemed received if it is not negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported. If a cash contribution, other than a late contribution, as defined in Section 82036, is negotiated or deposited, it shall not be deemed received if it is refunded within 72 hours of receipt. In the case of a late contribution, as defined in Section 82036, it shall not be deemed received if it is returned to the contributor within 48 hours of receipt.

(b) No expenditure of one hundred dollars (\$100) or more shall be made in cash.

(c) No contribution of one hundred dollars (\$100) or more other than an in-kind contribution shall be made unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary, as defined in Section 84302.

(d) The value of all in-kind contributions of one hundred dollars (\$100) or more shall be reported in writing to the recipient upon the request in writing of the recipient.

History: Amended by Stats. 1977, Ch. 1213; amended by Stats. 1978, Ch. 650; repealed and reenacted as amended by Stats. 1979, Ch. 779; amended by Stats. 1980, Ch. 759; amended by Stats. 1996, Ch. 898.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421.2

**§ 84301. Contributions Made Under Legal Name.**

No contribution shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421.2

**§ 84302. Contributions by Intermediary or Agent.**

No person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution both his own full name and street address, occupation, and the name of his employer, if any, or his principal place of business if he is self-employed, and the full name and street address, occupation, and the name of employer, if any, or principal place of business if self-employed, of the other person. The recipient of the contribution shall include in his campaign statement the full name and street address, occupation, and the name of the employer, if any, or the principal place of business if self-employed, of both the intermediary and the contributor.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421.2
- 2 Cal. Code of Regs. Section 18432.5

**§ 84303. Expenditure by Agent or Independent Contractor.**

No expenditure of five hundred dollars (\$500) or more shall be made, other than overhead or normal operating expenses, by an agent or independent

contractor, including, but not limited to, an advertising agency, on behalf of or for the benefit of any candidate or committee unless it is reported by the candidate or committee as if the expenditure were made directly by the candidate or committee. The agent or independent contractor shall make known to the candidate or committee all information required to be reported by this section.

History: Amended by Stats. 1984, Ch. 161; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18421.2  
2 Cal. Code of Regs. Section 18431

**§ 84304. Anonymous Contributions.**

No person shall make an anonymous contribution or contributions to a candidate, committee or any other person totaling one hundred dollars (\$100) or more in a calendar year. An anonymous contribution of one hundred dollars (\$100) or more shall not be kept by the intended recipient but instead shall be promptly paid to the Secretary of State for deposit in the General Fund of the state.

History: Amended by Stats. 1978, Ch. 650.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18421.2

**§ 84305. Requirements for Mass Mailing.**

(a) Except as provided in subdivision (b), no candidate or committee shall send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the organization's address is a matter of public record with the Secretary of State.

(b) If the sender of the mass mailing is a single candidate or committee, the name, street address, and city of the candidate or committee need only be shown on the outside of each piece of mail.

(c) If the sender of a mass mailing is a controlled committee, the name of the person controlling the committee shall be included in addition to the information required by subdivision (a).

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1976, Ch. 1106; amended by Stats. 1977, Ch. 230, effective July 7, 1977; amended by Stats. 1978, Ch. 1408, effective October 1, 1978; amended by Stats. 1984, Ch. 1368; amended by Stats. 1989, Ch. 764.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18421.2  
2 Cal. Code of Regs. Section 18435

Opinions: In re Juvinali, Stull, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110  
In re Sobieski (1976) 2 FPPC Ops. 73  
In re Valdez (1976) 2 FPPC Ops. 21

**§ 84305.5. Slate Mailer Identification and Disclaimer Requirements.**

(a) No slate mailer organization or committee primarily formed to support or oppose one or more ballot measures shall send a slate mailer unless:

(1) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures are shown on the outside of each piece of slate mail and on at least one of the inserts included with each piece of slate mail in no less than 8-point roman type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the street address of the slate mailer organization or the committee primarily formed to support or oppose one or more ballot measure is a matter of public record with the Secretary of State's Political Reform Division.

(2) At the top or bottom of the front side or surface of at least one insert or at the top or bottom of one side or surface of a postcard or other self-mailer, there is a notice in at least 8-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

**NOTICE TO VOTERS**

**THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION. Appearance in this mailer does not necessarily imply endorsement of others appearing in this mailer, nor does it imply endorsement of, or opposition to, any issues set forth in this mailer. Appearance is paid for and authorized by each candidate and ballot measure which is designated by an \*.**

(3) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures as required by paragraph (1) and the notice required by

paragraph (2) may appear on the same side or surface of an insert.

(4) Each candidate and each ballot measure that has paid to appear in the slate mailer is designated by an \* . Any candidate or ballot measure that has not paid to appear in the slate mailer is not designated by an \* .

The \* required by this subdivision shall be of the same type size, type style, color or contrast, and legibility as is used for the name of the candidate or the ballot measure name or number and position advocated to which the \* designation applies except that in no case shall the \* be required to be larger than 10-point boldface type. The designation shall immediately follow the name of the candidate, or the name or number and position advocated on the ballot measure where the designation appears in the slate of candidates and measures. If there is no slate listing, the designation shall appear at least once in at least 8-point boldface type, immediately following the name of the candidate, or the name or number and position advocated on the ballot measure.

(5) The name of any candidate appearing in the slate mailer who is a member of a political party differing from the political party which the mailer appears by representation or indicia to represent is accompanied, immediately below the name, by the party designation of the candidate, in no less than 9-point roman type which shall be in a color or print that contrasts with the background so as to be easily legible. The designation shall not be required in the case of candidates for nonpartisan office.

(b) For purposes of the designations required by paragraph (4) of subdivision (a), the payment of any sum made reportable by subdivision (c) of Section 84219 by or at the behest of a candidate or committee, whose name or position appears in the mailer, to the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures, shall constitute a payment to appear, requiring the \* designation. The payment shall also be deemed to constitute authorization to appear in the mailer.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 1991, Ch. 403; amended by Stats. 1992, Ch. 1143; amended by Stats. 1993, Ch. 472; amended by Stats. 1994, Ch. 923; amended by Stats. 1996, Ch. 893; amended by Proposition 208 of the November 1996 Statewide General Election; Proposition 208 version preliminarily enjoined January 6, 1998; Proposition 208 version permanently enjoined March 1, 2001; pre-Proposition 208 version revived by operation of law; On September 20, 2002, the Federal District Court for the Eastern District of California issued a preliminary injunction prohibiting the FPPC from enforcing this subdivision against the slate mail organizations which had sought the injunction; repealed and new section added by Stats. 2004, Ch. 478, effective September 10, 2004.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18421.2

**§ 84305.6. Slate Mailer Disclosure Requirements; Official Political Party Position. [Repealed]**

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; On September 20, 2002, the Federal District Court for the Eastern District of California issued a preliminary injunction prohibiting the FPPC from enforcing this provision against the slate mail organizations which had sought the injunction; repealed by Stats. 2004, Ch. 478, effective September 10, 2004.

**§ 84306. Contributions Received by Agents of Candidates or Committees.**

All contributions received by a person acting as an agent of a candidate shall be reported promptly to the candidate or any of his or her designated agents. All contributions received by a person acting as an agent of a committee shall be reported promptly to the committee's treasurer or any of his or her designated agents. "Promptly" as used in this section means not later than the closing date of any campaign statement the committee or candidate for whom the contribution is intended is required to file.

History: Added by Stats. 1979, Ch. 779.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18421.1  
2 Cal. Code of Regs. Section 18421.2  
2 Cal. Code of Regs. Section 18421.3

**§ 84307. Commingling with Personal Funds.**

No contribution shall be commingled with the personal funds of the recipient or any other person.

History: Added by Stats. 1979, Ch. 779.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18421.2

**§ 84308. Contributions to Officers; Disqualification.**

(a) The definitions set forth in this subdivision shall govern the interpretation of this section.

(1) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

(2) "Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular

decision in a proceeding if he or she lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

(3) "Agency" means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

(5) "License, permit, or other entitlement for use" means all business, professional, trade and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

(6) "Contribution" includes contributions to candidates and committees in federal, state, or local elections.

(b) No officer of an agency shall accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution for himself or herself, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

(c) Prior to rendering any decision in a proceeding involving a license, permit or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250) from a party or from any participant shall disclose that fact on the record of the proceeding. No officer of an agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a license,

permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than two hundred fifty dollars (\$250) within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent if the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7.

If an officer receives a contribution which would otherwise require disqualification under this section, returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, he or she shall be permitted to participate in the proceeding.

(d) A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party, or his or her agent, to any officer of the agency. No party, or his or her agent, to a proceeding involving a license, permit, or other entitlement for use pending before any agency and no participant, or his or her agent, in the proceeding shall make a contribution of more than two hundred fifty dollars (\$250) to any officer of that agency during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding. When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in subdivisions (b), (c), and this subdivision.

(e) Nothing in this section shall be construed to imply that any contribution subject to being reported under this title shall not be so reported.

History: Added by Stats. 1982, Ch. 1049; amended by Stats. 1984, Ch. 1681, effective September 30, 1984; amended by Stats. 1989, Ch. 764.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18401  
 2 Cal. Code of Regs. Section 18421.2  
 2 Cal. Code of Regs. Section 18438.1  
 2 Cal. Code of Regs. Section 18438.2  
 2 Cal. Code of Regs. Section 18438.3  
 2 Cal. Code of Regs. Section 18438.4  
 2 Cal. Code of Regs. Section 18438.5  
 2 Cal. Code of Regs. Section 18438.6  
 2 Cal. Code of Regs. Section 18438.7  
 2 Cal. Code of Regs. Section 18438.8

Opinions: In re Curiel (1983) 8 FPCC Ops. 1

**§ 84309. Transmittal of Campaign Contributions in State Office Buildings.**

(a) No person shall receive or personally deliver or attempt to deliver a contribution in the State Capitol, in any state office building, or in any office for which the state pays the majority of the rent other than a legislative district office.

(b) For purposes of this section:

(1) "Personally deliver" means delivery of a contribution in person or causing a contribution to be delivered in person by an agent or intermediary.

(2) "Receive" includes the receipt of a campaign contribution delivered in person.

History: Added by Stats. 1982, Ch. 920.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421.2
- 2 Cal. Code of Regs. Section 18439

**§ 84310. Identification Requirements for Telephone Calls.**

(a) A candidate, committee, or slate mailer organization may not expend campaign funds, directly or indirectly, to pay for telephone calls that are similar in nature and aggregate 500 or more in number, made by an individual, or individuals, or by electronic means and that advocate support of, or opposition to, a candidate, ballot measure, or both, unless during the course of each call the name of the organization that authorized or paid for the call is disclosed to the recipient of the call. Unless the organization that authorized the call and in whose name it is placed has filing obligations under this title, and the name announced in the call either is the full name by which the organization or individual is identified in any statement or report required to be filed under this title or is the name by which the organization or individual is commonly known, the candidate, committee, or slate mailer organization that paid for the call shall be disclosed. This section shall not apply to telephone calls made by the candidate, the campaign manager, or individuals who are volunteers.

(b) Campaign and ballot measure committees are prohibited from contracting with any phone bank vendor that does not disclose the information required to be disclosed by subdivision (a).

(c) A candidate, committee, or slate mailer organization that pays for telephone calls as described in subdivision (a) shall maintain a record of the script of the call for the period of time set forth in Section 84104. If any of the calls qualifying under subdivision (a) were recorded messages, a copy of the recording shall be maintained for that period.

History: Added by Stats. 2006, Ch. 439.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421.2
- 2 Cal. Code of Regs. Section 18440

**Article 4. Exemptions.**

**§ 84400**

§ 84400. Exemptions.

**§ 84400. Exemptions.**

Notwithstanding any other provision of the law, the Commission shall have no power to exempt any person, including any candidate or committee, from any of the requirements imposed by the provisions of this chapter.

History: Added by Stats. 1977, Ch. 403.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401
- 2 Cal. Code of Regs. Section 18421.2

**Article 5. Advertisements.**

**§ 84501 - 84511**

- § 84501. Advertisement.
- § 84502. Cumulative Contributions.
- § 84503. Disclosure; Advertisement For or Against Ballot Measures.
- § 84504. Identification of Committee.
- § 84505. Avoidance of Disclosure.
- § 84506. Independent Expenditures; Advertisements.
- § 84506.5. Independent Expenditures; Not Authorized by Candidate.
- § 84507. Printed Statement or Broadcast Communication.
- § 84508. Disclosure of One Funding Source on Any Advertisement.
- § 84509. Amended Statements.
- § 84510. Remedies for Article Violations; Civil Action; Fines.
- § 84511. Ballot Measure Ads; Paid Spokesperson Disclosure.

**§ 84501. Advertisement.**

(a) "Advertisement" means any general or public advertisement which is authorized and paid for by a person or committee for the purpose of supporting or opposing a candidate for elective office or a ballot measure or ballot measures.

(b) "Advertisement" does not include a communication from an organization other than a political party to its members, a campaign button smaller than 10 inches in diameter, a bumper sticker

smaller than 60 square inches, or other advertisement as determined by regulations of the Commission.

History: Added by Proposition 208 of the November 1996 Statewide General Election.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.2  
2 Cal. Code of Regs. Section 18450.1  
2 Cal. Code of Regs. Section 18450.11

#### § 84502. Cumulative Contributions.

"Cumulative contributions" means the cumulative amount of contributions received by a committee beginning 12 months prior to the date the committee made its first expenditure to qualify, support, or oppose the measure and ending within seven days of the time the advertisement is sent to the printer or broadcast station.

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2004, Ch. 478, effective September 10, 2004.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.2  
2 Cal. Code of Regs. Section 18450.1

#### § 84503. Disclosure; Advertisement For or Against Ballot Measures.

(a) Any advertisement for or against any ballot measure shall include a disclosure statement identifying any person whose cumulative contributions are fifty thousand dollars (\$50,000) or more.

(b) If there are more than two donors of fifty thousand dollars (\$50,000) or more, the committee is only required to disclose the highest and second highest in that order. In the event that more than two donors meet this disclosure threshold at identical contribution levels, the highest and second highest shall be selected according to chronological sequence.

History: Added by Proposition 208 of the November 1996 Statewide General Election; preliminarily enjoined January 6, 1998; permanently enjoined March 1, 2001, as applied to slate mailers only.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18402  
2 Cal. Code of Regs. Section 18421.2  
2 Cal. Code of Regs. Section 18450.1  
2 Cal. Code of Regs. Section 18450.4  
2 Cal. Code of Regs. Section 18450.5

#### § 84504. Identification of Committee.

(a) Any committee that supports or opposes one or more ballot measures shall name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its major donors of fifty thousand dollars (\$50,000) or more in any reference to the committee required by law, including, but not limited, to its statement of organization filed pursuant to Section 84101.

(b) If the major donors of fifty thousand dollars (\$50,000) or more share a common employer, the identity of the employer shall also be disclosed.

(c) Any committee which supports or opposes a ballot measure, shall print or broadcast its name as provided in this section as part of any advertisement or other paid public statement.

(d) If candidates or their controlled committees, as a group or individually, meet the contribution thresholds for a person, they shall be identified by the controlling candidate's name.

History: Added by Proposition 208 of the November 1996 Statewide General Election.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18402  
2 Cal. Code of Regs. Section 18421.2  
2 Cal. Code of Regs. Section 18450.1  
2 Cal. Code of Regs. Section 18450.3  
2 Cal. Code of Regs. Section 18450.4  
2 Cal. Code of Regs. Section 18450.5

#### § 84505. Avoidance of Disclosure.

In addition to the requirements of Sections 84503, 84504, 84506, and 84506.5, the committee placing the advertisement or persons acting in concert with that committee shall be prohibited from creating or using a noncandidate-controlled committee or a nonsponsored committee to avoid, or that results in the avoidance of, the disclosure of any individual, industry, business entity, controlled committee, or sponsored committee as a major funding source.

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2007, Ch. 495.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.2  
2 Cal. Code of Regs. Section 18450.1

#### § 84506. Independent Expenditures; Advertisements.

(a) A broadcast or mass mailing advertisement supporting or opposing a candidate or ballot measure, that is paid for by an independent expenditure, shall include a disclosure statement that identifies both of the following:

(1) The name of the committee making the independent expenditure.

(2) The names of the persons from whom the committee making the independent expenditure has received its two highest cumulative contributions of fifty thousand dollars (\$50,000) or more during the 12-month period prior to the expenditure. If the committee can show, on the basis that contributions are spent in the order they are received, that contributions received from the two highest contributors have been used for expenditures unrelated

to the candidate or ballot measure featured in the communication, the committee shall disclose the contributors making the next largest cumulative contributions of fifty thousand dollars (\$50,000) or more.

(b) If an acronym is used to identify any committee names required by this section, the names of any sponsoring organization of the committee shall be printed on print advertisements or spoken in broadcast advertisements.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and new section added by Stats. 2004, Ch. 478, effective September 10, 2004.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18402  
 2 Cal. Code of Regs. Section 18421.2  
 2 Cal. Code of Regs. Section 18450.1  
 2 Cal. Code of Regs. Section 18450.3  
 2 Cal. Code of Regs. Section 18450.4  
 2 Cal. Code of Regs. Section 18450.5

**§ 84506.5. Independent Expenditures; Not Authorized by Candidate.**

An advertisement supporting or opposing a candidate that is paid for by an independent expenditure must include a statement that it was not authorized by a candidate or a committee controlled by a candidate.

History: Added by Stats. 2007, Ch. 495.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.2

**§ 84507. Printed Statement or Broadcast Communication.**

Any disclosure statement required by this article shall be printed clearly and legibly in no less than 10-point type and in a conspicuous manner as defined by the Commission or, if the communication is broadcast, the information shall be spoken so as to be clearly audible and understood by the intended public and otherwise appropriately conveyed for the hearing impaired.

History: Added by Proposition 208 of the November 1996 Statewide General Election.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.2  
 2 Cal. Code of Regs. Section 18450.1

**§ 84508. Disclosure of One Funding Source on Any Advertisement.**

If disclosure of two major donors is required by Sections 84503 and 84506, the committee shall be required to disclose, in addition to the committee name, only its highest major contributor in any advertisement which is:

(a) An electronic broadcast of 15 seconds or less, or

(b) A newspaper, magazine, or other public print media advertisement which is 20 square inches or less.

History: Added by Proposition 208 of the November 1996 Statewide General Election.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.2  
 2 Cal. Code of Regs. Section 18450.1

**§ 84509. Amended Statements.**

When a committee files an amended campaign statement pursuant to Section 81004.5, the committee shall change its advertisements to reflect the changed disclosure information.

History: Added by Proposition 208 of the November 1996 Statewide General Election.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.2  
 2 Cal. Code of Regs. Section 18450.1  
 2 Cal. Code of Regs. Section 18450.5

**§ 84510. Remedies for Article Violations; Civil Action; Fines.**

(a) In addition to the remedies provided for in Chapter 11 (commencing with Section 91000) of this title, any person who violates this article is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(b) The remedies provided in subdivision (a) shall also apply to any person who purposely causes any other person to violate any provision of this article or who aids and abets any other person in a violation.

(c) If a judgment is entered against the defendant or defendants in an action brought under this section, the plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited in the General Fund of the state. In an action brought by a local civil prosecutor, 50 percent shall be deposited in the account of the agency bringing the action and 50 percent shall be paid to the General Fund of the state.

History: Added by Proposition 208 of the November 1996 Statewide General Election.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.2  
 2 Cal. Code of Regs. Section 18450.1

**§ 84511. Ballot Measure Ads; Paid Spokesperson Disclosure.**

(a) A committee that makes an expenditure of five thousand dollars (\$5,000) or more to an individual for his or her appearance in an advertisement to support or oppose the qualification, passage or defeat

of a ballot measure shall file a report within 10 days of the expenditure. The report shall identify the measure, the date of the expenditure, the name of the recipient, and the amount expended.

(b) The advertisement shall include the statement "(spokesperson's name) is being paid by this campaign or its donors" in highly visible roman font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephone message.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18421.2
- 2 Cal. Code of Regs. Section 18450.1
- 2 Cal. Code of Regs. Section 18450.11

**Chapter 4.6. Online Disclosure.**

**§ 84600 - 84612**

- § 84600. Online Disclosure.
- § 84601. Public Access.
- § 84602. Secretary of State's Duties.
- § 84602.1. Secretary of State's Duties; Online Lobbying Registration; Reports to the Legislature.
- § 84602.5. Online Index of Identification Numbers.
- § 84603. Acceptance of Reports.
- § 84604. Online Disclosure Program.
- § 84605. Who Shall File Online.
- § 84606. Operation of Online System.
- § 84607. Prohibition Against Political or Campaign Use.
- § 84609. Candidate and Ballot Measure Committees.
- § 84610. Appropriation.
- § 84612. Rejection of Electronic Filing; Procedures.

**§ 84600. Online Disclosure.**

This chapter may be known and may be cited as the Online Disclosure Act.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 2001, Ch. 917, effective October 14, 2001.

**§ 84601. Public Access.**

The Legislature finds and declares as follows:

(a) The people of California enacted one of the nation's most comprehensive campaign and lobbying financial disclosure laws when they voted for Proposition 9, the Political Reform Act of 1974, an initiative statute.

(b) Public access to campaign and lobbying disclosure information is a vital and integral component of a fully informed electorate.

(c) Advances in technology have made it viable for disclosure statements and reports required by the Political Reform Act to be filed online and placed on the Internet, thereby maximizing availability to the public.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997.

**§ 84602. Secretary of State's Duties.**

To implement the Legislature's intent, the Secretary of State, in consultation with the commission, notwithstanding any other provision of the Government Code, shall do all of the following:

(a) Develop online and electronic filing processes for use by persons and entities specified in Sections 84604 and 84605 that are required to file statements and reports with the Secretary of State's office pursuant to Chapter 4 (commencing with Section 84100) and Chapter 6 (commencing with Section 86100). Those processes shall each enable a user to comply with all the disclosure requirements of this title and shall include, at a minimum, the following:

(1) A means or method whereby filers subject to this chapter may submit required filings free of charge. Any means or method developed pursuant to this provision shall not provide any additional or enhanced functions or services that exceed the minimum requirements necessary to fulfill the disclosure provisions of this title. At least one means or method shall be made available no later than December 31, 2002.

(2) The definition of a nonproprietary standardized record format or formats using industry standards for the transmission of the data that is required of those persons and entities specified in subdivision (a) of Section 84604 and Section 84605 and that conforms with the disclosure requirements of this title. The Secretary of State shall hold public hearings prior to development of the record format or formats as a means to ensure that affected entities have an opportunity to provide input into the development process. The format or formats shall be made public no later than July 1, 1999, to ensure sufficient time to comply with the requirements of this chapter.

(b) Accept test files from software vendors and others wishing to file reports electronically, for the purpose of determining whether the file format is in compliance with the standardized record format developed pursuant to subdivision (a) and is compatible with the Secretary of State's system for

receiving the data. A list of software and service providers who have submitted acceptable test files shall be published by the Secretary of State and made available to the public. Acceptably formatted files shall be submitted by a filer in order to meet the requirements of this chapter.

(c) Develop a system that provides for the online or electronic transfer of the data specified in this section utilizing telecommunications technology that assures the integrity of the data transmitted and that creates safeguards against efforts to tamper with or subvert the data.

(d) Make all the data filed available on the Internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. All late contribution and late independent expenditure reports, as defined by Sections 84203 and 84204, respectively, shall be made available on the Internet within 24 hours of receipt. The data made available on the Internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed pursuant to this title.

(e) Develop a procedure for filers to comply with the requirement that they sign under penalty of perjury pursuant to Section 81004.

(f) Maintain all filed data online for 10 years after the date it is filed, and then archive the information in a secure format.

(g) Provide assistance to those seeking public access to the information.

(h) Implement sufficient technology to seek to prevent unauthorized alteration or manipulation of the data.

(i) Provide the commission with necessary information to enable it to assist agencies, public officials, and others, with the compliance and with administration of this title.

(j) Report to the Legislature on the implementation and development of the online and electronic filing and disclosure requirements of this chapter. The report shall include an examination of system security, private security issues, software availability, compliance costs to filers, use of the filing system and software provided by the Secretary of State, and other issues relating to this chapter, and shall recommend appropriate changes if necessary. In preparing the report, the commission may present to the Secretary of State and the Legislature its comments regarding this chapter as it relates to the duties of the commission and suggest appropriate changes if

necessary. There shall be one report due before the system is operational as set forth in Section 84603, one report due no later than June 1, 2002, and one report due no later than January 31, 2003.

(k) Review the current filing and disclosure requirements of this chapter and report to the Legislature, no later than June 1, 2005, recommendations on revising these requirements so as to promote greater reliance on electronic and online submissions.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999; amended by Stats. 2000, Ch. 319; amended by Stats. 2001, Ch. 917, effective October 14, 2001; amended by Stats. 2004, Ch. 816; amended by Stats. 2005, Ch. 22.

#### § 84602.1. Secretary of State's Duties; Online Lobbying Registration; Reports to the Legislature.

History: Added by Stats. 2006, Ch. 69, set to be effective July 12, 2006, but void due to lack of compliance with section 81012.

#### § 84602.5. Online Index of Identification Numbers.

The Secretary of State shall disclose online pursuant to this chapter an index of the identification numbers, as assigned pursuant to subdivision (a) of Section 84101, of every person, entity, or committee that is obligated to make a disclosure pursuant to Chapter 4. This index shall be updated monthly except for the six-week period preceding any statewide regular or special election, during which period the index shall be updated weekly.

History: Added by Stats. 1999, Ch. 208.

#### § 84603. Acceptance of Reports.

The Secretary of State, once all state-mandated development, procurement, and oversight requirements have been met, shall make public their availability to accept reports online or electronically. Any filer may then commence voluntarily filing online or electronically any required report or statement that is otherwise required to be filed with the Secretary of State pursuant to Chapter 4 (commencing with Section 84100) or Chapter 6 (commencing with Section 86100) of this title.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999.

#### § 84604. Online Disclosure Program.

(a) The Secretary of State shall implement an online or electronic disclosure program in connection with the 2000 state primary election and the lobbying activities specified in paragraph (4). Entities specified in paragraphs (1), (2), and (3) shall commence online or electronic disclosure with the first preelection

statement filed in connection with the 2000 statewide direct primary election for the period ending January 22, 2000, and shall continue to disclose online or electronically all required reports and statements up to and including the semiannual statement for the period ending June 30, 2000. Entities specified in paragraph (4) shall commence online or electronic disclosure with the quarterly report for the period ending March 31, 2000, and shall continue to disclose online or electronically all required reports and statements up to and including the quarterly report for the period ending June 30, 2000. The entities subject to this section are the following:

(1) Any candidate, including appellate court and Supreme Court candidates and officeholders, committee, or other persons who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a state elective office or state measure appearing on the 2000 statewide direct primary ballot, provided that the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is one hundred thousand dollars (\$100,000) or more. For the purpose of cumulating totals, the period covered shall commence with January 1, 1999.

(2) Any general purpose committees, as defined in Section 82027.5, including the general purpose committees of political parties, and small contributor committees, as defined in Section 85203, that cumulatively receive contributions or make expenditures totaling one hundred thousand dollars (\$100,000) or more to support or oppose candidates for any elective state office or state measure appearing on the 2000 statewide direct primary ballot. For the purpose of cumulating totals, the period covered shall commence January 1, 1999.

(3) Any slate mailer organization with cumulative reportable payments received or made for the purposes of producing slate mailers of one hundred thousand dollars (\$100,000) or more in connection with the 2000 statewide direct primary election. For the purpose of cumulating totals, the period covered shall commence January 1, 1999.

(4) Any lobbyist, lobbying firm, lobbyist employer, or other persons required, pursuant to Chapter 6 (commencing with Section 86100), to file statements, reports, or other documents, provided that the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is one hundred thousand dollars (\$100,000) or more in a calendar quarter.

(b) Filers specified in subdivision (a) shall also continue to file required disclosure forms in paper

format. The paper copy shall continue to be the official version for audit and other legal purposes. Committees and other persons that are not required to file online or electronically by this section may do so voluntarily.

(c) The Secretary of State shall also disclose on the Internet any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204, respectively, not covered by subdivision (a).

(d) It shall be presumed that online or electronic filers file under penalty of perjury.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999.

#### § 84605. Who Shall File Online.

Beginning on July 1, 2000, and for all applicable reporting periods thereafter, the following persons shall file online or electronically with the Secretary of State:

(a) Any candidate, including appellate court and Supreme Court candidates and officeholders, committee, or other persons who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a state elective office or state measure, provided that the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is fifty thousand dollars (\$50,000) or more. In determining the cumulative reportable amount, all controlled committees, as defined by Section 82016, shall be included. For a committee subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a committee that is first subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the committee is first subject to this title. A committee, as defined in subdivision (c) of Section 82013, shall file online or electronically if it makes contributions of fifty thousand dollars (\$50,000) or more in a calendar year.

(b) Any general purpose committees, as defined in Section 82027.5, including the general purpose committees of political parties, and small contributor committees, as defined in Section 85203, that cumulatively receive contributions or make expenditures totaling fifty thousand dollars (\$50,000) or more to support or oppose candidates for any elective state office or state measure. For a committee subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a committee that first is subject to this title on or after January 1, 2000, the beginning

date for calculating cumulative totals is the date the committee is first subject to this title.

(c) Any slate mailer organization with cumulative reportable payments received or made for the purposes of producing slate mailers of fifty thousand dollars (\$50,000) or more. For a slate mailer organization subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a slate mailer organization that first is subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the organization is first subject to this title.

(d) Any lobbyist, lobbying firm, lobbyist employer or other persons required, pursuant to Chapter 6 (commencing with Section 86100), to file statements, reports, or other documents, provided that the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is five thousand dollars (\$5,000) or more in a calendar quarter.

(e) The Secretary of State shall also disclose on the Internet any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204, respectively, not covered by subdivision (a), (b), or (c).

(f) Committees and other persons that are not required to file online or electronically by this section may do so voluntarily.

(g) Once a person or entity is required to file online or electronically, subject to subdivision (a), (b), (c), (d), or (f), the person or entity shall be required to file all subsequent reports online or electronically.

(h) It shall be presumed that online or electronic filers file under penalty of perjury.

(i) Persons filing online or electronically shall also continue to file required disclosure statements and reports in paper format. The paper copy shall continue to be the official filing for audit and other legal purposes until the Secretary of State, pursuant to Section 84606, determines the system is operating securely and effectively.

(j) The Secretary of State shall maintain at all times a secured, official version of all original online and electronically filed statements and reports required by this chapter. Upon determination by the Secretary of State, pursuant to Section 84606, that the system is operating securely and effectively, this online or electronic version shall be the official version for audit and other legal purposes.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999; amended by Stats. 2007, Ch. 348.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117

2 Cal. Code of Regs. Section 18450.11  
2 Cal. Code of Regs. Section 18465  
2 Cal. Code of Regs. Section 18465.1

**§ 84606. Operation of Online System.**

The Secretary of State shall determine and publicly disclose when the online and electronic disclosure systems are operating effectively. In making this determination, the Secretary of State shall consult with the Commission, the Department of Information Technology, and any other appropriate public or private entity. The online or electronic disclosure system shall not become operative until the Department of Information Technology approves the system. Upon this determination, filers required by this chapter to file online or electronically will no longer be required to file a paper copy or with local filing officers. Furthermore, the date that a filer transmits an online or electronic report shall be the date the filed report is received by the Secretary of State.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999.

**§ 84607. Prohibition Against Political or Campaign Use.**

Pursuant to Section 8314, no employee or official of a state or local government agency shall utilize, for political or campaign purposes, public facilities or resources to retrieve or maintain any of the data produced by the requirements of this chapter.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997.

**§ 84609. Candidate and Ballot Measure Committees.**

All candidates and ballot measure committees who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a statewide elective office or state measure appearing on the November 1998 ballot shall provide at the time of filing, in addition to a paper submission, a copy of the required report on computer disk in either an ASCII or PDF format with documentation detailing the field layout or file structure. Filers who submit computer disks which are not readable, cannot be copied, or do not have documentation have not complied with the requirements of this section. Candidate and measure committees who make their report available on the Internet through the Secretary of State's office are not required to file the report on computer disk. The Secretary of State shall make copies available to the public, upon payment of fees covering direct costs of

duplication, or a statutory fee, if applicable. The Secretary of State shall also disclose online, any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204 respectively, filed in connection with any elective state office or ballot measure appearing on the November 1998 ballot.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997.

**§ 84610. Appropriation.**

There is hereby appropriated from the General Fund of the state to the Secretary of State the sum of one million one hundred thousand dollars (\$1,100,000) for the purposes of developing the online and electronic disclosure systems provided by this chapter and reimbursing local agencies for any costs they incur in the development of these systems.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999.

**§ 84612. Rejection of Electronic Filing; Procedures.**

If the Secretary of State rejects a filing made under this chapter, the Secretary of State shall immediately notify the filer, by electronic mail, of the reason or reasons for rejection using plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style. The notice shall be written or displayed so that the meaning will be easily understood by those persons directly affected by it.

History: Added by Stats. 2001, Ch. 79.

**Chapter 5. Limitations on Contributions.**

**§ 85100 - 85802**

- Article 1. Title of Chapter. § 85100 - 85104
- 2. Candidacy. § 85200 - 85201
- 2.5. Applicability of the Political Reform Act of 1974. § 85202 - 85206
- 3. Contribution Limitations. § 85300 - 85321
- 4. Voluntary Expenditure Ceilings. § 85400 - 85404
- 5. Independent Expenditures. § 85500 - 85505
- 6. Ballot Pamphlet. § 85600 - 85602
- 7. Additional Contribution Requirements. § 85700 - 85706
- 8. Appropriation. § 85802

**Article 1. Title of Chapter.**

**§ 85100 - 85104**

- § 85100. Chapter Title.
- § 85101. Effect on Local Ordinances. [Repealed]
- § 85102. Terms Used in Chapter 5. [Repealed]
- § 85103. Amendment or Repeal of Chapter. [Repealed]
- § 85104. Operative Date. [Repealed]

**§ 85100. Chapter Title.**

This chapter shall be known as the "Campaign Contribution and Voluntary Expenditure Limits Without Taxpayer Financing Amendments to the Political Reform Act of 1974."

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 85101. Effect on Local Ordinances. [Repealed]**

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Findings and Declarations"); repealed by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 85102. Terms Used in Chapter 5. [Repealed]**

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1994, Ch. 1010; repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Purpose of This Law"); repealed by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 85103. Amendment or Repeal of Chapter. [Repealed]**

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; repealed by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 85104. Operative Date. [Repealed]**

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; repealed by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**Article 2. Candidacy.**

**§ 85200 - 85201**

- § 85200. Statement of Intention to be a Candidate.
- § 85201. Campaign Bank Account.

**§ 85200. Statement of Intention to be a Candidate.**

Prior to the solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for an elective state office, pursuant to

Section 82024, shall file with the Secretary of State an original statement, signed under penalty of perjury, of intention to be a candidate for a specific office.

An individual who intends to be a candidate for any other elective office shall file the statement of intention with the same filing officer and in the same location as the individual would file an original campaign statement pursuant to subdivisions (c), (d), and (e) of Section 84215.

For purposes of this section, "contribution" and "loan" do not include any payments from the candidate's personal funds for a candidate filing fee or a candidate statement of qualifications fee.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1991, Ch. 1078; amended by Stats. 1996, Ch. 289; amended by Stats. 1997, Ch. 394; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18520
- 2 Cal. Code of Regs. Section 18521
- 2 Cal. Code of Regs. Section 18531.5
- 2 Cal. Code of Regs. Section 18536
- 2 Cal. Code of Regs. Section 18537.1
- 2 Cal. Code of Regs. Section 18542

**§ 85201. Campaign Bank Account.**

(a) Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

(b) As required by subdivision (f) of Section 84102, a candidate who raises contributions of one thousand dollars (\$1,000) or more in a calendar year shall set forth the name and address of the financial institution where the candidate has established a campaign contribution account and the account number on the committee statement of organization filed pursuant to Sections 84101 and 84103.

(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee shall be deposited in the account.

(d) Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditure.

(e) All campaign expenditures shall be made from the account.

(f) Subdivisions (d) and (e) do not apply to a candidate's payment for a filing fee and statement of qualifications from his or her personal funds.

(g) This section does not apply to a candidate who will not receive contributions and who makes expenditures from personal funds of less than one thousand dollars (\$1,000) in a calendar year to support his or her candidacy. For purposes of this section, a

candidate's payment for a filing fee and statement of qualifications shall not be included in calculating the total expenditures made.

(h) An individual who raises contributions from others for his or her campaign, but who raises or spends less than one thousand dollars (\$1,000) in a calendar year, and does not qualify as a committee under Section 82013, shall establish a campaign contribution account pursuant to subdivision (a), but is not required to file a committee statement of organization pursuant to Section 84101 or other statement of bank account information.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1990, Ch. 387; amended by Stats. 1991, Ch. 1078; amended by Stats. 1996, Ch. 289; amended by Stats. 1997, Ch. 394; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18520
- 2 Cal. Code of Regs. Section 18521
- 2 Cal. Code of Regs. Section 18521.3
- 2 Cal. Code of Regs. Section 18523
- 2 Cal. Code of Regs. Section 18523.1
- 2 Cal. Code of Regs. Section 18524
- 2 Cal. Code of Regs. Section 18525
- 2 Cal. Code of Regs. Section 18526
- 2 Cal. Code of Regs. Section 18531.6
- 2 Cal. Code of Regs. Section 18531.61
- 2 Cal. Code of Regs. Section 18537.1

**Article 2.5. Applicability of the Political Reform Act of 1974.**

**§ 85202 - 85206**

- § 85202. Interpretation of Chapter 5.
- § 85203. Small Contributor Committee.
- § 85204. Election Cycle for 24-Hour Disclosure.
- § 85204.5. Special Election Cycle and Special Runoff Election Cycle.
- § 85205. Political Party Committee.
- § 85206. Public Moneys.

**§ 85202. Interpretation of Chapter 5.**

Unless specifically superseded by the act that adds this section, the definitions and provisions of this title shall govern the interpretation of this chapter.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1989, Ch. 303. (Formerly titled "Contributions to Candidates; Trust for Specific Office"); repealed by Stats. 1990, Ch. 84. Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Applicability of the Political Reform Act"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 85203. Small Contributor Committee.**

"Small contributor committee" means any committee that meets all of the following criteria:

- (a) The committee has been in existence for at least six months.

(b) The committee receives contributions from 100 or more persons.

(c) No one person has contributed to the committee more than two hundred dollars (\$200) per calendar year.

(d) The committee makes contributions to five or more candidates.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18503

**§ 85204. Election Cycle for 24-Hour Disclosure.**

“Election cycle” for purposes of Sections 85309 and 85500, means the period of time commencing 90 days prior to an election and ending on the date of the election.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Two-Year Period”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 85204.5. Special Election Cycle and Special Runoff Election Cycle.**

With respect to special elections, the following terms have the following meanings:

(a) “Special election cycle” means the day on which the office becomes vacant until the day of the special election.

(b) “Special runoff election cycle” means the day after the special election until the day of the special runoff election.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 85205. Political Party Committee.**

“Political party committee” means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18530.3

**§ 85206. Public Moneys.**

“Public moneys” has the same meaning as defined in Section 426 of the Penal Code.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**Article 3. Contribution Limitations.  
§ 85300 - 85321**

- § 85300. Public Funds; Prohibition.
- § 85301. Limits on Contributions from Persons.
- § 85302. Limits on Contributions from Small Contributor Committees.
- § 85303. Limits on Contributions to Committees and Political Parties.
- § 85304. Legal Defense Fund.
- § 85304.5. Legal Defense Fund; Local Candidates and Elected Officeholders.
- § 85305. Restrictions on Contributions by Candidates.
- § 85306. Transfers Between a Candidate’s Own Committees; Use of Funds Raised Prior to Effective Date.
- § 85307. Loans.
- § 85308. Family Contributions.
- § 85309. Online Disclosure of Contributions.
- § 85310. Communications Identifying State Candidates.
- § 85311. Affiliated Entities; Aggregation of Contributions to State Candidates.
- § 85312. Communications to Members of an Organization.
- § 85313. Officeholder Account. [Repealed]
- § 85314. Special Elections and Special Runoff Elections as Separate Elections.
- § 85315. Elected State Officer Recall Committees.
- § 85316. Post-Election Fundraising.
- § 85317. Carry Over of Contributions.
- § 85318. Contributions Received for Primary and General Elections.
- § 85319. Returning Contributions.
- § 85320. Foreign Entities.
- § 85321. Post-Election Fundraising; Elections Held Prior to January 1, 2001.

**§ 85300. Public Funds; Prohibition.**

No public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18530

**§ 85301. Limits on Contributions from Persons.**

(a) A person, other than a small contributor committee or political party committee, may not make

to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office other than a candidate for statewide elective office may not accept from a person, any contribution totaling more than three thousand dollars (\$3,000) per election.

(b) Except to a candidate for Governor, a person, other than a small contributor committee or political party committee, may not make to any candidate for statewide elective office, and except a candidate for Governor, a candidate for statewide elective office may not accept from a person other than a small contributor committee or a political party committee, any contribution totaling more than five thousand dollars (\$5,000) per election.

(c) A person, other than a small contributor committee or political party committee, may not make to any candidate for Governor, and a candidate for governor may not accept from any person other than a small contributor committee or political party committee, any contribution totaling more than twenty thousand dollars (\$20,000) per election.

(d) The provisions of this section do not apply to a candidate's contributions of his or her personal funds to his or her own campaign.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contributions by Persons to Candidates"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18421.4
- 2 Cal. Code of Regs. Section 18503
- 2 Cal. Code of Regs. Section 18521
- 2 Cal. Code of Regs. Section 18523
- 2 Cal. Code of Regs. Section 18523.1
- 2 Cal. Code of Regs. Section 18530.4
- 2 Cal. Code of Regs. Section 18531
- 2 Cal. Code of Regs. Section 18531.5
- 2 Cal. Code of Regs. Section 18531.6
- 2 Cal. Code of Regs. Section 18531.61
- 2 Cal. Code of Regs. Section 18533
- 2 Cal. Code of Regs. Section 18537
- 2 Cal. Code of Regs. Section 18544
- 2 Cal. Code of Regs. Section 18545

**§ 85302. Limits on Contributions from Small Contributor Committees.**

(a) A small contributor committee may not make to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office, other than a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than six thousand dollars (\$6,000) per election.

(b) Except to a candidate for Governor, a small contributor committee may not make to any candidate

for statewide elective office and except for a candidate for Governor, a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than ten thousand dollars (\$10,000) per election.

(c) A small contributor committee may not make to any candidate for Governor, and a candidate for governor may not accept from a small contributor committee, any contribution totaling more than twenty thousand dollars (\$20,000) per election.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contributions by Persons to Committees"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18421.4
- 2 Cal. Code of Regs. Section 18503
- 2 Cal. Code of Regs. Section 18521
- 2 Cal. Code of Regs. Section 18523
- 2 Cal. Code of Regs. Section 18523.1
- 2 Cal. Code of Regs. Section 18530.4
- 2 Cal. Code of Regs. Section 18531
- 2 Cal. Code of Regs. Section 18531.5
- 2 Cal. Code of Regs. Section 18531.6
- 2 Cal. Code of Regs. Section 18537
- 2 Cal. Code of Regs. Section 18544
- 2 Cal. Code of Regs. Section 18545

**§ 85303. Limits on Contributions to Committees and Political Parties.**

(a) A person may not make to any committee, other than a political party committee, and a committee other than a political party committee may not accept, any contribution totaling more than five thousand dollars (\$5,000) per calendar year for the purpose of making contributions to candidates for elective state office.

(b) A person may not make to any political party committee, and a political party committee may not accept, any contribution totaling more than twenty-five thousand dollars (\$25,000) per calendar year for the purpose of making contributions for the support or defeat of candidates for elective state office. Notwithstanding Section 85312, this limit applies to contributions made to a political party used for the purpose of making expenditures at the behest of a candidate for elective state office for communications to party members related to the candidate's candidacy for elective state office.

(c) Except as provided in Section 85310, nothing in this chapter shall limit a person's contributions to a committee or political party committee provided the contributions are used for purposes other than making contributions to candidates for elective state office.

(d) Nothing in this chapter limits a candidate for elected state office from transferring contributions received by the candidate in excess of any amount necessary to defray the candidate's expenses for election related activities or holding office to a political party committee, provided those transferred contributions are used for purposes consistent with paragraph (4) of subdivision (b) of Section 89519.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contributions by Committees to Candidates"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18421.4
- 2 Cal. Code of Regs. Section 18530.3
- 2 Cal. Code of Regs. Section 18530.4
- 2 Cal. Code of Regs. Section 18531
- 2 Cal. Code of Regs. Section 18531.61
- 2 Cal. Code of Regs. Section 18531.7
- 2 Cal. Code of Regs. Section 18533
- 2 Cal. Code of Regs. Section 18534
- 2 Cal. Code of Regs. Section 18537
- 2 Cal. Code of Regs. Section 18544
- 2 Cal. Code of Regs. Section 18545

**§ 85304. Legal Defense Fund.**

(a) A candidate for elective state office or an elected state officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.

(b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Prohibition on Transfers"); repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Limitations on Contributions from Political Parties"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117

- 2 Cal. Code of Regs. Section 18530.4
- 2 Cal. Code of Regs. Section 18537

Opinions: In re Pelham (2001) 15 FPPC Ops. 1

**§ 85304.5. Legal Defense Fund; Local Candidates and Elected Officeholders.**

(a) A candidate for elective office other than an elective state office or an elected officer other than an elected state officer may establish a separate account pursuant to subdivision (a) of Section 85304 and may use these funds only to defray attorney's fees and other related legal costs.

(b) A candidate for an elective office other than an elective state office may receive contributions to the separate account subject to any limitations provided by local ordinance. However, all contributions to these separate accounts shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate or elected officer shall dispose of any funds remaining in the separate accounts after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

History: Added by Stats. 2007, Ch. 283.

**§ 85305. Restrictions on Contributions by Candidates.**

A candidate for elective state office or committee controlled by that candidate may not make any contribution to any other candidate for elective state office in excess of the limits set forth in subdivision (a) of Section 85301.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contribution Limitations During Special or Special Runoff Election Cycles"); repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Restrictions on When Contributions Can be Received"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18421.4
- 2 Cal. Code of Regs. Section 18530.4
- 2 Cal. Code of Regs. Section 18535
- 2 Cal. Code of Regs. Section 18536
- 2 Cal. Code of Regs. Section 18537

**§ 85306. Transfers Between a Candidate's Own Committees; Use of Funds Raised Prior to Effective Date.**

(a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state office of the same candidate. Contributions transferred shall be attributed to specific contributors using a "last in, first out" or "first in, first out" accounting method, and these attributed contributions when aggregated with all other contributions from the

same contributor may not exceed the limits set forth in Section 85301 or 85302.

(b) Notwithstanding subdivision (a), a candidate for elective state office, other than a candidate for statewide elective office, who possesses campaign funds on January 1, 2001, may use those funds to seek elective office without attributing the funds to specific contributors.

(c) Notwithstanding subdivision (a), a candidate for statewide elective office who possesses campaign funds on November 6, 2002, may use those funds to seek elective office without attributing the funds to specific contributors.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Use of Campaign Funds; Effective Date"); repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Transfers"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.4  
 2 Cal. Code of Regs. Section 18530.2  
 2 Cal. Code of Regs. Section 18530.4  
 2 Cal. Code of Regs. Section 18531.6  
 2 Cal. Code of Regs. Section 18531.61  
 2 Cal. Code of Regs. Section 18536  
 2 Cal. Code of Regs. Section 18537  
 2 Cal. Code of Regs. Section 18537.1

**§ 85307. Loans.**

(a) The provisions of this article regarding loans apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) Notwithstanding subdivision (a), a candidate for elective state office may not personally loan to his or her campaign, including the proceeds of a loan obtained by the candidate from a commercial lending institution, an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$100,000). A candidate may not charge interest on any loan he or she made to his or her campaign.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Loans; Contributions"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2004, Ch. 815, effective September 27, 2004.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.4  
 2 Cal. Code of Regs. Section 18530.7  
 2 Cal. Code of Regs. Section 18530.8  
 2 Cal. Code of Regs. Section 18537

**§ 85308. Family Contributions.**

(a) Contributions made by a husband and wife may not be aggregated.

(b) A contribution made by a child under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18537

Opinions: In re Pelham (2001) 15 FPPC Ops. 1

**§ 85309. Online Disclosure of Contributions.**

(a) In addition to any other report required by this title, a candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(b) In addition to any other report required by this title, any committee primarily formed to support or oppose one or more state ballot measures that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(c) In addition to any other report required by this title, a candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of five thousand dollars (\$5,000) or more received at any time other than during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 10 business days of receipt of the contribution.

(d) In addition to any other report required by this title, a committee primarily formed to support or oppose a state ballot measure that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of five thousand dollars (\$5,000) or more received at any time other than during an election cycle. Those reports shall disclose the same information required by subdivision

(a) of Section 84203 and shall be filed within 10 business days of receipt of the contribution.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Aggregate Contributions from Non-individuals"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
 2 Cal. Code of Regs. Section 18537  
 2 Cal. Code of Regs. Section 18539

**§ 85310. Communications Identifying State Candidates.**

(a) Any person who makes a payment or a promise of payment totaling fifty thousand dollars (\$50,000) or more for a communication that clearly identifies a candidate for elective state office, but does not expressly advocate the election or defeat of the candidate, and that is disseminated, broadcast, or otherwise published within 45 days of an election, shall file online or electronically with the Secretary of State a report disclosing the name of the person, address, occupation, and employer, and amount of the payment. The report shall be filed within 48 hours of making the payment or the promise to make the payment.

(b) (1) Except as provided in paragraph (2), if any person has received a payment or a promise of a payment from other persons totaling five thousand dollars (\$5,000) or more for the purpose of making a communication described in subdivision (a), the person receiving the payments shall disclose on the report the name, address, occupation and employer, and date and amount received from the person.

(2) A person who receives or is promised a payment that is otherwise reportable under paragraph (1) is not required to report the payment if the person is in the business of providing goods or services and receives or is promised the payment for the purpose of providing those goods or services.

(c) Any payment received by a person who makes a communication described in subdivision (a) is subject to the limits specified in subdivision (b) of Section 85303 if the communication is made at the behest of the clearly identified candidate.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Aggregate Contributions to All State Candidates"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
 2 Cal. Code of Regs. Section 18531.10  
 2 Cal. Code of Regs. Section 18537  
 2 Cal. Code of Regs. Section 18539.2

**§ 85311. Affiliated Entities; Aggregation of Contributions to State Candidates.**

(a) For purposes of the contribution limits of this chapter, the following terms have the following meanings:

(1) "Entity" means any person, other than an individual.

(2) "Majority owned" means an ownership of more than 50 percent.

(b) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

(c) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(d) Contributions made by entities that are majority owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Aggregation of Financial Activity"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18428  
 2 Cal. Code of Regs. Section 18537  
 Opinions: In re Kahn (1976) 2 FPCC Ops. 151  
In re Lumsdon (1976) 2 FPCC Ops. 140

**§ 85312. Communications to Members of an Organization.**

For purposes of this title, payments for communications to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot measure are not contributions or expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, and newspaper advertisements. However, payments made by a political party for communications to its members who are registered with that party which would otherwise qualify as contributions or expenditures shall be reported in accordance with Article 2 (commencing with Section 84200) of Chapter 4, and Chapter 4.6 (commencing with Section 84600), of this title.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Communications

Within an Organization”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18215  
2 Cal. Code of Regs. Section 18531.7  
2 Cal. Code of Regs. Section 18537

Opinions: In re Olson (2001) 15 FPPC Ops. 13

#### § 85313. Officeholder Account. [Repealed]

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

#### § 85314. Special Elections and Special Runoff Elections as Separate Elections.

The contribution limits of this chapter apply to special elections and apply to special runoff elections. A special election and a special runoff election are separate elections for purposes of the contribution and voluntary expenditure limits set forth in this chapter.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.4  
2 Cal. Code of Regs. Section 18537

#### § 85315. Elected State Officer Recall Committees.

(a) Notwithstanding any other provision of this chapter, an elected state officer may establish a committee to oppose the qualification of a recall measure, and the recall election. This committee may be established when the elected state officer receives a notice of intent to recall pursuant to Section 11021 of the Elections Code. An elected state officer may accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contributions limits set forth in this chapter. The voluntary expenditure limits do not apply to expenditures made to oppose the qualification of a recall measure or to oppose the recall election.

(b) After the failure of a recall petition or after the recall election, the committee formed by the elected state officer shall wind down its activities and dissolve. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days after the failure of the recall petition or after the recall election for a purpose specified in subdivision (b) of Section 89519.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18531.5  
2 Cal. Code of Regs. Section 18537

#### § 85316. Post-Election Fundraising.

(a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2006, Ch. 624, effective September 29, 2006; amended by Stats. 2007, Ch. 130.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18531.6
- 2 Cal. Code of Regs. Section 18531.61
- 2 Cal. Code of Regs. Section 18531.62
- 2 Cal. Code of Regs. Section 18537
- 2 Cal. Code of Regs. Section 18537.1
- 2 Cal. Code of Regs. Section 18544
- 2 Cal. Code of Regs. Section 18545

**§ 85317. Carry Over of Contributions.**

Notwithstanding subdivision (a) of Section 85306, a candidate for elective state office may carry over contributions raised in connection with one election for elective state office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state office.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18531.6
- 2 Cal. Code of Regs. Section 18531.61
- 2 Cal. Code of Regs. Section 18537
- 2 Cal. Code of Regs. Section 18537.1

**§ 85318. Contributions Received for Primary and General Elections.**

A candidate for elective state office may raise contributions for a general election prior to the primary election, and for a special general election prior to a special primary election, for the same elective state office if the candidate sets aside these contributions and uses these contributions for the general election or special general election. If the candidate for elective state office is defeated in the primary election or special primary election, or otherwise withdraws from the general election or special general election, the general election or special general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election or special general election contributions. Notwithstanding Section 85201, candidates for elective state office may establish separate campaign contribution accounts for the primary and general elections or special primary and special general elections.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18521
- 2 Cal. Code of Regs. Section 18531.2
- 2 Cal. Code of Regs. Section 18531.6
- 2 Cal. Code of Regs. Section 18531.61
- 2 Cal. Code of Regs. Section 18536
- 2 Cal. Code of Regs. Section 18537

**§ 85319. Returning Contributions.**

A candidate for state elective office may return all or part of any contribution to the donor who made the contribution at any time, whether or not other contributions are returned, except a contribution that the candidate made for state elective office to his or her own controlled committee.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2002, Ch. 212.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18537

**§ 85320. Foreign Entities.**

(a) No foreign government or foreign principal shall make, directly or through any other person, any contribution, expenditure, or independent expenditure in connection with the qualification or support of, or opposition to, any state or local ballot measure.

(b) No person and no committee shall solicit or accept a contribution from a foreign government or foreign principal in connection with the qualification or support of, or opposition to, any state or local ballot measure.

(c) For the purposes of this section, a "foreign principal" includes the following:

- (1) A foreign political party.
- (2) A person outside the United States, unless either of the following is established:
  - (A) The person is an individual and a citizen of the United States.
  - (B) The person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States.
- (3) A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.
- (4) A domestic subsidiary of a foreign corporation if the decision to contribute or expend funds is made by an officer, director, or management employee of the foreign corporation who is neither a

citizen of the United States nor a lawfully admitted permanent resident of the United States.

(d) This section shall not prohibit a contribution, expenditure, or independent expenditure made by a lawfully admitted permanent resident.

(e) Any person who violates this section shall be guilty of a misdemeanor and shall be fined an amount equal to the amount contributed or expended.

History: Added by Stats. 1997, Ch. 67; amended by Stats. 2000, Ch. 349.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18537

**§ 85321. Post-Election Fundraising; Elections Held Prior to January 1, 2001.**

Notwithstanding any other provision of this chapter, if a candidate for elective state office or the candidate's controlled committee had net debts resulting from an election held prior to January 1, 2001, contributions to that candidate or committee for that election are not subject to the limits of Sections 85301 and 85302.

History: Added by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18531.6  
2 Cal. Code of Regs. Section 18531.61  
2 Cal. Code of Regs. Section 18537

**Article 4. Voluntary Expenditure Ceilings.**

**§ 85400 - 85404**

- § 85400. Voluntary Expenditure Ceilings.
- § 85401. Candidate Acceptance or Rejection of Expenditure Ceilings.
- § 85402. Lifting Expenditure Limits; Opponent's Use of Personal Funds.
- § 85403. Violations of Voluntary Expenditure Limits.
- § 85404. Expenditure Ceiling Lifted. [Repealed]

**§ 85400. Voluntary Expenditure Ceilings.**

(a) A candidate for elective state office, other than the Board of Administration of the Public Employees' Retirement System, who voluntarily accepts expenditure limits may not make campaign expenditures in excess of the following:

(1) For an Assembly candidate, four hundred thousand dollars (\$400,000) in the primary or special primary election and seven hundred thousand dollars (\$700,000) in the general or special general election.

(2) For a Senate candidate, six hundred thousand dollars (\$600,000) in the primary or special primary election and nine hundred thousand dollars (\$900,000) in the general or special general election.

(3) For a candidate for the State Board of Equalization, one million dollars (\$1,000,000) in the primary election and one million five hundred thousand dollars (\$1,500,000) in the general election.

(4) For a statewide candidate other than a candidate for Governor or the State Board of Equalization, four million dollars (\$4,000,000) in the primary election and six million dollars (\$6,000,000) in the general election.

(5) For a candidate for Governor, six million dollars (\$6,000,000) in the primary election and ten million dollars (\$10,000,000) in the general election.

(b) For purposes of this section, "campaign expenditures" has the same meaning as "election-related activities" as defined in clauses (i) to (vi), inclusive, and clause (viii) of subparagraph (C) of paragraph (2) of subdivision (b) of Section 82015.

(c) A campaign expenditure made by a political party on behalf of a candidate may not be attributed to the limitations on campaign expenditures set forth in this section.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Limitations on Gifts and Honoraria"); repealed by Stats. 1990, Ch. 84; added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.4  
2 Cal. Code of Regs. Section 18540  
2 Cal. Code of Regs. Section 18542  
2 Cal. Code of Regs. Section 18543  
2 Cal. Code of Regs. Section 18544  
2 Cal. Code of Regs. Section 18545

**§ 85401. Candidate Acceptance or Rejection of Expenditure Ceilings.**

(a) Each candidate for elective state office shall file a statement of acceptance or rejection of the voluntary expenditure limits set forth in Section 85400 at the time he or she files the statement of intention specified in Section 85200.

(b) A candidate may, until the deadline for filing nomination papers set forth in Section 8020 of the Elections Code, change his or her statement of acceptance or rejection of voluntary expenditure limits provided he or she has not exceeded the voluntary expenditure limits. A candidate may not change his or her statement of acceptance or rejection of voluntary expenditure limits more than twice after the candidate's initial filing of the statement of intention for that election and office.

(c) Any candidate for elective state office who declined to accept the voluntary expenditure limits but who nevertheless does not exceed the limits in the

primary, special primary, or special election, may file a statement of acceptance of the expenditure limits for a general or special runoff election within 14 days following the primary, special primary, or special election.

(d) Notwithstanding Section 81004.5 or any other provision of this title, a candidate may not change his or her statement of acceptance or rejection of voluntary expenditure limits other than as provided for by this section and Section 85402.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2004, Ch. 9, effective January 22, 2004; amended by Stats. 2004, Ch. 207.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.4  
2 Cal. Code of Regs. Section 18542

**§ 85402. Lifting Expenditure Limits; Opponent's Use of Personal Funds.**

(a) Any candidate for elective state office who has filed a statement accepting the voluntary expenditure limits is not bound by those limits if an opposing candidate contributes personal funds to his or her own campaign in excess of the limits set forth in Section 85400.

(b) The commission shall require by regulation timely notification by candidates for elective state office who make personal contributions to their own campaign.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Contribution Limits for Candidates Accepting Expenditure Ceilings"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.4  
2 Cal. Code of Regs. Section 18540  
2 Cal. Code of Regs. Section 18542  
2 Cal. Code of Regs. Section 18543

**§ 85403. Violations of Voluntary Expenditure Limits.**

Any candidate who files a statement of acceptance pursuant to Section 85401 and makes campaign expenditures in excess of the limits shall be subject to the remedies in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000).

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Time Periods for Expenditures"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18421.4

**§ 85404. Expenditure Ceiling Lifted. [Repealed]**

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Time Periods for Expenditures"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**Article 5. Independent Expenditures.  
§ 85500-85505**

§ 85500. Independent Expenditures; 24-Hour Disclosure; Coordination.

§ 85501. Prohibition on Independent Expenditures by Candidate Controlled Committees.

§ 85505. Internet Display of Independent Expenditures; 24-Hour Disclosure Report.

**§ 85500. Independent Expenditures; 24-Hour Disclosure; Coordination.**

(a) In addition to any other report required by this title, a committee, including a political party committee, that is required to file reports pursuant to Section 84605 and that makes independent expenditures of one thousand dollars (\$1,000) or more during an election cycle in connection with a candidate for elective state office or state ballot measure, shall file online or electronically a report with the Secretary of State disclosing the making of the independent expenditure. This report shall disclose the same information required by subdivision (b) of Section 84204 and shall be filed within 24 hours of the time the independent expenditure is made.

(b) An expenditure may not be considered independent, and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure is made, if the expenditure is made under any of the following circumstances:

(1) The expenditure is made with the cooperation of, or in consultation with, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate.

(2) The expenditure is made in concert with, or at the request or suggestion of, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate.

(3) The expenditure is made under any arrangement, coordination, or direction with respect to the candidate or the candidate's agent and the person making the expenditure.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Independent Expenditures"); repealed and added by Stats. 2000, Ch. 102

[Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18413
- 2 Cal. Code of Regs. Section 18550
- 2 Cal. Code of Regs. Section 18550.1

**§ 85501. Prohibition on Independent Expenditures by Candidate Controlled Committees.**

A controlled committee of a candidate may not make independent expenditures and may not contribute funds to another committee for the purpose of making independent expenditures to support or oppose other candidates.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

- Opinions: In re St. Croix (2005) 18 FPPC Ops. 226

**§ 85505. Internet Display of Independent Expenditures; 24-Hour Disclosure Report.**

(a) The Secretary of State shall include on the Internet Web site of the Secretary of State's office, as part of the campaign finance activity that is publicly disclosed, any independent expenditure, as defined in Section 82031, that is reported pursuant to Section 85500 with respect to a candidate for elective state office and a statewide ballot measure. This information shall be linked to the part of the Web site that the Secretary of State maintains concerning that candidate or ballot measure.

(b) It is the intent of the Legislature that all forms created for the purpose of filing the online or electronic report required pursuant to Section 85500 include a separate field for the filer to input the legislative district number and the number or letter of a statewide ballot measure.

History: Added by Stats. 2002, Ch. 511.

**Article 6. Ballot Pamphlet.**

**§ 85600-85602**

- § 85600. Ballot Pamphlet Designation.
- § 85601. Candidate Access to Ballot Pamphlet Statement.
- § 85602. Notification to Voters. [Repealed]

**§ 85600. Ballot Pamphlet Designation.**

The Secretary of State shall designate in the state ballot pamphlet those candidates for statewide elective office, as defined in Section 82053, who have voluntarily agreed to the expenditure limitations set forth in Section 85400. Local elections officers shall designate in the voter information portion of the sample ballot those candidates for State Senate and

Assembly who have voluntarily agreed to the expenditure limitations set forth in Section 85400.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Candidate Access to State Ballot Pamphlet"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

**§ 85601. Candidate Access to Ballot Pamphlet Statement.**

(a) A candidate for statewide elective office, as defined in Section 82053, who accepts the voluntary expenditure limits set forth in Section 85400 may purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlets.

(b) Notwithstanding subdivision (e) of Section 88001 of this code or subdivision (e) of Section 9084 of the Elections Code, on and after November 6, 2002, the Secretary of State may not include in the state ballot pamphlet a statement from a candidate who has not voluntarily agreed to the expenditure limitations set forth in Section 85400.

(c) A candidate for State Senate or Assembly who accepts the voluntary expenditure limits set forth in Section 85400 may purchase the space to place a statement in the voter information portion of the sample ballot that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with the timeframes and procedures set forth in the Elections Code for the preparation of the voter information portion of the sample ballot.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Candidate Access to Local Sample Ballot Materials"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

**§ 85602. Notification to Voters. [Repealed]**

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**Article 7. Additional Contribution Requirements. § 85700-85706**

- § 85700. Donor Information Requirements; Return of Contributions.
- § 85701. Laundered Contributions.
- § 85702. Contributions from Lobbyists.
- § 85703. Local Jurisdictions.
- § 85704. Prohibition on Earmarking.

- § 85705. Contributions from Governmental Employees. [Repealed]
- § 85706. Local Jurisdictions. [Repealed]

**§ 85700. Donor Information Requirements; Return of Contributions.**

(a) A candidate or committee shall return not later than 60 days of receipt by the candidate or committee any contribution of one hundred dollars (\$100) or more for which the candidate or committee does not have on file in the records of the candidate or committee the name, address, occupation, and employer of the contributor.

(b) A candidate or committee may return a contribution pursuant to subdivision (a) after the date that the candidate or committee has reported the contribution under any provision of this title.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Disclosure of Occupation and Employer"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18401  
2 Cal. Code of Regs. Section 18570
- Opinions: In re Pelham (2001) 15 FPPC Ops. 1

**§ 85701. Laundered Contributions.**

Any candidate or committee that receives a contribution in violation of Section 84301 shall pay to the General Fund of the state the amount of the contribution.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Receipt of Laundered Contributions"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

- Opinions: In re Pelham (2001) 15 FPPC Ops. 1

**§ 85702. Contributions from Lobbyists.**

An elected state officer or candidate for elected state office may not accept a contribution from a lobbyist, and a lobbyist may not make a contribution to an elected state officer or candidate for elected state office, if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Bundling of Contributions"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18572

**§ 85703. Local Jurisdictions.**

(a) Nothing in this act shall nullify contribution limitations or prohibitions of any local jurisdiction that apply to elections for local elective office, except that these limitations and prohibitions may not conflict with the provisions of Section 85312.

(b) Limitations and prohibitions imposed by a local jurisdiction on payments for a member communication, as defined in subdivision (c), that conflict with Section 85312 and which are thereby prohibited by subdivision (a) include, but are not limited to, any of the following:

(1) Source restrictions on payments for member communications that are not expressly made applicable to member communications by a state statute or by a regulation adopted by the commission pursuant to Section 83112.

(2) Limitations on payments to a political party committee for a member communication that are not expressly made applicable to member communications by a state statute or by a regulation adopted by the commission pursuant to Section 83112.

(3) Limitations on the scope of payments considered directly related to the making of a member communication, including costs associated with the formulation, design, production, and distribution of the communication such as surveys, list acquisition, and consulting fees that are not expressly made applicable to member communications by a state statute or by a regulation adopted by the commission pursuant to Section 83112.

(c) For purposes of this section, "member communication" means a communication, within the meaning of Section 85312, to members, employees, shareholders, or families of members, employees, or shareholders of an organization, including a communication by a political party to its members who are registered with that party.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Earmarking of Contributions Prohibited"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2007, Ch. 708.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18531.7

**§ 85704. Prohibition on Earmarking.**

A person may not make any contribution to a committee on the condition or with the agreement that it will be contributed to any particular candidate unless the contribution is fully disclosed pursuant to Section 84302.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Contributions from

Lobbyists”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 85705. Contributions from Governmental Employees. [Repealed]**

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 85706. Local Jurisdictions. [Repealed]**

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**Article 8. Appropriation.  
§ 85802**

§ 85802. Appropriation to the Fair Political Practices Commission.

**§ 85802. Appropriation to the Fair Political Practices Commission.**

There is hereby appropriated from the General Fund of the state to the Fair Political Practices Commission the sum of five hundred thousand dollars (\$500,000) annually above and beyond the appropriations established for the Commission in the fiscal year immediately prior to the effective date of this act, adjusted for cost-of-living changes, for expenditures to support the operations of the Commission pursuant to this act. If any provision of this act is successfully challenged, any attorney’s fees and costs shall be paid from the General Fund and the Commission’s budget shall not be reduced accordingly.

History: Added by Proposition 208 of the November 1996 Statewide General Election.

**Chapter 6. Lobbyists.  
§ 86100 - 86300**

- Article 1. Registration and Reporting.  
§ 86100 - 86118
- 2. Prohibitions. § 86200 - 86205
- 3. Exemptions. § 86300

**Article 1. Registration and Reporting.  
§ 86100 - 86118**

- § 86100. Registration.
- § 86101. Registration; Time.
- § 86102. Registration Fees.
- § 86103. Lobbyist Certification; Requirements.
- § 86104. Lobbying Firm; Registration Requirements.
- § 86105. Lobbyist Employer; Registration Requirements.

- § 86106. Renewal of Registration.
- § 86107. Registration Statement; Amendment; Termination.
- § 86108. Registration Statement; Publication.
- § 86109. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers.
- § 86109.5. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers; Online Version.
- § 86110. Recordkeeping.
- § 86111. Activity Expense; Agency Official.
- § 86112. Activity Expenses; Reporting.
- § 86112.3. Invitations.
- § 86112.5. Notification to Beneficiary of a Gift.
- § 86113. Periodic Reports; Lobbyists; Contents.
- § 86114. Periodic Reports; Lobbying Firms; Contents.
- § 86115. Periodic Reports; Employers and Others.
- § 86116. Periodic Reports; Employers and Others; Contents.
- § 86116.5. Periodic Reports; State and Local Government Agencies.
- § 86117. Periodic Reports; Filing; Time.
- § 86118. Periodic Reports; Where to File.

**§ 86100. Registration.**

(a) Individual lobbyists shall prepare lobbyist certifications pursuant to Section 86103 for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee or as part of the registration of the lobbyist employer by which the lobbyist is employed.

(b) Lobbying firms shall register with the Secretary of State.

(c) Lobbyist employers as defined in subdivision (a) of Section 82039.5 shall register with the Secretary of State.

(d) Lobbyist employers as defined in subdivision (b) of Section 82039.5 and persons described in subdivision (b) of Section 86115 are not required to register with the Secretary of State but shall file statements pursuant to this article.

History: Amended by Stats. 1983, Chapter 209; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled “Registration with Secretary of State.”)

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18249
- 2 Cal. Code of Regs. Section 18601

**§ 86101. Registration; Time.**

Every lobbying firm and lobbyist employer who is required to file a registration statement under this chapter shall register with the Secretary of State no later than 10 days after qualifying as a lobbying firm or lobbyist employer.

History: Repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Requirement of Registration.")

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18601

**§ 86102. Registration Fees.**

Each lobbying firm and lobbyist employer required to file a registration statement under this chapter may be charged not more than twenty-five dollars (\$25) per year for each lobbyist required to be listed on its registration statement.

History: Repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Renewal of Registration.")

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18601

**§ 86103. Lobbyist Certification; Requirements.**

A lobbyist certification shall include all of the following:

(a) A recent photograph of the lobbyist, the size of which shall be prescribed by the Secretary of State.

(b) The full name, business address, and telephone number of the lobbyist.

(c) A statement that the lobbyist has read and understands the prohibitions contained in Sections 86203 and 86205.

(d) (1) In the case of a lobbyist who filed a completed lobbyist certification in connection with the last regular session of the Legislature, a statement that the lobbyist has completed, within the previous 12 months or will complete no later than June 30 of the following year, the course described in subdivision (b) of Section 8956. If the lobbyist certification states that the lobbyist will complete the course no later than June 30 of the following year, the certification shall be accepted on a conditional basis. Thereafter, if the lobbyist completes the course no later than June 30 of the following year, the lobbyist shall file a new lobbyist certification with the Secretary of State which shall replace the conditional lobbyist certification previously filed. If the lobbyist certification states that the lobbyist will complete the course no later than June 30 of the following year and the lobbyist fails to do so, the conditional lobbyist certification shall be void and

the individual shall not act as a lobbyist pursuant to this title until he or she has completed the course and filed with the Secretary of State a lobbyist certification stating that he or she has completed the course and the date of completion. It shall be a violation of this section for any individual to act as a lobbyist pursuant to this title once his or her conditional certification is void.

(2) If, in the case of a new lobbyist certification, the lobbyist has not completed the course within the previous 12 months, the lobbyist certification shall include a statement that the lobbyist will complete a scheduled course within 12 months, and the lobbyist certification shall be accepted on a conditional basis. Following the lobbyist's completion of the ethics course, the lobbyist shall file a new lobbyist certification with the Secretary of State which shall replace the conditional lobbyist certification previously filed. If the new lobbyist certification states that the lobbyist will complete the course within 12 months and the lobbyist fails to do so, the conditional lobbyist certification shall be void and the individual shall not act as a lobbyist pursuant to this title until he or she has completed the course and filed with the Secretary of State a lobbyist certification stating he or she has completed the course and the date of completion. It shall be a violation of this section for any individual to act as a lobbyist pursuant to this title once his or her conditional certification is void.

(e) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1984, Ch. 161; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Registration Statement; Amendment; Termination"); amended by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 391; amended by Stats. 1995, Ch. 346; amended by Stats. 1997, Ch. 574.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18601

Opinions: In re Evans (1978) 4 FPPC Ops. 54

**§ 86104. Lobbying Firm; Registration Requirements.**

The registration of a lobbying firm shall include:

(a) The full name, business address, and telephone number of the lobbying firm.

(b) A list of the lobbyists who are partners, owners, officers, or employees of the lobbying firm.

(c) The lobbyist certification of each lobbyist in the lobbying firm.

(d) For each person with whom the lobbying firm contracts to provide the following lobbying services.

(1) The full name, business address, and telephone number of the person.

(2) A written authorization signed by the person.

(3) The time period of the contract.

(4) Information sufficient to identify the nature and interests of the person including:

(A) If the person is an individual, the name and address of his or her employer, if any, or his or her principal place of business if the person is self-employed, and a description of the business activity in which the person or his or her employer is engaged.

(B) If the person is a business entity, a description of the business activity in which it is engaged.

(C) If the person is an industry, trade, or professional association, a description of the industry, trade, or profession which it represents including a specific description of any portion or faction of the industry, trade, or profession which the association exclusively or primarily represents and, if the association has not more than 50 members, the names of the members.

(D) If the person is not an individual, business entity, or industry, trade, or professional association, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived.

(5) The lobbying interests of the person.

(6) A list of the state agencies whose legislative or administrative actions the lobbying firm will attempt to influence for the person.

(e) The name and title of a partner, owner, or officer of the lobbying firm who is responsible for filing statements and reports and keeping records required by this chapter on behalf of the lobbying firm, and a statement signed by the designated responsible person that he or she has read and understands the prohibitions contained in Sections 86203 and 86205.

(f) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1976, Ch. 415, effective July 10, 1976; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Registration Statement; Publication."); amended by Stats. 1986, Ch. 905; amended by Stats. 1987, Ch. 459.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18601

**§ 86105. Lobbyist Employer; Registration Requirements.**

The registration of a lobbyist employer shall include:

(a) The full name, business address, and telephone number of the lobbyist employer.

(b) A list of the lobbyists who are employed by the lobbyist employer.

(c) The lobbyist certification of each lobbyist employed by the lobbyist employer.

(d) Information sufficient to identify the nature and interests of the filer, including:

(1) If the filer is an individual, the name and address of the filer's employer, if any, or his or her principal place of business if the filer is self-employed, and a description of the business activity in which the filer or his or her employer is engaged.

(2) If the filer is a business entity, a description of the business activity in which it is engaged.

(3) If the filer is an industry, trade, or professional association, a description of the industry, trade, or profession which it represents including a specific description of any portion or faction of the industry, trade, or profession which the association exclusively or primarily represents and, if the association has not more than 50 members, the names of the members.

(4) If the filer is not an individual, business entity, or industry, trade, or professional association, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived.

(e) The lobbying interests of the lobbyist employer, and a list of the state agencies whose legislative or administrative actions the lobbyist employer will attempt to influence.

(f) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Accounts; Designation by Name; Deposits."); amended by Stats. 1987, Ch. 459.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117

**§ 86106. Renewal of Registration.**

Each registered lobbying firm and lobbyist employer which will be conducting activities which require registration shall renew its registration by filing photographs of its lobbyists, authorizations, and

a registration statement between November 1 and December 31, of each even-numbered year. Each lobbyist shall renew his or her lobbyist certification in connection with the renewal of registration by the lobbyist's lobbying firm or employer.

History: Repealed by Stats. 1979, Ch. 592; (Formerly titled "Accounts; Payment of Expenses; Petty Cash"); added by Stats. 1985, Ch. 1183 effective September 29, 1985; amended by Stats. 1987, Ch. 936; amended by Stats. 1997, Ch. 574.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117

#### § 86107. Registration Statement; Amendment; Termination.

(a) If any change occurs in any of the information contained in a registration statement, an appropriate amendment shall be filed with the Secretary of State within 20 days after the change. However, if the change includes the name of a person by whom a lobbying firm is retained, the registration statement of the lobbying firm shall be amended and filed to show that change prior to the lobbying firm's attempting to influence any legislative or administrative action on behalf of that person. Lobbying firms and lobbyist employers which, during a regular session of the Legislature, cease all activity which required registration shall file a notice of termination within 20 days after such cessation. Lobbying firms and lobbyist employers which at the close of a regular session of the Legislature cease all activity which required registration, shall not be required to file a notice of termination.

(b) If any change occurs in any of the information contained in a lobbyist certification or if the lobbyist terminates all activity which required the certification, the lobbyist shall submit an amended certification or notice of termination to his or her lobbying firm or lobbyist employer for filing with the Secretary of State within the time limits specified in subdivision (a). A lobbyist who at the close of a regular session of the Legislature ceases all activity which required certification, shall not be required to file a notice of termination.

(c) Lobbyists and lobbying firms shall remain subject to Section 86203 for the earlier of six months after filing a notice of termination or six months after the close of a regular session of the Legislature at the close of which the lobbyist or lobbying firm ceased all activity which required certification or registration.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Contents of Periodic Reports."); amended by Stats. 1986, Ch. 905; amended by Stats. 1987, Ch. 936.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18601

#### § 86108. Registration Statement; Publication.

All information listed on any registration statement and on any amendment, renewal, or notice of termination shall be printed by the Secretary of State and made public within 30 days after filing.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Periodic Reports; Employers and Others.")

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117

#### § 86109. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers.

Within 140 days after the commencement of each regular session of the Legislature, the Secretary of State shall publish a directory of registered individual lobbyists, lobbying firms, and lobbyist employers. The Secretary of State shall publish, from time to time, such supplements to the directory as may be necessary.

History: Amended by Stats. 1984, Ch. 161; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Periodic Reports; Employers and Others; Contents."); amended by Stats. 1991, Ch. 391.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117

#### § 86109.5. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers; Online Version.

(a) The Secretary of State shall establish and maintain on the Internet an online version of the Directory of Lobbyist, Lobbying Firms, and Lobbying Employers. The Secretary of State shall update the directory weekly.

(b) The Secretary of State shall also display on the Internet a list of the specific changes made to the Directory of Lobbyist, Lobbying Firms, and Lobbying Employers, including new registrations and listings, additions, deletions, and other revisions, during the seven days preceding the update required by subdivision (a).

(c) This section may not be implemented until July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99.

(d) Notwithstanding any other provision of this title, the lobbying data made available on the Internet shall include the street name and building number of the persons or entity representatives listed on all the documents submitted to the Secretary of State pursuant to Chapter 6 (commencing with Section 86100).

History: Added by Stats. 1999, Ch. 855.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117

**§ 86110. Recordkeeping.**

Lobbyists, lobbying firms, and lobbyist employers which receive payments, make payments or incur expenses or expect to receive payments, make payments or incur expenses in connection with activities which are reportable pursuant to this chapter shall keep detailed accounts, records, bills, and receipts as shall be required by regulations adopted by the Commission to expedite the performance of all obligations imposed by this chapter.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Periodic Reports; Filing; Time.")

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18610  
2 Cal. Code of Regs. Section 18612  
2 Cal. Code of Regs. Section 18615

**§ 86111. Activity Expense; Agency Official.**

(a) "Activity expense" as used in this chapter means any expense incurred or payment made by a lobbyist, lobbying firm, lobbyist employer or a person described in subdivision (b) of Section 86115, or arranged by a lobbyist or lobbying firm, which benefits in whole or in part any elective state official, legislative official, agency official, state candidate, or a member of the immediate family of one of these individuals. Activity expenses include gifts, honoraria, consulting fees, salaries, and any other form of compensation but do not include campaign contributions.

(b) "Agency official" as used in this chapter means any official of a state agency whose administrative actions the lobbyist, lobbying firm, lobbyist employer, or person described in subdivision (b) of Section 86115 has attempted or is attempting to influence.

History: Added by Stats. 1979, Ch. 592; amended by Stats. 1976, Ch. 415, effective July 10, 1976, repealed former Section 86111 titled "Periodic Reports; Publication"; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Lobbying Reports and Statements; Where to File.")

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18945  
2 Cal. Code of Regs. Section 18950  
2 Cal. Code of Regs. Section 18950.1  
2 Cal. Code of Regs. Section 18950.3

**§ 86112. Activity Expenses; Reporting.**

When a person is required to report activity expenses pursuant to this article, the following information shall be provided:

(a) The date and amount of each activity expense.

(b) The full name and official position, if any, of the beneficiary of each expense, a description of the benefit, and the amount of benefit.

(c) The full name of the payee of each expense if other than the beneficiary.

(d) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18611  
2 Cal. Code of Regs. Section 18613  
2 Cal. Code of Regs. Section 18640

**§ 86112.3. Invitations.**

(a) Each person filing a report pursuant to this article who sends any written or printed invitation to an elected state officer, candidate for elective state office, legislative official or agency official, shall include on the invitation or on a letter attached to the invitation the following typed, printed, or handwritten statement that is at least as large and readable as 8-point Roman boldface type, in a color or print that contrasts with the background so as to be easily legible: Attendance at this event by a public official will constitute acceptance of a reportable gift.

(b) The notice specified in subdivision (a) shall not be required to appear on any invitation wherein attendance at the event described in the invitation will not constitute acceptance of a reportable gift by an elected state officer, candidate for elective state office, legislative official or agency official, pursuant to paragraph (1) of subdivision (a) of Section 87207.

(c) The remedies provided in Chapter 3 (commencing with Section 83100) constitute the exclusive penalty for a violation of this section. The remedies provided in Chapter 11 (commencing with Section 91000) do not apply to this section.

History: Added by Stats. 1993, Ch. 1140.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117

**§ 86112.5. Notification to Beneficiary of a Gift.**

(a) Each person filing a report pursuant to this article shall provide each beneficiary of a gift listed within the report the following information:

(1) The date and amount of each gift reportable by the beneficiary.

(2) A description of the goods or services provided to the beneficiary.

(b) The information required to be disclosed pursuant to subdivision (a) shall be provided to the

beneficiary within 30 days following the end of each calendar quarter in which the gift was provided. For the purposes of meeting the disclosure requirements of this section, a lobbyist firm or lobbyist employer may provide the beneficiary a copy of the activity expense section of the report submitted to the Secretary of State pursuant to this article.

(c) The remedies provided in Chapter 3 (commencing with Section 83100) constitute the exclusive penalty for a violation of this section. The remedies provided in Chapter 11 (commencing with Section 91000) do not apply to this section.

History: Added by Stats. 1991, Ch. 322.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18640

**§ 86113. Periodic Reports; Lobbyists; Contents.**

(a) A lobbyist shall complete and verify a periodic report which contains:

- (1) A report of all activity expenses by the lobbyist during the reporting period; and
- (2) A report of all contributions of one hundred dollars (\$100) or more made or delivered by the lobbyist to any elected state officer or state candidate during the reporting period.

(b) A lobbyist shall provide the original of his or her periodic report to his or her lobbyist employer or lobbying firm within two weeks following the end of each calendar quarter.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18611

Opinions: In re Nida (1976) 2 FPPC Ops 1  
In re Atlantic-Richfield Co. (1975) 1 FPPC Ops. 147  
In re Witt (1975) 1 FPPC Ops. 145  
In re Horn (1975) 1 FPPC Ops. 126  
In re Morrissey (1975) 1 FPPC Ops. 104  
In re Spellman (1975) 1 FPPC Ops. 16

**§ 86114. Periodic Reports; Lobbying Firms; Contents.**

(a) Lobbying firms shall file periodic reports containing all of the following:

- (1) The full name, address, and telephone number of the lobbying firm.
- (2) The full name, business address, and telephone number of each person who contracted with the lobbying firm for lobbying services, a description of the specific lobbying interests of the person, and the total payments, including fees and the reimbursement

of expenses, received from the person for lobbying services during the reporting period.

(3) The total amount of payments received for lobbying services during the period.

(4) A periodic report completed and verified by each lobbyist in the lobbying firm pursuant to Section 86113.

(5) Each activity expense incurred by the lobbying firm including those reimbursed by a person who contracts with the lobbying firm for lobbying services. A total of all activity expenses of the lobbying firm and all of its lobbyists shall be included.

(6) If the lobbying firm subcontracts with another lobbying firm for lobbying services:

(A) The full name, address, and telephone number of the subcontractor.

(B) The name of the person for whom the subcontractor was retained to lobby.

(C) The total amount of all payments made to the subcontractor.

(7) The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an elected state officer, a state candidate, a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support such officers or candidates. If this contribution is reported by the lobbying firm or by a committee sponsored by the lobbying firm in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may report only the name of the committee and the identification number of the committee.

(8) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

(b) In addition to the information required by subdivision (a), lobbying firms which qualify pursuant to paragraph (2) of subdivision (a) of Section 82038.5 shall also report the name and title of each partner, owner, officer, and employee of the lobbying firm who, on at least five separate occasions during the reporting period, engaged in direct communication with any elective state official, legislative official, or agency official, for the purpose of influencing legislative or administrative action on behalf of a person who contracts with the lobbying firm for lobbying services. This does not include individuals whose actions were purely clerical.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 905.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18613

2 Cal. Code of Regs. Section 18614  
2 Cal. Code of Regs. Section 18616.4

### § 86115. Periodic Reports; Employers and Others.

Subject to the exceptions in Section 86300, the following persons shall file the statements required by Section 86116:

- (a) Any lobbyist employer; and
- (b) Any person who directly or indirectly makes payments to influence legislative or administrative action of five thousand dollars (\$5,000) or more in value in any calendar quarter, unless all of the payments are of the type described in subdivision (c) of Section 82045.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18616  
2 Cal. Code of Regs. Section 18616.4

Opinions: In re Kovall (1978) 4 FPPC Ops. 95  
In re Evans (1978) 4 FPPC Ops. 54  
In re Sloan (1976) 2 FPPC Ops. 105  
In re Gillies (1975) 1 FPPC Ops. 165  
In re Stern (1975) 1 FPPC Ops. 59  
In re Witt (1975) 1 FPPC Ops. 1

### § 86116. Periodic Reports; Employers and Others; Contents.

Every person described in Section 86115 shall file periodic reports containing the following information:

- (a) The name, business address, and telephone number of the lobbyist employer or other person filing the report.
- (b) The total amount of payments to each lobbying firm.
- (c) The total amount of all payments to lobbyists employed by the filer.
- (d) A description of the specific lobbying interests of the filer.
- (e) A periodic report completed and verified by each lobbyist employed by a lobbyist employer pursuant to Section 86113.
- (f) Each activity expense of the filer. A total of all activity expenses of the filer shall be included.
- (g) The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an elected state officer, a state candidate, or a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support the officer or candidate. If this contribution is reported by the filer or by a committee sponsored by the filer in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may

report only the name of the committee, and the identification number of the committee.

(h) (1) Except as set forth in paragraph (2), the total of all other payments to influence legislative or administrative action including overhead expenses and all payments to employees who spend 10 percent or more of their compensated time in any one month in activities related to influencing legislative or administrative action.

(2) A filer that makes payments to influence a ratemaking or quasi-legislative proceeding before the Public Utilities Commission, as defined in subdivision (b) or (c), respectively, of Section 82002, may, in lieu of reporting those payments pursuant to paragraph (1), report only the portion of those payments made to or for the filer's attorneys for time spent appearing as counsel and preparing to appear as counsel, or to or for the filer's witnesses for time spent testifying and preparing to testify, in this type of Public Utilities Commission proceeding. This alternative reporting of these payments made during a calendar month is not required to include payments made to an attorney or witness who is an employee of the filer if less than 10 percent of his or her compensated time in that month was spent in appearing, testifying, or preparing to appear or testify before the Public Utilities Commission in a ratemaking or quasi-legislative proceeding. For the purposes of this paragraph, time spent preparing to appear or preparing to testify does not include time spent preparing written testimony.

(i) Any other information required by the commission consistent with the purposes and provisions of this chapter.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 905; amended by Stats. 1987, Ch. 459; amended by Stats. 2001, Ch. 921.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18614  
2 Cal. Code of Regs. Section 18616  
2 Cal. Code of Regs. Section 18616.4

Opinions: In re Evans (1978) 4 FPPC Ops. 54  
In re Herr (1977) 3 FPPC Ops. 11  
In re Sloan (1976) 2 FPPC Ops. 105  
In re Nida (1976) 2 FPPC Ops. 1  
In re Grunsky (1975) 1 FPPC Ops. 158  
In re Atlantic-Richfield Co. (1975) 1 FPPC Ops. 147  
In re Witt (1975) 1 FPPC Ops. 145  
In re Morrissey (1975) 1 FPPC Ops. 130  
In re Carothers (1975) 1 FPPC Ops. 122  
In re Wallace (1975) 1 FPPC Ops. 118  
In re Gillies (1975) 1 FPPC Ops. 110  
In re League of California Milk Producers (1975) 1 FPPC Ops. 13  
In re Witt (1975) 1 FPPC Ops. 1

**§ 86116.5. Periodic Reports; State and Local Government Agencies.**

(a) In addition to the information required pursuant to Section 86116, all state and local agencies that file reports pursuant to Sections 86115 and 86116 shall disclose, except for overhead expenses, all payments of two hundred fifty dollars (\$250) or more made in a reporting period, including, but not limited to, all of the following:

(1) Goods and services used by a lobbyist or used to support or assist a lobbyist in connection with his or her activities as a lobbyist.

(2) Payments of any other expenses which would not have been incurred but for the filer's activities to influence or attempt to influence legislative or administrative action.

(3) Dues or similar payments made to any organization, including a federation, confederation, or trade, labor, or membership organization, that makes expenditures equal to 10 percent of its total expenditures, or fifteen thousand dollars (\$15,000), or more, during any calendar quarter, to influence legislative or administrative action.

(b) Reports required pursuant to this section may be disclosed on a separate schedule and shall include all of the following information:

(1) The name and address of the payee.

(2) The total payments made during the reporting period.

(3) The cumulative amount paid during the calendar year.

(c) All statements required by this section shall be filed as specified by Sections 86117 and 86118.

History: Added by Stats. 1992, Ch. 214.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18616

**§ 86117. Periodic Reports; Filing; Time.**

(a) Reports required by Sections 86114 and 86116 shall be filed during the month following each calendar quarter. The period covered shall be from the first day of January of each new biennial legislative session through the last day of the calendar quarter prior to the month during which the report is filed, except as specified in subdivision (b), and except that the period covered shall not include any information reported in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire legislative session to date.

(b) The period covered by the first report a person is required to file pursuant to Sections 86114 and 86116 shall begin with the first day of the calendar

quarter in which the filer first registered or qualified. On the first report a person is required to file, the total amount shall be stated for the entire calendar quarter covered by the first report.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1994, Ch. 1139.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18617

**§ 86118. Periodic Reports; Where to File.**

The original and one copy of each report required by Sections 86114 and 86116 of the Government Code shall be filed with the Secretary of State.

History: Added by Stats. 1986, Ch. 905.

**Article 2. Prohibitions.**

**§ 86200 - 86205**

- § 86200. Contribution. [Repealed]
- § 86201. Gift.
- § 86202. Unlawful Contribution. [Repealed]
- § 86203. Unlawful Gifts.
- § 86204. Receipt of Unlawful Gift.
- § 86205. Acts Prohibited.

**§ 86200. Contribution. [Repealed]**

History: Repealed by Stats. 1984, Ch. 161.

**§ 86201. Gift.**

"Gift" as used in this article means a gift made directly or indirectly to any state candidate, elected state officer, or legislative official, or to an agency official of any agency required to be listed on the registration statement of the lobbying firm or the lobbyist employer of the lobbyist.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18624  
2 Cal. Code of Regs. Section 18630

Opinions: In re Goddard (1978) 4 FPPC Ops. 1  
In re Olson (1975) 1 FPPC Ops. 107  
In re Smithers (1975) 1 FPPC Ops. 42

**§ 86202. Unlawful Contribution. [Repealed]**

History: Repealed by Stats. 1984, Ch. 161.

**§ 86203. Unlawful Gifts.**

It shall be unlawful for a lobbyist, or lobbying firm, to make gifts to one person aggregating more than ten dollars (\$10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18624  
2 Cal. Code of Regs. Section 18630  
2 Cal. Code of Regs. Section 18945.3

Opinions: In re Institute for Governmental Advocates (1982) 7 FPPC Ops. 1  
In re Goddard (1978) 4 FPPC Ops. 1  
In re Reinhardt (1977) 3 FPPC Ops. 83  
In re Zenz (1975) 1 FPPC Ops. 195  
In re Horn (1975) 1 FPPC Ops. 126  
In re Olson (1975) 1 FPPC Ops. 107  
In re Gilchrist (1975) 1 FPPC Ops. 82  
In re Smithers (1975) 1 FPPC Ops. 42  
In re Bjenkke (1975) 1 FPPC Ops. 37

**§ 86204. Receipt of Unlawful Gift.**

It shall be unlawful for any person knowingly to receive any gift which is made unlawful by Section 86203.

History: Amended by Stats. 1984, Ch. 161.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18941

**§ 86205. Acts Prohibited.**

No lobbyist or lobbying firm shall:

(a) Do anything with the purpose of placing any elected state officer, legislative official, agency official, or state candidate under personal obligation to the lobbyist, the lobbying firm, or the lobbyist's or the firm's employer.

(b) Deceive or attempt to deceive any elected state officer, legislative official, agency official, or state candidate with regard to any material fact pertinent to any pending or proposed legislative or administrative action.

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its passage or defeat.

(d) Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative or administrative action or to cause any communication to be sent to any elected state officer, legislative official, agency official, or state candidate in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(e) Represent falsely, either directly or indirectly, that the lobbyist or the lobbying firm can control the official action of any elected state officer, legislative official, or agency official.

(f) Accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18625  
Opinions: In re Reinhardt (1977) 3 FPPC Ops. 83

**Article 3. Exemptions.**

**§ 86300**

§ 86300. Exemptions.

**§ 86300. Exemptions.**

The provisions of this chapter are not applicable to:

(a) Any elected public official acting in his official capacity, or any employee of the State of California acting within the scope of his employment; provided that, an employee of the State of California, other than a legislative official, who attempts to influence legislative action and who would be required to register as a lobbyist except for the provisions of this subdivision shall not make gifts of more than ten dollars (\$10) in a calendar month to an elected state officer or legislative official.

(b) Any newspaper or other periodical of general circulation, book publisher, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical, radio or television station) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisement, which directly or indirectly urge legislative or administrative action if such newspaper, periodical, book publisher, radio or television station or individual, engages in no further or other activities in connection with urging legislative or administrative action other than to appear before a committee of the Legislature or before a state agency in support of or in opposition to such action; or

(c) A person when representing a bona fide church or religious society solely for the purpose of protecting the public right to practice the doctrines of such church.

History: Amended by Stats. 1975, Ch. 1079.

References at the time of publication (see page 3):

Opinions: In re Herr (1977) 3 FPPC Ops. 11  
In re Morgan (1975) 1 FPPC Ops. 177

**Chapter 7. Conflicts of Interests.**

**§ 87100 - 87500**

Article 1. General Prohibitions. § 87100 - 87105

2. Disclosure. § 87200 - 87210

3. Conflict of Interest Codes.

§ 87300 - 87313

- 3.5. Multiagency Filers. § 87350
- 4. Disqualification of Former Officers and Employees. § 87400 - 87407
- 4.5. Disqualification of State Officers and Employees. § 87450
- 4.6. Loans to Public Officials. § 87460-87462
- 5. Filing. § 87500

**Article 1. General Prohibitions.  
§ 87100 - 87105**

- § 87100. Public Officials; State and Local.
- § 87100.1. Professional Engineers and Surveyors as Consultants.
- § 87101. Legally Required Participation in Governmental Decision.
- § 87102. Applicability of Enforcement Provisions; Additional Requirements.
- § 87102.5. Legislature; Use of Position to Influence Decisions.
- § 87102.6. Nongeneral Legislation; Definitions.
- § 87102.8. Elected State Officer; Use of Position to Influence Decisions.
- § 87103. Financial Interest.
- § 87103.5. Income from Retail Sales.
- § 87103.6. Source of Income; Payments to Government Agencies.
- § 87104. Prohibitions on Public Officials.
- § 87105. Manner of Disqualification.

**§ 87100. Public Officials; State and Local.**

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18232  
 2 Cal. Code of Regs. Section 18700  
 2 Cal. Code of Regs. Section 18701  
 2 Cal. Code of Regs. Section 18702  
 2 Cal. Code of Regs. Section 18702.1  
 2 Cal. Code of Regs. Section 18702.2  
 2 Cal. Code of Regs. Section 18702.3  
 2 Cal. Code of Regs. Section 18702.4  
 2 Cal. Code of Regs. Section 18702.5  
 2 Cal. Code of Regs. Section 18703  
 2 Cal. Code of Regs. Section 18703.1  
 2 Cal. Code of Regs. Section 18703.2  
 2 Cal. Code of Regs. Section 18703.3  
 2 Cal. Code of Regs. Section 18703.4  
 2 Cal. Code of Regs. Section 18703.5  
 2 Cal. Code of Regs. Section 18704  
 2 Cal. Code of Regs. Section 18704.1  
 2 Cal. Code of Regs. Section 18704.2  
 2 Cal. Code of Regs. Section 18704.5

- 2 Cal. Code of Regs. Section 18705
- 2 Cal. Code of Regs. Section 18705.1
- 2 Cal. Code of Regs. Section 18705.2
- 2 Cal. Code of Regs. Section 18705.3
- 2 Cal. Code of Regs. Section 18705.4
- 2 Cal. Code of Regs. Section 18705.5
- 2 Cal. Code of Regs. Section 18706
- 2 Cal. Code of Regs. Section 18709
- 2 Cal. Code of Regs. Section 18940
- 2 Cal. Code of Regs. Section 18942
- 2 Cal. Code of Regs. Section 18943
- 2 Cal. Code of Regs. Section 18944.2

Opinions: In re Hanko (2002) 16 FPPC Ops. 1  
In re Galligan (2000) 14 FPPC Ops. 1

**§ 87100.1. Professional Engineers and Surveyors as Consultants.**

(a) A registered professional engineer or licensed land surveyor who renders professional services as a consultant to a state or local government, either directly or through a firm in which he or she is employed or is a principal, does not have a financial interest in a governmental decision pursuant to Section 87100 where the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency and does not exercise public agency decisionmaking authority as a contract city or county engineer or surveyor.

(b) For purposes of this section, the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency when the consultant is in responsible charge of the work pursuant to Section 6703 or 8703 of the Business and Professions Code.

(c) Subdivision (a) does not apply to that portion of the work that constitutes the recommendation of the actual formula to spread the costs of an assessment district's improvements if both of the following apply:

(1) The engineer has received income of two hundred fifty dollars (\$250) or more for professional services in connection with any parcel included in the benefit assessment district within 12 months prior to the creation of the district.

(2) The district includes other parcels in addition to those parcels for which the engineer received the income.

The recommendation of the actual formula does not include preliminary site studies, preliminary engineering, plans, specifications, estimates, compliance with environmental laws and regulations, or the collection of data and information, utilized in applying the formula.

History: Added by Stats. 1991, Ch. 887.

### § 87101. Legally Required Participation in Governmental Decision.

Section 87100 does not prevent any public official from making or participating in the making of a governmental decision to the extent his participation is legally required for the action or decision to be made. The fact that an official's vote is needed to break a tie does not make his participation legally required for purposes of this section.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18702  
2 Cal. Code of Regs. Section 18702.1  
2 Cal. Code of Regs. Section 18708

Opinions: In re Tobias (1999) 5 FPPC Ops. 5  
In re Brown (1978) 4 FPPC Ops. 19  
In re Hudson (1978) 4 FPPC Ops. 13  
In re Hopkins (1977) 3 FPPC Ops. 107  
In re Maloney (1977) 3 FPPC Ops. 69

### § 87102. Applicability of Enforcement Provisions; Additional Requirements.

The requirements of Section 87100 are in addition to the requirements of Articles 2 (commencing with Section 87200) and 3 (commencing with Section 87300) and any Conflict of Interest Code adopted thereunder. Except as provided in Section 87102.5, the remedies provided in Chapters 3 (commencing with Section 83100) and 11 (commencing with Section 91000) shall not be applicable to elected state officers for violations or threatened violations of this article.

History: Amended by Stats. 1980, Ch. 1029; amended by Stats. 1990, Ch. 84.

### § 87102.5. Legislature; Use of Position to Influence Decisions.

(a) The remedies provided in Chapter 3 (commencing with Section 83100) shall apply to any Member of the Legislature who makes, participates in making, or in any way attempts to use his or her official position to influence any of the following governmental decisions in which he or she knows or has reason to know that he or she has a financial interest:

- (1) Any state governmental decision, other than any action or decision before the Legislature, made in the course of his or her duties as a member.
- (2) Approval, modification, or cancellation of any contract to which either house or a committee of the Legislature is a party.
- (3) Introduction as a lead author of any legislation that the member knows or has reason to know is nongeneral legislation.
- (4) Any vote in a legislative committee or subcommittee on what the member knows or has reason to know is nongeneral legislation.

(5) Any rollcall vote on the Senate or Assembly floor on an item which the member knows is nongeneral legislation.

(6) Any action or decision before the Legislature in which all of the following occur:

(A) The member has received any salary, wages, commissions, or similar earned income within the preceding 12 months from a lobbyist employer.

(B) The member knows or has reason to know the action or decision will have a direct and significant financial impact on the lobbyist employer.

(C) The action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(7) Any action or decision before the Legislature on legislation that the member knows or has reason to know will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the member has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(b) For purposes of this section, all of the following apply:

(1) "Any action or decision before the Legislature" means any vote in a committee or subcommittee, or any rollcall vote on the floor of the Senate or Assembly.

(2) "Financial interest" means an interest as defined in Section 87103.

(3) "Legislation" means a bill, resolution, or constitutional amendment.

(4) "Nongeneral legislation" means legislation that is described in Section 87102.6 and is not of a general nature pursuant to Section 16 of Article IV of the Constitution.

(5) A Member of the Legislature has reason to know that an action or decision will have a direct and significant financial impact on a person with respect to which disqualification may be required pursuant to subdivision (a) if either of the following apply:

(A) With the knowledge of the member, the person has attempted to influence the vote of the member with respect to the action or decision.

(B) Facts have been brought to the member's personal attention indicating that the action or decision will have a direct and significant impact on the person.

(6) The prohibitions specified in subdivision (a) do not apply to a vote on the Budget Bill as a whole, or to a vote on a consent calendar, a motion for reconsideration, a waiver of any legislative rule, or any purely procedural matter.

(7) A Member of the Legislature has reason to know that legislation is nongeneral legislation if facts have been brought to his or her personal attention indicating that it is nongeneral legislation.

(8) Written advice given to a Member of the Legislature regarding his or her duties under this section by the Legislative Counsel shall have the same effect as advice given by the Commission pursuant to subdivision (b) of Section 83114 if both of the following apply:

(A) The member has made the same written request based on the same material facts to the Commission for advice pursuant to Section 83114 as to his or her duties under this section, as the written request and facts presented to the Legislative Counsel.

(B) The Commission has not provided written advice pursuant to the member's request prior to the time the member acts in good faith reliance on the advice of the Legislative Counsel.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1990, Ch. 1075.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18232  
 2 Cal. Code of Regs. Section 18702.5  
 2 Cal. Code of Regs. Section 18703  
 2 Cal. Code of Regs. Section 18703.1  
 2 Cal. Code of Regs. Section 18703.2  
 2 Cal. Code of Regs. Section 18703.3  
 2 Cal. Code of Regs. Section 18703.4  
 2 Cal. Code of Regs. Section 18703.5  
 2 Cal. Code of Regs. Section 18704  
 2 Cal. Code of Regs. Section 18704.1  
 2 Cal. Code of Regs. Section 18704.2  
 2 Cal. Code of Regs. Section 18704.5  
 2 Cal. Code of Regs. Section 18705  
 2 Cal. Code of Regs. Section 18705.1  
 2 Cal. Code of Regs. Section 18705.2  
 2 Cal. Code of Regs. Section 18705.3  
 2 Cal. Code of Regs. Section 18705.4  
 2 Cal. Code of Regs. Section 18705.5  
 2 Cal. Code of Regs. Section 18706

Opinions: In re Galligan (2000) 14 FPPC Ops. 1

**§ 87102.6. Nongeneral Legislation; Definitions.**

(a) "Nongeneral legislation" means legislation as to which both of the following apply:

(1) It is reasonably foreseeable that the legislation will have direct and significant financial impact on one or more identifiable persons, or one or more identifiable pieces of real property.

(2) It is not reasonably foreseeable that the legislation will have a similar impact on the public generally or on a significant segment of the public.

(b) For purposes of this section and Section 87102.5, all of the following apply:

(1) "Legislation" means a bill, resolution, or constitutional amendment.

(2) "Public generally" includes an industry, trade, or profession.

(3) Any recognized subgroup or specialty of the industry, trade, or profession constitutes a significant segment of the public.

(4) A legislative district, county, city, or special district constitutes a significant segment of the public.

(5) More than a small number of persons or pieces of real property is a significant segment of public.

(6) Legislation, administrative action, or other governmental action impacts in a similar manner all members of the public, or all members of a significant segment of the public, on which it has a direct financial effect, whether or not the financial effect on individual members of the public or the significant segment of the public is the same as the impact on the other members of the public or the significant segment of the public.

(7) The Budget Bill as a whole is not nongeneral legislation.

(8) Legislation that contains at least one provision that constitutes nongeneral legislation is nongeneral legislation, even if the legislation also contains other provisions that are general and do not constitute nongeneral legislation.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2006, Ch. 538.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18232  
 2 Cal. Code of Regs. Section 18702.5  
 2 Cal. Code of Regs. Section 18703  
 2 Cal. Code of Regs. Section 18703.1  
 2 Cal. Code of Regs. Section 18703.2  
 2 Cal. Code of Regs. Section 18703.3  
 2 Cal. Code of Regs. Section 18703.4  
 2 Cal. Code of Regs. Section 18703.5  
 2 Cal. Code of Regs. Section 18704  
 2 Cal. Code of Regs. Section 18704.1  
 2 Cal. Code of Regs. Section 18704.2  
 2 Cal. Code of Regs. Section 18704.5  
 2 Cal. Code of Regs. Section 18705  
 2 Cal. Code of Regs. Section 18705.1  
 2 Cal. Code of Regs. Section 18705.2  
 2 Cal. Code of Regs. Section 18705.3  
 2 Cal. Code of Regs. Section 18705.4  
 2 Cal. Code of Regs. Section 18705.5  
 2 Cal. Code of Regs. Section 18706

Opinions: In re Galligan (2000) 14 FPPC Ops. 1

**§ 87102.8. Elected State Officer; Use of Position to Influence Decisions.**

(a) No elected state officer, as defined in subdivision (f) of Section 14 of Article V of the California Constitution, shall make or participate in the making of, or use his or her official position to influence, any governmental decision before the agency in which the elected state officer serves, where he or she knows or has reason to know that he or she has a financial interest.

(b) An elected state officer knows or has reason to know that he or she has a financial interest in any action by, or a decision before the agency in which he or she serves where either of the following occur:

(1) The action or decision will have a direct and significant financial impact on a lobbyist employer from which the officer has received any salary, wages, commissions, or similar earned income within the preceding 12 months and the action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(2) The action or decision will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the officer has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(c) The definitions of "public generally" and "significant segment of the public" contained in Section 87102.6 shall apply to this section.

(d) Notwithstanding Section 87102, the remedies provided in Chapter 3 (commencing with Section 83100) shall apply to violations of this section.

History: Added by Stats. 1990, Ch. 1075; amended by Stats. 1991, Ch. 674.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18232  
 2 Cal. Code of Regs. Section 18702.5  
 2 Cal. Code of Regs. Section 18703  
 2 Cal. Code of Regs. Section 18703.1  
 2 Cal. Code of Regs. Section 18703.2  
 2 Cal. Code of Regs. Section 18703.3  
 2 Cal. Code of Regs. Section 18703.4  
 2 Cal. Code of Regs. Section 18703.5  
 2 Cal. Code of Regs. Section 18704  
 2 Cal. Code of Regs. Section 18704.1  
 2 Cal. Code of Regs. Section 18704.2  
 2 Cal. Code of Regs. Section 18704.5  
 2 Cal. Code of Regs. Section 18705  
 2 Cal. Code of Regs. Section 18705.1  
 2 Cal. Code of Regs. Section 18705.2  
 2 Cal. Code of Regs. Section 18705.3  
 2 Cal. Code of Regs. Section 18705.4  
 2 Cal. Code of Regs. Section 18705.5  
 2 Cal. Code of Regs. Section 18706

Opinions: In re Galligan (2000) 14 FPPC Ops. 1

**§ 87103. Financial Interest.**

A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

(a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.

(c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the Commission to equal the same amount determined by the Commission pursuant to subdivision (f) of Section 89503.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

History: Amended by Stats. 1979, Ch. 686; amended by Stats. 1980, Ch. 183; amended by Stats. 1984, Ch. 931; amended by Stats. 1985, Ch. 611; amended by Stats. 1994, Ch. 386; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18229  
 2 Cal. Code of Regs. Section 18232  
 2 Cal. Code of Regs. Section 18700  
 2 Cal. Code of Regs. Section 18702.5  
 2 Cal. Code of Regs. Section 18703  
 2 Cal. Code of Regs. Section 18703.1  
 2 Cal. Code of Regs. Section 18703.2  
 2 Cal. Code of Regs. Section 18703.3  
 2 Cal. Code of Regs. Section 18703.4  
 2 Cal. Code of Regs. Section 18703.5  
 2 Cal. Code of Regs. Section 18704  
 2 Cal. Code of Regs. Section 18704.1  
 2 Cal. Code of Regs. Section 18704.2  
 2 Cal. Code of Regs. Section 18704.5  
 2 Cal. Code of Regs. Section 18705  
 2 Cal. Code of Regs. Section 18705.1  
 2 Cal. Code of Regs. Section 18705.2  
 2 Cal. Code of Regs. Section 18705.3

2 Cal. Code of Regs. Section 18705.4  
 2 Cal. Code of Regs. Section 18705.5  
 2 Cal. Code of Regs. Section 18706  
 2 Cal. Code of Regs. Section 18707  
 2 Cal. Code of Regs. Section 18707.1  
 2 Cal. Code of Regs. Section 18707.2  
 2 Cal. Code of Regs. Section 18707.4  
 2 Cal. Code of Regs. Section 18707.5  
 2 Cal. Code of Regs. Section 18707.6  
 2 Cal. Code of Regs. Section 18707.7  
 2 Cal. Code of Regs. Section 18707.9  
 2 Cal. Code of Regs. Section 18707.10  
 2 Cal. Code of Regs. Section 18709  
 2 Cal. Code of Regs. Section 18730  
 2 Cal. Code of Regs. Section 18940  
 2 Cal. Code of Regs. Section 18940.2  
 2 Cal. Code of Regs. Section 18941  
 2 Cal. Code of Regs. Section 18942  
 2 Cal. Code of Regs. Section 18942.1  
 2 Cal. Code of Regs. Section 18943  
 2 Cal. Code of Regs. Section 18944.2

Opinions: In re Roberts (2004) 17 FPPC Ops. 9  
In re Hanko (2002) 16 FPPC Ops. 1  
In re Galligan (2000) 14 FPPC Ops. 1  
In re Logan (1985) 9 FPPC Ops. 1  
In re Nord (1983) 8 FPPC Ops. 6  
In re Ferraro (1978) 4 FPPC Ops. 62  
In re Callanan, Sands and Hill (1978) 4 FPPC  
 Ops. 33  
In re Brown (1978) 4 FPPC Ops. 19  
In re Hopkins (1977) 3 FPPC Ops. 107  
In re Gillmor (1977) 3 FPPC Ops. 38  
In re Moore (1977) 3 FPPC Ops. 33  
In re Thomas (1977) 3 FPPC Ops. 30  
In re Sherwood (1976) 2 FPPC Ops. 168  
In re Sankey (1976) 2 FPPC Ops. 157  
In re Owen (1976) 2 FPPC Ops. 77  
In re Thorne (1975) 1 FPPC Ops. 198  
In re Biondo (1975) 1 FPPC Ops. 54  
In re Presley (1975) 1 FPPC Ops. 39

#### § 87103.5. Income from Retail Sales.

(a) Notwithstanding subdivision (c) of Section 87103, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official who owns a 10-percent or greater interest in the entity if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer is not distinguishable from the amount of income received from its other retail customers.

(b) Notwithstanding subdivision (c) of Section 87103, in a jurisdiction with a population of 10,000 or less which is located in a county with 350 or fewer retail businesses, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official of that jurisdiction who owns a 10-percent or greater interest in the entity, if the retail customers of the business entity constitute a significant segment of

the public generally, and the amount of income received by the business entity from the customer does not exceed one percent of the gross sales revenues that the business entity earned during the 12 months prior to the time the decision is made.

(c) For the purposes of subdivision (b):

(1) Population in a jurisdiction shall be established by the United States Census.

(2) The number of retail businesses in a county shall be established by the previous quarter's Covered Employment and Wages Report (ES-202) of the Labor Market Information Division of the California Employment Development Department.

History: Added by Stats. 1984, Ch. 931; amended by Stats. 2002, Ch. 654.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18707.5

#### § 87103.6. Source of Income; Payments to Government Agencies.

Notwithstanding subdivision (c) of Section 87103, any person who makes a payment to a state agency or local government agency to defray the estimated reasonable costs to process any application, approval, or any other action, including but not limited to, holding public hearings and evaluating or preparing any report or document, shall not by reason of the payments be a source of income to a person who is retained or employed by the agency.

History: Added by Stats. 1991, Ch. 887.

#### § 87104. Prohibitions on Public Officials.

(a) No public official of a state agency shall, for compensation, act as an agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance before, or any oral or written communication to, his or her state agency or any officer or employee thereof, if the appearance or communication is for the purpose of influencing a decision on a contract, grant, loan, license, permit, or other entitlement for use.

(b) For purposes of this section, "public official" includes a member, officer, employee, or consultant of an advisory body to a state agency, whether the advisory body is created by statute or otherwise, except when the public official is representing his or her employing state, local, or federal agency in an appearance before, or communication to, the advisory body.

History: Added by Stats. 1994, Ch. 414; amended by Stats. 1997, Ch. 145.

#### § 87105. Manner of Disqualification.

(a) A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100

shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

(1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

(2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100.

(3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

(4) Notwithstanding paragraph (3), a public official described in subdivision (a) may speak on the issue during the time that the general public speaks on the issue.

(b) This section does not apply to Members of the Legislature:

History: Added by Stats. 2002, Ch. 233.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18702
- 2 Cal. Code of Regs. Section 18702.1
- 2 Cal. Code of Regs. Section 18702.5

**Article 2. Disclosure.**

**§ 87200 - 87210**

- § 87200. Applicability.
- § 87201. Candidates.
- § 87202. Officials - Elected, Appointed and Hold Over.
- § 87203. Officeholders; Annual Statements.
- § 87204. Leaving Office.
- § 87205. Persons Completing and Beginning Term of Office on the Same Day.
- § 87206. Disclosure of Investment or Interest in Real Property.
- § 87206.5. Interest in Real Property; Exclusion of Principal Residence. [Repealed]
- § 87207. Disclosure of Income.
- § 87208. Disclosure of Investments and Interest in Real Property; Incorporation by Reference.
- § 87209. Business Positions.
- § 87210. Gifts Made Through Intermediaries and Others - Disclosure Requirements.

**§ 87200. Applicability.**

This article is applicable to elected state officers, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources

Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of planning commissions, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and to candidates for any of these offices at any election.

History: Amended by Stats. 1975, Ch. 797; effective September 16, 1975, operative September 5, 1975; amended by Stats. 1976, Ch. 129, effective May 5, 1976; amended by Stats. 1978, Ch. 537; amended by Stats. 1979, Ch. 674; amended by Stats. 1983, Ch. 214; amended by Stats. 1984, Ch. 727, effective July 1, 1985; amended by Stats. 1985, Ch. 611; amended by Stats. 1989, Ch. 403.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18701
- 2 Cal. Code of Regs. Section 18702
- 2 Cal. Code of Regs. Section 18702.1
- 2 Cal. Code of Regs. Section 18702.5
- 2 Cal. Code of Regs. Section 18723
- 2 Cal. Code of Regs. Section 18724
- 2 Cal. Code of Regs. Section 18732.5
- 2 Cal. Code of Regs. Section 18753

**§ 87201. Candidates.**

Every candidate for an office specified in Section 87200 other than a justice of an appellate court or the Supreme Court shall file no later than the final filing date of a declaration of candidacy, a statement disclosing his or her investments, his or her interests in real property, and any income received during the immediately preceding 12 months.

This statement shall not be required if the candidate has filed, within 60 days prior to the filing of his or her declaration of candidacy, a statement for the same jurisdiction pursuant to Section 87202 or 87203.

History: Amended by Stats. 1977, Ch. 1193; amended by Stats. 1980, Ch. 928; amended by Stats. 1984, Ch. 931; amended by Stats. 1992, Ch. 1141.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18732.5
- Opinions: In re Boreman (1975) 1 FPPC Ops. 101

**§ 87202. Officials - Elected, Appointed and Hold Over.**

(a) Every person who is elected to an office specified in Section 87200 shall, within 30 days after assuming the office, file a statement disclosing his or her investments and his or her interests in real property held on the date of assuming office, and income received during the 12 months before assuming office. Every person who is appointed or nominated to an

office specified in Section 87200 shall file such a statement not more than 30 days after assuming office, provided, however, that a person appointed or nominated to such an office who is subject to confirmation by the Commission on Judicial Appointments or the State Senate shall file such a statement no more than 10 days after the appointment or nomination.

The statement shall not be required if the person has filed, within 60 days prior to assuming office, a statement for the same jurisdiction pursuant to Section 87203.

(b) Every elected state officer who assumes office during the month of December or January shall file a statement pursuant to Section 87203 instead of this section, except that:

(1) The period covered for reporting investments and interests in real property shall begin on the date the person filed his or her declarations of candidacy.

(2) The period covered for reporting income shall begin 12 months prior to the date the person assumed office.

History: Amended by Stats. 1977, Ch. 1193; amended by Stats. 1978, Ch. 537; amended by Stats. 1989, Ch. 499; amended by Stats. 1997, Ch. 36.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18722  
2 Cal. Code of Regs. Section 18723  
2 Cal. Code of Regs. Section 18732.5

#### § 87203. Officeholders; Annual Statements.

Every person who holds an office specified in Section 87200 shall, each year at a time specified by Commission regulations, file a statement disclosing his investments, his interests in real property and his income during the period since the previous statement filed under this section or Section 87202. The statement shall include any investments and interests in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

History: Amended by Stats. 1976, Ch. 1161.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18723  
2 Cal. Code of Regs. Section 18732.5

Opinions: In re Sampson (1975) 1 FPPC Ops. 183

#### § 87204. Leaving Office.

Every person who leaves an office specified in Section 87200 shall, within thirty days after leaving the office, file a statement disclosing his investments, his interests in real property, and his income during the period since the previous statement filed under

Sections 87202 or 87203. The statement shall include any investments and interests in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18722  
2 Cal. Code of Regs. Section 18723  
2 Cal. Code of Regs. Section 18732.5

#### § 87205. Persons Completing and Beginning Term of Office on the Same Day.

A person who completes a term of an office specified in Section 87200 and within 45 days begins a term of the same office or another such office of the same jurisdiction is deemed not to assume office or leave office.

History: Amended by Stats. 1977, Ch. 1193; amended by Stats. 1997, Ch. 145; amended by Stats. 2005, Ch. 200.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
2 Cal. Code of Regs. Section 18732.5

#### § 87206. Disclosure of Investment or Interest in Real Property.

If an investment or an interest in real property is required to be disclosed under this article, the statement shall contain:

(a) A statement of the nature of the investment or interest.

(b) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged.

(c) The address or other precise location of the real property.

(d) A statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars (\$2,000) but does not exceed ten thousand dollars (\$10,000), whether it exceeds ten thousand dollars (\$10,000) but does not exceed one hundred thousand dollars (\$100,000), whether it exceeds one hundred thousand dollars (\$100,000), but does not exceed one million dollars (\$1,000,000) or whether it exceeds one million dollars (\$1,000,000).

(e) In the case of a statement filed under Sections 87203 or 87204, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

(f) For purposes of disclosure under this article, "interest in real property" does not include the principal residence of the filer or any other property

which the filer utilizes exclusively as the personal residence of the filer.

History: Amended by Stats. 1980, Ch. 1000; amended by Stats. 1984, Ch. 931; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18233  
2 Cal. Code of Regs. Section 18729  
2 Cal. Code of Regs. Section 18732.5

Opinions: In re Schabarum (1975) 1 FPPC Ops. 95

**§ 87206.5. Interest in Real Property; Exclusion of Principal Residence. [Repealed]**

History: Added by Stats. 1976, Ch. 1161; repealed by Stats. 1980, Ch. 1000. (Now contained in Section 87206.)

**§ 87207. Disclosure of Income.**

(a) When income is required to be reported under this article, the statement shall contain, except as provided in subdivision (b):

(1) The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.

(2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least five hundred dollars (\$500) but did not exceed one thousand dollars (\$1,000), whether it was in excess of one thousand dollars (\$1,000) but was not greater than ten thousand dollars (\$10,000), whether it was greater than ten thousand dollars (\$10,000) but not greater than one hundred thousand dollars (\$100,000), or whether it was greater than one hundred thousand dollars (\$100,000).

(3) A description of the consideration, if any, for which the income was received.

(4) In the case of a gift, the amount and the date on which the gift was received.

(5) In the case of a loan, the annual interest rate, the security, if any, given for the loan, and the term of the loan.

(b) When the filer's pro rata share of income to a business entity, including income to a sole proprietorship, is required to be reported under this article, the statement shall contain:

(1) The name, address, and a general description of the business activity of the business entity.

(2) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from that person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

(c) When a payment, including an advance or reimbursement, for travel is required to be reported pursuant to this section, it may be reported on a separate travel reimbursement schedule which shall be included in the filer's statement of economic interest. A filer who chooses not to use the travel schedule shall disclose payments for travel as a gift, unless it is clear from all surrounding circumstances that the services provided were equal to or greater in value than the payments for the travel, in which case the travel may be reported as income.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1995, operative January 7, 1975; amended by Stats. 1979, Ch. 674; superseded by Stats. 1979, Ch. 686; amended by Stats. 1980, Ch. 1000; amended by Stats. 1982, Ch. 29; amended by Stats. 1984, Ch. 931; amended by Stats. 1990, Ch. 1075; amended by Stats. 1997, Ch. 638; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18704  
2 Cal. Code of Regs. Section 18728.5  
2 Cal. Code of Regs. Section 18732.5  
2 Cal. Code of Regs. Section 18740  
2 Cal. Code of Regs. Section 18940  
2 Cal. Code of Regs. Section 18941.1  
2 Cal. Code of Regs. Section 18942  
2 Cal. Code of Regs. Section 18943  
2 Cal. Code of Regs. Section 18944.1  
2 Cal. Code of Regs. Section 18944.2  
2 Cal. Code of Regs. Section 18945  
2 Cal. Code of Regs. Section 18946  
2 Cal. Code of Regs. Section 18946.1  
2 Cal. Code of Regs. Section 18946.2  
2 Cal. Code of Regs. Section 18946.3  
2 Cal. Code of Regs. Section 18946.4  
2 Cal. Code of Regs. Section 18946.5  
2 Cal. Code of Regs. Section 18950  
2 Cal. Code of Regs. Section 18950.1  
2 Cal. Code of Regs. Section 18950.3

Opinions: In re Taylor (2004) 17 FPPC Ops. 1  
In re Hopkins (1977) 3 FPPC Ops. 107  
In re Carey (1977) 3 FPPC Ops. 99  
In re Gutierrez (1977) 3 FPPC Ops. 44  
In re Thomas (1977) 3 FPPC Ops. 30  
In re Cory (1976) 1 FPPC Ops. 48  
In re Hayes (1975) 1 FPPC Ops. 210  
In re Russel (1975) 1 FPPC Ops. 191  
In re Cory (1975) 1 FPPC Ops. 153  
In re Brown (1975) 1 FPPC Ops. 67

**§ 87208. Disclosure of Investments and Interests in Real Property; Incorporation by Reference.**

Except in statements required by Section 87203, investments and interests in real property which have been disclosed on a statement of economic interests filed in the same jurisdiction within the previous 60 days may be incorporated by reference.

History: Added by Stats. 1976, Ch. 1161.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18732.5

**§ 87209. Business Positions.**

When a statement is required to be filed under this article, every person specified in Section 87200 shall disclose any business positions held by that person. For purposes of this section, "business position" means any business entity in which the filer is a director, officer, partner, trustee, employee, or holds any position of management, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction or has done business in the jurisdiction at any time during the two years prior to the date the statement is required to be filed.

History: Added by Stats. 1997, Ch. 455, effective September 24, 1997.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18230
- 2 Cal. Code of Regs. Section 18732.5

**§ 87210. Gifts Made Through Intermediaries and Others - Disclosure Requirements.**

No person shall make a gift totaling fifty dollars (\$50) or more in a calendar year to a person described in Article 2 on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.

History: Added by Stats. 1978, Ch. 640; amended by Stats. 1982, Ch. 29.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18732.5
- 2 Cal. Code of Regs. Section 18945.3

**Article 3. Conflict of Interest Codes.**

**§ 87300 - 87313**

- § 87300. Agency Requirement.
- § 87301. Formulation.
- § 87302. Required Provisions.
- § 87302.3. Disclosure by Candidates for Elective Office.
- § 87302.6. Disclosure by Members of Boards and Commissions of Newly Created Agencies.
- § 87303. Submission; Code Reviewing Body.
- § 87304. Failure to Submit, Adopt or Amend a Proposed Code.
- § 87305. Order to Adopt; Superior Court.
- § 87306. Amendments for Changed Circumstances.

- § 87306.5. Conflict of Interest Code; Local Agency Review.
- § 87307. Amendments to Code by Agency; Failure to Act.
- § 87308. Judicial Review.
- § 87309. Requirements for Approval.
- § 87310. Designated Employee; Broad or Indefinable Duties.
- § 87311. Review and Preparation; Administrative Procedure Act.
- § 87311.5. Review and Preparation; Judicial Branch Agencies.
- § 87312. Commission Assistance.
- § 87313. Gifts Made Through Intermediaries and Others - Disclosure Requirements.

**§ 87300. Agency Requirement.**

Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18329.5
- 2 Cal. Code of Regs. Section 18351
- 2 Cal. Code of Regs. Section 18730
- 2 Cal. Code of Regs. Section 18732.5
- 2 Cal. Code of Regs. Section 18750
- 2 Cal. Code of Regs. Section 18750.1
- 2 Cal. Code of Regs. Section 18750.2
- 2 Cal. Code of Regs. Section 18751
- 2 Cal. Code of Regs. Section 18754
- 2 Cal. Code of Regs. Section 18755

- Opinions: In re Vonk (1981) 6 FPPC Ops. 1
- In re Leach (1978) 4 FPPC Ops. 48
- In re Siegel (1977) 3 FPPC Ops. 62

**§ 87301. Formulation.**

It is the policy of this act that Conflict of Interest Codes shall be formulated at the most decentralized level possible, but without precluding intra-departmental review. Any question of the level of a department which should be deemed an "agency" for purposes of Section 87300 shall be resolved by the code reviewing body.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18329.5
- 2 Cal. Code of Regs. Section 18730
- 2 Cal. Code of Regs. Section 18732.5
- 2 Cal. Code of Regs. Section 18754

**§ 87302. Required Provisions.**

Each Conflict of Interest Code shall contain the following provisions:

(a) 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.

(b) Requirements that each designated employee, other than those specified in Section 87200, file statements at times and under circumstances described in this section, disclosing reportable investments, business positions, interests in real property and income. The information disclosed with respect to reportable investments, interests in real property, and income shall be the same as the information required by Sections 87206 and 87207. The first statement filed under a Conflict of Interest Code by a designated employee shall disclose any reportable investments, business positions, interests in real property, and income. An initial statement shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code, disclosing investments, business positions, and interests in real property held on the effective date of the Conflict of Interest Code and income received during the 12 months before the effective date of the Conflict of Interest Code. Thereafter, each new designated employee shall file a statement within 30 days after assuming office, or if subject to State Senate confirmation, 30 days after being appointed or nominated, disclosing investments, business positions, and interests in real property held on, and income received during the 12 months before, the date of assuming office or the date of being appointed or nominated, respectively. Each designated employee shall file an annual statement, at the time specified in the Conflict of Interest Code, disclosing reportable investments, business positions, interest in real property and income held or received at any time during the previous calendar year or since the date the designated employee took office if during the calendar year. Every designated employee who leaves office shall file, within 30 days of leaving office, a statement disclosing reportable investments, business positions, interests in real property, and income held or received

at any time during the period between the closing date of the last statement required to be filed and the date of leaving office.

(c) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making, participating in the making, or using their official position to influence the making of any decision. Disqualification shall be required by the Conflict of Interest Code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision. No designated employee shall be required to disqualify himself or herself with respect to any matter which could not legally be acted upon or decided without his or her participation.

(d) For any position enumerated pursuant to subdivision (a), an individual who resigns the position within 12 months following initial appointment or within 30 days of the date of a notice mailed by the filing officer of the individual's filing obligation, whichever is earlier, is not deemed to assume or leave office, provided that during the period between appointment and resignation, the individual does not make, participate in making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position. Within 30 days of the date of a notice mailed by the filing officer, the individual shall do both of the following:

(1) File a written resignation with the appointing power.

(2) File a written statement with the filing officer on a form prescribed by the Commission and signed under penalty of perjury stating that the individual, during the period between appointment and resignation, did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

History: Amended by Stats. 1978, Ch. 537; amended by Stats. 1979, Ch. 674; amended by Stats. 1980, Ch. 765; amended by Stats. 1987, Ch. 1188; amended by Stats. 1989, Ch. 499; amended by Stats. 1991, Ch. 857; amended by Stats. 1992, Ch. 441.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18117  
 2 Cal. Code of Regs. Section 18329.5  
 2 Cal. Code of Regs. Section 18351  
 2 Cal. Code of Regs. Section 18701  
 2 Cal. Code of Regs. Section 18722  
 2 Cal. Code of Regs. Section 18730  
 2 Cal. Code of Regs. Section 18732  
 2 Cal. Code of Regs. Section 18732.5  
 2 Cal. Code of Regs. Section 18733  
 2 Cal. Code of Regs. Section 18735

- 2 Cal. Code of Regs. Section 18736
- 2 Cal. Code of Regs. Section 18736.1
- 2 Cal. Code of Regs. Section 18737
- 2 Cal. Code of Regs. Section 18754
- 2 Cal. Code of Regs. Section 18940
- 2 Cal. Code of Regs. Section 18942
- 2 Cal. Code of Regs. Section 18943
- 2 Cal. Code of Regs. Section 18944.2
- 2 Cal. Code of Regs. Section 18945
- 2 Cal. Code of Regs. Section 18946
- 2 Cal. Code of Regs. Section 18946.1
- 2 Cal. Code of Regs. Section 18946.2
- 2 Cal. Code of Regs. Section 18946.3
- 2 Cal. Code of Regs. Section 18946.4
- 2 Cal. Code of Regs. Section 18946.5
- 2 Cal. Code of Regs. Section 18950
- 2 Cal. Code of Regs. Section 18950.3

Opinions: In re Alperin (1977) 3 FPPC Ops. 77

**§ 87302.3. Disclosure by Candidates for Elective Office.**

(a) Every candidate for an elective office that is designated in a conflict of interest code shall file a statement disclosing his or her investments, business positions, interests in real property, and income received during the immediately preceding 12 months, as enumerated in the disclosure requirements for that position. The statement shall be filed with the election official with whom the candidate's declaration of candidacy or other nomination documents to appear on the ballot are required to be filed and shall be filed no later than the final filing date for the declaration or nomination documents.

(b) This section does not apply to either of the following:

(1) A candidate for an elective office designated in a conflict of interest code who has filed an initial, assuming office, or annual statement pursuant to that conflict of interest code within 60 days before the deadline specified in subdivision (a).

(2) A candidate for an elective office who has filed a statement for the office pursuant to Section 87302.6 within 60 days before the deadline specified in subdivision (a).

History: Added by Stats. 2007, Ch. 348.

**§ 87302.6. Disclosure by Members of Boards and Commissions of Newly Created Agencies.**

Notwithstanding Section 87302, a member of a board or commission of a newly created agency shall file a statement at the same time and in the same manner as those individuals required to file pursuant to Section 87200. A member shall file his or her statement pursuant to Section 87302 once the agency adopts an approved conflict-of-interest code.

History: Added by Stats. 2002, Ch. 264.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18117
- 2 Cal. Code of Regs. Section 18329.5
- 2 Cal. Code of Regs. Section 18732.5
- 2 Cal. Code of Regs. Section 18754

**§ 87303. Submission; Code Reviewing Body.**

No conflict of interest code shall be effective until it has been approved by the code reviewing body. Each agency shall submit a proposed conflict of interest code to the code reviewing body by the deadline established for the agency by the code reviewing body. The deadline for a new agency shall be not later than six months after it comes into existence. Within 90 days after receiving the proposed code or receiving any proposed amendments or revisions, the code reviewing body shall do one of the following:

(a) Approve the proposed code as submitted.

(b) Revise the proposed code and approve it as revised.

(c) Return the proposed code to the agency for revision and resubmission within 60 days. The code reviewing body shall either approve the revised code or revise it and approve it. When a proposed conflict of interest code or amendment is approved by the code reviewing body, it shall be deemed adopted and shall be promulgated by the agency.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1979, Ch. 686; amended by Stats. 1997, effective September 24, 1997.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18329.5
- 2 Cal. Code of Regs. Section 18351
- 2 Cal. Code of Regs. Section 18732.5
- 2 Cal. Code of Regs. Section 18750
- 2 Cal. Code of Regs. Section 18750.1
- 2 Cal. Code of Regs. Section 18750.2
- 2 Cal. Code of Regs. Section 18755

**§ 87304. Failure to Submit, Adopt or Amend a Proposed Code.**

If any agency fails to submit a proposed conflict of interest code or amendments, or if any state agency fails to report amendments pursuant to subdivision (b) of Section 87306 within the time limits prescribed pursuant to Section 87303 or 87306, the code reviewing body may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for the agency. If the code reviewing body does not issue an appropriate order or take other action within 90 days of the deadline imposed on the agency as prescribed in Section 87303 or 87306, the Commission may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for

the agency. The Commission shall consult with the agency before ordering the adoption of a conflict of interest code for the agency.

History: Amended by Stats. 1988, Ch. 923; amended by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 491.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18329.5  
2 Cal. Code of Regs. Section 18732.5

**§ 87305. Order to Adopt; Superior Court.**

If after six months following the deadline for submission of the proposed Conflict of Interest Code to the code reviewing body no Conflict of Interest Code has been adopted and promulgated, the superior court may, in an action filed by the Commission, the agency, the code reviewing body, any officer, employee, member or consultant of the agency, or any resident of the jurisdiction, prepare a Conflict of Interest Code and order its adoption by the agency or grant any other appropriate relief. The agency and the code reviewing body shall be parties to any action filed pursuant to this section.

History: Amended by Stats. 1980, Ch. 765.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18329.5  
2 Cal. Code of Regs. Section 18732.5

**§ 87306. Amendments for Changed Circumstances.**

(a) Every agency shall amend its Conflict of Interest Code, subject to the provisions of Section 87303, when change is necessitated by changed circumstances, including the creation of new positions which must be designated pursuant to subdivision (a) of Section 87302 and relevant changes in the duties assigned to existing positions. Amendments or revisions shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. If after nine months following the occurrence of those changes the Conflict of Interest Code has not been amended or revised, the superior court may issue any appropriate order in an action brought under the procedures set forth in Section 87305.

(b) Notwithstanding subdivision (a), every state agency shall submit to the code reviewing body a biennial report identifying changes in its code, including, but not limited to, all new positions designated pursuant to subdivision (a) of Section 87302, changes in the list of reportable sources of income, and relevant changes in the duties assigned to existing positions. These reports shall be submitted no later than March 1 of each odd-numbered year.

History: Amended by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 491.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18329.5  
2 Cal. Code of Regs. Section 18351  
2 Cal. Code of Regs. Section 18732.5  
2 Cal. Code of Regs. Section 18736  
2 Cal. Code of Regs. Section 18750  
2 Cal. Code of Regs. Section 18750.1  
2 Cal. Code of Regs. Section 18750.2  
2 Cal. Code of Regs. Section 18752  
2 Cal. Code of Regs. Section 18755

**§ 87306.5. Conflict of Interest Code; Local Agency Review.**

(a) No later than July 1 of each even-numbered year, the code reviewing body shall direct every local agency which has adopted a Conflict of Interest Code in accordance with this title to review its Conflict of Interest Code and, if a change in its code is necessitated by changed circumstances, submit an amended Conflict of Interest Code in accordance with subdivision (a) of Section 87302 and Section 87303 to the code reviewing body.

(b) Upon review of its code, if no change in the code is required, the local agency head shall submit a written statement to that effect to the code reviewing body no later than October 1 of the same year.

History: Added by Stats. 1990, Ch. 1075.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18732.5  
2 Cal. Code of Regs. Section 18736.1

**§ 87307. Amendments to Code by Agency; Failure to Act.**

An agency may at any time amend its Conflict of Interest Code, subject to the provisions of Section 87303, either upon its own initiative or in response to a petition submitted by an officer, employee, member or consultant of the agency, or a resident of the jurisdiction. If the agency fails to act upon such a petition within ninety days, the petition shall be deemed denied. Within thirty days after the denial of a petition, the petitioner may appeal to the code reviewing body. The code reviewing body shall either dismiss the appeal or issue an appropriate order to the agency within ninety days.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18732.5  
2 Cal. Code of Regs. Section 18737

**§ 87308. Judicial Review.**

Judicial review of any action of a code reviewing body under this chapter may be sought by the Commission, by the agency, by an officer, employee, member or consultant of the agency, or by a resident of the jurisdiction.

History: Amended by Stats. 1980, Ch. 765.  
References at the time of publication (see page 3):  
Regulations: 2 Cal. Code of Regs. Section 18732.5

**§ 87309. Requirements for Approval.**

No Conflict of Interest Code or amendment shall be approved by the code reviewing body or upheld by a court if it:

(a) Fails to provide reasonable assurance that all foreseeable potential conflict of interest situations will be disclosed or prevented;

(b) Fails to provide to each affected person a clear and specific statement of his duties under the Code; or

(c) Fails to adequately differentiate between designated employees with different powers and responsibilities.

References at the time of publication (see page 3):  
Regulations: 2 Cal. Code of Regs. Section 18732.5  
Opinions: In re Alperin (1977) 3 FPPC Ops. 77

**§ 87310. Designated Employee; Broad or Indefinable Duties.**

If the duties of a designated employee are so broad or indefinable that the requirements of Section 87309 cannot be complied with, the Conflict of Interest Code shall require the designated employee to comply with the requirements of Article 2 of this chapter.

References at the time of publication (see page 3):  
Regulations: 2 Cal. Code of Regs. Section 18732.5

**§ 87311. Review and Preparation; Administrative Procedure Act.**

The review of proposed Conflict of Interest Codes by the Commission and by the Attorney General and the preparation of proposed Conflict of Interest Codes by state agencies shall be subject to the Administrative Procedure Act. The review and preparation of Conflict of Interest Codes by local government agencies shall be carried out under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.

References at the time of publication (see page 3):  
Regulations: 2 Cal. Code of Regs. Section 18351  
2 Cal. Code of Regs. Section 18732.5

**§ 87311.5. Review and Preparation; Judicial Branch Agencies.**

(a) Notwithstanding the provisions of Section 87311, the review of the Conflict of Interest Code of an agency in the judicial branch of government shall

not be subject to the provisions of the Administrative Procedure Act. The review and preparation of Conflict of Interest Codes by these agencies shall be carried out under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.

(b) Conflict of Interest Codes of the Judicial Council, the Commission on Judicial Performance, and the Board of Governors and designated employees of the State Bar of California shall not be subject to the provisions of subdivision (c) of Section 87302.

History: Added by Stats. 1984, Ch. 727, effective July 1, 1985.  
References at the time of publication (see page 3):  
Regulations: 2 Cal. Code of Regs. Section 18732.5

**§ 87312. Commission Assistance.**

The Commission shall, upon request, provide technical assistance to agencies in the preparation of Conflict of Interest Codes. Such assistance may include the preparation of model provisions for various types of agencies. Nothing in this section shall relieve each agency of the responsibility for adopting a Conflict of Interest Code appropriate to its individual circumstances.

References at the time of publication (see page 3):  
Regulations: 2 Cal. Code of Regs. Section 18732.5

**§ 87313. Gifts Made Through Intermediaries and Others - Disclosure Requirements.**

No person shall make a gift of fifty dollars (\$50) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another to a person whom he knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.

History: Added by Stats. 1978, Ch. 640; amended by Stats. 1984, Ch. 931.  
References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18732.5  
2 Cal. Code of Regs. Section 18945.3

**Article 3.5. Multiagency Filers.  
§ 87350**

§ 87350. Multiagency Filers.

**§ 87350. Multiagency Filers.**

Notwithstanding any other provision of this title, a person required to file more than one assuming office statement, statement of economic interests, or leaving office statement, due to his or her status as a designated employee for more than one joint powers insurance agency, may elect to file a multiagency statement disclosing all investments in entities doing business in the state, all interests in real property located within the state, and all income received during the applicable time period, in lieu of filing the disclosure statements for each agency.

The filer shall notify the Commission of his or her decision to become a multiagency filer. This status shall continue until revoked by the filer.

History: Added by Stats. 1990, Ch. 69.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18732.5
- 2 Cal. Code of Regs. Section 18735.5

**Article 4. Disqualification of Former Officers and Employees.**  
**§ 87400 - 87407**

- § 87400. Definitions.
- § 87401. Restrictions on Activities of Former State Officers.
- § 87402. Restrictions on Activities of Former State Officers; Assisting Others.
- § 87403. Exemptions.
- § 87404. Proceedings to Exclude Former State Officers.
- § 87405. Application of Requirements.
- § 87406. Milton Marks Postgovernmental Employment Restrictions Act.
- § 87406.1. Postgovernmental Employment Restrictions for Districts and District Boards.
- § 87406.3. Postgovernmental Employment Restrictions for Local Officials.
- § 87407. Influencing Prospective Employment.

**§ 87400. Definitions.**

Unless the contrary is stated or clearly appears from the context, the definitions set forth in this section shall govern the interpretation of this article.

(a) "State administrative agency" means every state office, department, division, bureau, board and commission, but does not include the Legislature, the courts or any agency in the judicial branch of government.

(b) "State administrative official" means every member, officer, employee or consultant of a state administrative agency who as part of his or her official

responsibilities engages in any judicial, quasi-judicial or other proceeding in other than a purely clerical, secretarial or ministerial capacity.

(c) "Judicial, quasi-judicial or other proceeding" means any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in any court or state administrative agency, including but not limited to any proceeding governed by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

(d) "Participated" means to have taken part personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, investigation or use of confidential information as an officer or employee, but excluding approval, disapproval or rendering of legal advisory opinions to departmental or agency staff which do not involve a specific party or parties.

History: Added by Stats. 1980, Ch. 66.

**§ 87401. Restrictions on Activities of Former State Officers.**

No former state administrative official, after the termination of his or her employment or term of office, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof by making any formal or informal appearance, or by making any oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial or other proceeding if both of the following apply:

- (a) The State of California is a party or has a direct and substantial interest.
- (b) The proceeding is one in which the former state administrative official participated.

History: Added by Stats. 1980, Ch. 66; amended by Stats. 1985, Ch. 775.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18741.1
- 2 Cal. Code of Regs. Section 18746.2

Opinions: In re Lucas (2000) 14 FPPC Ops. 14

**§ 87402. Restrictions on Activities of Former State Officers; Assisting Others.**

No former state administrative official, after the termination of his or her employment or term of office shall for compensation aid, advise, counsel, consult or assist in representing any other person (except the State of California) in any proceeding in which the

official would be prohibited from appearing under Section 87401.

History: Added by Stats. 1980, Ch. 66.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18741.1

Opinions: In re Lucas (2000) 14 FPCC Ops. 14

#### § 87403. Exemptions.

The prohibitions contained in Sections 87401 and 87402 shall not apply:

(a) To prevent a former state administrative official from making or providing a statement, which is based on the former state administrative official's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received other than that regularly provided for by law or regulation for witnesses; or

(b) To communications made solely for the purpose of furnishing information by a former state administrative official if the court or state administrative agency to which the communication is directed makes findings in writing that:

(1) The former state administrative official has outstanding and otherwise unavailable qualifications;

(2) The former state administrative official is acting with respect to a particular matter which requires such qualifications; and

(3) The public interest would be served by the participation of the former state administrative official; or

(c) With respect to appearances or communications in a proceeding in which a court or state administrative agency has issued a final order, decree, decision or judgment but has retained jurisdiction if the state administrative agency of former employment gives its consent by determining that:

(1) At least five years have elapsed since the termination of the former state administrative official's employment or term of office; and

(2) The public interest would not be harmed.

History: Added by Stats. 1980, Ch. 66.

#### § 87404. Proceedings to Exclude Former State Officers.

Upon the petition of any interested person or party, the court or the presiding or other officer, including but not limited to a hearing officer serving pursuant to Section 11512 of the Government Code, in any judicial, quasi-judicial or other proceeding, including but not limited to any proceeding pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code may,

after notice and an opportunity for a hearing, exclude any person found to be in violation of this article from further participation, or from assisting or counseling any other participant, in the proceeding then pending before such court or presiding or other officer.

History: Added by Stats. 1980, Ch. 66.

#### § 87405. Application of Requirements.

The requirements imposed by this article shall not apply to any person who left government service prior to the effective date of this article except that any such person who returns to government service on or after the effective date of this article shall thereafter be covered thereby.

History: Added by Stats. 1980, Ch. 66.

#### § 87406. Milton Marks Postgovernmental Employment Restrictions Act.

(a) This section shall be known, and may be cited, as the Milton Marks Postgovernment Employment Restrictions Act of 1990.

(b) No Member of the Legislature, for a period of one year after leaving office, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(c) No elected state officer, other than a Member of the Legislature, for a period of one year after leaving office, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this subdivision, an appearance before a "state administrative agency" does not include an appearance in a court of law, before an administrative law judge, or before the Workers' Compensation Appeals Board.

(d) (1) No designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position which entails the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, and no

member of a state administrative agency, for a period of one year after leaving office or employment, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which he or she worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this paragraph, an appearance before a state administrative agency does not include an appearance in a court of law, before an administrative law judge, or before the Workers' Compensation Appeals Board. The prohibition of this paragraph shall only apply to designated employees employed by a state administrative agency on or after January 7, 1991.

(2) For purposes of paragraph (1), a state administrative agency of a designated employee of the Governor's office includes any state administrative agency subject to the direction and control of the Governor.

(e) The prohibitions contained in subdivisions (b), (c), and (d) shall not apply to any individual subject to this section who is or becomes any of the following:

(1) An officer or employee of another state agency, board, or commission if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the state agency, board, or commission.

(2) An official holding an elective office of a local government agency if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the local government agency.

(f) This section shall become operative on January 1, 1991, but only if Senate Constitutional Amendment No. 32 of the 1989-90 Regular Session is approved by the voters. With respect to Members of the Legislature whose current term of office on January 1, 1991, began in December 1988, this section shall not apply until January 1, 1993.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1990, Ch. 1075; amended by Stats. 1993, Ch. 230; amended by Stats. 1999, Ch. 10, effective April 15, 1999.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18746.1  
2 Cal. Code of Regs. Section 18746.2

#### § 87406.1. Postgovernmental Employment Restrictions for Districts and District Boards.

(a) For purposes of this section, "district" means an air pollution control district or air quality management district and "district board" means the governing body of an air pollution control district or an air quality management district.

(b) No former member of a district board, and no former officer or employee of a district who held a position which entailed the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, shall, for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that district board, or any committee, subcommittee, or present member of that district board, or any officer or employee of the district, if the appearance or communication is made for the purpose of influencing regulatory action.

(c) Subdivision (b) shall not apply to any individual who is, at the time of the appearance or communication, a board member, officer, or employee of another district or an employee or representative of a public agency.

(d) This section applies to members and former members of district hearing boards.

History: Added by Stats. 1994, Ch. 747.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18746.2

#### § 87406.3. Postgovernmental Employment Restrictions for Local Officials.

(a) A local elected official, chief administrative officer of a county, city manager, or general manager or chief administrator of a special district who held a position with a local government agency as defined in Section 82041 shall not, for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that local government agency, or any committee, subcommittee, or present member of that local government agency, or any officer or employee of the local government agency, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

(b) Subdivision (a) shall not apply to any individual who is, at the time of the appearance or communication, a board member, officer, or employee of another local government agency or an employee or representative of a public agency and is appearing or communicating on behalf of that agency.

(c) Nothing in this section shall preclude a local government agency from adopting an ordinance or policy that restricts the appearance of a former local official before that local government agency if that ordinance or policy is more restrictive than subdivision (a).

(d) Notwithstanding Sections 82002 and 82037, the following definitions shall apply for purposes of this section only:

(1) "Administrative action" means the proposal, drafting, development, consideration, amendment, enactment, or defeat by any local government agency of any matter, including any rule, regulation, or other action in any regulatory proceeding, whether quasi-legislative or quasi-judicial. Administrative action does not include any action that is solely ministerial.

(2) "Legislative action" means the drafting, introduction, modification, enactment, defeat, approval, or veto of any ordinance, amendment, resolution, report, nomination, or other matter by the legislative body of a local government agency or by any committee or subcommittee thereof, or by a member or employee of the legislative body of the local government agency acting in his or her official capacity.

(e) This section shall become operative on July 1, 2006.

History: Added by Stats. 2005, Ch. 680, operative July 1, 2006.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18746.2  
2 Cal. Code of Regs. Section 18746.3

**§ 87407. Influencing Prospective Employment.**

No public official shall make, participate in making, or use his or her official position to influence, any governmental decision directly relating to any person with whom he or she is negotiating, or has any arrangement concerning, prospective employment.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2003, Ch. 778.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18747

**Article 4.5. Disqualification of State Officers and Employees.**

**§ 87450**

§ 87450. Restrictions in Participation of State Officers in Decisions Relating to Contracts.

**§ 87450. Restrictions in Participation of State Officers in Decisions Relating to Contracts.**

(a) In addition to the provisions of Article 1 (commencing with Section 87100), no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family, has engaged in any business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property, or the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more within 12 months prior to the time the official action is to be performed.

(b) As used is subdivision (a), "state administrative official" has the same meaning as defined in Section 87400.

History: Added by Stats. 1986, Ch. 653.

**Article 4.6. Loans to Public Officials.**

**§ 87460 - 87462**

§ 87460. Loans to Public Officials.

§ 87461. Loan Terms.

§ 87462. Personal Loans.

**§ 87460. Loans to Public Officials.**

(a) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(b) No public official who is required to file a statement of economic interests pursuant to Section 87200 and no public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(c) No elected officer of a state or local government agency shall, from the date of his or her

election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(d) No public official who is required to file a statement of economic interests pursuant to Section 87200 and no public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(e) This section shall not apply to the following:

(1) Loans made to the campaign committee of an elected officer or candidate for elective office.

(2) Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

(3) Loans from a person which, in the aggregate, do not exceed two hundred fifty dollars (\$250) at any given time.

(4) Loans made, or offered in writing, before the operative date of this section.

History: Added by Stats. 1997, Ch. 638.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18229

Opinions: In re Roberts (2004) 17 FPPC Ops. 9

#### § 87461. Loan Terms.

(a) Except as set forth in subdivision (b), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(b) This section shall not apply to the following types of loans:

(1) Loans made to the campaign committee of the elected officer.

(2) Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

(3) Loans made, or offered in writing, before the operative date of this section.

(c) Nothing in this section shall exempt any person from any other provisions of this title.

History: Added by Stats. 1997, Ch. 638.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18229

Opinions: In re Roberts (2004) 17 FPPC Ops. 9

#### § 87462. Personal Loans.

(a) Except as set forth in subdivision (b), a personal loan shall become a gift to the debtor for the purposes of this title in the following circumstances:

(1) If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

(2) If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

(A) The date the loan was made.

(B) The date the last payment of one hundred dollars (\$100) or more was made on the loan.

(C) The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

(b) This section shall not apply to the following types of loans:

(1) A loan made to the campaign committee of an elected officer or a candidate for elective office.

(2) A loan that would otherwise not be a gift as defined in this title.

(3) A loan that would otherwise be a gift as set forth under paragraph (a), but on which the creditor has taken reasonable action to collect the balance due.

(4) A loan that would otherwise be a gift as set forth under paragraph (a), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

(5) A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(c) Nothing in this section shall exempt any person from any other provisions of this title.

History: Added by Stats. 1997, Ch. 638.

#### Article 5. Filing.

##### § 87500

§ 87500. Statements of Economic Interests -- Where to File.

##### § 87500. Statements of Economic Interests -- Where to File.

Statements of economic interests required by this chapter shall be filed as follows:

(a) Statewide elected officer -- one original with the agency, which shall make and retain a copy, forward a copy to the Secretary of State, and forward the original to the commission, which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy to the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(b) Candidates for statewide elective office -- one original and one copy with the person with whom the candidate's declaration of candidacy is filed, who shall forward the copy to the Secretary of State and the original to the commission, which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy to the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(c) Members of the Legislature and Board of Equalization -- one original with the agency, which shall make and retain a copy, forward a copy to the Secretary of State, and forward the original to the commission, which shall retain the original and send one copy to the elections official of the county that contains the largest percentage of registered voters in

the election district that the officeholder represents, and one copy to the elections official of the county in which the officeholder resides. No more than one copy of each statement need be filed with the elections official of any one county. The commission shall be the filing officer.

(d) Candidates for the Legislature or the State Board of Equalization -- one original and one copy with the person with whom the candidate's declaration of candidacy is filed, who shall forward the copy to the Secretary of State and the original to the commission, which shall retain the original and send one copy to the elections official of the county that contains the largest percentage of registered voters in the election district in which the candidate seeks nomination or election, and one copy to the elections official of the county in which the candidate resides. No more than one copy of each statement need be filed with the elections official of any one county. The commission shall be the filing officer.

(e) Persons holding the office of chief administrative officer and candidates for and persons holding the office of district attorney, county counsel, county treasurer, and member of the board of supervisors -- one original with the county clerk, who shall make and retain a copy and forward the original to the commission, which shall be the filing officer.

(f) Persons holding the office of city manager or, if there is no city manager, the chief administrative officer, and candidates for and persons holding the office of city council member, city treasurer, city attorney, and mayor -- one original with the city clerk, who shall make and retain a copy and forward the original to the commission, which shall be the filing officer.

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, planning commissioners, and members of the California Coastal Commission -- one original with the agency, which shall make and retain a copy and forward the original to the commission, which shall be the filing officer.

(h) Members of the Fair Political Practices Commission -- one original with the commission, which shall make and retain a copy and forward the original to the office of the Attorney General, which shall be the filing officer.

(i) Judges and court commissioners -- one original with the clerk of the court, who shall make and retain a copy and forward the original to the commission, which shall be the filing officer. Original statements of candidates for the office of judge shall be filed with the person with whom the candidate's declaration of candidacy is filed, who shall retain a

copy and forward the original to the commission, which shall be the filing officer.

(j) Except as provided for in subdivision (k), heads of agencies, members of boards or commissions not under a department of state government, and members of boards or commissions not under the jurisdiction of a local legislative body – one original with the agency, which shall make and retain a copy and forward the original to the code reviewing body, which shall be the filing officer. The code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency.

(k) Heads of local government agencies and members of local government boards or commissions, for which the Fair Political Practices Commission is the code reviewing body – one original to the agency or board or commission, which shall be the filing officer, unless, at its discretion, the Fair Political Practices Commission elects to act as the filing officer. In this instance, the original shall be filed with the agency, board, or commission, which shall make and retain a copy and forward the original to the Fair Political Practices Commission.

(l) Designated employees of the Legislature – one original with the house of the Legislature by which the designated employee is employed. Each house of the Legislature may provide that the originals of statements filed by its designated employees be filed directly with the commission, and that no copies be retained by that house.

(m) Designated employees under contract to more than one joint powers insurance agency and who elect to file a multiagency statement pursuant to Section 87350 – the original of the statement with the commission, which shall be the filing officer, and, with each agency with which they are under contract, a statement declaring that their statement of economic interests is on file with the commission and available upon request.

(n) Members of a state licensing or regulatory board, bureau, or commission – one original with the agency, which shall make and retain a copy and forward the original to the commission, which shall be the filing officer.

(o) Persons not mentioned above – one original with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.

History: Added by Stats. 1979, Ch. 674; amended by Stats. 1983, Ch. 214; amended by Stats. 1984, Ch. 1368; amended by Stats. 1985, Ch. 611; amended by Stats. 1988, Ch. 708; amended by Stats. 1990, Ch. 69; amended by Stats. 1992, Ch. 405; amended by

Stats. 1993, Ch. 1140; amended by Stats. 1996, Ch. 289; amended by Stats. 2005, Ch. 200; amended by Stats. 2007, Ch. 348.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18115  
2 Cal. Code of Regs. Section 18227  
2 Cal. Code of Regs. Section 18732.5  
2 Cal. Code of Regs. Section 18735.5  
2 Cal. Code of Regs. Section 18753

### Chapter 8. Ballot Pamphlet. § 88000 - 88007

- § 88000. Responsibility.
- § 88001. Contents.
- § 88002. Format.
- § 88002.5. Summary.
- § 88003. Duties of Legislative Analyst.
- § 88004. Manner, Form of Printing Measures.
- § 88005. Printing Specifications.
- § 88005.5. Duties of Legislative Counsel.
- § 88006. Public Examination of Pamphlet.
- § 88007. Amendment of Chapter by Legislature.

#### § 88000. Responsibility.

There shall be a state ballot which shall be prepared by the Secretary of State.

#### § 88001. Contents.

The ballot pamphlet shall contain all of the following:

- (a) A complete copy of each state measure.
- (b) A copy of the specific constitutional or statutory provision, if any, which would be repealed or revised by each state measure.
- (c) A copy of the arguments and rebuttals for and against each state measure.
- (d) A copy of the analysis of each state measure.
- (e) Tables of contents, indexes, art work, graphics and other materials which the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.
- (f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county clerk upon request.
- (g) A written explanation of the judicial retention procedure as required by Section 9083 of the Elections Code.

History: Amended by Stats. 1977, Ch. 520; amended by Stats. 1991, Ch. 491; amended by Stats. 1994, Ch. 923.

References at the time of publication (see page 3):

Opinions: In re Miller (1978) 4 FPCC Ops. 26  
In re Bunyon (1976) 2 FPCC Ops. 10

**§ 88002. Format.**

The ballot pamphlet shall contain as to each state measure to be voted upon, the following in the order set forth in this section:

(a) Upon the top portion of the first page and not exceeding one-third of the page shall appear:

(1) The identification of the measure by number and title.

(2) The official summary prepared by the Attorney General.

(3) The total number of votes cast for and against the measure in both the State Senate and Assembly if the measure was passed by the Legislature.

(b) Beginning at the top of the right page shall appear the analysis prepared by the Legislative Analyst, provided that the analysis fits on single page. If it does not fit on a single page, then the analysis shall begin on the lower portion of the first left page and shall continue on subsequent pages until it is completed.

(c) Arguments for and against the measure shall be placed on the next left and right pages, respectively, following the page on which the analysis of the Legislative Analyst ends. The rebuttals shall be placed immediately below the arguments.

(d) If no argument against the measure has been submitted, the argument for the measure shall appear on the right page facing the analysis.

(e) The complete text of each measure shall appear at the back of the pamphlet. The text of the measure shall contain the provisions of the proposed measure and the existing provisions of law repealed or revised by the measure. The provisions of the proposed measure differing from the existing provisions of law affected shall be distinguished in print, so as to facilitate comparison.

(f) The following statement shall be printed at the bottom of each page where arguments appear: "Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency."

History: Amended by Stats. 1990, Ch. 1430.

**§ 88002.5. Summary.**

(a) The ballot pamphlet shall also contain a section, located near the front of the pamphlet, that provides a concise summary of the general meaning and effect of "yes" and "no" votes on each state measure.

(b) The summary statements required by this section shall be prepared by the Legislative Analyst. These statements are not intended to provide comprehensive information on each measure. The Legislative Analyst shall be solely responsible for

determining the contents of these statements. The statements shall be available for public examination and amendment pursuant to Section 88006.

History: Added by Stats. 1993, Ch. 156; amended by Stats. 1999, Ch. 312.

**§ 88003. Duties of Legislative Analyst.**

The Legislative Analyst shall prepare an impartial analysis of the measure describing the measure and including a fiscal analysis of the measure showing the amount of any increase or decrease in revenue or cost to state or local government. Any estimate of increased cost to local governments shall be set out in boldface print in the ballot pamphlet. The analysis shall be written in clear and concise terms which will easily be understood by the average voter, and shall avoid the use of technical terms wherever possible. The analysis may contain background information, including the effect of the measure on existing law and the effect of enacted legislation which will become effective if the measure is adopted, and shall generally set forth in an impartial manner the information which the average voter needs to understand the measure adequately. The Legislative Analyst may contract with professional writers, educational specialists or other persons for assistance in writing an analysis that fulfills the requirements of this section, including the requirement that the analysis be written so that it will be easily understood by the average voter. The Legislative Analyst may also request the assistance of any state department, agency, or official in preparing his or her analysis. Prior to submission of the analysis to the Secretary of State, the Legislative Analyst shall submit the analysis to a committee of five persons appointed by the Legislative analyst for the purpose of reviewing the analysis to confirm its clarity and easy comprehension to the average voter. The committee shall be drawn from the public at large, and one member shall be a specialist in education, one shall be bilingual, and one shall be a professional writer. Members of the committee shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. Within five days of the submission of the analysis to the committee, the committee shall make such recommendations to the Legislative Analyst as it deems appropriate to guarantee that the analysis can be easily understood by the average voter. The Legislative Analyst shall consider the committee's recommendations, and he or she shall incorporate in the analysis those changes recommended by the committee that he or she deems to be appropriate. The Legislative Analyst is solely responsible for determining the content of the analysis required by this section. The title of the measure which appears on the ballot shall be amended to

contain a summary of the Legislative Analyst's estimate of the net state and local government financial impact.

History: Amended by Stats. 1975, Ch. 486, effective September 2, 1975; amended by Stats. 1992, Ch. 232.

**§ 88004. Manner, Form of Printing Measures.**

Measures shall be printed in the ballot pamphlet, so far as possible, in the same order, manner and form in which they are designated upon the ballot.

**§ 88005. Printing Specifications.**

The ballot pamphlet shall be printed according to the following specifications:

- (a) The pages of the pamphlet shall be not smaller than 8 x 11 inches in size;
- (b) It shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in 8-point type;
- (c) It shall be printed on a quality and weight of paper which in the judgment of the Secretary of State best serves the voters;
- (d) The pamphlet shall contain a certificate of correctness by the Secretary of State.

References at the time of publication (see page 3):

Opinions: In re Miller (1978) 4 FPPC Ops. 26.

**§ 88005.5. Duties of Legislative Counsel.**

The Legislative Counsel shall prepare and proofread the texts of all measures and the provisions which are repealed or revised.

**§ 88006. Public Examination of Pamphlet.**

Not less than 20 days before he or she submits the copy for the ballot pamphlet to the State Printer, the Secretary of State shall make the copy available for public examination. Any elector may seek a writ of mandate requiring the copy to be amended or deleted from the ballot pamphlet. A peremptory writ of mandate shall issue only upon clear and convincing proof that the copy in question is false, misleading or inconsistent with the requirements of this chapter or the Elections Code, and that issuance of the writ will not substantially interfere with the printing and distribution of the ballot pamphlet as required by law. Venue for a proceeding under this section shall be exclusively in Sacramento County. The Secretary of State shall be named as the respondent and the State Printer and the person or official who authored the copy in question shall be named as real parties in interest. If the proceeding is initiated by the Secretary of State, the State Printer shall be named as the respondent.

History: Amended by Stats. 1996, Ch. 724.

**§ 88007. Amendment of Chapter by Legislature.**

Notwithstanding the provisions of Section 81012, the Legislature may without restriction amend this chapter to add to the ballot pamphlet information regarding candidates or any other information.

**Chapter 9. Incumbency.**

**§ 89000 - 89001**

- § 89000. Order of Names on Ballot.
- § 89001. Newsletter or Mass Mailing.

**§ 89000. Order of Names on Ballot.**

Any provision of law to the contrary notwithstanding, the order of names of candidates on the ballot in every election shall be determined without regard to whether the candidate is an incumbent.

**§ 89001. Newsletter or Mass Mailing.**

No newsletter or other mass mailing shall be sent at public expense.

History: Amended by Stats. 1986, Ch. 654; amended by Stats. 1987, Ch. 230; amended by Prop. 73 of the June 1988 statewide primary election, effective June 8, 1988.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18901

Opinions: In re Miller (1978) 4 FPPC Ops. 26

**Chapter 9.5. Ethics.**

**§ 89500 - 89522**

- Article 1. Honoraria. § 89500 - 89503.5
- 2. Gifts. § 89504 - 89505.5
- 3. Travel. § 89506 - 89507
- 4. Campaign Funds. § 89510 - 89522

**Article 1. Honoraria.**

**§ 89500 - 89503.5**

- § 89500. Chapter Title.
- § 89501. Statements of Economic Interests - Where to File; Regulatory or Licensing Boards, Bureaus or Commissions.
- § 89501. Honoraria.
- § 89502. Honorarium.
- § 89503. Gift Limits.
- § 89503.5. Operation of Article. [Repealed]

**§ 89500. Chapter Title.**

This chapter shall be known and may be cited as the Ethics in Government Act of 1990.

History: Added by Stats. 1990, Ch. 84.

**§ 89501. Statements of Economic Interests - Where to File; Regulatory or Licensing Boards, Bureaus or Commissions.**

History: Added by Stats. 1991, Ch. 857; repealed and renumbered § 87500(n), Stats. 1992, Ch. 405.

**§ 89501. Honoraria.**

(a) For purposes of this chapter, "honorarium" means, except as provided in subdivision (b), any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

(b) The term "honorarium" does not include:

(1) Earned income for personal services which are customarily provided in connection with the practice of a bona fide business, trade, or profession, such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting, unless the sole or predominant activity of the business, trade, or profession is making speeches. The Commission shall adopt regulations to implement this subdivision.

(2) Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the State Controller for donation to the General Fund, or in the case of a public official for local government agency, delivered to his or her agency for donation to an equivalent fund, without being claimed as a deduction from income for tax purposes.

(c) Section 89506 shall apply to all payments, advances, or reimbursements for travel and related lodging and subsistence.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1994, Ch. 36; amended by Stats. 1994, Ch. 1105; repealed and new section added by Stats. 1995, Ch. 690.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18730
- 2 Cal. Code of Regs. Section 18930
- 2 Cal. Code of Regs. Section 18931.1
- 2 Cal. Code of Regs. Section 18931.2
- 2 Cal. Code of Regs. Section 18931.3
- 2 Cal. Code of Regs. Section 18932
- 2 Cal. Code of Regs. Section 18932.1
- 2 Cal. Code of Regs. Section 18932.2
- 2 Cal. Code of Regs. Section 18932.3
- 2 Cal. Code of Regs. Section 18932.4
- 2 Cal. Code of Regs. Section 18932.5
- 2 Cal. Code of Regs. Section 18933
- 2 Cal. Code of Regs. Section 18941.1
- 2 Cal. Code of Regs. Section 18946.2
- 2 Cal. Code of Regs. Section 18950.1

**§ 89502. Honorarium.**

(a) No elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept any honorarium.

(b) (1) No candidate for elective state office, for judicial office, or for elective office in a local government agency shall accept any honorarium. A person shall be deemed a candidate for purposes of this subdivision when the person has filed a statement of organization as a committee for election to a state or local office, a declaration of intent, or a declaration of candidacy, whichever occurs first. A person shall not be deemed a candidate for purposes of this subdivision after he or she is sworn into the elective office, or, if the person lost the election after the person has terminated his or her campaign statement filing obligations for that office pursuant to Section 84214 or after certification of the election results, whichever is earlier.

(2) Paragraph (1) shall not apply to any person who is a candidate as described in paragraph (1) for judicial office on or before December 31, 1996.

(c) No member of a state board or commission and no designated employee of a state or local government agency shall accept an honorarium from any source if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(d) This section shall not apply to a person in his or her capacity as judge. This section shall not apply to a person in his or her capacity as a part-time member of the governing board of any public institution of higher education unless that position is an elective office.

History: Added by Stats. 1990, Ch. 84; repealed and new section added by Stats. 1995, Ch. 690; amended by Stats. 1996, Ch. 1056.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18730
- 2 Cal. Code of Regs. Section 18736
- 2 Cal. Code of Regs. Section 18930
- 2 Cal. Code of Regs. Section 18931.1
- 2 Cal. Code of Regs. Section 18931.2
- 2 Cal. Code of Regs. Section 18931.3
- 2 Cal. Code of Regs. Section 18932
- 2 Cal. Code of Regs. Section 18932.1
- 2 Cal. Code of Regs. Section 18932.2
- 2 Cal. Code of Regs. Section 18932.3
- 2 Cal. Code of Regs. Section 18932.4
- 2 Cal. Code of Regs. Section 18932.5
- 2 Cal. Code of Regs. Section 18933
- 2 Cal. Code of Regs. Section 18941.1
- 2 Cal. Code of Regs. Section 18946.2
- 2 Cal. Code of Regs. Section 18950.1

**§ 89503. Gift Limits.**

(a) No elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept gifts from any single

source in any calendar year with a total value of more than two hundred fifty dollars (\$250).

(b) (1) No candidate for elective state office, for judicial office, or for elective office in a local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250). A person shall be deemed a candidate for purposes of this subdivision when the person has filed a statement of organization as a committee for election to a state or local office, a declaration of intent, or a declaration of candidacy, whichever occurs first. A person shall not be deemed a candidate for purposes of this subdivision after he or she is sworn into the elective office, or, if the person lost the election, after the person has terminated his or her campaign statement filing obligations for that office pursuant to Section 84214 or after certification of the election results, whichever is earlier.

(2) Paragraph (1) shall not apply to any person who is a candidate as described in paragraph (1) for judicial office on or before December 31, 1996.

(c) No member of a state board or commission or designated employee of a state or local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty (\$250) if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(d) This section shall not apply to a person in his or her capacity as judge. This section shall not apply to a person in his or her capacity as a part-time member of the governing board of any public institution of higher education unless that position is an elective office.

(e) This section shall not prohibit or limit the following:

(1) Payments, advances, or reimbursements for travel and related lodging and subsistence permitted by Section 89506.

(2) Wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.

(f) Beginning on January 1, 1993, the Commission shall adjust the gift limitation in this section on January 1 of each odd-numbered year to reflect changes in the Consumer Price Index, rounded to the nearest ten dollars (\$10).

(g) The limitations in this section are in addition to the limitations on gifts in Section 86203.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1993, Ch. 769; repealed and new section added by Stats. 1995, Ch. 690; amended by Stats. 1996, Ch. 1056.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18730  
 2 Cal. Code of Regs. Section 18736  
 2 Cal. Code of Regs. Section 18940  
 2 Cal. Code of Regs. Section 18940.2  
 2 Cal. Code of Regs. Section 18941  
 2 Cal. Code of Regs. Section 18941.1  
 2 Cal. Code of Regs. Section 18942  
 2 Cal. Code of Regs. Section 18942.1  
 2 Cal. Code of Regs. Section 18943  
 2 Cal. Code of Regs. Section 18944.2  
 2 Cal. Code of Regs. Section 18945  
 2 Cal. Code of Regs. Section 18945.1  
 2 Cal. Code of Regs. Section 18946.2  
 2 Cal. Code of Regs. Section 18950  
 2 Cal. Code of Regs. Section 18950.1  
 2 Cal. Code of Regs. Section 18950.3

Opinions: *In re Solis* (2000) 14 FPPC Ops. 7

**§ 89503.5. Operation of Article. [Repealed]**

History: Added by Stats. 1990, Ch. 84; repealed by Stats. 1991, Ch. 857.

**Article 2. Gifts.**

**§ 89504 - 89505.5**

§ 89504. Gifts; Limitations. [Repealed]  
 § 89505. Gifts; Prohibitions. [Repealed]  
 § 89505.5. Operation of Article. [Repealed]

**§ 89504. Gifts; Limitations. [Repealed]**

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1994, Ch. 1105; repealed by Stats. 1995, Ch. 690.

**§ 89505. Gifts; Prohibitions. [Repealed]**

History: Added by Stats. 1990, Ch. 84; repealed by Stats. 1995, Ch. 690.

**§ 89505.5. Operation of Article. [Repealed]**

History: Added by Stats. 1990, Ch. 84; repealed by Stats. 1991, Ch. 857.

**Article 3. Travel.**

**§ 89506 - 89507**

§ 89506. Travel Payments, Advances and Reimbursements.  
 § 89507. Operation of Article. [Repealed]

**§ 89506. Travel Payments, Advances and Reimbursements.**

(a) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence that is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited or limited by this chapter if either of the following apply:

(1) The travel is in connection with a speech given by the elected state officer, local elected officeholder, candidate for elected state office or local elected office, an individual specified in Section 87200, member of a state board or commission, or designated employee of a state or local government agency, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.

(2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States which substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(b) Gifts of travel not described in subdivision (a) are subject to the limits in Section 89503.

(c) Subdivision (a) applies only to travel that is reported on the recipient's statement of economic interests.

(d) For purposes of this section, a gift of travel does not include any of the following:

(1) Travel that is paid for from campaign funds, as permitted by Article 4 (commencing with Section 89510), or that is a contribution.

(2) Travel that is provided by the agency of a local elected officeholder, an elected state officer, member of a state board or commission, an individual specified in Section 87200, or a designated employee.

(3) Travel that is reasonably necessary in connection with a bona fide business, trade, or profession and that satisfies the criteria for federal income tax deduction for business expenses in Sections 162 and 274 of the Internal Revenue Code, unless the sole or predominant activity of the business, trade, or profession is making speeches.

(4) Travel that is excluded from the definition of a gift by any other provision of this title.

(e) This section does not apply to payments, advances, or reimbursements for travel and related lodging and subsistence permitted or limited by Section 170.9 of the Code of Civil Procedure.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 674; amended by Stats. 1994, Ch. 1105; amended by Stats. 1995, Ch. 690; amended by Stats. 1997, Ch. 455, effective September 24, 1997.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18930

- 2 Cal. Code of Regs. Section 18931.1
- 2 Cal. Code of Regs. Section 18931.2
- 2 Cal. Code of Regs. Section 18931.3
- 2 Cal. Code of Regs. Section 18932
- 2 Cal. Code of Regs. Section 18932.1
- 2 Cal. Code of Regs. Section 18932.2
- 2 Cal. Code of Regs. Section 18932.3
- 2 Cal. Code of Regs. Section 18932.4
- 2 Cal. Code of Regs. Section 18932.5
- 2 Cal. Code of Regs. Section 18933
- 2 Cal. Code of Regs. Section 18940
- 2 Cal. Code of Regs. Section 18940.2
- 2 Cal. Code of Regs. Section 18941
- 2 Cal. Code of Regs. Section 18941.1
- 2 Cal. Code of Regs. Section 18944.2
- 2 Cal. Code of Regs. Section 18945.1
- 2 Cal. Code of Regs. Section 18946.2
- 2 Cal. Code of Regs. Section 18950
- 2 Cal. Code of Regs. Section 18950.1
- 2 Cal. Code of Regs. Section 18950.3

**§ 89507. Operation of Article. [Repealed]**

History: Added by Stats. 1990, Ch. 84; Repealed by Stats. 1991, Ch. 1271.

**Article 4. Campaign Funds.  
§ 89510 - 89522**

- § 89510. Acceptable Contributions.
- § 89511. Campaign Funds Held by Candidates and Committees.
- § 89511.5. Use of Personal Funds for Incumbent Elected Officers.
- § 89512. Expenditures Associated with Seeking or Holding Office.
- § 89512.5. Expenditures by Committees not Controlled by Candidates.
- § 89513. Use of Campaign Funds for Specific Activities.
- § 89514. Use of Campaign Funds for Attorney's Fees.
- § 89515. Use of Campaign Funds for Donations and Loans.
- § 89516. Use of Campaign Funds for Vehicle Expenses.
- § 89517. Use of Campaign Funds for Real Property, Appliances or Equipment.
- § 89517.5. Use of Campaign Funds for Security System.
- § 89518. Use of Campaign Funds for Compensation.
- § 89519. Use of Surplus Campaign Funds.
- § 89520. Violations.
- § 89521. Unlawful Honorarium, Gift or Expenditure.
- § 89522. Campaign Funds; Prohibited Use Under Elections Code.

**§ 89510. Acceptable Contributions.**

(a) A candidate for elective state office may only accept contributions within the limits provided in Chapter 5 (commencing with Section 85100).

(b) All contributions deposited into the campaign account shall be deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

**§ 89511. Campaign Funds Held by Candidates and Committees. [Previously § 85800.]**

(a) This article applies to campaign funds held by candidates for elective office, elected officers, controlled committees, ballot measure committees, committees opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(b) (1) For purposes of this chapter, "campaign funds" includes any contributions, cash, cash equivalents, and other assets received or possessed by a committee as defined by subdivision (a) of Section 82013.

(2) For purposes of this chapter, "committee" means a controlled committee, ballot measure committee, committee opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(3) For purposes of this chapter, "substantial personal benefit" means an expenditure of campaign funds which results in a direct personal benefit with a value of more than two hundred dollars (\$200) to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee.

(4) For purposes of this article, "household" includes the candidate's or elected officer's spouse, dependent children, and parents who reside with the candidate or elected officer.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18229  
2 Cal. Code of Regs. Section 18960

Opinions: In re Roberts (2004) 17 FPPC Ops. 9

**§ 89511.5. Use of Personal Funds for Incumbent Elected Officers.**

(a) An incumbent elected officer may utilize his or her personal funds for expenditures authorized by subdivision (b) of Section 89510 without first

depositing those funds in his or her controlled committee's campaign bank account, if both of the following conditions are met:

(1) The expenditures are not campaign expenses.

(2) The treasurer of the committee is provided with a dated receipt and a written description of the expenditure.

(b) An incumbent elected officer may be reimbursed for expenditures of his or her personal funds, from either the controlled committee campaign bank account established pursuant to Section 85201 with respect to election to the incumbent term of office, or from a controlled committee campaign bank account established pursuant to Section 85201 with respect to election to a future term of office, if all of the following conditions are met:

(1) The expenditures are not campaign expenses.

(2) The incumbent elected officer, prior to reimbursement, provides the treasurer of the committee with a dated receipt and a written description of each expenditure.

(3) Reimbursement is paid within 90 days of the expenditure, in the case of a cash expenditure, or within 90 days of the end of the billing period in which it was included, in the case of an expenditure charged to a credit card or charge account.

(c) When the elected officer's controlled committee is notified that expenditures totaling one hundred dollars (\$100) or more in a fiscal year have been made by the incumbent elected officer, the committee shall report, pursuant to subdivision (k) of Section 84211, the expenditures on the campaign statement for the period in which the expenditures were made and the reimbursements on the campaign statement for the period in which the reimbursements were made.

(d) If reimbursement is not paid within the time authorized by this section, the expenditure shall be reported on the campaign statement as a nonmonetary contribution received on the 90th day after the expenditure is paid, in the case of a cash expenditure, or within 90 days of the end of the billing period in which it was included, in the case of an expenditure charged to a credit card or charge account.

(e) This section shall not be construed to authorize an incumbent elected officer to make expenditures from any campaign bank account for expenses other than those expenses associated with his or her election to the specific office for which the account was established and expenses associated with holding that office.

History: Added by Stats. 1990, Ch. 1075; amended by Stats. 2007, Ch. 348.

**§ 89512. Expenditures Associated with Seeking or Holding Office. [Previously § 85801.]**

An expenditure to seek office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a political purpose. An expenditure associated with holding office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a legislative or governmental purpose. Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.

History: Added by Stats. 1990, Ch. 84.

**§ 89512.5. Expenditures by Committees not Controlled by Candidates.**

(a) Subject to the provisions of subdivision (b), any expenditure by a committee not subject to the trust imposed by subdivision (b) of Section 89510 shall be reasonably related to a political, legislative, or governmental purpose of the committee.

(b) Any expenditure by a committee that confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure of campaign funds held by the committee, shall be directly related to a political, legislative, or governmental purpose of the committee.

History: Added by Stats. 1991, Ch. 546.

**§ 89513. Use of Campaign Funds for Specific Activities. [Previously § 85802.]**

This section governs the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that this section guide the interpretation of the standard imposed by Section 89512 as applied to other expenditures not specifically set forth in this section.

(a)(1) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(2) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(3) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(4) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, his or her representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by Section 84211.

(5) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit that is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. Neither the earning or awarding of mileage credit, nor the redeeming of credit for actual travel, shall be subject to reporting pursuant to Section 84211.

(b)(1) Campaign funds shall not be used to pay for or reimburse the cost of professional services unless the services are directly related to a political, legislative, or governmental purpose.

(2) Expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

(3) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of his or her household. "Health-related expenses" includes, but is not limited to, examinations by physicians, dentists, psychiatrists, psychologists, or counselors, expenses for medications, treatments or medical equipment, and expenses for hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

(c) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(1) Parking citations incurred in the performance of an activity that was directly related to a political, legislative, or governmental purpose.

(2) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, if this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e)(1) Except where otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or his or her immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

(2) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the candidate, elected officer, or members of his or her immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to a political, legislative, or governmental purpose.

(3) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or his or her immediate family are governed by subdivision (f).

(f)(1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. The refund of a campaign contribution does not constitute the making of a gift.

(2) Nothing in this section shall prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or committee while on vacation, leave, or otherwise outside of compensated public time.

(3) An election victory celebration or similar campaign event, or gifts with a total cumulative value of less than two hundred fifty dollars (\$250) in a single year made to an individual employee, a committee worker, or an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose. For purposes of this paragraph, a gift to a member of a person's immediate family shall be deemed to be a gift to that person.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1990, Ch. 1075; amended by Stats. 1991, Ch. 546; amended by Stats. 2006, Ch. 155; amended by Stats. 2006, Ch. 538; amended by Stats. 2007, Ch. 130.

#### § 89514. Use of Campaign Funds for Attorney's Fees. [Previously § 85802.5.]

Expenditures of campaign funds for attorney's fees and other costs in connection with administrative, civil, or criminal litigation are not directly related to a political, legislative, or governmental purpose except where the litigation is directly related to activities of a committee that are consistent with its primary objectives or arises directly out of a committee's activities or out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

#### § 89515. Use of Campaign Funds for Donations and Loans. [Previously § 85803.]

Campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations, where no substantial part of the proceeds will have a material financial effect on the candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or member of his or her immediate family, and where the donation or loan bears a reasonable relation to a political, legislative, or governmental purpose.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

#### § 89516. Use of Campaign Funds for Vehicle Expenses. [Previously § 85804.]

Notwithstanding Sections 89512 and 89513, this section governs the use of campaign funds for vehicle expenses.

(a) Campaign funds shall not be used to purchase a vehicle unless both of the following apply:

(1) Title to the vehicle is held by the committee and not the candidate, elected officer, campaign treasurer, or any other individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or a member of his or her immediate family.

(2) The use of the vehicle is directly related to a political, legislative, or governmental purpose.

(b) Campaign funds shall not be used to lease a vehicle unless both of the following apply:

(1) The lessee is the committee, or a state or local government agency and not the candidate, elected officer, or a member of his or her immediate family; or the lessor is a state or local government agency.

(2) The use of the vehicle is directly related to a political, legislative, or governmental purpose.

(c) Campaign funds may be used to pay for or reimburse the operating costs, including, but not limited to, insurance, maintenance, and repairs, for any vehicle for which campaign funds may be spent pursuant to this section.

(d) Campaign funds may be used to reimburse a candidate, elected officer, his or her immediate family, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or an employee or member of the staff of the committee or of the elected officer's governmental agency, for the use of his or her vehicle at the rate approved by the Internal Revenue Service pursuant to Section 162 of the Internal Revenue Code in connection with deductible mileage expenses under the federal income tax law, if both of the following requirements are met:

(1) The vehicle use for which reimbursement is sought is directly related to political, governmental, or legislative purposes.

(2) The specific purpose and mileage in connection with each expenditure is documented in a manner approved by the Internal Revenue Service in connection with deductible mileage expenses.

(e) For the purposes of this section, use of a vehicle is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18961

**§ 89517. Use of Campaign Funds for Real Property, Appliances or Equipment. [Previously § 85805.]**

(a) Campaign funds shall not be used for payment or reimbursement for the lease of real property or for the purchase, lease, or refurbishment of any appliance or equipment, where the lessee or sublessor is, or the legal title resides, in whole or in part, in a candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds, or member of his or her immediate family.

(b) Campaign funds shall not be used to purchase real property. Except as prohibited by subdivision (a), campaign funds may be used to lease real property for up to one year at a time where the use of that property is directly related to political, legislative, or governmental purposes.

(c) For the purposes of this section, real property, appliance, or equipment is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18961

**§ 89517.5. Use of Campaign Funds for Security System.**

Notwithstanding Section 89517, campaign funds may be used to pay, or reimburse the state, for the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the Commission. The report to the Commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars (\$5,000) in campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. The candidate or elected officer shall reimburse the campaign fund account for the costs of the security system upon sale of the property where the security equipment is installed, based on the fair market value of the security equipment at the time the property is sold.

History: Added by Stats. 1993, Ch. 1143.

**§ 89518. Use of Campaign Funds for Compensation. [Previously § 85806.]**

(a) Campaign funds shall not be used to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket

expenses incurred for political, legislative, or governmental purposes.

(b) Campaign funds shall not be used to compensate any individual or individuals with authority to approve the expenditure of campaign funds for the performance of political, legislative, or governmental activities, except as provided in subdivision (b) of Section 89513 and for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

**§ 89519. Use of Surplus Campaign Funds.**

(a) Upon leaving any elected office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds raised after January 1, 1989, under the control of the former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100).

(b) Surplus campaign funds shall be used only for the following purposes:

(1) The payment of outstanding campaign debts or elected officer's expenses.

(2) The repayment of contributions.

(3) Donations to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.

(4) Contributions to a political party committee, provided the campaign funds are not used to support or oppose candidates for elective office. However, the campaign funds may be used by a political party committee to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers as that term is defined in Section 82048.3.

(5) Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.

(6) The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees for litigation which arises directly out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought of a violation of state or local campaign, disclosure, or

election laws, and an action from an election contest or recount.

(c) For purposes of this section, the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety shall be deemed an outstanding campaign debt or elected officer's expense, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and the telephone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars (\$5,000) in surplus campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following the date upon which the campaign funds become surplus campaign funds. The candidate or elected officer shall reimburse the surplus fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds became surplus campaign funds. The campaign funds become surplus campaign funds upon sale of the property on which the system is installed, or prior to the closing of the surplus campaign fund account, whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546; amended by Stats. 1993, Ch. 1143; amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18530.4  
2 Cal. Code of Regs. Section 18531.2  
2 Cal. Code of Regs. Section 18951

Opinions: In re Piravou (2006) 19 FPPC Ops. 1

**§ 89520. Violations.**

The remedies provided in Chapter 11 (commencing with Section 91000) shall not apply to violations of this chapter.

History: Added by Stats. 1990, Ch. 84.

**§ 89521. Unlawful Honorarium, Gift or Expenditure.**

Any person who makes or receives an honorarium, gift, or expenditure in violation of this chapter is liable in a civil action brought by the Commission for an amount of up to three times the amount of the unlawful honorarium, gift, or expenditure.

History: Added by Stats. 1990, Ch. 84.

**§ 89522. Campaign Funds; Prohibited Use Under Elections Code.**

This chapter shall not be construed to permit an expenditure of campaign funds prohibited by Section 18680 of the Elections Code.

History: Amended by Stats. 1991, Ch. 546; amended by Stats. 1994, Ch. 923

**Chapter 10. Auditing.  
§ 90000 - 90007**

- § 90000. Responsibility.
- § 90001. Mandatory Audits and Investigations.
- § 90002. Audits and Investigations; Time.
- § 90003. Discretionary Audits.
- § 90004. Periodic Reports; Public Documents.
- § 90005. Confidentiality; Exception.
- § 90006. Audit and Investigation by Commission.
- § 90007. Auditing Guidelines and Standards.

**§ 90000. Responsibility.**

Except as provided in Section 90006, the Franchise Tax Board shall make audits and field investigations with respect to the following:

(a) Reports and statements filed with the Secretary of State under Chapter 4 (commencing with Section 84100), Chapter 5 (commencing with Section 85100), and Chapter 6 (commencing with Section 86100).

(b) Local candidates and their controlled committees selected for audit pursuant to subdivision (i) of Section 90001.

History: Amended by Stats. 1987, Ch. 230; amended by Stats. 2004, Ch. 483.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18531.62
- 2 Cal. Code of Regs. Section 18993
- 2 Cal. Code of Regs. Section 18994
- 2 Cal. Code of Regs. Section 18995

**§ 90001. Mandatory Audits and Investigations.**

Audits and investigations shall be made pursuant to Section 90000 with respect to the reports and statements of:

(a) Each lobbying firm and each lobbyist employer who employs one or more lobbyists shall be subject to an audit on a random basis with these lobbying firms or lobbyist employers having a 25-percent chance of being audited. When a lobbying firm or lobbyist employer is audited, the individual lobbyists who are employed by the lobbying firm or the lobbyist employer shall also be audited.

(b) Each statewide, Supreme Court, court of appeal, or Board of Equalization candidate in a direct primary or general election for whom it is determined that twenty-five thousand dollars (\$25,000) or more in contributions have been raised or twenty-five thousand dollars (\$25,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or whose participation in the direct primary or general election is primarily in support of his or her candidacy. Each statewide candidate whose contributions and expenditures are less than twenty-five thousand dollars (\$25,000) shall be subject to an audit on a random basis of 10 percent of the number of such candidates.

(c) Each candidate for the Legislature or superior court judge in a direct primary or general election shall be subject to audit by random selection if it is determined that fifteen thousand dollars (\$15,000) or more in contributions have been received or fifteen thousand dollars (\$15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy. Random selection shall be made of 25 percent of the Senate districts, 25 percent of the Assembly districts and 25 percent of the judicial offices contested in an election year.

(d) Each candidate for the Legislature in a special primary or special runoff election for whom it is determined that fifteen thousand dollars (\$15,000) or more in contributions have been raised or fifteen thousand dollars (\$15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy.

(e) Each controlled committee of any candidate who is being audited pursuant to subdivision (b), (c), or (d).

(f) Each committee, other than a committee specified in subdivision (c) of Section 82013, primarily supporting or opposing a candidate who is being audited pursuant to subdivision (b), (c), or (d) if it is determined that the committee has expended more than ten thousand dollars (\$10,000).

(g) Each committee, other than a committee specified in subdivision (c) of Section 82013, whose participation is primarily in support of or in opposition to a state measure or state measures if it is determined that the committee has expended more than ten thousand dollars (\$10,000) on such measure or measures.

(h) Each committee, other than a committee defined in subdivision (c) of Section 82013, a controlled committee or a committee primarily supporting or opposing a state candidate or measure, if it is determined that the committee has raised or expended more than ten thousand dollars (\$10,000) supporting or opposing state candidates or state measures during any calendar year, except that if the Commission determines from an audit report that a committee is in substantial compliance with the provisions of the act, the committee thereafter shall be subject to an audit on a random basis with each such committee having a 25-percent chance of being audited.

(i) (1) With respect to local candidates and their controlled committees, the Commission shall promulgate regulations which provide a method of selection for these audits.

(2) With respect to candidates for the Board of Administration of the Public Employees' Retirement System, the Commission shall promulgate regulations that provide a method for selection of these audits. The Public Employees' Retirement System shall reimburse the Commission for all reasonable expenses incurred pursuant to this section.

(j) In accordance with subdivisions (a), (b), (c), and (h), the Fair Political Practices Commission shall select by lot the persons or districts to be audited on a random basis. For campaign audits the selection shall be made in public after the last date for filing the first report or statement following the general or special election for which the candidate ran, or following the election at which the measure was adopted or defeated. For lobbying firm and lobbyist employer audits, the selection shall be made in public in February of odd-numbered years.

History: Amended by Stats. 1978, Ch. 1411; amended by Stats. 1979, Ch. 551; amended by Stats. 1984, Ch. 1368; amended by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 835; amended by Stats. 1994, Ch. 1139; amended by Stats. 1998, Ch. 923.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18453
- 2 Cal. Code of Regs. Section 18531.62
- 2 Cal. Code of Regs. Section 18601
- 2 Cal. Code of Regs. Section 18991
- 2 Cal. Code of Regs. Section 18992
- 2 Cal. Code of Regs. Section 18993

- 2 Cal. Code of Regs. Section 18994
- 2 Cal. Code of Regs. Section 18995
- 2 Cal. Code of Regs. Section 18997

**§ 90002. Audits and Investigations; Time.**

(a) Audits and investigations of lobbying firms and lobbyist employers shall be performed on a biennial basis and shall cover reports filed during a period of two years.

(b) If a lobbying firm or lobbyist employer keeps a separate account for all receipts and payments for which reporting is required by this chapter, the requirement of an audit under subdivision (a) of Section 90001 shall be satisfied by an audit of that account and the supporting documentation required to be maintained by Section 86110.

(c) No audit or investigation of any candidate, controlled committee, or committee primarily supporting or opposing a candidate or a measure in connection with a report or statement required by Chapter 4 of this title, shall begin until after the last date for filing the first report or statement following the general, runoff or special election for the office for which the candidate ran, or following the election at which the measure was adopted or defeated, except that audits and investigations of statewide candidates, their controlled committees, and committees primarily supporting or opposing those statewide candidates who were defeated in the primary election and who are not required to file statements for the general election may begin after the last date for filing the first report or statement following the primary election. When the campaign statements or reports of a candidate, controlled committee, or a committee primarily supporting or opposing a candidate are audited and investigated pursuant to Section 90001, the audit and investigation shall cover all campaign statements and reports filed for the primary and general or special or runoff elections and any previous campaign statement or report filed pursuant to Section 84200 or 84200.5 since the last election for that office, but shall exclude any statements or reports which have previously been audited pursuant to Section 90001 or 90003. When the campaign statements or reports of a committee primarily supporting or opposing a measure are audited and investigated, the audit and investigation shall cover all campaign statements and reports from the beginning date of the first campaign statement filed by the committee in connection with the measure. For all other committees, the audit and investigation shall cover all campaign statements filed during the previous two calendar years.

History: Amended by Stats. 1976, Ch. 564; amended by Stats. 1977, Ch. 492; amended by Stats. 1978, Ch. 1411; amended by Stats. 1980, Ch. 289; operative January 1, 1982; amended by Stats.

§ 90003.

§ 90007.

1985, Ch. 1456; amended by Stats. 1986, Ch. 905; amended by Stats. 1988, Ch. 442; amended by Stats. 1994, Ch. 1139.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18531.62  
2 Cal. Code of Regs. Section 18996

§ 90003. Discretionary Audits.

In addition to the audits and investigations required by Section 90001, the Franchise Tax Board and the commission may make investigations and audits with respect to any reports or statements required by Chapter 4 (commencing with Section 84100), Chapter 5 (commencing with Section 85100), or Chapter 6 (commencing with Section 86100).

History: Amended by Stats. 2004, Ch. 483.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18531.62  
2 Cal. Code of Regs. Section 18996

§ 90004. Periodic Reports; Public Documents.

(a) The Franchise Tax Board shall periodically prepare reports, which, except as otherwise provided in this section, shall be sent to the commission, the Secretary of State, and the Attorney General. If the reports relate to candidates for or committees supporting or opposing candidates for the office of Attorney General, the reports shall be sent to the commission, the Secretary of State, and the District Attorneys of Los Angeles, Sacramento, and San Francisco Counties. If the reports relate to local candidates and their controlled committees, the reports shall be sent to the commission, the local filing officer with whom the candidate or committee is required to file the originals of campaign reports pursuant to Section 84215, and the district attorney for the candidate's county of domicile.

(b) The Franchise Tax Board shall complete its report of any audit conducted on a random basis pursuant to Section 90001 within one year after the person or entity subject to the audit is selected by the commission to be audited.

(c) The reports of the Franchise Tax Board shall be public documents and shall contain in detail the Franchise Tax Board's findings with respect to the accuracy and completeness of each report and statement reviewed and its findings with respect to any report or statement that should have been but was not filed. The Secretary of State and the local filing officer shall place the audit reports in the appropriate campaign statement or lobbying files.

History: Amended by Stats. 1976, Ch. 564; amended by Stats. 1979, Ch. 531; amended by Stats. 1987, Ch. 230; amended by Stats. 2004, Ch. 591; amended by Stats. 2005, Ch. 22.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18531.62

2 Cal. Code of Regs. Section 18993  
2 Cal. Code of Regs. Section 18995

§ 90005. Confidentiality; Exception.

No member, employee or agent of the Franchise Tax Board shall divulge or make known in any manner any particulars of any record, documents, or information which he receives by virtue of this chapter, except in furtherance of the work of the Franchise Tax Board or in connection with any court proceeding or any lawful investigation of any agency.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18531.62

§ 90006. Audit and Investigation by Commission.

Audits and field investigations of candidates for Controller and member of the Board of Equalization and of committees supporting such candidates shall be made by the Commission instead of the Franchise Tax Board.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18531.62

§ 90007. Auditing Guidelines and Standards.

(a) The Commission shall adopt auditing guidelines and standards which shall govern audits and field investigations conducted under Section 90001. The guidelines and standards shall be formulated to accomplish the following purposes:

- (1) The audits should encourage compliance and detect violations of this title;
- (2) The audits should be conducted with maximum efficiency in a cost-effective manner; and
- (3) The audits should be as unobtrusive as possible consistent with the foregoing purposes.

(b) In adopting its guidelines and standards the Commission shall consider relevant guidelines and standards of the American Institute of Certified Public Accountants to the extent such guidelines and standards are applicable and consistent with the purposes set forth in this section.

History: Added by Stats. 1978, Ch. 779, effective September 18, 1978.

References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18531.62  
2 Cal. Code of Regs. Section 18993  
2 Cal. Code of Regs. Section 18995

Chapter 11. Enforcement.  
§ 91000 - 91015

§ 91000. Violations; Criminal.

§ 91000.5. Administrative Proceedings.

§ 91001. Responsibility for Enforcement.

- § 91001.5. Authority of City Attorneys of Charter Cities.
- § 91002. Effect of Conviction.
- § 91003. Injunction.
- § 91003.5. Conflicts of Interest Violation.
- § 91004. Violations of Reporting Requirements; Civil Liability.
- § 91005. Civil Liability for Campaign, Lobbyist, Conflict of Interest Violation.
- § 91005.5. Civil Penalties.
- § 91006. Joint and Several Liability.
- § 91007. Procedure for Civil Actions.
- § 91008. Judgment on the Merits; Precedence; Dismissal.
- § 91008.5. Civil Action Precluded by Commission Order.
- § 91009. Considerations; Liability.
- § 91010. Campaign Disclosure Violations; Request to Civil Prosecutor.
- § 91011. Statute of Limitations.
- § 91012. Costs; Attorney Fees; Bond.
- § 91013. Late Filing of Statement or Report; Fees.
- § 91013.5. Collection of Penalties.
- § 91014. Applicability of Other State Law.
- § 91015. Liability for Violations; Criminal and Civil. [Repealed]

**§ 91000. Violations; Criminal.**

(a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.

(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.

(c) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.

History: Amended by Stats. 1978, Ch. 1411; amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 91000.5. Administrative Proceedings.**

No administrative action brought pursuant to Chapter 3 (commencing with Section 83100) alleging a violation of any of the provisions of this title shall be commenced more than five years after the date on which the violation occurred.

(a) The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action.

(b) If the person alleged to have violated this title engages in the fraudulent concealment of his or her acts or identity, the five-year period shall be tolled for the period of concealment. For purposes of this subdivision, "fraudulent concealment" means the person knows of material facts related to his or her duties under this title and knowingly conceals them in performing or omitting to perform those duties, for the purpose of defrauding the public of information to which it is entitled under this title.

(c) If, upon being ordered by a superior court to produce any documents sought by a subpoena in any administrative proceeding under Chapter 3 (commencing with Section 83100), the person alleged to have violated this title fails to produce documents in response to the order by the date ordered to comply therewith, the five-year period shall be tolled for the period of the delay from the date of filing of the motion to compel until the date of the documents are produced.

History: Added by Stats. 1997, Ch. 179.

References at the time of publication (see page 3):

- Regulations: 2 Cal. Code of Regs. Section 18610
- 2 Cal. Code of Regs. Section 18612
- 2 Cal. Code of Regs. Section 18615

**§ 91001. Responsibility for Enforcement.**

(a) The Attorney General is responsible for enforcing the criminal provisions of this title with respect to state agencies, lobbyists and state elections. The district attorney of any county in which a violation occurs has concurrent powers and responsibilities with the Attorney General.

(b) The civil prosecutor is primarily responsible for enforcement of the civil penalties and remedies of this title. The civil prosecutor is the Commission with respect to the state or any state agency, except itself. The Attorney General is the civil prosecutor with respect to the Commission. The district attorneys are the civil prosecutors with respect to any other agency. The civil prosecutor may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction. Upon written authorization from a district attorney, the Commission may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction. Under such circumstances, Section 91007 shall not apply to the Commission.

(c) Whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith shall be considered in applying the remedies and sanctions of this title.

History: Amended by Stats. 1976, Ch. 1161; repealed and reenacted as amended by Stats. 1977, Ch. 230, effective July 7, 1977; amended by Stats. 1979, Ch. 357.

**§ 91001.5. Authority of City Attorneys of Charter Cities.**

In any case in which a district attorney could act as the civil or criminal prosecutor under the provisions of this title, the elected city attorney of any charter city may act as the civil or criminal prosecutor with respect to any violations of this title occurring within the city.

History: Added by Stats. 1976, Ch. 594, effective August 26, 1976.

**§ 91002. Effect of Conviction.**

No person convicted of a misdemeanor under this title shall be a candidate for any elective office or act as a lobbyist for a period of four years following the date of the conviction unless the court at the time of the sentencing specifically determines that this provision shall not be applicable. A plea of nolo contendere shall be deemed a conviction for purposes of this section. Any person violating this section is guilty of a felony.

**§ 91003. Injunction.**

(a) Any person residing in the jurisdiction may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this title. The court may in its discretion require any plaintiff other than the Commission to file a complaint with the Commission prior to seeking injunctive relief. The court may award to a plaintiff or defendant who prevails his costs of litigation, including reasonable attorney's fees.

(b) Upon a preliminary showing in an action brought by a person residing in the jurisdiction that a violation of Article 1 (commencing with Section 87100), Article 4 (commencing with Section 87400), or Article 4.5 (commencing with Section 87450) of Chapter 7 of this title or of a disqualification provision of a Conflict of Interest Code has occurred, the court may restrain the execution of any official action in relation to which such a violation occurred, pending final adjudication. If it is ultimately determined that a violation has occurred and that the official action might not otherwise have been taken or approved, the court may set the official action aside as void. The official actions covered by this subsection include, but are not limited to orders, permits, resolutions and contracts, but do not include the enactment of any state

legislation. In considering the granting of preliminary or permanent relief under this subsection, the court shall accord due weight to any injury that may be suffered by innocent persons relying on the official action.

History: Amended by Stats. 1976, Ch. 1161; amended by Stats. of 1987, Ch. 628.

**§ 91003.5. Conflicts of Interest Violation.**

Any person who violates a provision of Article 2 (commencing with Section 87200), 3 (commencing with Section 87300), or 4.5 (commencing with Section 87450) of Chapter 7 is subject to discipline by his or her agency, including dismissal, consistent with any applicable civil service or other personnel laws, regulations and procedures.

History: Amended by Stats. 1986, Ch. 653.

**§ 91004. Violations of Reporting Requirements; Civil Liability.**

Any person who intentionally or negligently violates any of the reporting requirements of this title shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported.

History: Amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].  
References at the time of publication (see page 3):

Regulations: 2 Cal. Code of Regs. Section 18427

**§ 91005. Civil Liability for Campaign, Lobbyist, Conflict of Interest Violation.**

(a) Any person who makes or receives a contribution, gift, or expenditure in violation of Section 84300, 84304, 86203, or 86204 is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to one thousand dollars (\$1,000) or three times the amount of the unlawful contribution, gift, or expenditure, whichever amount is greater.

(b) Any designated employee or public official specified in Section 87200, except an elected state officer, who realizes an economic benefit as a result of a violation of Section 87100 or of a disqualification provision of a conflict of interest code is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to three times the value of the benefit.

History: Amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2000, Ch. 130.

**§ 91005.5. Civil Penalties.**

Any person who violates any provision of this title, except Sections 84305, 84307, and 89001, for

which no specific civil penalty is provided, shall be liable in a civil action brought by the commission or the district attorney pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to five thousand dollars (\$5,000) per violation.

No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.

The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.

History: Amended by Stats. 1982, Ch. 727; amended by Proposition 208 of the November 1996 Statewide General Election; Repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 91006. Joint and Several Liability.**

If two or more persons are responsible for any violation, they shall be jointly and severally liable.

History: Amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

**§ 91007. Procedure for Civil Actions.**

(a) Any person, before filing a civil action pursuant to Sections 91004 and 91005, must first file with the civil prosecutor a written request for the civil prosecutor to commence the action. The request shall include a statement of the grounds for believing a cause of action exists. The civil prosecutor shall respond to the person in writing, indicating whether he or she intends to file a civil action.

(1) If the civil prosecutor responds in the affirmative and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought unless the action brought by the civil prosecutor is dismissed without prejudice as provided for in Section 91008.

(2) If the civil prosecutor responds in the negative within 120 days from receipt of the written request to commence the action, the person requesting the action may proceed to file a civil action upon receipt of the response from the civil prosecutor. If, pursuant to this subdivision, the civil prosecutor does not respond within 120 days, the civil prosecutor shall be deemed to have provided a negative written response to the person requesting the action on the 120<sup>th</sup> day and the person shall be deemed to have received that response.

(3) The time period within which a civil action shall be commenced, as set forth in Section 91011, shall be tolled from the date of receipt by the civil prosecutor of the written request to either the date that

the civil action is dismissed without prejudice, or the date of receipt by the person of the negative response from the civil prosecutor, but only for a civil action brought by the person who requested the civil prosecutor to commence the action.

(b) Any person filing a complaint, cross-complaint or other initial pleading in a civil action pursuant to Sections 91003, 91004, 91005, or 91005.5 shall, within 10 days of filing the complaint, cross-complaint, or initial pleading, serve on the Commission a copy of the complaint, cross-complaint, or initial pleading or a notice containing all of the following:

- (1) The full title and number of the case.
- (2) The court in which the case is pending.
- (3) The name and address of the attorney for the person filing the complaint, cross-complaint, or other initial pleading.
- (4) A statement that the case raises issues under the Political Reform Act.

(c) No complaint, cross-complaint, or other initial pleading shall be dismissed for failure to comply with subdivision (b).

History: Amended by Stats. 1985, Ch. 1200; amended by Stats. 1999, Ch. 577, effective September 29, 1999.

**§ 91008. Judgment on the Merits; Precedence; Dismissal.**

Not more than one judgment on the merits with respect to any violation may be obtained under Sections 91004 and 91005. Actions brought for the same violation or violations shall have precedence for purposes of trial in order of the time filed. Such actions shall be dismissed once judgment has been entered or a settlement approved by the court in a previously filed action. The court may dismiss a pending action without prejudice to any other action for failure of the plaintiff to proceed diligently and in good faith. The action may be so dismissed on motion of the civil prosecutor or any plaintiff in an action based on the same violation.

**§ 91008.5. Civil Action Precluded by Commission Order.**

No civil action may be filed under Section 91004, 91005, or 91005.5 with regard to any person for any violations of this title after the Commission has issued an order pursuant to Section 83116 against that person for the same violation.

History: Added by Stats. 1984, Ch. 670.

**§ 91009. Considerations; Liability.**

In determining the amount of liability under Sections 91004 or 91005, the court may take into

account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action brought under Section 91004 or 91005, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited in the General Fund of the state. In an action brought by the civil prosecutor, the entire amount recovered shall be paid to the general fund or treasury of the jurisdiction.

**§ 91010. Campaign Disclosure Violations; Request to Civil Prosecutor.**

No request to the civil prosecutor pursuant to Section 91007 shall be made or filed in connection with a report or statement required by Chapter 4 (commencing with Section 84100) until the time when an audit and investigation could be begun under subdivision (c) Section 90002.

History: Amended by Stats. 1992, Ch. 405.

**§ 91011. Statute of Limitations.**

(a) No civil action alleging a violation in connection with a report or statement required by Chapter 4 (commencing with Section 84100) shall be filed more than four years after an audit could begin as set forth in subdivision (c) of Section 90002, or more than one year after the Franchise Tax Board forwards its report to the commission, pursuant to Section 90004, of any audit conducted of the alleged violator, whichever period is less.

(b) No civil action alleging a violation of any provisions of this title, other than those described in subdivision (a), shall be filed more than four years after the date the violation occurred.

History: Amended by Stats. 1978, Ch. 1411; amended by Stats. 1980, Ch. 742; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2004, Ch. 591.

**§ 91012. Costs; Attorney Fees; Bond.**

The court may award to a plaintiff or defendant other than an agency, who prevails in any action authorized by this title his costs of litigation, including reasonable attorney's fees. On motion of any party, a court shall require a private plaintiff to post a bond in a reasonable amount at any stage of the litigation to guarantee payment of costs.

**§ 91013. Late Filing of Statement or Report; Fees.**

(a) If any person files an original statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this act, be liable in the amount of ten dollars (\$10) per day after the deadline until the

statement or report is filed, to the officer with whom the statement or report is required to be filed. Liability need not be enforced by the filing officer if on an impartial basis he or she determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the act, except that no liability shall be waived if a statement or report is not filed within 30 days for a statement of economic interest, other than a candidate's statement filed pursuant to Section 87201, five days for a campaign statement required to be filed 12 days before an election, and 10 days for all other statements or reports, after the filing officer has sent specific written notice of the filing requirement.

(b) If any person files a copy of a statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this chapter, be liable in the amount of ten dollars (\$10) per day, starting 10 days, or five days in the case of a campaign statement required to be filed 12 days before an election, after the officer has sent specific written notice of the filing requirement and until the statement is filed.

(c) The officer shall deposit any funds received under this section into the general fund of the jurisdiction of which he or she is an officer. No liability under this section shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100), whichever is greater.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1977, Ch. 555; amended by Stats. 1985, Ch. 1200; amended by Stats. 1993, Ch. 1140.

References at the time of publication (see page 3):

Opinions: In re Wood (2000) 13 FPPC Ops. 21  
In re Layton (1975) 1 FPPC Ops. 113  
In re Rundstrom (1975) 1 FPPC Ops. 188

**§ 91013.5. Collection of Penalties.**

(a) In addition to any other available remedies, the commission or the filing officer may bring a civil action and obtain a judgment in superior court for the purpose of collecting any unpaid monetary penalties, fees, or civil penalties imposed pursuant to this title. The action may be filed as a small claims, limited civil, or unlimited civil case, depending on the jurisdictional amount. The venue for this action shall be in the county where the monetary penalties, fees, or civil penalties were imposed by the commission or the filing officer. In order to obtain a judgment in a proceeding under this section, the commission or filing officer shall show, following the procedures and rules of evidence as applied in ordinary civil actions, all of the following:

(1) That the monetary penalties, fees, or civil penalties were imposed following the procedures set forth in this title and implementing regulations.

(2) That the defendant or defendants in the action were notified, by actual or constructive notice, of the imposition of the monetary penalties, fees, or civil penalties.

(3) That a demand for payment has been made by the commission or the filing officer and full payment has not been received.

(b) A civil action brought pursuant to subdivision (a) shall be commenced within four years after the date on which the monetary penalty, fee, or civil penalty was imposed.

History: Added by Stats. 1984, Ch. 670; amended by Stats. 2004, Ch. 483.

**§ 91014. Applicability of Other State Law.**

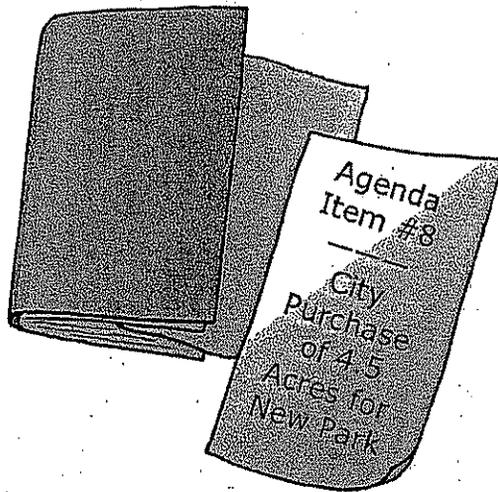
Nothing in this chapter shall exempt any person from applicable provisions of any other laws of this state.

**§ 91015. Liability for Violations; Criminal and Civil. [Repealed]**

History: Added by Stats. 1984, Ch. 670; repealed by Proposition 208 of the November 1996 Statewide General Election.

# ***Can I vote?***

**A Basic Overview  
Of Public Officials'  
Obligations Under the  
Political Reform Act's  
Conflict-of-Interest Rules**



**California  
Fair Political  
Practices  
Commission**

**Special Meeting VI-A-159**

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***“My home is near the proposed new shopping mall. Can I vote on the issue at next month’s Planning Commission meeting?”***

Many of you may have been confronted with such questions. This booklet is offered by the FPPC as a general overview of your obligations under the Political Reform Act’s conflict-of-interest rules. Using non-technical terms, the booklet is aimed at helping you understand your obligations at the “big picture” level and to help guide you to more detailed resources.

Stripped of legal jargon:

➤ You have a conflict of interest with regard to a particular government decision if it is sufficiently likely that



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Commission**

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the outcome of the decision will have an important impact on your economic interests, and

➤ a significant portion of your jurisdiction does not also feel the important impact on their economic interests.

The voters who enacted the Political Reform Act by ballot measure in 1974 judged such circumstances to be enough to influence, or to appear to others to influence, your judgment with regard to that decision.

The most important thing you can do to comply with this law is to learn to recognize the economic interests from which a conflict of interest can arise. No one ever has a conflict of interest under the Act "on general principles" or because of personal bias regarding a person or subject. A conflict of interest can only arise from particular kinds of economic interests, which are explained in non-technical terms later in this booklet.

### *An important note...*

You should not rely solely on this booklet to ensure compliance with the Political Reform Act, but should also consult the Act and Commission regulations. The Political Reform Act is set forth at Cal. Gov. Code §§81000-91014, and the Fair Political Practices Commission regulations are contained in Title 2, Division 6 of the California Code of Regulations. Both the Act and regulations are available on the FPPC's web site, <http://www.fppc.ca.gov>. Persons with obligations under the Act or their authorized representatives are also encouraged to call the FPPC toll-free advice line — 1-866-ASK-FPPC — as far in advance as possible.

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If you learn to understand these interests and to spot potential problems, the battle is mostly won because you can then seek help on the more technical details of the law from your agency's legal counsel or from the California Fair Political Practices Commission. **The Commission's toll-free advice line is 1-866-ASK-FPPC (1-866-275-3772).**

Under rules adopted by the FPPC, deciding whether you have a financial conflict of interest under the Political Reform Act is an eight-step process. If you methodically think through the steps whenever there may be a problem, you can avoid most — if not all — mistakes. These steps are spelled out and explained in general terms in this booklet.

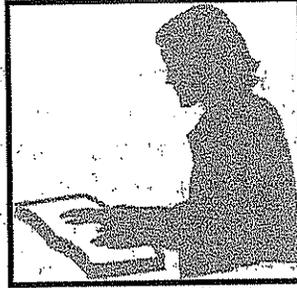
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**If you learn nothing else from this booklet, remember these things:**

- **This law applies only to financial conflicts of interest; that is, conflicts of interest arising from economic interests.**
- **Whether you have a conflict of interest that disqualifies you depends heavily on the facts of each governmental decision.**
- **The most important proactive step you can take to avoid conflict of interest problems is learning to recognize the economic interests from which conflicts of interest can arise.**

On the next page are the eight steps:

## ***Eight steps to help you decide***



**Step One:** Are you a "public official" within the meaning of the rules?

**Step Two:** Are you making, participating in making, or influencing a governmental decision?

**Step Three:** What are your economic interests? That is, what are the possible sources of a financial conflict of interest?

**Step Four:** Are your economic interests directly or indirectly involved in the governmental decision?

**Step Five:** What kinds of financial impacts on your economic interests are considered important enough to trigger a conflict of interest?

**Step Six:** The important question: Is it substantially likely that the governmental decision will result in one or more of the materiality standards being met for one or more of your economic interests?

**Step Seven:** If you have a conflict of interest, does the "public generally" exception apply?

**Step Eight:** Even if you have a disqualifying conflict of interest, is your participation legally required?

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Next, here is a non-technical explanation of each:

## **Public Official**

### **Step One — Are you a “public official,” within the meaning of the rules?**

The Act's conflict-of-interest rules apply to “public officials” as defined in the law. This first step in the analysis is usually a formality — you are probably a public official covered by the rules. If you are an elected official or an employee of a state or local government agency who is designated in your agency's conflict-of-interest code, you are a “public official.” If you file a Statement of Economic Interests (Form 700) each year, you are a “public official” under the Act (even if you are not required to file a Form 700, in some cases you may still be considered a public official because the definition covers more than specifically designated employees). The cases that are tougher to determine typically involve consultants, investment managers and advisers, and public-private partnerships. If you have any doubts, contact your agency's legal counsel or the FPPC.

## **Governmental Decision**

### **Step Two — Are you making, participating in making, or influencing a governmental decision?**

The second step in the process is deciding if you are engaging in the kind of conduct regulated by the

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conflict-of-interest rules. The Act's conflict-of-interest rules apply when you:

- **Make** a governmental decision (for example, by voting or making an appointment).
- **Participate** in making a governmental decision (for example, by giving advice or making recommendations to the decision-maker).
- **Influence** a governmental decision (for example, by communicating with the decision-maker).

A good rule of thumb for deciding whether your actions constitute making, participating in making, or influencing a governmental decision is to ask yourself if you are exercising *discretion* or *judgment* with regard to the decision. If the answer is "yes," then your conduct with regard to the decision is very probably covered.

**When you have a conflict —  
Regulation 18702.5 (special rule for  
section 87200 public officials)**

Government Code section 87105 and regulation 18702.5 outline a procedure that public officials specified in section 87200 must follow for disclosure of economic interests when they have a conflict of interest at a public meeting. The full text of this law and regulation may be viewed in the Library and Publications section of the FPPC's website at <http://www.fppc.ca.gov>.

Public officials specified in section 87200 of the Government Code, such as council members, planning commissioners, and boards of supervisors, must pub-

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licly identify in detail the economic interest that creates the conflict, step down from the dais **and must then leave the room**. This identification must be following the announcement of the agenda item to be discussed or voted upon, but before either the discussion or vote commences.

Additionally, the disqualified official may not be counted toward achieving a quorum while the item is being discussed.

The identification of the conflict and economic interest must be made orally and shall be made part of the public record.

**Exceptions:**

- If the decision is to take place during a closed session, the identification of the economic interest must be made during the public meeting prior to the closed session but is limited to a declaration that the official has a conflict of interest. The economic interest that is the basis for the conflict need not be disclosed. The official may not be present during consideration of the closed session item and may not obtain or review any non-public information regarding the decision.
- A public official is not required to leave the room for an agenda item on the consent calendar provided that the official recuses himself or herself and publicly discloses the economic interest as described above.

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- A public official may speak as a member of the general public only when the economic interest that is the basis for the conflict is a personal economic interest, for example, his or her personal residence or wholly owned business. The official must leave the dais to speak from the same area as the members of the public and may listen to the public discussion of the matter.

**Examples:**

— *The Arroyo City Council is considering widening the street in front of council member Smith's personal residence, which he solely owns. Council member Smith must disclose on the record that his home creates a conflict of interest preventing him from participating in the vote. He must leave the dais but can sit in the public area, speak on the matter as it applies to him and listen to the public discussion.*

— *Planning Commissioner Garcia is a greater than 10% partner in an engineering firm. The firm represents a client who is an applicant on a project pending before the planning commission. Commissioner Garcia must publicly disclose that the applicant is a source of income to her requiring her recusal. Commissioner Garcia must step down from the dais and leave the room. Since this is not a personal interest that is the basis for the conflict, she may not sit in the public area and listen to the discussion.*

— *Supervisor Robertson rents a home to a county employee. The county employee is the sub-*

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*ject of a disciplinary matter in a closed session of the Board of Supervisors. During the open session prior to adjourning to closed session, Supervisor Robertson announces that he must recuse himself from participating in the closed session but does not disclose that the reason for his recusal is a source of income nor does he name the county employee that is the source of income to him. He may not attend the closed session or obtain any non-public information from the closed session.*

## **Economic Interests**

**Step Three — What are your economic interests? That is, what are the possible sources of a financial conflict of interest?**

From a practical point of view, this third step is the most important part of the law for you. The Act's conflict-of-interest provisions apply only to conflicts of interest arising from economic interests. There are six kinds of such economic interests from which conflicts of interest can arise:

- **Business Investment.** You have an economic interest in a business entity in which you, your spouse, your registered domestic partner, or your dependent children or anyone acting on your behalf has invested \$2,000 or more.
- **Business Employment or Management.** You have an economic interest in a business entity for which you are a director, officer, partner, trustee, employee, or hold any position of management.

- **Real Property.** You have an economic interest in real property in which you, your spouse, your registered domestic partner, or your dependent children or anyone acting on your behalf has invested \$2,000 or more, and also in certain leasehold interests.

*"The most important thing you can do to comply with this law is to learn to recognize the economic interests from which a conflict of interest can arise."*

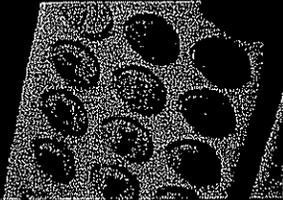
- **Sources of Income.** You have an economic interest in anyone, whether an individual or an organization, from whom you have received (or from whom you have been promised) \$500 or more in income within 12 months prior to the decision about which you are concerned. When thinking about sources of income, keep in mind that you have a community property interest in your spouse's or registered domestic partner's income — a person from whom your spouse or registered domestic partner receives income may also be a source of a conflict of interest to you. Also keep in mind that if you, your spouse, your registered domestic partner or your dependent children own 10 percent or more of a business, you are considered to be receiving "pass-through" income from the business's clients. In other words, the business's clients may be considered sources of income to you.
- **Gifts.** You have an economic interest in anyone, whether an individual or an organization, who has

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given you gifts which total \$360 or more within 12 months prior to the decision about which you are concerned.

- **Personal Financial Effect.** You have an economic interest in your personal expenses, income, assets, or liabilities, as well as those of your immediate family. This is known as the "personal financial effects" rule. If these expenses, income, assets or liabilities are likely to go up or down by \$250 or more in a 12-month period as a result of the governmental decision, then the decision has a "personal financial effect" on you.

On the Statement of Economic Interests (Form 700) you file each year, you disclose many of the economic interests that could cause a conflict of interest for you. However, be aware that not all of the economic interests that may cause a conflict of interest are listed on the Form 700. A good example is your home. It is common for a personal residence to be the economic interest that triggers a conflict of interest even though you are not required to disclose your home on the Form 700.



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## **Directly or Indirectly Involved?**

### **Step Four — Are your economic interests directly or indirectly involved in the governmental decision?**

An economic interest which is directly involved in — and therefore directly affected by — a governmental decision creates a bigger risk of a conflict of interest than does an economic interest which is only indirectly involved in the decision. As a result, the FPPC's conflict-of-interest regulations distinguish between economic interests that are directly involved and interests that are indirectly involved.

Once you have identified your economic interests, you must next decide if they are directly involved in the governmental decision about which you are concerned. The FPPC has established specific rules for determining whether each kind of economic interest is directly or indirectly involved in a governmental decision.

The details of these rules are beyond the scope of this guide. In general, however, an economic interest is directly involved if it is the subject of the governmental decision. For example, if the interest is real property, and the decision is about building a donut shop down the block from the property, then the interest is directly involved. If the interest is a business, and the decision is whether to grant a license for which the business has applied, the interest is directly involved.

These are just examples; you should contact your agency counsel, the FPPC and the specific regulations

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if you have questions as each case arises. Note also that the next step in the analysis — applying the right standard to determine whether an impact is material — depends in part on whether the interest is directly or indirectly involved. The regulations — Sections 18704 through 18704.5 — and other helpful information can be found on the FPPC's web site, <http://www.fppc.ca.gov>.

## **Materiality (Importance)**

### **Step Five — What kinds of financial impacts on your economic interests are considered important enough to trigger a conflict of interest?**

At the heart of deciding whether you have a conflict of interest is a prediction: Is it sufficiently likely that the governmental decision will have a material financial effect on your economic interests? As used here, the word "material" is akin to the term "important." You will have a conflict of interest only if it is reasonably foreseeable that the governmental decision will have an important impact on your economic interests.

The FPPC has adopted rules for deciding what kinds of financial effects are important enough to trigger a conflict of interest. These rules are called "materiality standards," that is, they are the standards that should be used for judging what kinds of financial impacts resulting from governmental decisions are considered material or important.

There are too many of these rules to review in detail in this booklet. Again, you can seek advice for your

*"Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them."*

*— California Political Reform Act of 1974*

agency counsel or the FPPC. However, to understand the rules at a "big picture" level, remember these facts:

- If the economic interest is directly involved in the governmental decision, the standard or threshold for deeming a financial impact to be material is stricter (i.e. lower). This is because an economic interest that is directly involved in a governmental decision presents a bigger conflict-of-interest risk for the public official who holds the interest.
- On the other hand, if the economic interest is not directly involved, the materiality standard is more lenient because the indirectly involved interest presents a lesser danger of a conflict of interest.
- There are different sets of standards for the different types of economic interests. That is, there is one set of materiality standards for business entities, another set for real property interests, and so on.
- The rules vary by the size and situation of the economic interest. For example, a moment's thought will tell you that a \$20,000 impact resulting from a governmental decision may be crucial to a small business, but may be a drop in the bucket for a big corporation. For example, the materiality standards

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distinguish between large and small businesses, between real property which is close or far from property which is the subject of the decision.

## **Does a Conflict of Interest Result?**

**Step Six — Is it substantially likely that the governmental decision will result in one or more of the materiality standards being met for one or more of your economic interests?**

As already mentioned in the introduction, the heart of the matter is deciding whether it is sufficiently likely that the outcome of the decision will have an important impact on your economic interests.

What does "sufficiently likely" mean? Put another way, how "likely" is "likely enough?" The Political Reform Act uses the words "reasonably foreseeable." The FPPC has interpreted these words to mean "substantially likely." Generally speaking, the likelihood need not be a certainty, but it must be more than merely possible.

A concrete way to think about this is to ask yourself the following question: Is it substantially likely that one of the materiality standards I identified in step five will be met as a result of the government decision? Step six calls for a factual determination, not necessarily a legal one. Also, an agency may sometimes segment (break down into separate decisions) a decision to allow participation by an official if certain conditions are

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met. Therefore, you should always look at your economic interest and how it fits into the entire factual picture surrounding the decision.

## **“Public Generally” Exception**

### **Step Seven — If you have a conflict of interest, does the “public generally” exception apply?**

Now that you have determined that you will have a conflict of interest for a particular decision, you should see if the exceptions in Step 7 and Step 8 permit you to participate anyway. Not all conflicts of interest prevent you from lawfully taking part in the government decision at hand. Even if you otherwise have a conflict of interest, you are not disqualified from the decision if the “public generally” exception applies.

This exception exists because you are less likely to be biased by a financial impact when a significant part of the community has economic interests that are substantially likely to feel essentially the same impact from a governmental decision that your economic interests are likely to feel. If you can show that a significant segment of your jurisdiction has an economic interest that feels a financial impact which is substantially similar to the impact on your economic interest, then the exception applies.

The “public generally” exception must be considered with care. You may not just assume that it applies. There are specific rules for identifying the specific seg-

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ments of the general population with which you may compare your economic interest, and specific rules for deciding whether the financial impact is substantially similar. Again, contact your agency counsel, the FPPC and the specific rules for advice and details. The regulations outlining the steps to apply the "public generally" exception can be found on the FPPC website at <http://www.fppc.ca.gov> under regulations 18707-18707.9.

### **Are you required to participate?**

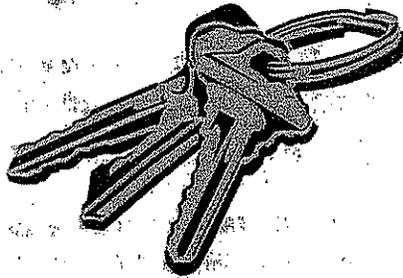
**Step Eight — Even if you have a disqualifying conflict of interest, is your participation legally required?**

In certain rare circumstances, you may be called upon to take part in a decision despite the fact that you have a disqualifying conflict of interest. This "legally required participation" rule applies only in certain very specific circumstances in which your government agency would be paralyzed, unable to act. You are most strongly encouraged to seek advice from your agency legal counsel or the FPPC before you act under this rule.

### **Conclusion**

Generally speaking, here are the keys to meeting your obligations under the Political Reform Act's conflict-of-interest laws:

- 
- Know the purpose of the law, which is to prevent biases, actual and apparent, which result from the financial interests of the decision-makers.
  - Learn to spot potential trouble early. Understand which of your economic interests could give rise to a conflict of interest.
  - Understand the "big picture" of the rules. For example, know why the rules distinguish between directly and indirectly involved interests, and why the public generally exception exists.
  - Realize the importance of the facts. Deciding whether you have a disqualifying conflict of interest depends just as much — if not more — on the facts of your particular situation as it does on the law.
  - Don't try to memorize all of the specific conflict-of-interest rules. The rules are complex, and the penalties for violating them are significant. Learn to understand the "big picture." You'll then be able to look up or ask about the particular rules you need to apply to any given case.
  - Don't be afraid to ask for advice. It is available from your agency's legal counsel and from the FPPC.



## How To Contact Us:

*Mail:*

Fair Political Practices Commission  
428 J Street, Suite 620  
Sacramento, CA 95814

*Website:*

[www.fppc.ca.gov](http://www.fppc.ca.gov)

*Telephone:*

Toll free advice line

1-866-ASK-FPPC

(1-866-275-3772)

Regular line 1-916-322-5660

Enforcement hot line

1-800-561-1861



**Fair Political  
Practices Commission**

**Special Meeting VI-A-178**

**Special Meeting VI-A-179**

**OPEN GOVERNMENT  
ORDINANCE**

**Special Meeting VI-A-180**

**Title 4  
OPEN GOVERNMENT**

**Chapters:**

- 4.04 In General
- 4.08 Public Access to Meetings
- 4.12 Public Information
- 4.16 Ethics
- 4.20 Open Government Commission

**Special Meeting VI-A-182**

**Chapter 4.04  
IN GENERAL**

Sections:

- 4.04.010 Goal.
- 4.04.020 Findings and purpose.
- 4.04.030 Fundamental rights.
- 4.04.040 Copies to be provided.
- 4.04.050 Definitions.

**4.04.010 Goal.** It is the goal of this title to make it easier for people to access city government so that they may be more informed about what their city is doing and so that they may be involved in a more meaningful and knowledgeable way. Open meetings, easier access to public records, ethical guidelines and a watchdog commission will help increase the public trust and confidence in the city government and will increase the public awareness and knowledge about their government. A well-educated public and ethical officials are essential to good government. (Ord. 05-06 § 1).

**4.04.020 Findings and purpose.** The city council finds as follows:

- A. The Ralph M. Brown Act states: "The people of this State do not yield their sovereignty to the agencies which serve them."
- B. It is the city's duty to serve the public and to accommodate those who wish to obtain information about or participate in the process of making decisions.
- C. Elected city officials, commissions, boards, advisory bodies and other agencies of the city exist to conduct the people's business. This title is intended to assure that the deliberations of these bodies and the city's operations are open to the public.
- D. This title is intended in part to clarify and supplement the Ralph M. Brown Act and the California Public Records Act to assure that the people of the city of Benicia can be fully informed and thereby retain control over the instruments of local government in their city.
- E. This title is intended to list and implement fundamental rights of each member of the public. (Ord. 05-06 § 1).

**4.04.030 Fundamental rights.** Fundamental rights of each member of the public include, but are not limited to:

- A. The right to receive meaningful, advance notice of agendas and packets of all meeting materials.
- B. The right to attend, listen to and participate in all meetings without cost, signup, giving name or address or any personal information.
- C. The right to speak with a meaningful amount of time on every agenda item separately, including each consent item, closed session or any report items without being required to sign up, give his/her name, or address, or any other information.

D. The right to interrupt the body for a point of order or clarification except to the extent that it becomes unduly disruptive.

E. The right to speak on any subject not on the agenda so long as the subject relates to the business of the body.

F. The right to criticize the body or members for their official actions or inactions, during public comment or by holding signs except to the extent that it becomes unduly disruptive.

G. The right to pull consent agenda items for public review and discussion.

H. The right to comment on every agenda item either during the public comment period on that item, under the general public comment period or in writing.

I. The right to use presentation tools when commenting.

A plaque listing these rights will be placed at the entrance of the council chambers. These rights shall be read aloud by the presiding official to the public at the start of each meeting unless the rights are posted in the meeting room. If the rights are posted, the presiding officer may state the rights are posted instead of reading them. (Ord. 05-06 § 1).

**4.04.040 Copies to be provided.** The office of the city attorney shall provide any person with a copy of the Brown Act or Public Records Act or this title without charge. (Ord. 05-06 § 1).

**4.04.050 Definitions.** The following words and phrases, whenever used in this title, shall be construed as hereafter set out unless it shall be apparent from the context that they have a different meaning. Unless defined herein, the definitions in the Ralph M. Brown Act and the California Public Records Act and related laws shall govern.

A. "Agenda packet" means the nonconfidential portion of a body's agenda-related materials. "Agenda packet" includes materials that:

1. Were distributed by the city to a majority of the members of a body prior to or at the meeting; and
2. Relate to an item on the agenda.

B. "Body" means:

1. The Benicia city council;
2. Any board, commission, task force or committee, which is established by city ordinance or by motion or resolution of the city council or created as a result of federal, state or local grants;
3. Any advisory board, commission or task force created and appointed by the mayor and approved by the city council; or
4. Any standing committee of any body specified in subsections (B)(1), (B)(2) or (B)(3) of this section.

"Body" shall not mean any congregation or gathering which consists solely of employees of the city of Benicia or consists of employees and representatives of companies providing employees' benefits including, but not limited to, retirement and health care plans.

C. "Criticize" means to provide verbal or written critical comments, regarding the official actions or inactions, during public comment or by holding signs except to the extent that it becomes unduly disruptive.

D. "Days" means calendar days.

E. "Department" means a department of the city of Benicia.

F. "Information request facilitator" means the person who shall assist members of the public with their public information requests. For general requests, it means the city clerk in accordance with BMC 4.20.030(D). For department-specific requests, it means the department director or designee.

G. "Interrupt" means to stand and raise one's hand and, in accordance with Robert's Rules of Order, wait for recognition by the presiding officer before speaking.

H. "Meeting".

1. "Meeting" shall mean any of the following:

a. A congregation of a majority of the members of any body in which any item within its subject matter jurisdiction is heard, discussed or deliberated;

b. Any use of direct communication, personal intermediaries or communications media to cause a majority of the members of a body to become aware of an item of business and of the views or positions of other members with respect thereto, and to negotiate consensus thereon; and

c. Any meal or social gathering of a majority of the members of a body immediately before, during, or after a meeting of a body. For the purposes of this definition, "immediately before" means the four hours prior to a meeting.

2. "Meeting" shall not include any of the following:

a. Individual contacts or conversations between a member of a body and any other person;

b. The attendance of any number of the members of a body at a conference, or at any meeting or gathering organized to address a topic of local community concern and which is open to the public; provided, that a majority of the members of a body refrains from collectively discussing, other than as part of the scheduled program, the topic of the meeting or gathering or any other business within the subject matter jurisdiction of that body;

c. The attendance of any number of the members of any body at a purely social, recreational, educational or ceremonial occasion; provided, that a majority of the members of any body refrains from discussing any business within the subject matter jurisdiction of the body; and provided, that the gathering does not qualify as a meeting under subsection (F)(1)(c) of this section; and

d. The attendance of a majority of the members of a body at a standing committee; provided, that the members of the body who are not members of the standing committee do not participate personally or through representatives.

I. "Notice" means the posting of an agenda in a location that is freely accessible to the public 24 hours a day and as additionally specified in BMC 4.08.030, 4.08.050 and 4.08.060.

J. "Public information" means the content of "public records" as defined in the California Public Records Act (Government Code Section 6250 et seq.) whether contained in public records or in oral communications.

K. "Public official" means all elective officials and members of all official boards, commissions and committees of the city.

L. "Online" shall mean accessible by computer without charge to the user.

M. "The Public Records Act" shall mean Government Code Section 6250 et seq.

N. "Ralph M. Brown Act" shall mean Government Code Section 54950 et seq.

O. "Software or hardware failure" means solely technological failures of software or hardware that are unforeseeable. This term includes failures such as those caused by natural disasters or acts of God, and technical failures against which the city has taken customary precautions.

P. "Standing committee" shall mean any number of members of a body which totals less than a quorum and which has (1) a continuing subject matter jurisdiction, or (2) a meeting schedule fixed by charter, ordinance, resolution or formal action of the body.

Q. "Weeknight" shall mean after 5:00 p.m. on any day of the week except for Saturday or Sunday. (Ord. 07-22 § 1; Ord. 06-11 § 1; Ord. 05-06 § 1).

**Chapter 4.08**  
**PUBLIC ACCESS TO MEETINGS**

Sections:

- 4.08.010 Meetings to be open and public – Application of Brown Act.
- 4.08.020 Conduct of meetings for public agencies covered by this title.
- 4.08.030 Notice requirement – Emergency meeting.
- 4.08.040 Conduct of business – Time and place for meeting.
- 4.08.050 Notice and agenda requirements – Regular meetings.
- 4.08.060 Notice and agenda requirement – Special meetings.
- 4.08.070 Agenda packets as public records – Agenda subscribers.
- 4.08.080 Barriers to attendance prohibited.
- 4.08.090 Public testimony at regular and special meetings.
- 4.08.100 Minutes and recordings.
- 4.08.110 Public comment by members of bodies.
- 4.08.120 Agenda descriptions and oral disclosures.
- 4.08.130 Statement of reasons for closed sessions.
- 4.08.140 Conduct of closed session.
- 4.08.150 Disclosure of closed session discussions and actions.
- 4.08.160 Ex-parte communications.

**4.08.010 Meetings to be open and public – Application of Brown Act.**

All meetings of bodies defined in BMC 4.04.050 shall be open and public, to the same extent as if that body were governed by the provisions of the Ralph M. Brown Act (Government Code Section 54950 et seq.) unless greater public access is required by this chapter, in which case this chapter shall be applicable. (Ord. 05-06 § 1).

**4.08.020 Conduct of meetings for public agencies covered by this title.**

To the extent not inconsistent with state or federal law, a body may require, as a condition of any express delegation of power to any public agency, including joint powers authorities, whether such delegation of power is achieved by legislative act, contract, lease or other agreement, that any meeting by such a public agency at which an item concerning or subject to the delegated power is discussed or considered shall be conducted pursuant to the Ralph M. Brown Act. (Ord. 05-06 § 1).

**4.08.030 Notice requirement – Emergency meeting.** Emergency meetings shall be held in accordance with Government Code Section 54956.5 which states:

(a) For purposes of this Section, "emergency situation" means both of the following:

(1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this Section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) (1) Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this Section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this Section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this Section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this Section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the roll call vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

(Ord. 05-06 § 1).

#### **4.08.040 Conduct of business – Time and place for meeting.**

A. Unless proscribed by council ordinance, every body established by city council ordinance shall establish by formal action the time and place for holding regular meetings and shall conduct such regular meetings in accordance with such resolution or formal action. Whenever reasonably possible bodies shall

conduct their regular meetings on weeknights except when the body determines that the subject matter would be more appropriately discussed at another time.

B. Regular and special meetings of every body shall be held within the city of Benicia except to do any of the following:

1. Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the body is a party;

2. Inspect real or personal property which cannot be conveniently brought to Benicia; provided, that the topic of the meeting is limited to items directly related to the real or personal property;

3. Participate in meetings or discussions of multi-agency significance that are outside Benicia. However, any meeting or discussion held pursuant to this subsection shall take place within the jurisdiction of one of the participating agencies and be noticed by all participating agencies. Agencies include local agencies such as school districts, counties, cities or other public agencies as specified in the Brown Act; or

4. Meet outside the city of Benicia with elected or appointed officials of the United States or the state of California or counties.

C. If a meeting is held outside of the city, the location of the meeting shall be posted in the city.

D. If a regular meeting for any body falls on a holiday, the meeting shall be held on the next scheduled regular meeting day unless otherwise noticed as a special meeting for which notice is given at least six days in advance.

E. If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet in the customary location, the meetings may be held for the duration of the emergency at some other place specified by the presiding official of the body or his or her designee. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to media organizations who have requested written notice of meetings.

F. If a quorum of a body becomes present at a meeting of a standing or ad hoc committee of said body, the body may not take action at the meeting of the committee unless the meeting has been properly noticed as a meeting of the body itself. The standing or ad hoc committee of a body may take action at the meeting consistent with the committee's jurisdiction and authority.

G. Every body shall ensure that video screens or presentation boards are reasonably viewable by both the body and the public.

H. To ensure business is conducted in the open, bodies should avoid taking breaks during discussion of a particular agenda item. If a break is needed or if the item is continued to a future meeting, each member of the body shall disclose orally on the public record the general nature of any conversations during the break or continuance pertaining to the item.

I. Unless proscribed by council ordinance, each body established by ordinance shall establish and publish an annual schedule of regular meetings. (Ord. 07-02 § 1; Ord. 06-11 § 2; Ord. 05-06 § 1).

#### **4.08.050 Notice and agenda requirements – Regular meetings.**

A. Six-Day Advance Notice Requirement for Regular Meetings of Bodies. The city council, and any body defined in BMC 4.04.050, shall provide notice before any regular meeting by:

1. Posting a copy of the agenda in a location freely accessible to the public 24 hours a day no later than six days before the date of the meeting;

2. Filing a copy of the agenda and a complete agenda packet with the office of the city clerk and the Benicia Public Library no later than five days before the date of the meeting; and

3. Posting a copy of the agenda online at the city's web site no later than six days before the date of the meeting. Notwithstanding this subsection, the failure to timely post a copy of the agenda because of software or hardware failure, as defined, shall not constitute a defect in the notice for a regular meeting, if the body complies with all other posting and noticing requirements.

B. Supplemental Agenda and Related Materials Requirements for Regular Meetings of Bodies. Notwithstanding the notice provisions of subsection (A) of this section, a body may amend or supplement a posted agenda or agenda-related materials no later than 72 hours before a regular meeting and only for the following reasons or under the following conditions. Prior to amending or supplementing the posted agenda or agenda-related materials, the presiding officer shall state for the record what supplemental material is under consideration and/or how the agenda is proposed to be amended. Agendas or agenda-related materials may only be amended or supplemented:

1. To add an item due to an emergency or urgency, provided the body makes the same findings as required by subsection (D) of this section before taking action;

2. To delete or withdraw any item from a posted agenda;

3. To provide additional information to supplement the agenda-related material previously filed with the office of the city clerk; provided, that the additional information was not known to staff;

4. To correct technical, nonsubstantive errors or omissions, or to change a stated financial amount that decreases the body's obligation under a proposed agreement, or to clarify the agenda title in a manner that does not substantively change the nature of the action to be taken on the agenda item;

5. To consider the recommendations, referrals, minutes or actions taken on any item heard by a standing committee of the city council; provided, that the item has not been materially changed by the committee or materially changed after the committee considered the item; or

6. To continue an agenda item to the next regular meeting of the body so long as members of the public are given an opportunity to address the body on the item at the meeting from which the item is continued.

If substantial supplemental information is received from the applicant or a member of the public, the body shall either (1) automatically continue the item to the next regular meeting or a special meeting, or (2) decide that there was adequate notice to allow consideration of the additional information.

C. Excuse of Open Government Notice Requirements. If an item appears on an agenda but the body fails to meet any of the additional notice requirements under this section, the body may take action only if:

1. The minimum notice requirements of the Brown Act have been met; and
2. The body, by a two-thirds vote of those members present, adopts a motion determining that, upon consideration of the facts and circumstances, it was not reasonably possible to meet the additional notice requirements under this section and any one of the following exists:
  - a. The need to take immediate action on the item is required to avoid a substantial adverse impact that would occur if the action were deferred to a subsequent special or regular meeting;
  - b. There is a need to take immediate action which relates to federal or state legislation or the body's eligibility for any grant or gift; or
  - c. The item relates to a purely ceremonial or commendatory action.

D. Action on Items Not Appearing on the Agenda. Notwithstanding subsection (C) of this section, a body may take action on items not appearing on a posted agenda only if:

1. The matter is an emergency. Upon a determination by a majority vote of the body that work stoppage, crippling disaster or other activity exists which severely impairs public health, safety or both; or
2. The matter is urgent. Upon a determination by a two-thirds vote of those present, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action which came to the attention of the body after the agenda was posted; that there was adequate public notification considering the subject matter to be considered; and that the need to take immediate action:
  - a. Is required to avoid a substantial adverse impact that would occur if the action were deferred to a subsequent special or regular meeting;
  - b. Relates to federal or state legislation; or
  - c. Relates to a purely ceremonial or commendatory action.

E. Nothing in this section shall prohibit a body from taking action to schedule items for a future meeting to which regular or special meeting notice requirements will apply, or to distribute agenda-related materials relating to items added pursuant to subsection (D) of this section before or during a meeting.

F. Nothing in this section shall prohibit the office of the city attorney from conforming a document to comply with technical requirements as to form and legality. (Ord. 07-03 § 1; Ord. 05-06 § 1).

#### **4.08.060 Notice and agenda requirement – Special meetings.**

A. If the presiding official or senior staff member to the body finds that waiting for the next available regular meeting of the body would make it impossible to take meaningful action or the regular meeting will be cancelled due

to a lack of quorum or a city holiday, a special meeting of any body may be called at any time by the presiding official thereof or by the senior staff member to the body. All bodies calling a special meeting shall provide notice by:

1. Posting a copy of the agenda in a location freely accessible to the public at least 72 hours (excluding Saturday, Sunday and holidays) before the time of the meeting set forth in the agenda. The posting time for a special meeting due to the body's regular meeting falling on a holiday shall be six days;

2. Filing a copy of the agenda and copies of all agenda-related material in the office of the city clerk at least 48 hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda; and

3. Delivering a copy of the agenda to each member of the body, to each local newspaper of general circulation, to each agenda subscriber, and to each media organization which has previously requested notice in writing, so that a copy of the agenda is received at least 24 hours before the time of the meeting set forth in the agenda. Receipt of the agenda shall be presumed upon reasonable proof that delivery was made.

B. Bodies specified in BMC 4.04.050 shall, in addition to the noticing requirements of this section, post a copy of the agenda for any special meeting online at the city's web site at least 72 hours before the time of the meeting set forth in the agenda. Failure to timely post a copy of the agenda online because of software or hardware failure, as defined, shall not constitute a defect in the notice for a special meeting if the body complies with all other posting and noticing requirements.

C. No business other than that set forth in the agenda shall be considered at a special meeting. Each special meeting shall be held at the regular meeting place of the body except that the body may designate an alternative meeting location; provided, that such alternative location is specified in the agenda.

D. To the extent practicable, the presiding official or the majority of members of any body may cancel a special meeting by delivering notice of cancellation in the same manner and to the same persons as required for the notice of such meeting.

E. Special meetings may not be scheduled on the same day as a previously scheduled regular meeting that was not noticed in compliance with this chapter if the special meeting is called to consider any of the items that were included in the notice for such regular meeting. (Ord. 05-06 § 1).

#### **4.08.070 Agenda packets as public records – Agenda subscribers.**

In addition to providing access to all records which are public records pursuant to the California Public Records Act (Government Code Section 6250 et seq.) and this title, every body specified in BMC 4.04.050 shall make available for immediate public inspection and copying all agendas and agenda-related materials.

A. All agendas shall be posted on the city's web site and the city's cable channel and available at the Benicia Public Library. Complete agenda

packets for each body shall be posted on the city's web site to the extent fiscally and technologically feasible and shall be available for review at the Benicia Public Library and at the city manager's office during normal business hours. The time for compliance with this subsection shall be in accordance with the time of the posting of the agenda for the meeting.

B. All agendas of every body shall be available to the public by an email subscription. Such service shall be provided free of charge and shall be provided to the subscriber until the request for the service is cancelled by the subscriber or the email address is no longer valid. The email shall be sent at the time of the posting of the agenda for the meeting. The city clerk shall establish the email subscribers list for the city council agendas. The secretary to other bodies shall establish and maintain the email subscribers list for the respective bodies.

C. Paper copies of the agenda and agenda packet shall be available to members of the public for every body upon payment of the fee established by city council resolution. Every body shall establish a subscription list for the agenda and/or agenda packet so that members of the public may subscribe to the agenda and/or agenda packet upon payment of the fee established by the city council. The fee shall not exceed the direct costs of copying the agenda and agenda packet and the reasonable mailing costs of the agenda and agenda packet. In order to enhance public participation and involvement, the fees for the agenda subscription shall be waived for anyone who reports on city government and makes the reports available to members of the public. Subscriptions for the agenda and/or agenda packet shall be valid for one year. The city clerk or the secretary to other bodies shall send the subscriber a note to resubscribe and pay the subscription fee with the last agenda and/or agenda packet that is mailed to a subscriber.

D. Every body shall make available for immediate public inspection and copying the agenda packet that has been distributed to a majority of its members. The right to immediate public inspection and copying provided in this section shall not include any material exempt from public disclosure under this title or under state or federal law. Neither this section nor the California Public Records Act shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that Act or this title.

E. All requests by agenda subscribers to receive agendas or agenda-related materials may be made by mail, telephone or email to the office of the city clerk or city manager's office. The city clerk shall maintain a list of all bodies and shall immediately forward a copy of the written request to the appropriate body to ensure compliance with the request.

F. Notwithstanding any other provision of this title, the failure of an agenda subscriber to timely receive the agenda or agenda-related material pursuant to this section shall not constitute grounds for invalidation of the actions of the body taken at the meeting for which the agenda or the agenda-related material was not timely received. (Ord. 05-06 § 1).

**4.08.080 Barriers to attendance prohibited.**

A. No body specified in this title shall conduct any meeting, conference or other function in any facility which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever a body anticipates that the number of persons attending the meeting may exceed the legal capacity of the room, a public address system or television shall be used to the extent technologically and fiscally reasonable to permit the overflow audience to listen to the proceedings.

B. Any person attending an open meeting of a body shall have the right to record, photograph or broadcast the proceedings unless such activities constitute a persistent disruption of the proceedings. (Ord. 06-11 § 3; Ord. 05-06 § 1).

**4.08.090 Public testimony at regular and special meetings.**

A. Every agenda for every regular or special meeting shall provide a public comment section on the agenda as an opportunity for members of the public or for members of the body to directly address a body on items of interest to the public that are within the body's subject matter jurisdiction; provided, that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Government Code Section 54954.2 and BMC 4.08.050(D). Except as provided in subsection (C) of this section, speakers shall limit their comments during the public comment section of the agenda to nonagendized items.

B. Every agenda for regular or special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item before taking action. Public comments on closed session items shall be taken before the closed session is convened. The presiding official of any body may request speakers representing similar views to designate a spokesperson in the interest of time. Spokespersons for the proponent(s) of an agenda item and for the opponent(s) shall each have 15 minutes to present their case. The spokesperson for the proponent(s) shall have five minutes to present any rebuttal. Other speakers may be requested to keep their remarks concise.

C. At the presiding official's discretion, the official may grant up to 10 minutes to a speaker who desires to speak on multiple agenda items so that the speaker shall address all items at one time before the body's consideration of those items. Such comments shall be made under the public comment part of the agenda.

D. Every body shall adopt a rule providing that each person wishing to speak on an item shall be permitted to speak once based upon previously adopted time constraints which are reasonable and uniformly applied. Except as otherwise provided by this section, it shall be the policy of the city that all speakers are entitled to up to five minutes of speaking time per agenda item.

E. Members of the public who speak on an agenda item or under public comment do not have to give their name or address should they choose not to.

F. Written material submitted by members of the public shall be retained as part of the official agenda file and available for review by other members of the public in accordance with Chapter 4.12 BMC.

G. No body shall abridge or prohibit public criticism of the policies, procedures, programs or services of the body or agency, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, even if the criticism implicates the performance of one or more public employees. Nothing in this subsection shall confer any privilege or protection beyond that which is otherwise provided by law. (Ord. 07-04 § 1; Ord. 06-04 § 1; Ord. 05-06 § 1).

#### **4.08.100 Minutes and recordings.**

A. All bodies shall record the minutes for each regular and special meeting convened under the provisions of this chapter. At a minimum, the minutes shall state the time the meeting was called to order, the names of the members attending the meeting, a one-sentence summary of, and the roll call vote on, each matter considered at the meeting, the time the body began and ended any closed session, any letters submitted on agenda items, those members of the public who spoke on each matter if the speakers identified themselves, and the time the meeting was adjourned. The draft minutes of each meeting shall be available for inspection and copying upon request within the shortest possible time after the meeting. No later than five business days after the meeting at which the minutes are adopted, the officially adopted minutes shall be available for inspection and copying upon request and shall be posted on the city's web site.

B. Every body specified in BMC 4.04.050 and established by city ordinance shall make an audio and where possible economically and technically a visual recording of every open regular meeting. Other bodies shall audiotape each regular and special open meeting and may make a visual recording of any meeting. Any recording of any open meeting shall be a public record subject to inspection and copying. For the city council and bodies established by ordinance, the recording shall not be erased, deleted or destroyed for at least four years. For all other bodies, the recording shall not be erased, deleted or destroyed for at least two years. If, during the four- or two-year period, a written request for inspection or copying of any recording is made, the recording shall not be erased, deleted or destroyed until the requested inspection or copying has been accomplished. Inspection of any such recording shall be provided without charge on a player or computer made available by the body. (Ord. 05-06 § 1).

**4.08.110 Public comment by members of bodies.** Every member of a body retains the rights of any citizen to comment publicly on the wisdom or propriety of government actions, including those of the body of which he or she is a member. Bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials to express their judgments or opinions, including those

judgments or opinions pertaining to the disclosure or nondisclosure of discussions or actions taken in closed session. However, the release of specific factual information made confidential by state or federal law including, but not limited to, privileged attorney-client communications, other than by the procedures set forth under state law or this title, may constitute grounds for censure or for an action for injunctive or declaratory relief by the body. Nothing in this section shall confer any privilege or protection for expression beyond that which is otherwise provided by law. (Ord. 05-06 § 1).

#### **4.08.120 Agenda descriptions and oral disclosures.**

A. Agendas for meetings shall provide a brief description of the item under consideration. To the extent appropriate, information that should be described includes the following: the commonly used name and location of the property under consideration; names of proposed appointees, contractors or parties to an agreement; and the general nature of the action(s) under consideration. The use of acronyms, jargon and "double speak" should be avoided.

B. Closed session descriptions shall comply with the permissive provisions of Government Code Section 54954.5 in describing items for closed session.

C. In the case of an item added to the agenda pursuant to Government Code Section 54954.2(b) or BMC 4.08.050(D), the statement shall be made in open session concurrent with the findings required pursuant to that section.

D. Any action taken on items that are not described in accordance with this section is subject to invalidation pursuant to the provisions of Government Code Section 54960.1. (Ord. 05-06 § 1).

#### **4.08.130 Statement of reasons for closed sessions.**

A. Prior to adjourning to any closed session, a body shall announce in open session the general reason or reasons for the closed session, and must cite and explain the statutory or case authority under which the session is being closed.

B. In the case of a closed session item added to the agenda pursuant to Government Code Section 54954.2(b) or BMC 4.08.050(D), the statement shall be made in open session concurrent with the findings required pursuant to that section.

C. No minutes for a closed session, but a tape recording of the closed session shall be made. The tapes shall remain confidential pursuant to Government Code Section 54960 unless the body elects to disclose the information in accordance with BMC 4.08.150(B) or a court orders disclosure.

D. Nothing in this section shall require or authorize a disclosure of information that is confidential under law. (Ord. 06-11 § 4; Ord. 05-06 § 1).

#### **4.08.140 Conduct of closed session.**

A. A body shall consider in closed session only those matters specified in the statement required in BMC 4.08.130.

B. The following provisions of the Brown Act apply to the conduct of closed session by bodies and are hereby incorporated by reference as though fully set forth herein: Government Code Sections 54956.8; 54956.9; 54956.95; 54957; and 54957.6.

C. No minutes for a closed session, but a tape recording of the closed session shall be made. The tapes shall remain confidential pursuant to Government Code Section 54960 unless the body elects to disclose the information in accordance with BMC 4.08.150(B). (Ord. 05-06 § 1).

#### **4.08.150 Disclosure of closed session discussions and actions.**

A. In accordance with Government Code Section 54963 and as provided below, a person present at a closed session may not disclose confidential information received.

B. In addition to the required disclosures pursuant to Government Code Section 54957.1 and subsection (C) of this section, the body may, by motion and vote in open session, elect to disclose any other information obtained in closed session which a majority of the members of the body deems to be in the public interest. Any disclosure pursuant to this section shall be made through the presiding official or such other person present in the closed session, designated to convey the information.

C. Immediately following the closed session a body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

1. Real Property Negotiations. Approval of an agreement concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the body shall report that approval, the substance of the agreement and the vote thereon in open session immediately. If final approval requires action from another party to the negotiations, the body shall disclose the fact of its approval, the substance of the agreement and the body's vote or votes thereon after the other party or its agent has informed the body of its action upon (a) inquiry by any person, and (b) in any event, at the next meeting of said body. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or if there are multiple contiguous or closely located properties that are being considered for transfer, the report specified in this section need not be made until the conditions have been satisfied or an agreement has been reached with respect to all the properties, or both.

2. Litigation. Direction or approval given to the body's legal counsel to prosecute, defend, seek or refrain from seeking appellate review or relief, or to otherwise enter as a party, intervenor or amicus curiae in any form of litigation as the result of a consultation under Government Code Section 54956.9 shall be reported in open session as soon as given, or at the first meeting after

an adverse party has been served in the matter if immediate disclosure of the body's intentions would not be contrary to the public interest. The report shall identify the names and capacities of all parties to the litigation, the court of jurisdiction and case number, the type of case, any existing claim or order to be defended against, or any factual circumstances or contractual dispute giving rise to the litigation.

3. Settlement. If a body accepts a settlement offer signed by an opposing party, the body shall report its vote of approval and identify the substance of the agreement. If final approval rests with another part or with the court, the body shall disclose its vote of approval and the substance of the agreement to any person upon inquiry as soon as the settlement becomes final, but in no case later than the next meeting following final approval of settlement. A body shall neither solicit nor agree to any term in a settlement agreement which would preclude the release, upon request, of the text of the settlement agreement itself and any related documentation communicated to or received from the adverse party or parties. Where the disclosure of documents in settled litigation could affect litigation on a closely related case, the report, settlement agreement and any documents described in this section need not be disclosed until the closely related case is settled or otherwise finally concluded.

D. Reports required to be made pursuant to this section may be made orally or in writing. Copies of any contracts, settlement agreements, or other documents related to the items or transactions that were finally approved or adopted in closed session and which contain the information required to be disclosed under this section shall be made available for inspection and copying, upon request, at the time the report is made or after any substantive amendments have been retyped into the document.

E. A written summary of the information required to be reported immediately pursuant to this section, or documents containing that information, shall be made available for inspection and copying by the close of business on the next business day following the meeting.

F. Action taken in closed session which is not immediately disclosable under this section shall be disclosed and noticed under the procedures set forth in subsection (C) of this section at such time as disclosure is required. (Ord. 05-06 § 1).

**4.08.160 Ex-parte communications.** While it is the city's policy to encourage communications between the public and officials, the city recognizes that Constitutional due process protections may limit communications with council members or board or commission members outside of a public meeting. Therefore, the city's policy on ex-parte communications discourages officials from discussing appeals or enforcement matters with members of the public except during the body's formal consideration of the matters. These matters should not be discussed during site inspections or field trips that are not part of an agendized meeting. If such discussions take place, officials must publicly disclose at the start of the agendized presentation of the item, the substance of any such discussions they have had with anyone other than another member of

the body or staff member. This policy applies to any appeal or enforcement matter which is pending, or is reasonably expected to come before the body on which the official sits. (Ord. 05-06 § 1).

**Chapter 4.12  
PUBLIC INFORMATION**

Sections:

- 4.12.010 Release of documentary public information.
- 4.12.020 Release of oral public information.
- 4.12.030 Public review file – Policy body communications.
- 4.12.040 Non-exempt public information.
- 4.12.050 Disclosure requests.
- 4.12.060 Immediate disclosure request.
- 4.12.070 Withholding restrictions.
- 4.12.080 Justification for withholding.
- 4.12.090 Fees for copying.
- 4.12.100 Web site information.
- 4.12.110 Requests made by email.
- 4.12.120 Policy regarding purchase and use of computer systems.

**4.12.010 Release of documentary public information.** Release of public records by a body or by any department, whether for inspection of the original or by providing a copy, shall be governed by the Public Records Act in any particulars not addressed by this chapter. The provisions of Government Code Section 6253.9 are incorporated herein by reference. (Ord. 05-06 § 1).

**4.12.020 Release of oral public information.** Release of oral public information shall be accomplished as follows:

A. Every department director shall be responsible for being knowledgeable about the affairs of the respective agency or department, to facilitate the inspection and copying of public records and to provide oral public information about agency or department operations, plans, policies, and positions. The department will make every effort to facilitate the information requested and will make it a top priority.

B. It shall be the duty of the department director (or designee) or, in the case of requests not directed to a specific department, the city clerk to provide information on a timely and responsive basis to the public. It shall also be their duty to assist members of the public in identifying those public records they wish to obtain pursuant to Government Code Section 6253.1. This section shall not be interpreted to curtail existing informal contacts between employees and members of the public when these contacts are occasional, acceptable to the employee and the department, not disruptive of his or her operational duties and confined to accurate information not confidential by law.

C. Public employees and city board, commission or committee members shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while not on duty, so long as the opinion is not represented as that of the city, department, board, commission or committee and does not materially misrepresent the city, department, board, commission or committee's position. Nothing in this section shall be construed to

provide rights to public employees beyond those recognized by law or agreement, or to create any new private cause of action or defense to disciplinary action. (Ord. 05-06 § 1).

**4.12.030 Public review file – Policy body communications.** Every body specified in BMC 4.04.050 shall maintain a communications file, organized chronologically and accessible to any person during normal business hours, containing a copy of any letter, memorandum or other writing pertaining to the body's duties which the clerk or secretary of such body has distributed to, or sent on behalf of, a quorum of the body concerning a matter that has been placed on the body's agenda within the previous 30 days or is scheduled or requested to be placed on the agenda within the next 30 days. Excepted from the communications file shall be commercial solicitations, mail sent bulk-rate, agenda and agenda-related material, periodical publications or communications exempt from disclosure under the California Public Records Act or this title. Multiple-page reports, studies or analyses which are accompanied by a letter or memorandum of transmittal need not be included in the communications file; provided, that the letter or memorandum of transmittal is included in the communications file and the reports, studies or analyses are readily available for review. (Ord. 05-06 § 1).

**4.12.040 Non-exempt public information.** Notwithstanding any right or duty to withhold certain information under the California Public Records Act or other law, the following shall govern specific types of requests for documents and information:

A. Drafts and Memoranda. No completed preliminary drafts or memoranda shall be exempt from disclosure under Government Code Section 6254(a) if said completed preliminary draft or memorandum has been retained in the ordinary course of business or pursuant to law or agency or department policy. Completed preliminary drafts and memoranda concerning agreements, memoranda of understanding or other matters subject to negotiation and pending a body's approval need not be subject to disclosure until final action has been taken or said document is included as part of the public agenda packet for the body, whichever is first.

B. Litigation Material. Unless otherwise privileged or made confidential by law, records of all communications between a body's representatives and the adverse party shall be subject to public inspection and copying, including the text and terms of any settlement agreement, once the pending litigation has been settled or finally adjudicated.

C. Personnel Information. None of the following shall be exempt from disclosure under Government Code Section 6254(c):

1. Job pool information, to the extent such information is compiled for reporting purposes and does not permit the identification of any particular individual. Such job pool information may include the following:

- a. Sex, age and ethnic group;
- b. Years of graduate and undergraduate study, degree(s) and major or discipline;

- c. Years of employment in the private and/or public sector;
- d. Whether currently employed in the same position for another public agency;
- e. Other non-identifying particulars as to experience credentials, aptitudes, training or education entered in or attached to a standard employment application form used for the positioning in question.

- 2. The job description of every employment classification.
- 3. The resumes of employees, although personal information such as home address shall be deleted.

- 4. Any adopted memorandum of understanding between the city and a recognized employee organization.

D. Law Enforcement Information.

1. The Benicia police department shall cooperate with all members of the public making requests for law enforcement records and documents under the California Public Records Act or other applicable law. Unless disclosure of the records sought is prohibited by other provisions of state or federal law such as the TNG Order, records and documents exempt from disclosure under the California Records Act pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public to the full extent permitted by law after the district attorney or court determines that a prosecution will not be sought against the subject involved or the statute of limitations for filing charges has expired, whichever occurs first. Information may be redacted from such records and documents and withheld if, based upon the particular facts, the public interest in nondisclosure clearly outweighs the public interest in disclosure. The final decision for disclosure shall be made by the city council and the vote and reasoning of each city council member shall be made public on all nondisclosures. Such redacted information may include:

- a. The names of juvenile witnesses or suspects;
- b. Personal or otherwise private information related or unrelated to the investigation if disclosure would constitute an unwarranted invasion of privacy;

- c. The identity of a confidential source;
- d. Secret investigative techniques or procedures;
- e. Information whose disclosure would endanger law enforcement personnel, a witness, or party to the investigation; or
- f. Information whose disclosure would endanger the successful completion of an investigation where the prospect of enforcement proceedings is likely.

2. The Benicia police department shall maintain a record, which shall be a public record and which shall be separate from the personnel records of the agency, which reports the number of citizen complaints against law enforcement agencies or officers, the number and types of cases in which discipline is imposed and the nature of the discipline imposed. This record shall be maintained in a format which assures that the names and other identifying information of individual officers involved is not disclosed directly or indirectly.

E. Contracts, Bids and Proposals. Contracts, contract bids, responses to requests for proposals and all other records of communications between the city and individuals or business entities seeking contracts shall be open to inspection and copying following the contract award or acceptance of a contract offer. Nothing in this provision requires the disclosure of a person's net worth or other proprietary financial information submitted for qualification for a contract.

F. Budgets and Other Financial Information. The following shall not be exempt from disclosure:

1. Any proposed or adopted budget for the city, including any of their respective agencies, departments, programs, projects or other categories, which have been submitted to a majority of the members of the city council, or their standing committees.

2. All bills, claims, invoices, vouchers or other records of payment obligations, as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social, legal or other services whose records are confidential by law. The nonconfidential portion, if any, of such records shall be disclosed.

G. Email correspondence retained in the ordinary course of business and not exempt from disclosure shall be made available within three working days upon written or oral request. All such email shall be maintained for two years before being destroyed. (Ord. 05-06 § 1).

#### **4.12.050 Disclosure requests.**

A. Notwithstanding any other provision of law and subject to the requirements of this section, a written or oral request to inspect or obtain copies of public records that is submitted to any department or to any body shall be satisfied no later than five business days unless the requestor is advised in writing within one business day that additional time is needed to determine whether:

1. The request seeks disclosable public records or information;
2. The requested records are in the possession of the department processing the request;
3. The requested records are stored in a location outside of the department;
4. The requested records likely comprise a voluminous amount of separate and distinct writings;
5. Reasonably involves another department or other local or state agency that has a substantial subject matter interest in the requested records and which must be consulted in connection with the request.

B. All determinations made pursuant to subsections (A)(1) through (A)(5) of this section shall be communicated in writing to the requestor within five business days of the date of the request. In no event shall any disclosable records be provided for inspection or copying any later than 10 business days after the written determination pursuant to subsections (A)(1) through (A)(5) of this section is communicated to the requestor. Additional time shall not be permitted to delay a routine or readily answerable request. The written request

shall also contain a telephone number, email or facsimile number whereby the requestor may be contacted. The provisions of Government Code Section 6253 shall apply to any written request that fails to state a number by which the requestor may be contacted.

C. The person seeking the information need not state a reason for making the request or the use to which the information will be put, but shall be advised that providing such information may help the city assist the person finding all documents responsive to their request.

D. Unless the record request will be satisfied within one business day, an acknowledgement of receipt of the request or notification that additional time is needed pursuant to subsection (A) of this section shall be sent to the requestor if an address has been provided. (Ord. 05-06 § 1).

#### **4.12.060 Immediate disclosure request.**

A. An immediate disclosure request is a request for (1) public records which have been previously distributed to the public, such as past meeting agendas and agenda-related materials, within the past calendar year, or (2) public records such as statements of economic interests that have, by other law, a requirement to be disclosed within a specific shortened time frame. All immediate disclosure requests shall describe the records sought in as focused and specific language as possible so they can be readily identified and shall state the words "Immediate Disclosure Request" across the top of the first page of the request and on any envelope in which the request is transmitted.

B. Notwithstanding any other provision of law and subject to the requirements of this section, a written or oral request to inspect or obtain copies of public records pursuant to an immediate disclosure request that is submitted to any department or to any body shall be satisfied at the earlier of the time required by other law or no later than two business days unless the requestor is advised in writing within two business days that additional time is needed because of the volume of records sought or because the records do not qualify as subject to the immediate disclosure request procedure.

C. All determinations made pursuant to subsection (B) of this section shall be communicated in writing to the requestor within two business days of the date of the request. If additional time is needed or if the records do not qualify for an immediate disclosure request, the request shall be processed in accordance with BMC 4.12.050. (Ord. 05-06 § 1).

#### **4.12.070 Withholding restrictions.**

A. No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure by law.

B. Any redacted, deleted or segregated information shall be keyed by footnote or other clear reference to the appropriate justification for withholding. Such redaction, deletion or segregation shall be done personally by the attorney or other staff member conducting the exemption review. (Ord. 05-06 § 1).

**4.12.080 Justification for withholding.** Any withholding of information shall be justified, in writing, as follows:

A. A withholding under a permissive exemption in the California Public Records Act or this title shall cite the legal authority and, where the exemption is based on the public interest in favor of not disclosing, explain in practical terms how the public interest would be harmed by disclosure.

B. A withholding on the basis that disclosure is prohibited by law shall cite the applicable legal authority.

C. A withholding on the basis that disclosure would incur civil or criminal liability shall cite any statutory or case law supporting that position.

D. The final decision for withholding information shall be made by the city council. The matter shall be scheduled for action at the next regularly scheduled city council meeting unless such meeting is more than 30 days from the date of the request for action by the council. In the event that the next regular meeting is more than 30 days away, a special meeting shall be called. If the council decides records should be disclosed, the records shall be disclosed not later than 5:00 p.m. of the next business day following the council meeting unless the council specifies some other time. Each council member's vote and general reason shall be given and recorded in public. Detailed reasons need not be provided when such disclosure would compromise privacy or confidential matters or would subject the city to litigation. (Ord. 07-05 § 1; Ord. 05-06 § 1).

**4.12.090 Fees for copying.**

A. No fee shall be charged for making public records available for inspection.

B. No fee shall be charged for a single copy of a current meeting agenda.

C. A fee may be charged for:

1. Single or multiple copies of past meeting agendas or any agenda-related materials;

2. Multiple copies of a current meeting agenda; and

3. Any other public record copied in response to a specific

request.

D. The city may, rather than making copies itself, contract at market rate to have a commercial copier produce the duplicates and charge the cost directly to the requester.

E. All drafts or final environmental impact reports and environmental impact statements shall be posted either on the city's web site or on the consultant's web site.

F. In addition to the copies routinely required for city official or staff use, the city shall require the applicant for a project that is, or will be, of widespread public interest to pay for up to 20 copies of documents such as environmental impact reports. These copies will be provided on a first-come, first-serve basis at no cost to members of the public. The city manager or designee shall determine if and how many extra copies will be required on a case by case basis.

G. All fees permitted under this section shall be determined and specified in the city of Benicia master fee schedule, as amended. When the cost of writing a receipt and collecting the fees required under this section would exceed the cost of the copies, the copying fee shall be waived. The master fee schedule shall note the maximum amount that may be waived.

H. Nothing in this section shall be interpreted as intending to preempt any fee set by or in compliance with state law. (Ord. 06-11 § 5; Ord. 05-06 § 1).

**4.12.100 Web site information.** Each department shall make an effort to ensure its portion of the city's web site is kept current. Each department shall also post public documents that are of interest to a wide number of the public. (Ord. 05-06 § 1).

**4.12.110 Requests made by email.** To ensure that email requests are received, records requests made by email shall not be effective until acknowledged by a return email of the city. Immediately upon receipt of an email request for records, the employee shall promptly acknowledge the request by a return email. Departments may establish a designated staff member or designated email address to receive email records requests. (Ord. 05-06 § 1).

**4.12.120 Policy regarding purchase and use of computer systems.**

A. It is the policy of the city to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to members of the public under this chapter. To the extent that it is technologically and economically feasible, departments that use computer systems to collect and store public records shall select these systems to ensure convenient, efficient, and economical public access to records.

B. Departments purchasing new computer systems shall attempt to reach the following goals as a means to achieve lower costs to the public in connection with the public disclosure of records:

1. Implementing a computer system in which exempt information is segregated or filed separately from otherwise disclosable information.

2. Implementing a system that permits paper reproduction of electronic copies of records.

C. Nothing in this section shall be interpreted to require the city to use a system that would prevent it from complying with the security requirements of the state and federal governments for accessing their records. (Ord. 05-06 § 1).

**Chapter 4.16  
ETHICS**

Sections:

- 4.16.010 Policy.
- 4.16.020 Responsibilities of public office and employment.
- 4.16.030 Declaration of open government awareness.
- 4.16.040 Dedicated service.
- 4.16.050 Fair and equal treatment.
- 4.16.060 Use of public property.
- 4.16.070 Obligations to citizens.
- 4.16.080 Conflict of interest.
- 4.16.090 Disclosure of conflict of interest.
- 4.16.100 Representation before bodies.
- 4.16.110 Gifts.

**4.16.010 Policy.** The proper operation of city government requires that: (1) public officials and employees be independent, impartial and responsible to the people; (2) government decisions and policy be made using the proper channels of government; and (3) that public office or employment not be used for personal gain. (Ord. 05-06 § 1).

**4.16.020 Responsibilities of public office and employment.** Public officials and employees are bound to uphold and carry out the Constitution of the United States, the Constitution of the state of California, and the law and regulations of the city. Public officials and employees shall observe in their official acts the highest ethical standards and discharge faithfully the duties of their offices or employment regardless of personal considerations. Public officials and employees shall recognize that the public interests must be their primary concern; that they fulfill the public trust invested in them by their conduct; and that conduct in their official affairs should be above reproach. (Ord. 05-06 § 1).

**4.16.030 Declaration of open government awareness.** All employees who are required to fill out conflict of interest forms pursuant to the Political Reform Act and the city's conflict of interest code and all public officials shall sign an annual statement stating that they have read the rest of this title, Open Government, and have attended or will attend when next offered, a training session on open government, to be held at least once annually. The statements shall be maintained by the city clerk's office and shall be available as public record. Annual training shall also be provided to city employees who regularly respond to requests for information by the public. All such trainings will be conducted by the city attorney's office with the assistance of the open government commission. (Ord. 07-23 § 1; Ord. 05-06 § 1).

**4.16.040 Dedicated service.** Public officials and employees shall not exceed their authority or breach the law or ask others to do so. Public officials and employees shall work in full cooperation with other public officials and employees unless prohibited from doing so by laws or regulations including, but not limited to, attorney-client privilege, privacy or confidentiality laws. (Ord. 05-06 § 1).

**4.16.050 Fair and equal treatment.** Except in the case of moving an agenda item up on a particular agenda, preferential consideration of the request or petition of an individual person, group, business or entity shall not be given. No person, group, business or entity shall receive special advantages beyond that which are available to any other person, group, business or entity. (Ord. 05-06 § 1).

**4.16.060 Use of public property.** No public official or employee shall request or permit the use of city-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such property is available to the public generally or when such use is incidental as provided by city policy including city manager administrative instructions. No public official or employee shall use the time of any city employee, while said employee is on duty, for personal convenience or profit. (Ord. 05-06 § 1).

**4.16.070 Obligations to citizens.** No public official or employee shall use their official position to grant, or assist in granting, any special (whether negative or positive) consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen in the same circumstances. (Ord. 05-06 § 1).

**4.16.080 Conflict of interest.**

A. Incorporation of the California Political Reform Act. No public official or employee shall make, participate in making, or in any way use or attempt to use his or her official position to influence a governmental decision in which the public official or employee knows or has reason to know he or she has a disqualifying conflict of interest within the meaning of California Government Code Section 87100 et seq., and any subsequent amendments to those sections. Members of advisory bodies not subject to the Political Reform Act may make, participate in making, or in any way use or attempt to use their official positions to influence decisions on matters within the purview of their body. In the interest of open government, members of all bodies are encouraged to disclose economic interests that are not conflicts under the Political Reform Act.

B. Incorporation of Government Code Section 1090 Et Seq. No public official or employee shall make a contract in which he or she has a financial interest within the meaning of California Government Code Section 1090 et seq. and any subsequent amendments to those sections.

C. Future Employment. No public official or employee shall make, participate in making, or in any way use or attempt to use his or her official position to influence a decision of the city, affecting a person or entity with whom the public official or employee is discussing or negotiating an agreement

concerning said public official or employee's future employment. This prohibition shall be for a period of one year from the beginning of the discussion or negotiation or completion of the negotiation on future employment.

D. **Incompatible Activity or Employment.** Public officials and employees shall not engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with their assigned duties as a public official or employee. (Ord. 07-06 § 1; Ord. 05-06 § 1).

**4.16.090 Disclosure of conflict of interest.**

A. Public officials and employees shall disclose on the public record any personal, professional or business relationships with any individual who is the subject of or has an ownership or financial interest in the subject of a governmental decision being made by the official or employee where, as a result of the relationship, the ability of the official or employee to act for the benefit of the public could reasonably be questioned. For the purposes of this section, the minutes of a public meeting at which the governmental decision is being made, or if the governmental decision is not being made in a public meeting, a memorandum kept on file at the offices of the city official or the employee's department, shall constitute the public record.

B. **Penalties.** A court may void any governmental decision made by a public official or employee who fails to disclose a relationship as required by subsection (A) of this section if the court determines that the failure to disclose was willful.

C. **Regulations.** The open government commission may recommend regulations for adoption by the city council setting forth the types of personal, professional and business relationships that must be disclosed pursuant to this section. (Ord. 05-06 § 1).

**4.16.100 Representation before bodies.** No public official on a decision making body shall represent a client, a person or group before the board, commission, committee or the city council on which the public official presently sits. (Ord. 05-06 § 1).

**4.16.110 Gifts.** In conformance with the gift limits imposed by California Government Code Section 89503 and any subsequent amendments to that section, no official or employee of the city shall accept any gift, reward, service or gratuity of any kind in excess of the amount set forth pursuant to the Political Reform Act per single source as defined by the Political Reform Act regulations in a calendar year by reason of their employment or office. The provisions of Government Code Section 89503 and the related regulations shall be used to interpret the provisions of this section. (Ord. 07-24 § 1; Ord. 06-11 § 6; Ord. 05-06 § 1).

**Chapter 4.20**  
**OPEN GOVERNMENT COMMISSION**

Sections:

- 4.20.010 Open government commission.
- 4.20.020 Administrative review and appeal process.
- 4.20.030 Responsibility for administration.
- 4.20.040 Enforcement of ethics chapter.

**4.20.010 Open government commission.**

- A. Duties. In the implementation of this title, the commission shall:
  - 1. Advise the city council and provide information to other city departments and bodies on appropriate ways in which to implement this title with a priority on simple, standard procedures.
  - 2. Assist in citywide training for implementing the title.
  - 3. Develop and maintain an administrative process for review and enforcement of this title.
  - 4. Propose amendments to the city council of this title as needed.
  - 5. Report to the city council on any practical or policy problems encountered in the administration of this title.
- B. The commission shall consist of five members of the public. All commission members shall have a demonstrated interest in open and ethical government through such activities as, but not limited to, attendance at meetings of government bodies, requests for documents from government agencies, disseminating information about government to others, and familiarity with the Brown Act and/or Public Records Act. All members shall be without known conflicts of interest and shall be residents of the city to the extent possible. The first appointment shall be for one year. The second appointment shall be for two years. The third appointment shall be for three years. All subsequent appointments shall be for four years. A commissioner may serve two full four-year terms on the commission.
- C. The commission will meet as needed, but at least quarterly, unless otherwise directed by the city council.
- D. The commission shall provide an annual report on implementation and compliance with this title. (Ord. 05-06 § 1).

**4.20.020 Administrative review and appeal process.**

- A. An administrative review and appeal process is hereby established to review whether a meeting was held in violation of this title or records were withheld in violation of this title. No such administrative review process shall preclude, delay or in any way limit a person's remedies under the Brown Act or Public Records Act. Further, such administrative review process shall not be used against employees except the city manager and city attorney since other employees are subject to discipline at the discretion of their supervisor.

B. Such review process shall include an:

1. Appeal to the city manager who shall make a decision within seven days of the appeal. (This step shall not apply in cases involving the city manager or members of the city council.)

2. Appeal of the city manager's decision to either the commission or a three-member panel of city attorneys, at the option of the person appealing the decision. The commission or three-member panel of city attorneys, as the case may be, shall first review the matter to determine if they have jurisdiction over the matter. If the complaint involves allegations that meetings were held in violation of this title or records were withheld in violation of this title, then they have jurisdiction to hear the matter and may hear the matter in accordance with the procedures established by resolution of the open government commission. The decision on jurisdiction is final unless judicial review is initiated.

3. If the commission or a three-member panel of city attorneys reviews whether a meeting was in violation of this title or records were withheld in violation of this title, their decision may be appealed to the city council. The decision of the city council is final.

C. Enforcement.

1. Upon the conclusion of the administrative review process, as implemented pursuant to subsection (B) of this section, any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce his or her rights under this title.

2. A court may award costs and reasonable attorneys' fees to the plaintiff in an action brought pursuant to this section where it is found that a body has violated this title. The costs and fees shall be paid by the body and shall not become a personal liability of any public official or employee of the body.

3. If the litigation is judged to be frivolous by the court, the defendant body may assert its right to be paid reasonable court costs and attorneys' fees.

D. Mediation. Notwithstanding any other provision of law, any person whose request to inspect or copy public records has been denied by any body, agency or department may demand immediate mediation of his or her request with the Solano County courts mediation service or some mutually agreed-upon person who agrees to volunteer his or her time serving as mediator.

E. Cure and Correction.

1. Nothing in this title shall prevent a body from curing or correcting an action challenged on grounds that a body violated any material provision of Chapter 4.08 BMC. A body shall cure and correct an action by placing the challenged action on a subsequent meeting agenda for separate determinations of whether to cure and correct the challenged action and, if so, whether to affirm or supersede the challenged action after first taking any new public testimony.

2. In the event the commission, upon the conclusion of a formal hearing conducted pursuant to its administrative review process, determines that

a body violated any material provision of this title, the body shall agendize for the challenged action to correct and cure the violation. Any violation shall have no effect on those actions described in Government Code Section 54960.1(d)(1) – (4), inclusive.

F. Reports or Recommendations from Meetings Alleged to Have Been Held in Violation of This Title. If the sole purpose or nature of an action that is challenged for violation of this title is to make or convey an advisory report or recommendation to another body, such body shall not be precluded from hearing or taking action on the item if it is within the authority or jurisdiction for said body to hear or take action on the item in the absence of such report or recommendation.

G. Penalties. The penalty for violation of this title by an elected or appointed official shall be commensurate with the violation and may include penalties, such as censure, including findings of fact and a determination, which shall be given to media selected by the commission.

H. Limitation of Actions. No person may file a complaint with the commission alleging violation of the notice provisions of BMC 4.08.050 if he or she attended the meeting or had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken. (Ord. 07-08 § 1; Ord. 05-06 § 1).

#### **4.20.030 Responsibility for administration.**

A. The city manager shall administer and coordinate the implementation of the provisions of this title for all bodies, agencies and departments under his or her authority, responsibility or control.

B. The city attorney shall staff, or provide staff for, the commission to permit the commission to fulfill the functions and duties set forth herein. The city attorney shall provide the commission with legal assistance, to the extent such assistance does not constitute a conflict.

C. The city clerk in the case of the city council and the assigned department in the case of other bodies shall be responsible for timely posting all agendas and shall make available for immediate public inspection and copying all agendas and agenda-related material filed with it.

D. The city clerk or designee shall act as information request facilitator to assist members of the public with acquiring the information they seek. If it will take longer than 48 hours (excluding Saturdays, Sundays, and holidays) to obtain the information requested by a member of the public then the city clerk will provide a written concise explanation of how and when the information will be made available. (Ord. 05-06 § 1).

**4.20.040 Enforcement of ethics chapter.** The city council, and not the open government commission, shall be the enforcement body for alleged violations of Chapter 4.16 BMC. This process shall not be used against employees except the city manager and city attorney since other employees are subject to discipline at the discretion of their supervisor. In the event of an allegation of a violation of the ethics provisions of this title, the matter shall first be referred to the city attorney

for a determination as to whether there is a substantial likelihood that an ethics violation occurred. If substantial cause exists, the city council shall use the administrative process set forth above to resolve the matter except the option of referral to the commission in BMC 4.20.020(A)(2) shall be omitted. In the case of an allegation of an ethics violation committed by an elected official, the process shall proceed directly to the city council for a determination. (Ord. 05-06 § 1).

**CITY COUNCIL  
RULES OF PROCEDURE**

**Special Meeting VI-A-214**

**RESOLUTION NO. 08-17**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ADOPTING THE RULES OF PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS**

**WHEREAS**, the City Council of the City of Benicia desires to have all citizens fully participate in the proceedings of the City Council; and

**WHEREAS**, the City Council must consider many public matters which vitally affect the interest of the citizens of Benicia and it is both necessary and desirable that these meetings be regulated in order to permit the Council to give consideration and public discussion to the more important public issues; and

**WHEREAS**, it is the purpose of this resolution to provide for the orderly and expeditious conduct of Council meetings in a manner which will give adequate consideration and public discussion to all matters affecting the City; and

**WHEREAS**, Government Code Sections 36813 and 54954.3 give the City Council discretion to adopt reasonable regulations concerning the proceedings and order of business of City Council meetings.

**NOW, THEREFORE, BE IT RESOLVED BY** the City Council of the City of Benicia as follows:

Section 1. The City Council of the City of Benicia approves and adopts the Rules of Procedure attached hereto as Exhibit "A" and by this reference incorporated herein.

Section 2. This resolution shall supersede any and all Rules of Procedure previously adopted by the City Council.

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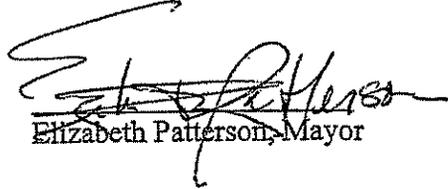
**Special Meeting VI-A-215**

On motion of Council Member **Schwartzman**, seconded by Council Member **Hughes**, the above resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 4th day of March, 2008, and adopted by the following vote:

Ayes: **Council Members Campbell, Hughes, Ioakimedes, Schwartzman and Mayor Patterson**

Noes:

Absent:



Elizabeth Patterson, Mayor

Attest:



Lisa Wolfe, City Clerk

EXHIBIT A

CITY COUNCIL OF THE CITY OF BENICIA  
RULES OF PROCEDURE

I. AGENDA

A. SECTIONS

The agenda shall consist of the following sections in order:

1. CALL TO ORDER  
Announcement of Closed Session (If Any)
2. CLOSED SESSION (If Any)
3. CONVENE OPEN SESSION  
Roll Call  
Pledge of Allegiance
4. ANNOUNCEMENTS, APPOINTMENTS, PRESENTATIONS /  
PROCLAMATIONS

This section includes announcements by the Mayor, appointments to City boards and commissions, and scheduled presentations. Presentations are limited to a maximum of ten minutes to allow the Council to have adequate time to address the agenda items of business.

5. ADOPTION OF AGENDA

The Council, by majority vote, shall adopt the agenda as final. Following such adoption, agenda items may not be added, removed or their order changed unless by the unanimous consent of the Council Members present at the time the agenda was adopted as final. All matters shall be considered by the Council in the order listed on the agenda adopted as final, to the extent of time available. Only matters on the agenda as adopted final or modified under this section may be considered. Agenda items not considered or completed at a meeting for lack of time become agenda items at the following meeting in accordance with Section 5.

6. OPPORTUNITY FOR PUBLIC COMMENT:

- (a) Written: All written communications suitable for the agenda, received since the preparation of the

subject agenda, addressed to or intended for the City Council and not otherwise included in the agenda in a preceding section, shall be listed in this section in the order received.

(b) Public Comment: This section of the agenda is for members of the public to make comments to the City Council regarding non-agendized matters of general interest to the citizens of Benicia, provided, however, that:

(1) any item raised by a member of the public which is not agendized, but may require Council action, shall be automatically referred to the City Staff for investigation and disposition, unless the item requires action to be taken by the Council at the meeting during which it was raised and constitutes an emergency or the need to take such action arose after the posting of the agenda within the meaning of Government Code §54954.2(b). In either event the Council is entitled to discuss the matter before making the determination required under said Government Code provision, and if either finding is made, may take action thereon.

(2) in order to allow the Council to have adequate time to address the agendized items of business, public comment under Opportunity for Public Comment will be limited to five (5) minutes per speaker on non-agendized items.

(3) the Presiding Officer may allow up to 10 minutes for a speaker to speak on multiple agenda items under Opportunity for Public Comment.

(4) all public comments are also subject to the provisions of Section II below.

## 7. CONSENT CALENDAR

Items listed under the Consent Calendar are considered routine and will be enacted, approved or adopted by one (1) motion unless a request for removal for discussion or explanation is received from a Council Member, staff, or a member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

8. PUBLIC HEARINGS

This section of the agenda is for the City Council to conduct Public Hearings and to hear properly noticed appeals.

9. ACTION ITEMS

Items listed in this section are those which are likely to require discussion prior to Council action. Routine agenda items that are under \$50,000 and/or are already included in the budget may still be listed under the Consent Calendar.

10. INFORMATIONAL ITEMS

Items in this section may include status reports on a variety of topics. For example, City Manager Reports are to be placed under this heading. Items listed in this section are typically for information only and may not require action.

11. COUNCIL MEMBER REPORTS

This section contains reports from Council Members. It also provides an opportunity on the agenda for Council Members to make requests for future agenda items.

12. ADJOURNMENT

B. PREPARATION

1. The Mayor and the City Manager shall prepare an agenda for each meeting of the Council. Items to be included on the agenda must be submitted to the City Manager in writing by noon on the 7th working day preceding the regular meeting. Any Council Member may request that a new item be placed on the agenda. Items shall be placed on the agenda in their appropriate section with the item title specified by the requesting Council Member.

To place a review of a matter decided in the last year on a future agenda requires three affirmative votes. See 1.B.2 below.

2. Council Members may request the full City Council review a matter that has been decided in the last year by following the procedures set forth in 1.B.1 above. A brief write-up of the matter and date of last action must be included on the Request for Policy

Consideration Form (Appendix A). The request for a review will be placed on the agenda in Section 11 as appropriate.

3. The City Manager will inform the Council and public of the tentative, upcoming issues on the next Council agenda on the afternoon of the 5th working day preceding the regular meeting.
4. The City Manager shall prepare and provide each Council Member and the City Attorney, an agenda packet not later than the Wednesday preceding each regular meeting. The City Manager shall mail a copy of the agenda or a copy of all the documents constituting the agenda packet to every person who has requested the same in writing during the preceding year, has provided stamped self-addressed envelopes and has paid the applicable fee. The agenda packet will be available for those persons so requesting at the time the agenda is posted or upon distribution to all, or a majority of, the Council Members upon payment of the applicable fee.
5. Staff support for requests from individual council members shall be limited to 15 minutes of staff time. Research, report writing, compilation of materials, etc. in excess of 15 minutes shall not be undertaken unless approved by a majority of the City Council.

## II. PUBLIC PARTICIPATION

### A. RECOGNITION

No person may address the Council without the permission of the Presiding Officer, or a majority of the quorum, or as otherwise required by law. Except as required by law, the Presiding Officer is obligated to recognize members of the Council and staff prior to opening up items for public discussion.

### B. ADDRESSING THE COUNCIL

Those persons desiring to speak on an agenda item, on a Public Hearing agenda item, or under Opportunity for Public Comment are requested to, but not required to, complete a Speaker's Card and present it to the City Clerk at the beginning of the meeting or upon their arrival in the Council Chambers. The Presiding Officer shall recognize speakers on an agenda item when that item is before the City Council for consideration. (This includes any comments pertaining to the Announcements/Appointments/Presentations/Proclamations section of the agenda.) The Presiding Officer shall recognize speakers on Public

Hearing items at the Public Hearing. The Presiding Officer shall recognize speakers on matters not on the agenda under the Opportunity for Public Comment portion of the agenda. Persons addressing the Council shall do so only at the speakers' rostrum and should begin, but are not required to do so, by stating their name and address for the records. All remarks shall be addressed to the Council as a body and not to any member thereof, or to staff, or to the public. No person other than a member of the Council, the City Manager, or the City Attorney and the person having the floor, shall be permitted to enter into any discussion without the permission of the Presiding Officer.

C. LIMITS

Each speaker shall speak only once on an agenda item and limit his/her remarks to five (5) minutes when speaking at the time of the agendized item or when speaking on non-agendized items under Opportunity for Public Comment, except as otherwise specifically provided for in these Rules or the Open Government Ordinance, or except as time is extended by the Presiding Officer with the consent of a majority of the Council. Each speaker shall avoid repetition of the remarks of prior speakers and speak only to the specific agenda item under consideration.

In accordance with the Open Government Ordinance, the Presiding Officer may request spokespersons be designated to represent similar views. The time limits and order for speaking shall be in accordance with the provisions for Spokespersons in III. C. below.

D. QUESTIONS

Following each speaker's remarks, each Council Member shall be given the opportunity to comment further and to address questions to the speaker. The speaker may not be permitted or required to answer such questions if a majority of Council Members present other than the questioner object.

III. HEARING PROCEDURES

- A. A Public Hearing should not exceed one hour in length.
- B. The procedures for Public Hearings are as follows:
  - 1. Presentation by Staff.
  - 2. Presentation by Proponents.
  - 3. Presentation by Opponents.
  - 4. Rebuttal by the Proponents.

5. The Presiding Officer shall recognize supplemental speakers as required by law or deemed appropriate to gather information relevant to the matter before the City Council. Supplemental speakers shall limit their remarks to presenting new information not already covered by other speakers, and must limit their presentation to five (5) minutes.
  6. Following the public portion of the hearing, the Presiding Officer shall declare the public portion of the hearing closed and the matter is then before the City Council for the Council portion of the hearing. Each Council Member shall be given an opportunity to speak to the subject. When the Council discussion has been concluded, the Council shall make its decision.
- C. Spokespersons for the Proponent and Opponent shall each have fifteen (15) minutes to present their case. The spokesperson for the Proponent shall have five (5) minutes to present any rebuttal.

#### IV. CREATION OF COMMITTEES, BOARDS AND COMMISSIONS

##### A. CITIZEN COMMITTEES, BOARDS AND COMMISSIONS

The Council may create committees, boards, and commissions to assist in the conduct of the operation of the City Government with such duties as the Council may specify, not inconsistent with the City Code. Any committee, board, or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the Council. No committee so appointed shall have powers other than advisory to the Council or to the City Manager, except as otherwise specified by the City Code.

##### B. MEMBERSHIP AND SELECTIONS

1. Membership and selection of members shall be as provided by the Council if not specified by the City Code. The names of the proposed appointees shall be posted five (5) working days prior to the appointment being made.
2. For appointments to a board or commission where state law provides for appointment by the Council as a whole, any Council member may nominate a person for appointment. The Council shall then vote on the nominee at the following Council meeting.

##### C. REMOVAL OF MEMBERS OF COMMITTEES, BOARDS & COMMISSIONS

The Council may remove any member of any committee, board or commission which it has created by an affirmative vote of at least four (4) members of the Council, if removal is not specified in the City Code.

V. RULES OF ORDER

A. QUORUM

Three Council Members shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn meetings of the Board. If a quorum is not present within one hour after the time noticed for commencement of the meeting and thereafter any Council Member who was present at the end of such hour leaves and does not return, no meeting shall be held on that date notwithstanding the later presence of three (3) or more Council Members.

B. RIGHT TO THE FLOOR

A Council Member shall not have the right to the floor without being recognized by the Presiding Officer, except upon a point of order.

C. ORDINANCES, RESOLUTIONS, AND MOTIONS --- PRECEDENTS

When any ordinance, resolution, or motion is properly brought before the Council and seconded by another Council Member, no other action shall be considered except a point of order, or a motion to adjourn, to table, to table to a time certain, to close debate, to refer or to amend. Such items shall have precedence in the order stated in the preceding sentence. Points of order shall be ruled upon by the Presiding Officer, provided that such ruling may be overridden by a majority of the Council. All of such motions, except motions to amend, shall be put to a vote without debate and decided by a majority. Any of the foregoing motions shall be in order anytime the speaker is duly recognized, except when repeated without intervening business or discussion, or if made when the motion to close debate has been adopted or while a vote is being taken.

1. MOTION TO TABLE

If a motion to table without time certain passes, consideration of the matter may be resumed only upon the motion of a member voting with the majority on the motion to table.

2. MOTION TO CLOSE DEBATE

When a motion to close debate is duly made and seconded, there shall be no further debate. If the question carries, the Presiding

Officer shall put pending amendments to a vote, without debate, in the inverse order of their introduction before putting the main question. If the question is decided negatively, the main question and its amendments remain before the Council.

3. RECONSIDERATION

Providing that no intervening rights shall be prejudiced, any Council Member who voted with the majority on a question may move the reconsideration of that question at the same meeting in which the original decision was made or at the next following meeting. After a motion for reconsideration has been acted upon, no other similar motion shall be made without unanimous consent.

4. VOTING

Unless otherwise required by applicable law, three affirmative votes are required to enact an ordinance, to adopt a resolution, or to adopt a motion granting a franchise or authorizing the payment or expenditure of money or incurring of a debt. The majority of a quorum is required to adopt other motions, unless otherwise required by applicable law. A "majority" refers to a majority of the quorum present. All ordinances, resolutions and appointments shall be adopted by a roll call vote. All other matters may be referred to a voice vote unless a roll call is requested by any Council Member. On all matters for which a voice vote is authorized, the Presiding Officer may ask for, "objections to the question". If no objection is expressed, the Presiding Officer shall, "so order" and the minutes shall record a unanimous vote in favor. If any Council Member objects to the procedure, a roll call vote shall be called in the normal manner.

D. ADJOURNMENT

It is the desire of the City Council to adjourn their meetings by 11 p.m. Therefore, no new business will be taken up by the Council after 11 p.m. unless the City Council adopts a motion to continue. The remaining items will be placed on the next regularly scheduled Council meeting in the appropriate section of the agenda, unless the City Council calls for a special meeting to consider one or more of the continued items.

E. DIVISION OF THE QUESTION

If a matter properly put before the Council contains two or more separable propositions, the Presiding Officer shall, with the consent of one other

Council Member, divide the question into its separable parts for consideration in order.

**Special Meeting VI-A-225**

APPENDIX A

REQUEST FOR POLICY CONSIDERATION

Requested by: \_\_\_\_\_

Council Meeting Date: \_\_\_\_\_

Problem/Issue/Idea Name: \_\_\_\_\_

Description of Problem/Issue/Idea \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COUNCIL DIRECTION

No Further Action

Refer to:    Staff \_\_\_\_\_  
                  Commission \_\_\_\_\_  
                  Board \_\_\_\_\_  
                  Committee \_\_\_\_\_

Date Due: \_\_\_\_\_

# **CODE OF CONDUCT**

**Special Meeting VI-A-227**



## **City of Benicia Code of Conduct for Members of City Council, Boards, Commissions and Committees**

### **Preamble**

The residents and businesses of Benicia are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity. The effective functioning of democratic government therefore requires that:

- Public officials, both elected and appointed, comply with both the letter and spirit of the laws and politics affecting the operations of government;
- Public officials be independent, impartial and fair in their judgment and actions;
- Public office be used for the public good, not for personal gain; and
- Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Benicia City Council has adopted a Code of Conduct for members<sup>1</sup> of the City Council and the City's commissions to assure public confidence in the integrity of local government and its effective and fair operation.

This Code of Conduct describes the manner in which Council Members should treat one another, city staff, constituents, and others they come into contact with in representing the City of Benicia.

The constant and consistent theme through the conduct guidelines is "respect." Council Members experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, elected officials are called upon to exhibit appropriate behavior at all times. These guidelines help guide Council Members to do the right thing in even the most difficult situations.

It is also recognized that Council Members have the duty to conduct City affairs in a business-like manner, assuring timely consideration of matters before them and thoughtful expeditious decision-making. These guidelines incorporating best practices among city governments can help guide Council Members to contribute to this end.

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<sup>1</sup> For ease of reference in the Code of Conduct and unless the context indicates otherwise, the term "Council Member" or "member" refers to any member of the Benicia City Council or any of the City's boards, commissions or committees established by the City Council.

## City of Benicia Code of Conduct

### 1. **Acts in the Public Interest**

Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Benicia and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the City Council and the City's commissions<sup>2</sup>.

### 2. **Comply with the Law**

Members shall comply with the laws of the federal government, the State of California and the City of Benicia in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the City Municipal Code, laws pertaining to conflict of interest, elections campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances, resolutions and policies. Members shall not solicit political support from City Staff (financial contributions, display of signs, name on support list, etc.).

### 3. **Conduct of Members**

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Council and commissions, the staff or the public.

### 4. **Respect for Process**

Members shall perform their duties in accordance with the processes and rules of order established by the City Council and commissions governing the deliberation of public policy issues, the involvement of the public, and the implementation of policy decisions of the City Council by City staff.

### 5. **Conduct at Public Meetings**

Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of the meetings. Members shall commit to practice civility and decorum in discussions and debates. Members shall commit to honoring the role of the Chair in maintaining order, keeping discussion on track, and focusing discussion on agenda items at hand. Members shall avoid debate and argument with the public. Members shall not engage in personal attacks of any kind under any circumstance.

### 6. **Decisions Based on Merit**

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

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<sup>2</sup> For ease of reference in the Code of Conduct and unless the context indicates otherwise, the term "commissions" refers to any of the City's commissions, boards or committees established by the City Council.

- 7. Communication**  
Members shall publicly share substantive information that is relevant to a matter under consideration by the Council or commission, which they may have received from sources outside of the public decision-making process.
- 8. Conflict of Interest**  
In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest.
- 9. Gifts and Favors**  
Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
- 10. Confidential Information**  
Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
- 11. Use of Public Resources**  
Members shall not use public resources that are not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.
- 12. Representation of Private Interests**  
In keeping with their role as stewards of the public interest, members of the Council shall not appear on behalf of the private interests of third parties before the Council or any commissions or proceedings of the City, nor shall members of commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.
- 13. Advocacy**  
Members shall represent the official policies or positions of the City Council or commissions to the best of their ability when designated as delegates. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Benicia, nor will they allow the inference that they do.
- 14. Policy Role of Members**  
Members shall respect and adhere to the council-manager structure of city government as provided by state law and City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, commissions, and City Staff.

Members therefore shall not interfere with the administrative functions of the City or the professional duties of City Staff; nor shall they impair the ability of staff to implement Council policy decisions. Members should refrain from:

- Disrupting staff from the conduct of their jobs
- Involvement in administrative functions
- Attending staff meetings unless requested by staff

**15. Independence of Boards and Commissions**

Because of the value of the independent advice of commissions to the public decision-making process, members of Council shall refrain from using their position to influence the deliberations or outcomes of commission proceedings.

**16. Positive Work Place Environment**

Members shall support the maintenance of a positive and constructive work place environment for City employees and for residents and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

**17. Implementation & Enforcement**

As an expression of the standards of conduct for members expected by the City, this Code of Conduct is intended to be self-enforcing. It, therefore, becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, ethical standards shall be included in the regular orientation for candidates for City Council, applicants to commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming that they read and understand the City of Benicia Code of Conduct.

This Code shall be reviewed annually by the City Council and City commissions at the annual organization and procedures meeting of each body. At such meeting, Council Members and Commissioners shall sign a statement affirming they have read and understand the Code of Conduct.

The Benicia Code of Conduct expresses standards of ethical conduct expected for members of the City Council and commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

The chairs of commissions and the Mayor have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Conduct are brought to their attention.

*I affirm that I have read and understand the City of Benicia Code of Conduct.*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

