

COASTAL CONSERVANCY

Staff Recommendation

September 28, 2017

CONFLICT-OF-INTEREST CODE AMENDMENTS

File No. 09-018-01

Project Manager: Johanna Collins

RECOMMENDED ACTION: Approve amendments to the Conservancy's conflict-of-interest code to reflect current agency positions and make other technical changes.

LOCATION: Statewide

PROGRAM CATEGORY: Conservancy Administration

EXHIBITS

Exhibit 1: [Proposed Conservancy Conflict-of-Interest Code \(redline/strikethrough of existing code\)](#)

Exhibit 2: [Proposed Conservancy Conflict-of-Interest Code \(clean\)](#)

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to §§ 31000, *et seq.* of the Public Resources Code and § 87306 of the Government Code:

“The State Coastal Conservancy approves amendments to its Conflict-of-Interest Code, codified at 14 California Code of Regulations § 13800, as shown in Exhibit 1 to the accompanying staff recommendation, and directs the Executive Officer to take actions necessary to provide public notice of, finalize, and codify these amendments, or substantially similar amendments, to the code.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that amendment of the Conservancy's conflict-of-interest code is necessary to reflect the current staff composition and duties and to implement the requirements of §§ 87300 through 87302, and § 87306 of the Government Code. These amendments are authorized by § 87306 of the Government Code, § 31102 of the Public Resources Code and 2 Cal. Code of Regs. § 18752.”

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PROJECT SUMMARY

Staff recommends that the Conservancy approve amendments to its conflict-of-interest code to update and simplify the code. Changes to the code include identifying new staff positions, simplifying reporting categories to eliminate duplication and better reflect potential financial conflicts; providing a special reporting category for information technology employees; allowing for electronic filing for some officers; and clarifying the persons within the agency who manage public investments. A copy of the Conservancy's conflict-of-interest code showing the proposed amendments in strikeout/underline format is attached as [Exhibit 1](#) and a clean copy of the amended code is attached as [Exhibit 2](#).

The Political Reform Act of 1974, Government Code §§ 81000, *et seq.* (the Act), requires public officials to disclose assets, income and other financial interests that could be materially affected by the decisions they make or participate in making. (Govt. Code §§ 87300 *et seq.*). The Act also requires, in appropriate circumstances, that public officials be disqualified from acting when necessary to avoid conflicts of interest. (Govt. Code § 87100). Certain public officials, including elected officials and members of the California Coastal Commission, are required to disclose all financial interests. (Govt. Code § 87200). Other public officials, including agency employees, are required to disclose in accordance with their agency's conflict-of-interest code. (Govt. Code § 87300). Each agency is required to develop its own conflict-of-interest code to identify the types of financial interests that might be affected by the agency's decisions and the positions that make or participate in making those decisions. (Govt. Code §§ 87300-87313).

The Act requires every state agency to review its conflict-of-interest code biennially to determine whether the code accurately reflects the current organization of the agency and the job duties of the various positions listed in the code. (Govt. Code § 87306). Amendments to the code must be approved by the Fair Political Practices Commission (FPPC). In its most recent biennial review, Conservancy staff identified the need for the proposed amendments. (See [Exhibit 1](#)). Therefore, staff recommends that the Conservancy approve amendments to its conflict-of-interest code as shown in Exhibit 1.

Once approved by the Conservancy, the conflict-of-interest code amendments will be forwarded to the Office of Administrative Law to provide a 45-day public comment period. Staff and the public will have an opportunity to comment on the proposed amendments. If any substantial changes to the amendments are proposed, staff will bring the code back to the Conservancy for consideration of those comments. If the public comment period results in no changes to the amendments or only insubstantial changes, the Executive Officer will finalize the amendments and certify the code as reflecting the relevant positions and duties within the agency. Staff will forward the comments and final code to FPPC. The FPPC will forward the code to the Office of Administrative Law for codification.

PROJECT HISTORY:

The Conservancy last amended its conflict-of-interest code in 2010, following significant organizational changes and modernization. Since then, the Conservancy has reduced and reorganized its staff again, and FPPC has amended its regulations to allow electronic filing for those officials required to file their Form 700 with FPPC. To reflect these changes and comply with the requirements of Government Code § 87306, the staff developed the proposed amendments.

The FPPC has adopted by regulation (2 California Code of Regulations § 18730) standard conflict-of-interest code terms which can be incorporated by reference in an agency's code. The Conservancy's conflict-of-interest code, which incorporates the terms of the FPPC regulation by reference, is found at 14 California Code of Regulations § 13800; it designates officials and employees for the Conservancy

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and establishes categories of information that they are required to disclose. Pursuant to the Fair Political Practices Act and the Conservancy regulation, Conservancy members, the Executive and Deputy Executive Officers, and staff members identified as “designated employees” report each year on financial interests identified in code. The Chair of the California Coastal Commission and elected officials disclose pursuant to Government Code § 87200, *et seq.* rather than the Conservancy conflict-of-interest code. The amended code will allow these individuals to take advantage of new electronic filing options offered by the FPPC.

PROJECT FINANCING:

Apart from the administrative costs of preparing and obtaining approvals for the amendment, this project will not impose any costs on the Conservancy.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

This amendment will be adopted pursuant to Public Resources Code § 31102, which states that the Conservancy shall adopt its own regulations; and pursuant to Government Code § 87306, which states that each agency shall amend its conflict-of-interest code when change is necessitated by relevant changes in the duties assigned to existing positions within the agency.

Government Code § 87302(a) requires that every conflict-of-interest code contain specific enumeration of the positions within the agency 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 enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable. This amendment would bring the Conservancy's conflict-of-interest code into compliance with these sections of the Government Code.

COMPLIANCE WITH CEQA:

The modification of the list of designated employees required to disclose their financial interests pursuant to the Political Reform Act has no potential for resulting in any foreseeable direct or indirect change in the environment, and thus is not a “project” for purposes of CEQA, as defined in 14 California Code of Regulations § 15378.
