

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's Own
Motion for the Purpose of Amending
the Commission's Conflict of Interest
Code.

FILED
PUBLIC UTILITIES COMMISSION
JULY 10, 2003
SAN FRANCISCO OFFICE
R.03-07-007

ORDER INSTITUTING RULEMAKING

This rulemaking is instituted to amend the Commission's Conflict of Interest Code (the "Code"). The Code is set forth in an Appendix to the Commission's Rules of Practice and Procedure, 20 Cal. Adm. Code, chapter 1, Subchapter 2. We are proposing to amend the Code pursuant to the provisions of Government Code Sections 87300-87302 and Section 87306. In general, these provisions (part of the Political Reform Act) require state agencies to adopt, and to update as needed, lists of "designated" employees who must file statements regarding their economic interests, together with disclosure categories that are geared to the nature of each employee's job responsibilities.

The Code was last amended in September 2001. (See Decision ("D.") 01-09-019.) Since the 2001 amendments, the Commission has added new employee positions which need to be reflected in the lists of designated employees. In addition, we propose to revise some of the existing Code's disclosure categories, revise the titles of some of the existing Code's employee positions, and delete titles of positions that have been abolished. All of these changes are needed to reflect current circumstances for the employees affected.

A summary of the proposed changes to the list of designated positions is attached as Appendix I to this Order. The complete Code, as we propose to amend it, is

attached as Appendix II to this order (in the list of designated positions, deletions are shown by strikeout, additions shown by underlining; in the general rules and in the disclosure categories, the substantive revisions are shown by underlining, deletions not marked). Copies can also be obtained from Alberto Guerrero, attorney, of the Commission's Legal Division, who can also provide copies of the current Code.

The Fair Political Practices Commission has rules that prescribe the process by which a state agency may amend its Conflict of Interest Code. (See California Code of Regulations, Title 2, Section 18750 et seq.) Among other things, these rules require the agency to make certain findings. Accordingly, we find (subject to comment, as discussed below) that the adoption of the proposed amendments will not impose a cost or savings on any state agency, local agency or school district that is required to be reimbursed under Article 7 (commencing with Section 17500) or Division 4 of the Government Code; will not result in any nondiscriminatory cost or savings to local agencies; will not result in any cost or savings in federal funding to the state; will not impose a mandate on local agencies or school districts; and will not have any potential cost impact on private persons or business including small businesses. We also find (subject to comment) that no alternative approach to that embodied in the proposed amendments would be more effective in carrying out the purposes of the Political Reform Act or would be as effective and less burdensome to the individuals involved.

Anyone interested in doing so is invited to comment on the proposed changes (and thereby become a party) by filing an original and seven copies of written comments with the Docket Office no later than Monday, September 15, 2003. Parties are also requested to mail their comments directly to Administrative Law Judge Janice L. Grau, preferably by e-mail (jlg@cpuc.ca.gov). We will serve this Order on all parties to Rulemaking R.01-06-023; all employees in proposed reporting classifications, and all employee collective bargaining representatives. We are also sending a copy to the Office of Administrative Law and the Fair Political Practices Commission. After receiving comments, we will consider the need for changes to the proposed amendments. We will

then send the amendments, as adopted, to the Fair Political Practices Commission for final approval.

This is a quasi-legislative proceeding in which we do not anticipate holding a formal hearing. No later than Monday, September 1, 2003, any interested person or his or her representative may request a public hearing. Such a request should state the reason that a public hearing is considered necessary and must also be filed in writing with the Docket Office (eight copies, in all).

Finding of Fact

Changes since the last update to the Commission's Conflict of Interest Code require amendments to that code.

Conclusion of law

The Commission should institute a rulemaking in order to adopt appropriate amendments to its Conflict of Interest Code.

IT IS ORDERED that:

1. A rulemaking proceeding is hereby instituted on the Commission's own motion to consider and adopt an amended Conflict of Interest Code.
2. All interested parties, including Commission employees, are invited to submit written comments by filing such comments with the Docket Office no later than Monday, September 15, 2003. Such filings shall conform to the Commission's rules.
3. The Executive Director shall file a notice of the proposed changes with the Office of Administrative Law for publication in the California Regulatory Notice Register at least 60 days before the close of the comment period consistent with Section 18750 of Title 2, Division 6, of the California code of Regulations. He shall also file a copy of the notice (endorsed by the Office of Administrative Law) with the Fair Political Practices Commission at least 45 days before the close of the comment period.

This order is effective today.

Dated July 10, 2003 at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

APPENDIX I

PROPOSED CHANGES TO CONFLICT OF INTEREST CODE PROVISIONS

I. ADDITIONS

Accounting Administrator I (Supervisor)
Assistant Information Systems Analyst
Associate Transportation Rate Expert
Business Service Officer II (Supervisor)
Computer Operator
Information Officer III CEA
Labor Relations Specialist
Personnel Selection Consultant I
Personnel Supervisor I
Printing Trades Supervisor I (General)
Program Technician III
Special Consultant
Telecommunications Systems Analyst I

Exempt Classes

Special Advisor

II. DELETIONS

Personnel Services Specialist II
Senior Electrical Engineer
Senior Rapid Trans. Comp. Control Syst. Spec

Exempt Classes

Exec. Coord for Media & Public Relations

III. TITLE CHANGES

Personnel Specialist **FROM** Personnel Services Specialist I

APPENDIX II

CONFLICT OF INTEREST CODE PROVISIONS
As Proposed by the California Public Utilities Commission as of July, 2003.

The Political Reform Act, Government Code Sections 81000, *et seq.*, requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 California Code of Regulations Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the proposed Conflict of Interest Code of the Public Utilities Commission.

Appendix

Designated employees shall file statements of economic interests with the agency.

(a) Designated Positions

The following are “designated employees” and the applicable disclosure categories:

<u>Designated Employees</u>	<u>Applicable Disclosure Categories</u>
<u>Accounting Administrator I (Supervisor)</u>	<u>2, 3</u>
Administrative Assistant I	2, 3
Administrative Assistant II	2, 3
Administrative Law Judge I	15
Administrative Law Judge II	15
Assistant Chief ALJ	2, 3, 15
Assistant Chief PU Counsel	2, 3, 15
<u>Assistant Info Systems Analyst</u>	<u>2, 3</u>
Associate Budget Analyst	2, 3
Associate Governmental Program Analyst	2, 3, 15
Associate Info Systems Analyst (Spec)	3
Associate Info Systems Analyst (Supv)	3
Associate Management Analyst	2, 3
Associate Personnel Analyst	2, 3
Associate Programmer Analyst (Spec & Supv)	3
<u>Associate Transportation Representative</u>	<u>15</u>
Business Services Officer I (Spec)	2, 3
Business Services Officer I (Supv)	2, 3
<u>Business Services Officer II (Supv)</u>	<u>2, 3</u>

CEA Level 1	2, 3, 15
CEA Level 2	2, 3, 15
CEA Level 3	2, 3, 15
CEA Level 4	2, 3, 15
Chief Administrative Law Judge	1
Chief Hearing Reporter	2, 3
Computer Operator	<u>3</u>
Computer Operator C	3
Consumer Affairs Representative	15
Consumer Services Manager	15
Consumer Services Supervisor	15
Data Processing Manager I	3
Data Processing Manager II	3
Data Processing Manager III	3
Graduate Legal Assistant	15
Information Officer I (Specialist)	15
Information Officer I (Supervisor)	15
Information Officer II	15
Information Officer III CEA	<u>15</u>
Information Systems Technician C	3
Information Systems Technician Supv I	3
Information Systems Technician Supv II	3
Labor Relations Specialist	<u>2, 3</u>
Legal Counsel A	15
Legal Counsel B	15
Management Services Technician B	2, 3
Personnel Selection Consultant I	<u>2, 3</u>
Personnel Specialist	2, 3
Personnel Services Specialist I	2, 3
Personnel Services Specialist II	2, 3
Personnel Supervisor I	<u>2, 3</u>
Principal PU Financial Examiner	15
Principal Transportation Division	2, 3, 15
Printing Trades Supervisor I (General)	<u>2, 3</u>
Program and Project Supervisor	2, 3, 15
Program Manager	2, 3, 15
Program Technician III	<u>2, 3, 15</u>
Public Utilities Counsel I, PUC	15
Public Utilities Counsel II, PUC	15
Public Utilities Counsel III, PUC	15
Public Utilities Counsel IV, PUC	15
Public Utilities Regulatory Analyst I A	15
Public Utilities Regulatory Analyst I B	15
Public Utilities Regulatory Analyst I C	15
Public Utilities Regulatory Analyst II	15
Public Utilities Regulatory Analyst III	15

Public Utilities Regulatory Analyst IV	15
Public Utilities Regulatory Analyst V	15
Public Utilities Financial Examiner II	15
Public Utilities Financial Examiner III	15
Public Utilities Financial Examiner IV	15
Senior Electrical Engineer	15
Senior Information Systems Analyst (Supv)	3
Senior Programmer Analyst (Supv)	3
Senior Rapid Trans. Comp. Control Syst. Spec	11, 12
Senior Transportation Operations Supervisor	11, 12
Senior Transportation Rate Expert	11, 12
Senior Transportation Representative	11, 12
Senior Utilities Engineer (Specialist)	15
Senior Utilities Engineer (Supervisor)	15
Special Consultant	<u>1</u>
Staff Information Systems Analyst (Specialist)	3
Staff Information Systems Analyst (Supervisor)	3
Staff Programmer Analyst (Supervisor & Specialist)	3
Staff Services Analyst (General) A, B, C	2, 3
Staff Services Manager I	2, 3
Staff Services Manager II (Managerial)	2, 3
Staff Services Manager II (Supervisory)	2, 3
Staff Services Manager III	2, 3
Supervising Transportation Engineer	11, 12
Supervising Transportation Rate Expert	11, 12
Supervising Transportation Representative	11, 12
Supervisor Operations & Safety Section, PUC	11, 12
Telecommunications Systems Analyst I	<u>15</u>
Transportation Analyst B, C	15
Utilities Engineer	15
Exempt Classes	
Legal Advisor I, II	1
Technical Advisor, PUC	1
Executive Director, PUC	1
Executive Coord for Media & Public Relations	15
General Counsel, PUC	1
Legislative Analyst, PUC	15
Legislative Director, PUC	2, 3, 15
<u>Special Advisor</u>	<u>1</u>
Other	
Commission Consultants	16

(b) General Rules and Definitions

For purposes of the following disclosure categories, “income” includes gifts, loans, and travel payments.

For purposes of the following disclosure categories, “business entity” means any organization or enterprise, including but not limited to a proprietorship, firm, business trust, joint venture, syndicate, corporation or association. “Business position” means any business entity in which the filer is a director, officer, partner, trustee, employee or holder of a 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 had done business in the jurisdiction at any time during the two years prior to the date the statement is required to be filed.

(c) Disclosure Categories

Category 1

Designated officials and employees assigned to this category must report all sources of income, interests in real property, and investments and business positions in business entities.

Category 2

Designated employees assigned to this category must report all income from, and investments and business positions in, business entities that provide services, supplies, materials, machinery or equipment of the type purchased, leased, or obtained by contract by the California Public Utilities Commission other than those interests reported under Category 3.

Category 3

Designated employees assigned to this category must report all income from, and investments and business positions in, business entities that manufacture, sell, distribute or otherwise provide computers, computer hardware, computer software, computer services, computer models, or computer-related supplies, materials, machinery, or equipment of the type utilized by the California Public Utilities Commission.

Category 4

Designated employees assigned to this category must report all income from, and investments and business positions in, business entities that design, develop, construct, operate, maintain, sell or acquire facilities that transmit or distribute electricity or natural gas, or that generate electricity, or entities that are gas, electricity, or energy consultants, research firms, or engineering firms.

Category 5

Designated employees assigned to this category must report all income from, and investments and business positions in, business entities that are energy consultants, entities that design, build, manufacture, sell, distribute or maintain equipment of the type that is utilized especially or particularly by energy service providers, or research or engineering firms that provide services to energy service providers.

Category 6

Designated employees assigned to this category must report all income from, and investments and business positions in, business entities that provide energy conservation services or energy management services, and entities that design, build, manufacture, sell, distribute or maintain energy conservation or energy management devices.

Category 7

Designated employees assigned to this category must report all income from, and investments and business positions in, business entities that design, develop, construct, operate, maintain, sell or acquire facilities for telecommunications services.

Category 8

Designated employees assigned to this category must report all income from, and investments and business positions in, business entities that are telecommunications consultants, entities that design, build, manufacture, sell, distribute or maintain equipment or related products of the type that are utilized especially or particularly by telecommunications providers and end-users, or research or engineering firms that provided services to telecommunications providers.

Category 9

Designated employees assigned to this category must report all income from, and investments and business positions in, business entities that design, develop, construct, operate, maintain, sell, or acquire facilities for water utility service, as well as business entities that design, develop, manufacture, operate, maintain or sell water conservation devices or services.

Category 10

Designated employees assigned to this category must report all income from, and investments and business positions in, business entities that are hydrological or geological consultants, or entities that design, build, manufacture, sell, distribute or maintain equipment or related products of the type that are utilized especially or particularly by water utilities and end-users, or research or engineering firms that provide services to water utilities.

Category 11

Designated employees assigned to this category must report all income from, and investment and business positions in, business entities that design, develop, construct, operate, maintain, sell or acquire railroads, light rail transit and other transit systems that are within the jurisdiction of the California Public Utilities Commission.

Category 12

Designated employees assigned to this category must report all income from, and investments and business positions in, business entities that design, build manufacture, sell, distribute or maintain equipment or related products of the type that are utilized especially or particularly by motor carriers, railroads, light rail transit and other transit systems that are within the jurisdiction of the California Public Utilities Commission, or consultants or

research or engineering firms that provide services to motor carriers, railroads, light rail transit and other transit systems within the jurisdiction of the California Public Utilities Commission.

Category 13

Designated employees assigned to this category must report all income from, and investments and business positions in business entities that have applied for, can reasonably be expected to apply for, or have received approval from the California Public Utilities Commission of funding for intervenor participation or other purpose.

Category 14

Designated employees assigned to this category must report all interests in real property located within the state of California.

Category 15

Designated employees assigned to this category must comply with all the reporting requirements in Categories 4 through 14.

Category 16

Consultants to the California Public Utilities Commission or to a regulated entity on behalf of the Commission (as defined in Title 2, California Code of Regulation § 18700) must disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The executive director may determine in writing that a particular consultant is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements. Such written determination shall include a description of the consultant's duties and, based upon the description, a statement of the extent of disclosure requirements. The determination of the executive director is a public document and shall be retained for public inspection in the same manner and location as the disclosure statements.