MINUTE ITEM

This Calendar Item No. 43 was approved as Minute Item No. 43 by the State Lands Commission by a vote of 2 to 0 at its 2/25/82 meeting.

CALENDAR ITEM

2/25/82
W 22649.4
Stevenson
Blazak
Horn

43

REVIEW AND MODIFICATION OF REGULATIONS
IN TITLE 2, DIVISION 3, CHAPTER 1, ARTICLE 12,
CONFLICT OF INTEREST CODE

Pursuant to the Commission's authorization of January 26, 1981, (Minute Item 38) and in compliance with AB 1111 (Government Code Section 11340, et seq.), staff has conducted a review of the Commission's Conflict of Interest Code. As a result of the review and in keeping with the spirit and intent of AB 1111, staff has made some minor modifications to the existing regulations. However, the essence of the existing regulations remain in tact.

Notice of the review was published in the Notice Register on November 4, 1981, and mailed to all employees of the State Lands Commission. The notice was also published in a newspaper of general circulation. A public hearing by written comments was conducted with comments to be received by December 24, 1981 in order to be included in the rule-making file. No requests for a formal public hearing were received and the agency received no comments on the regulations.

A final Statement of Reasons (Government Code Section 11346.6 and 11346.7) has been prepared for this rule-making process. The statement is on file in the principal office of the Commission and is incorporated herein by reference. Based upon the materials contained in the rule-making file, staff believes that the regulations proposed herein for adoption meet the statutory requirements of "necessity", "authority", "clarity", "consistency", and "reference".

AB 884: N/A.

EXHIBIT: A. Article 12 of 2 Cal. Adm. Code, Div. 3, Chapter 1.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT THERE HAS BEEN COMPLIANCE WITH GOVERNMENT CODE SECTIONS 11346.4 (PUBLICATION AND NOTICE) AND 11346.7 (REVIEW), FOR THE PURPOSES OF MODIFYING ITS

REGULATIONS IN TITLE 2, DIV. 3, CHAPTER 1, ARTICLE 12.

2. DETERMINE THAT THERE ARE NO STATE-MANDATED COSTS OR SAVINGS TO ANY STATE AGENCIES OR LOCAL AGENCIES OR SCHOOL DISTRICTS IN THESE REGULATIONS THAT REQUIRE REIMBURSEMENT UNDER SECTION 2231 OF THE REVENUE AND TAXATION CODE.

3. APPROVE FOR FILING WITH THE OFFICE OF ADMINISTRATIVE LAW THE FINAL STATEMENT OF REASONS SUBSTANTIALLY IN THE FORM ON FILE IN THE PRINCIPAL OFFICE OF THE COMMISSION, WHICH STATEMENT IS INCORPORATED HEREIN BY REFERENCE.

4. ADOPT FOR FILING WITH THE FAIR POLITICAL PRACTICES COMMISSION AND THE OFFICE OF ADMINISTRATIVE LAW THOSE REGULATIONS SUBSTANTIALLY AS SET FORTH IN EXHIBIT "A", ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF, WHICH REGULATIONS WILL BECOME EFFECTIVE UPON APPROVAL BY THE FAIR POLITICAL PRACTICES COMMISSION AND THEIR FILING WITH THE SECRETARY OF STATE.

5. AUTHORIZE STAFF TO TAKE ALL STEPS NECESSARY TO GIVE EFFECT TO THE ABOVE DETERMINATIONS, APPROVALS AND DETERMINATIONS, INCLUDING THE MAKING OF MINOR MODIFICATIONS TO THE TEXT OF THE REGULATIONS SO AS TO COMPLY WITH COMMENTS FROM THE OFFICE OF ADMINISTRATIVE LAW.

CALENDAR PAGE 270
MINUTE PAGE 587

EXHIBIT "A"

CONFLICT OF INTEREST CODE FOR THE STATE LANDS COMMISSION

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 Cal. Adm. Code 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 Cal. Adm. Code 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 Conflict of Interest Code of the State Lands Commission.

Pursuant to Section 4(A) of the standard Code, designated employees shall file statements of economic interests with their agencies. Upon receipt of the statement of the Executive Officer, the agency shall make

CALENDAR PAGE 271
MINUTE PAGE 588

and retain a copy and forward the original of this statement to the Fair Political Practices Commission.

CALENDAR PAGE 272
MINUTE PAGE 589

APPENDIX

DESIGNATED POSITIONS	ASSIGNED DISCLOSURE CATEGORIES
Executive Office	
Executive Officer	1,2,3,4
Assistant Executive Officer	1,2,3,4
Legislative Coordinator	1,2,4
Consultant in any unit of the Commission	1,2,4
CEA, all levels in any unit of the Commission	1,2,3,4
Attorney, all levels in any unit of the Commission	1,2,3,4
Graduate Legal & Graduate Student Assistants	1,2,4
Planners, all levels	1,2,4
Governmental Program Analysts, all levels	1,2,4
Engineer, all levels in all fields	1,2,4
Staff Services Manager & Analyst	1,2,4
Administrative Assistant, all levels	1,2,4
Land Operations	
Manager and Assistant Manager	1,2,3,4
Land Agents, all levels	1,2,4
Land Title Searcher and Officer, all levels	1,2,4
Boundary Determination Officer, all levels	1,2,4
Granted Lands Representatives, all levels	1,2,4
Graduate Legal and Graduate Student Assistants	1,2,4
Civil Engineer, Associate	1,2 4
Staff Services Manager & Analyst	1,2,4
Research Program Specialist	1,2,4
Environmental Specialist, all levels	1,2,4
Foresters, all levels	1,2,4

CALENDAR PAGE 273
MINUTE PAGE 590

DESIGNATED POSITIONS	ASSIGNED DISCLOSURE CATEGORIES
Energy and Mineral Resources Development	
Manager and Assistant Manager	1,2,3,4
Engineer, all levels in all fields	1,2,4
Geologist, all levels in all fields	1,2,4
Petroleum Production Inspector, all levels	1,2,4
Governmental Program Analyst, all levels	1,2,4
Staff Services Manager and Analyst	1,2,4
Oceanographer or Marine Biologist, in any unit of the Commission	1,2,4
Geothermal Energy Program Specialist, all levels	1,2,4
Long Beach Operations	
Manager and Assistant Manager	1,2,3,4
Supervisor and Assistant Supervisor, Units for Resources Engineering, Petroleum Engineering, Geology, Project Review, and Economic Analysis	2,4,5
Engineer and Geologist, Associate and Senior in all fields	2,4,5
Research Analyst, all levels	2,4,5
Legal Counsel, all levels	1,2,3,4,5
Administrative and Technical Services	
Manager and Assistant Manager	1,2,3,4
Supervisor and Assistant Supervisor, Units for Data Processing & Records, Fiscal Services, Administrative Services	1,2,3,4
Accounting Officer	1,2,3,4
Accountant, all levels	1,2,3,4

DESIGNATED POSITIONS	ASSIGNED DISCLOSURE CATEGORIES
Administrative and Technical Services, cont'd	
Auditors, all levels	1,2,4
Data Processing Analyst, all levels	1,2,4
Programmer	1,2,4
Consultant, all levels	1,2,3,4
Business Session Officer, all levels	1,2,3,4
Staff Services Analyst, all levels	1,2,3,4
Personnel Assistant, all levels	1,2,4

CALENDAR PAGE 275
MINUTE PAGE 591 A

DISCLOSURE CATEGORIES

Category 1

Designated employees assigned to this category shall report:

Any interest in real property other than the principal residence of the filer unless such residence is on, above, or littoral to water.

Any investment in, loan to or from, or gift or income from a business entity that regularly engages in the acquisition, sale, or development of real property.

Category 2

Designated employees assigned to this category shall report:

Any investment in, income or gift from, or loan to or from a public utility, title company, or any business entity which regularly prepares environmental impact reports or which engages in the exploration, production, transportation, exploitation, or sale of oil, gas or geothermal, or other energy resources or minerals (including, but not limited to, those enumerated in Public Resources Code §6407), and any investment in, gift or income from, or loan to or from, a business entity which an employee knows or has reason to know is or will be directly subject to the jurisdiction of this agency.

Category 3

Designated employees assigned to this category shall report:

Any investment in, loan to or from, or gift or income from a business entity that sells or leases services or materials to the State Lands Commission.

CALENDAR PAGE 276
MINUTE PAGE 592

Category 4

Designated employees assigned to this category shall report:

His or her position if the designated employee is a director, officer, partner, trustee, employee or holds any position of management in any business entity of the type described in Categories 1,2,3, or 5.

Category 5

Designated employees assigned to this category shall report:

Any interest in real property which is within the jurisdiction of Long Beach Operations, State Lands Commission, if the designated employee has any oil, gas, or other mineral rights in that real property.

CALENDAR PAGE 277
MINUTE PAGE 593

Regulations of the Fair Political Practices Commission
(Title 2, Division 6 of the California Administrative Code)

18730. Provisions of Conflict of Interest Codes
(Gov. Code Sections 87300 - 87302)

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a Conflict of Interest Code within the meaning of Government Code Section 87300 or the amendment of a Conflict of Interest Code within the meaning of Government Code Section 87307 if the terms of this regulation are substituted for terms of a Conflict of Interest Code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 81000, et seq. The requirements of a Conflict of Interest Code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a Conflict of Interest Code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices

CALENDAR PAGE 278
MINUTE PAGE 594

Commission (2 Cal. Adm. Code Sections 18100 et seq.), and any amendments to the Act or regulations, are incorporated by reference into this Conflict of Interest Code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

(3) Section 3. Disclosure Categories.

This Code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this Code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 87200, et seq.[1/] Such persons are covered by this Code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in

---

1/ Designated employees who are required to file statements of economic interests under any other agency's Conflict of Interest Code, or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section 81004.

CALENDAR PAGE 279
MINUTE PAGE 595

the Appendix specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees required to file statements of economic interests pursuant to this Conflict of Interest Code to file in accordance with one of the following procedures:2/

(A) All designated employees shall file statements of economic interests with the agency. Upon receipt of the statements of economic interests of the head of the agency and members of boards or commissions not under a department of state or local government, the agency shall make and retain a copy of each and forward the originals of these statements to the code reviewing body, which shall be the

---

2/ See Government Code Section 81010 and 2 Cal. Adm. Code Section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

CALENDAR PAGE 280
MINUTE PAGE 596

filing officer with respect to these statements. Such statements shall be forwarded to the code reviewing body within five days after the filing deadline or five days after receipt in the case of statements filed late.

(B) All designated employees shall file statements of economic interests with the agency, which shall make and retain a copy and forward the originals to the code reviewing body, which shall be the filing officer.

(C) All designated employees shall file statements of economic interests with the code reviewing body.

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this Code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within thirty days after the effective date of this Code. Thereafter, each person already in a position when it is designated by an amendment to this Code shall file an initial statement within thirty days after the effective date of the amendment.

(B) Assuming Office Statements.

(i) All persons assuming designated positions after the effective date of this Code which are civil service or merit system positions shall file statements within thirty days after assuming the designated positions.

CALENDAR PAGE 281
MINUTE PAGE 597

(ii) All other persons appointed, promoted or transferred to designated positions after the effective date of the Code shall file statements within ten days after assuming office, or if subject to State Senate confirmation, ten days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within thirty days after leaving office.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements. Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the Code.

(B) Contents of Assuming Office Statements. Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement

CALENDAR PAGE 282
MINUTE PAGE 598

shall begin on the effective date of the Code or the date of assuming office whichever is later.

(D) Contents of Leaving Office Statements. Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure. When an investment or an interest in real property is required to be reported,[3/] the statement shall contain the following:

(i) A statement of the nature of the investment or interest;

3/ Investments and interests in real property which have a fair market value of less than $1,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

CALENDAR PAGE 283
MINUTE PAGE 599

(ii) 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;

(iii) The address or other precise location of the real property;

(iv) A statement whether the fair market value of the investment or interest in real property exceeds one thousand dollars ($1,000), exceeds ten thousand dollars ($10,000), or exceeds one hundred thousand dollars ($100,000).

(B) Personal Income Disclosure. When personal income is required to be reported,[4/] the statement shall contain:

(i) The name and address of each source of income aggregating two hundred fifty dollars ($250) or more in value, or twenty-five dollars ($25) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.

4/ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

CALENDAR PAGE 284
MINUTE PAGE 600

(ii) 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 one thousand dollars ($1,000) or less, greater than one thousand dollars ($1,000), or greater than ten thousand dollars ($10,000);

(iii) A description of the consideration, if any, for which the income was received;

(iv) In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received.

(v) In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,[5/] the statement shall contain:

(i) The name, address, and a general description of the business activity of the business entity;

5/ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

CALENDAR PAGE 285
MINUTE PAGE 601

(ii) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars ($10,000).

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Disqualification.

No designated employee shall make, participate in making, or use his or her official positions to influence the making of any governmental decision which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth more than one thousand dollars ($1,000);

CALENDAR PAGE 286
MINUTE PAGE 602

(B) Any real property in which the designated employee has a direct or indirect interest worth more than one thousand dollars ($1,000);

(C) Any source of income, other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars ($250) or more in value provided to, received by or promised to the designated employee within twelve months prior to the time when the decision is made; or

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9) Section 9. Manner of Disqualification.

When a designated employee determines that he or she should not make a governmental decision because he or she has a financial interest in it, the determination not to act must be accompanied by disclosure of the financial interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the head of an agency,

CALENDAR PAGE 287
MINUTE PAGE 603

this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

(10) Section 10. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this Code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(11) Section 11. Violations.

This Code has the force and effect of law. Designated employees violating any provision of this Code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code Sections 81000 - 91014. In addition, a decision in relation to which a violation of the disqualification provisions of this Code or of Government Code Section 87100 has occurred may be set aside as void pursuant to Government Code Section 91003.

CALENDAR PAGE 288
MINUTE PAGE 604