

COASTAL CONSERVANCY

Staff Recommendation
September 14, 2023

CONFLICT OF INTEREST CODE AMENDMENTS

Project No. 09-018-02
Project Manager: Mary Small

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

LOCATION: Statewide

EXHIBITS

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

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

RESOLUTION AND FINDINGS

Staff recommends that the State Coastal Conservancy adopt the following resolution and findings.

Resolution:

The State Coastal Conservancy approves amendments to its Conflict-of-Interest Code, codified at 14 California Code of Regulations section 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.

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, job classifications, and duties, and to implement the requirements of Government Code Sections 87300 through 87302, and 87306. These amendments are authorized by Government Code Section 87306, Public Resources Code Section 31102, and the California Code of Regulations, Title 2, Section 18752.

STAFF RECOMMENDATION

PROJECT SUMMARY:

Staff recommends that the Conservancy approve amendments to its conflict-of-interest code to reflect current agency staff positions and make other technical changes. Changes to the code include identifying new staff positions responsible for reporting, which are: Staff Services Analysts that work as project managers, Fellows, and Interns. Other changes include updating our Procurement and Accounting positions to reflect the current organizational chart. The code revisions also include explicitly identifying alternates or designees to Board members as subject to reporting to avoid any confusion on the obligations of alternates. 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 Conservancy has begun using the Staff Services Analyst classification for entry level project managers. These staff participate in making Conservancy decisions regarding projects, including funding recommendations. The Conservancy regularly has Fellows and Interns that participate in making Conservancy decisions regarding projects including funding recommendations. Thus, Staff Services Analysts that work as project managers, Fellows, and Interns, participate in the making of decisions which may foreseeably have a material effect on economic interests. Under the amended code, they will have the same reporting requirements as other project managers.

The Political Reform Act of 1974, Government Code Sections 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 only those financial interests that could be affected by their governmental decisions, as specified in 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 FPPC has adopted by regulation (2 California Code of Regulations § 18730) standard conflict-of-interest code terms which can be incorporated by reference into 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 the Conservancy officials and employees who must disclose financial interests and establishes the categories of financial interests that they are required to disclose.

The Act requires every state agency to review its conflict-of-interest code every two years to determine whether the code accurately reflects the current organization of the agency and the job duties of the various staff 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

shown in Exhibit 1. In July 2022, the Conservancy submitted the proposed amendments to the conflict-of-interest code to the FPPC staff for its review.

If 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 amendments 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.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

This amendment will be adopted pursuant to Public Resources Code Section 31102, which states that the Conservancy shall adopt its own regulations; and pursuant to Government Code Section 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 Section 87302(a) requires that every conflict-of-interest code contain specific enumeration of the staff positions within the agency that involve the making or participation in the making of decisions that 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.

CONSISTENCY WITH CONSERVANCY'S [2023-2027 STRATEGIC PLAN](#) GOALS

Consistent with **Goal 5, Organizational Goals**, the proposed code amendments further the Conservancy's intention to be transparent and accountable in its work.

CEQA COMPLIANCE:

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 Section 15378.