



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

To: Chair Silver, Commissioners Baker, Brandt, Ortiz, and Wilson

From: Dave Bainbridge, General Counsel
Valerie Nuding, Commission Counsel

Subject: Prenotice Discussion of Proposed Amendments to Regulations 18115.2, 18313.5, 18313.6, 18724, 18753, 18754, and 18756

Date: February 3, 2025

Executive Summary

In response to recently enacted statutory changes to the Political Reform Act in Assembly Bill (AB) 1170, including requiring electronic filing of Statements of Economic Interests (SEI) with the FPPC, staff submits proposed amendments to the following existing regulations for prenotice discussion:

- Regulation 18115.2 – Duties of Filing Officers and Filing Officials - Electronically Filed Statements of Economic Interests. Staff proposes amending this Regulation to fix citations to Section 87500 and to remove requirements of forwarding SEIs to the FPPC where it will no longer be necessary.
- Regulation 18313.5 – Online Posting. Staff proposes amending this Regulation to encompass all material necessary to be redacted in online postings of SEIs as required now in Section 87500.3.
- Regulation 18313.6 – Online Posting: Redacting Personal Information. Staff proposes amending this Regulation to remove a section made redundant by Section 87500.3 and update citations under changes to Section 87500.
- Regulation 18724 – Filing of Statements of Economic Interests by Temporary or Part-Time Court Commissioners, Pro Tem and Retired Judges. Staff proposes amending this Regulation to clarify that filings by retired judges must be filed through the FPPC’s electronic filing system.
- Regulation 18730 – Provisions of Conflict of Interest Codes. Staff proposes amending this Regulation to reflect updates to where officials must file their SEIs under the newly amended Section 87500.
- Regulation 18753 – Statements of Economic Interests; Where to File. Staff proposes amending this Regulation to fix citations to Section 87500 and to clarify those officials required to file through the FPPC’s electronic filing system.
- Regulation 18754 – Statements of Economic Interests (Members of Boards or Commissions of Newly Created Agencies); When and Where to File. Staff proposes amending this Regulation to update citations to Section 87500 and to clarify those officials required to file through the FPPC’s electronic filing system.

- Regulation 18756 – Statements of Economic Interests; Certification of Electronic Filing System. Staff proposes amending this Regulation to remove data exchange requirements that are no longer necessary as officials will be filing directly through the FPPC’s electronic filing system.

If the Commission chooses to proceed with staff’s recommendations, these amendments will be proposed for adoption at the April Commission meeting.

Reason for Proposed Actions

Recently enacted Commission-sponsored legislation, AB 1170 (Valencia), made numerous changes to the Political Reform Act¹ including Sections 87500 and 87500.3. As a result of these statutory changes, which went into effect on January 1, 2025, staff has identified necessary conforming changes to existing regulations.

Background

Filing of SEIs with the FPPC

The Act requires elected officers and public officials, include state and local government employees who make or participate in making governmental decisions, (collectively “officials”) to file SEIs disclosing relevant financial interests. (Section 87200 and 87300.) SEIs are filed annually, as well as when assuming and leaving office, and promote transparency in government by providing necessary information to the public about an official’s financial interests to ensure that officials are making decisions in the best interest of the public and not personally benefiting from the decisions.²

For many SEI filers, the positions required to file SEIs are determined by the agency’s Conflict of Interest Code, which identifies which positions must file and what level of information an official must provide based on the official’s job duties. (Section 87300.) These positions typically file the SEI with their agency, but some file with the FPPC.

Certain higher-level state and local officials are required by statute to file SEIs disclosing all of their financial interests, as that term is defined in the Act. These positions are listed in Section 87200. These officials file their SEIs with the FPPC.

Until about a decade ago, all SEIs were filed on paper. In 2013, AB 409 passed permitting the FPPC to develop an electronic filing system. In 2016, the FPPC began accepting SEIs through its filing system. AB 409 did not require officials to file electronically, so some

¹ 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 regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 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.

² See Section 81002(c) identifying purposes of the Act and states, “Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided.”

officials continued to file on paper. In 2024, 25,458 SEIs were filed with the FPPC, of which 20,090 were filed electronically. Of those 20,090 that were filed electronically, 13,633 were filed directly with the FPPC's electronic filing system, and 6,457 were filed electronically through an agency's filing system that transferred the data to the FPPC system. Every year, the FPPC staff spent hundreds of hours both scanning paper filings and fixing issues with the data transfer system to ensure the SEIs filed using those options successfully entered the FPPC electronic system. The FPPC sponsored this legislation (AB 1170) to eliminate this burden and waste of public resources and to increase transparency and efficiency.

Once an SEI is filed with the FPPC, the FPPC must make it available to the public. Currently, under Regulation 18313.5 the FPPC posts SEIs filed by elected officials only. SEIs for other officials who file with the FPPC can be obtained by submitting an email request to the FPPC. The FPPC's SEI filing system is capable of making all statements filed on the system available online. In making SEIs available online, the FPPC currently redacts the address, telephone number, and signature block of the elected official. (Regulation 18313.5.) Regulation 18313.6 currently provides criteria for discretionary redaction where the elected officer has a reasonable privacy concern related to an individual's address, or a family member's name or other personally identifiable information.

AB 1170 Changes

Under AB 1170, Section 87500(a) now requires "A statement of economic interest filed by a public official, for whom the Commission is the filing officer, shall be filed with the Commission using the Commission's electronic filing system." As such, rather than require that Section 87200 filers file with their agency and the agency provide the original to the FPPC, filers now must file directly with the FPPC using the FPPC's electronic filing system. Additionally, the Legislature amended Section 87500.3 which requires redaction of the signature, telephone number, email address, and mailing address of the filer when posting SEIs on the internet. Section 87500.3 also lists when the FPPC may use its discretion to redact identifying information surrounding the filer's personal residence and the filer's family's personal information where there is a reasonable privacy concern. Previously, the section stated that the FPPC could adopt its own rules for redaction.

Proposed Regulatory Actions

Regulation 18115.2 – Duties of Filing Officers and Filing Officials - Electronically Filed Statements of Economic Interests

Regulation 18115.2 addresses the duties of filing officers and is largely unchanged in the proposed amendment. However, Regulation 18115.2(d) previously required, "If the Commission is the filing officer, an electronic statement filed through an approved electronic filing system must be forwarded to the Commission by means of automated data exchange between the approved electronic system and the Commission's electronic filing system." Now, after the changes to Section 87500(a), the legislature has made it clear that if the FPPC is the filing officer the filer must file their statement directly with the FPPC on the electronic filing system. As such, staff proposes removing that requirement. Additionally, Regulation 18115.2 makes references to

Section 87500 generally regarding requirements for forwarding statements. Now, only Section 87500(b)(2) provides for forwarding statement for filers who do not have to file with the FPPC, staff has updated these references to the Act.

Regulation 18313.5 – Online Posting

Regulation 18313.5 provides rules regarding the online posting of SEIs. Currently, the Regulation states that the FPPC will redact from all SEIs, required to be filed with the FPPC by elected officers in their elected capacity, the official’s address, telephone number, and signature block before posting SEIs online. Under the changes to Section 87500.3(d)(2)(A), the Legislature also included email addresses as necessary to be redacted. Accordingly, staff recommends adding “email address” to the list of information that will be redacted before posting so that Regulation 18313.5(b) is amended in part to read “The address, telephone number, email address, and signature block of the elected official’s statement will be redacted from the cover page of the document before posting to the website.”

During an Interested Persons meeting in November concerning AB 1170 implementation, numerous local filing officers expressed interest in the Commission amending this Regulation to increase the SEIs the FPPC posts online. Currently, the FPPC only posts SEIs of elected officers and the FPPC Chair and Commissioners. Staff sees three viable alternatives:

1. Leave the Regulation as is so that elected officers’ SEIs are available online.
2. Make all SEIs filed with the FPPC available online, including employee positions required to file with the FPPC.
3. Make SEIs for all Section 87200 filers available online.

While it would not be difficult technologically to expand the Regulation to post all SEIs filed with the FPPC or all Section 87200 filers, drawing other lines between the various positions that file SEIs would be more challenging. Agency filing officials have expressed support for option 2, while employees of the legislature, whose conflict of interest code requires them to file with the FPPC, have on previous occasions expressed concern with their SEIs being posted online.

Staff seeks direction from the Commission on this policy question.

Regulation 18313.6 – Online Posting: Redacting Personal Information

Regulation 18313.6 provides criteria where the FPPC can use discretion to determine whether redaction is appropriate. Newly enacted language in the statute is similar to what is currently contained in Regulation 18313.6, which makes subdivision (a) of Regulation 18313.6 redundant, and staff recommends removing it. Furthermore, the requirement that the FPPC develop a policy on redaction has been removed from the statute and replaced with “The Commission may adopt regulations that define ‘family member’ and ‘reasonable privacy concern’ for purposes of this subparagraph (C).” (Section 87500.3(d)(2)(C)(ii).) As subdivision (b) of Regulation 18313.6 defines “family member,” staff recommends that it remain in the Regulation.

Regulation 18724 – Filing of Statements of Economic Interests by Temporary or Part-Time Court Commissioners, Pro Tem and Retired Judges

Regulation 18724 provides rules for temporary or part-time court commissioners, and pro tem and retired judges on filing their SEIs and remains mostly unchanged in the proposed amendment. However, in the subdivision (b) where it requires retired judges to file with the FPPC, staff recommends adding the language “through the Commission’s electronic filing system” to provide clarity and conform with the Legislature’s amendment to Section 87500(a).

Regulation 18730 – Provisions of Conflict of Interest Codes.

Regulation 18730 establishes rules for Conflict of Interest Codes and will remain mostly unchanged in the proposed amendments. Subdivision (b)(4) instructs filers where to file their SEIs. Currently subdivision (b)(4) reads: “The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.” Staff suggests amending subdivision (b)(4) to state: “The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code or with the Fair Political Practices Commission using the Commission’s electronic filing system as required under 87500.” This amendment captures the newly created requirement for filers under Section 87500(a) to file directly with the FPPC on the FPPC’s electronic filing system.

Regulation 18753 – Statements of Economic Interests; Where to File

Regulation 18753 instructs city treasurers, county treasurers, state officials who manage public investments for a state agency, and members of local government agencies, boards, or commissions who manage public investments on behalf of their agency where to file their SEIs. Previously, all sections provided that these officials would file with their agency, who would then send the original to the FPPC, and the FPPC would be the filing officer.

Amended Section 87500(a)(1), explicitly provides that these positions file directly with the FPPC. As such, staff recommends repealing Regulation 18753 as it is now made clear by statute and the Regulation is redundant.

Regulation 18754 – Statements of Economic Interests (Members of Boards or Commissions of Newly Created Agencies); When and Where to File

Regulation 18754 provides requirements for the filing of SEIs from members of newly created boards or commissions. Generally, the provisions of Regulation 18754 will remain the same, however, subdivision (a)(4) will require amendments to comply with the newly enacted version of Section 87500. Under the previous version of Section 87500, subdivision (o) provided that filing should be as follows: “Members of a state licensing or regulatory board, bureau, or commission – one original with the agency, which shall make and retain a copy and forward the

original to the Commission, which shall be the filing officer.” Under the current version of Section 87500 there is no subdivision (o). However, Section 87500(a)(2)(D) states that the FPPC shall be the filing officer for “a member of a state licensing or regulatory board, bureau, or commission.” Additionally, Regulation 87500(a)(2)(E) provides that the FPPC shall be the filing officer for “A person appointed to a state board, commission, or similar multimember body of the state if the Commission has been designated as the filing officer in the conflict of interest code of the respective board, commission, or body.” As such, staff proposes amending Regulation 18754(a)(4) to indicate that these positions file directly with the FPPC if the FPPC is the filing officer for the agency.

Regulation 18756 – Statements of Economic Interests; Certification of Electronic Filing System

Regulation 18756 provides rules that agencies must follow to certify an electronic filing system with the FPPC and provides requirements for data transfer from an agency filing system to the FPPC’s filing system. The FPPC will still have to certify the electronic filing systems of local agencies to ensure security and ease of use by the public. However, under the recent amendments to Section 87500 requiring all persons filing with the FPPC to file using the FPPC’s electronic filing system, the data transfer requirements contained in Regulation 18756(c) are no longer necessary as the filer’s agency will no longer transfer data to the FPPC.

Additionally, Regulation 18756(f) states information that is required to be redacted but does not include “email addresses” as per the recent legislation, as such staff recommends adding “email addresses” to the redaction requirement. Further, staff recommends pointing local agencies to Section 87500.3(d)(2) along with Regulation 18313.6 for guidance on discretionary redaction, as Regulation 18313.6 will no longer list where discretionary redaction is allowed if the FPPC chooses to adopt the proposed amendment above to Regulation 18313.6.

Conclusion

The proposed amendments would conform existing regulations with the recently amended statutory provisions of Sections 87500 and 87500.3 and eliminate redundant or outdated language.

Attachment: Proposed Amendments to Regulations 18115.2, 18313.5, 18313.6, 18724, 18753, 18754, 18756