



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the “Commission”), under the authority vested in it under the Political Reform Act (the “Act”)<sup>1</sup> by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed changes to its regulations at a public hearing on or after **November 19, 2020**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **November 17, 2020**.

### BACKGROUND/OVERVIEW:

The primary purposes of this proposed update of the Commission’s regulations governing the filing of statements of economic interests are to: (1) provide greater clarity and guidance with respect to processes associated with electronic filing; (2) ameliorate duplicative filing obligations which do not provide additional disclosure; and (3) revise processes for the filing of certain specified public officials’ statements to better accord with the capabilities of approved electronic filing systems.

### Facilitation of Electronic Filing

Section 81010 of the Act sets forth a filing officer’s duties with respect to required reports and statements, including public officials’ statements of economic interests. Regulation 18115 sets forth the specific duties of filing officers and filing officials in regard to those statements. Regulation 18115, however, only addresses filing officer and filing official duties with respect to statements filed in paper format and does not expressly address their duties with respect to statements filed electronically.

In order to provide greater clarity as to the distinct duties of filing officers and filing officials applicable to a statement of economic interests submitted in paper format and those submitted electronically, the proposed update would:

- Repeal existing Regulation 18115 and add new Regulation 18115, which would set forth filing officer and filing official duties applicable to both statements filed in paper format and those filed electronically;

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The Commission’s regulations are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- Add new Regulation 18115.1, which would consolidate filing officer and filing official duties with respect to each statement submitted in paper format; and
- Add new Regulation 18115.2, which would consolidate filing officer and filing official duties with respect to each statement submitted electronically, and expressly provide that a statement filed electronically through an approved electronic filing system is an “original statement.”

### Reduction of Duplicative Filings

Section 87200 identifies the public officials subject to reporting requirements of Article 2 of the Act (Sections 87200 – 87210). By virtue of holding their primary positions identified in Section 87200, certain Section 87200 filers are required by law to serve in an additional position identified in Section 87200.<sup>2</sup>

The proposed update would expressly provide that an official that holds Section 87200 and is required by law to serve in an additional Section 87200 position due to holding the primary Section 87200 position is only required to file a single statement for the primary position if that statement contains all required disclosure for all jurisdictions. (New Regulation 18723.1(a).)

A local official specified in Section 87200 is required to file statements of economic interests for each additional designated position the official holds with another agency that has a broader jurisdiction than the agency in which the official holds the position specified in Section 87200.<sup>3</sup>

The proposed update would authorize a county supervisor, city councilmember, planning commissioner or mayor (each of which is specified in Section 87200) who also holds a designated position with another agency, with broader jurisdiction than the agency in which the official holds the Section 87200 position, to file an expanded statement for each position containing all reportable interests for all jurisdictions. (New Regulation 18723.1(e).) The proposed update would also expressly provide that if the expanded statement is filed with another agency, other than the agency in which the official holds the Section 87200 position, that duplicative statement would not be required to be forwarded to the Commission. (New Regulation 18723.1(g).)

### Accommodation of Approved Electronic Filing System Limitations

Regulation 18735(b) specifies the manner in which a designated employee who transfers within the same agency to the position of board member, commissioner, head of an agency, executive director, or other chief executive officer must file statements of economic interests after assuming office. That provision requires that designated employee to amend his or her prior statement, as specified, rather than file a leaving office statement for the former position and an assuming office for the new position.

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<sup>2</sup> See, e.g., Section 20090(d) which requires the state Treasurer to also serve as a member of the Board of Administration of the California Public Employees’ Retirement System (“CalPERS”).

<sup>3</sup> For example, a city councilmember that also serves in a designated position with the county is required to file a statement for each position due to the county having a broader jurisdiction than the city.

Likewise, Regulation 18735(e) specifies the manner in which a designated employee of the Legislature who holds a position with the same disclosure requirements as a member of the Legislature and leaves that designated position to become a member of the Legislature, and authorizes that former designated employee to file an annual statement, as specified, in lieu of filing leaving or assuming office statements.

Approved electronic filing systems, however, are currently incapable of administering the filing processes set forth in existing Regulation 18735(b) and (e). To accommodate the current technological capabilities of those systems, the proposed update would:

- Overhaul Regulation 18735(b) to instead require an official who transfers from a designated position to a specified executive position within the same agency to file leaving and assuming office statements under Section 87202(a) or Section 87302(b) as applicable.
- Revise Regulation 18735(e) to instead require an official who leaves a designated position with the legislature that has the same disclosure requirements as a member of the Legislature to become a member of the Legislature to file leaving and assuming office statements under Section 87202 or 87302(b) as applicable.

Section 87302.6 requires a member of a board or commission of a newly created agency to file an initial statement of economic interests at the same time and manner as a public official specified in Section 87200, and to file subsequent statements pursuant to Section 87302 once the member is subject to an approved conflict of interest code. Regulation 18754 governs the filing of statements by such a member under Section 87302.6, and Regulation 18754(b)(3)(B) authorizes such a member's leaving office statement to serve as the member's annual statement in certain circumstances.

Approved electronic filing systems, however, are currently incapable of administering the filing process set forth in Regulation 18754(b)(3)(B). To align this process with the current technological capabilities of those systems, the proposed update would amend Regulation 18754 by instead requiring such a member to file a leaving office statement under Section 87302(b). The proposed update would also update a cross reference in Regulation 18732.5 and make other technical nonsubstantive changes.

#### REGULATORY ACTIONS:

Add 2 Cal. Code Regs. Sections 18115, 18115.1, 18115.2, and 18723.1.

Amend 2 Cal. Code Regs. Sections 18732.5, 18735, and 18754.

Repeal 2 Cal. Code Regs. Section 18115.

#### SCOPE:

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues.

## FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state entity or program.

AUTHORITY: Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE: Sections 81004, 81010, 81010.5, 82003, 82019, 82041, 82049, 87200-87210, 87300-87302.6, 87500, 87500.2, 87500.4, and 87505.

CONTACT: Any inquiries should be made to Matthew F. Christy, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; email [mchristy@fppc.ca.gov](mailto:mchristy@fppc.ca.gov); telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.