



(Approved June 21, 2018)
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF HEARING, Public Session
Timestamps from [Commission Meeting 06/04/2018/](#)
Monday, June 4, 2018

Under Government Code section 11123(a), all meetings of a state body are open and public, and all persons are permitted to attend any meeting of a state body, except as otherwise provided in that article. The section further states that the portion of the teleconferenced meeting that is required to be open to the public must be audible to the public at the location specified in the notice of the meeting. The Commission may take action on any item listed on this agenda.

CALL TO ORDER

Commissioner Hatch called the meeting to order at 9:04 am on June 4, 2018, at the Fair Political Practices Commission, 1102 Q Street, Suite 3800, Sacramento, CA 95811. Commissioners Audero, Cardenas, Hatch, and Hayward were present.

Welcome

Commissioner Hayward: talk through the mic thank you

Commissioner Hatch: I know we don't have a chair today so I would ask for the unanimous consent to Allison Hayward chair the meeting today – preside over

Commissioner Audero: Yeah this is Commissioners Cardenas and Audero just before we start – we agree with that by the way – right?

Commissioner Cardenas: Yes

Commissioner Audero: but just before we start just to make a clear record we are at the Paul Hastings office as noticed by the agenda and the meeting is open to the public the agenda is posted on the door and we nobody is here other than Commissioners Cardneas and myself so we will let you know if anybody if anybody from the public joins

Commissioner Hayward: Excellent. With that, Sasha could you call the roll please

Sasha: Commissioner Audero

Commissioner Audero: Here

Sasha: Commissioner Cardenas

Commissioner Cardenas: Here

Sasha: Commissioner Hatch

Commissioner Hatch: Here

Sasha: Commissioner Hayward

Commissioner Hayward: here

Public Comment

- 1. Public Comment for Items not on Agenda.** During this comment period, any person is invited to speak on any topic that is not listed on this agenda. Action may not be taken on any matter raised during this public comment period until the matter is specifically listed on a future agenda. Those who wish to comment on an item that has been listed on this agenda may comment when that item has been opened for consideration by the Commission and before any action is taken.

Commissioner Hayward: well thank you very much I am I like to open up for public comment on items not on the agenda and I don't see any so we'll move on to the general items on the agenda

General Items

- 2. Adoption of Regulations 18308, 18308.1, 18308.2, and 18308.3 on Commission Governance.**

At the October 19, 2017 meeting, the Commission established an ad hoc committee of Commissioner Hayward and Commissioner Hatch to review the Commission's Statement of Governance Principles. At the March 22, 2018 meeting, the Commission considered the Report and Recommendations from the Ad Hoc Committee, and instructed the Committee to propose regulations promulgating governance rules for the Commission. The Ad Hoc Committee will be presenting its proposed Regulation 18308 (Commission Governance), 18308.1 (Authority of the Commission), 18308.2 (Authority of the Chair), and 18308.3 (Authority of the Executive Director). If adopted, the Commission will also consider the nomination and appointment of Commissioners to Commission Subcommittees pursuant to proposed Regulation 18308.1.

Ad Hoc Cover Memo

Proposed Regulation 18308, 18308.1, 18308.2, and 18308.3

Commissioner Hayward: agenda item 2 adoption of regulations 18308, 18308.1, 18308.2, and 18308.3 on Commission Governance I believe everyone is seeing the cover memo with several unfortunate typos in it but I'm sorry about that I cannot proofread my own work and then the

draft final regs now I understand that Commissioner Hatch has some friendly amendments he'd like to offer and so we'll turn to him

Commissioner Hatch: alright thank you madam chair we have two amendments that are technical in nature well one is is a substantive the other is technical first is to insert on page 5 line 11 and I've got a copy for you of to paragraph 8 2 subdivision C of section 18308.1 and that section that subdivision 8 would say appoint a vice chair to preside over Commission meetings in the chairs absence so as Mr. Feser brought to our attention we really don't have a formal reference to this and so we thought we'd insert that and then the second amendment will be on page 8 line 21 delete paragraph L which is identical to paragraph 3 on page 12 line 16 and so this is the superfluous entry and I would so move

Commissioner Hayward: all right that was Commissioner Hatch's motion is there a second

Commissioner Cardenas: Second

Commissioner Hayward: thank you debate on the motion it is pretty straightforward so let's move adoption of the of the amendments and then we'll move to the main motion of the regs packet

Commissioner Audero: Commissioner Commissioner Chair Hayward

Commissioner Hayward: That's okay

Commissioner Audero: I also have amendments and I don't know I mean I'm happy to vote on these and then we can vote on mine separately I just

Commissioner Hayward: Let's

Commissioner Audero: I just wanted you to know I have a couple of amendments

Commissioner Hayward: thank you for speaking up let's do Commissioner Hatch's first and then we'll move to yours thank you for saying that all right so there's a motion it's been seconded on these two amendments all those in favor signify by saying aye actually we do roll call don't we yes okay Sasha call the roll

Sasha: Commissioner Audero

Commissioner Audero: yes

Sasha: Commissioner Cardenas

Commissioner Cardenas: yes

Sasha: Commissioner Hatch

Commissioner Hatch: aye

Sasha: Commissioner Hayward

Commissioner Hayward: yes

Sasha: The motion passes.

Commissioner Hayward: all right now Commissioner Audero we'll turn the floor over to you and your minutes

Commissioner Audero: thank you on page 14 one amendment one of the question that could turn into an amendment specifically page 14 line 8 this talks about the Executive Director preparing and submitting budget proposals and other budgetary documents to the Department of Finance and I think I what I would like to see is that this be upon approval of the Commission so the proposed amendment would be read as follows

Commissioner Hatch: you know

5:00

Commissioner Audero: the Executive Director, in consultation with the budget and Personnel Committee, prepare and, upon approval of the Commission, submits budget change proposals requests for deficit funding and other budgetary documents to the Department of Finance I don't know if that is already contemplated in another section of the regulations that I missed but that would be my proposed amendment to paragraph subparagraph 4 and then in subparagraph 5 immediately below it I would like something similar I don't I'm not sure I understand what this paragraph five intends to do because it talks about the Executive Director approving all fiscal analyses prepared at the request of the legislature legislative analyst or Department of Finance and I assume that upon that approval it would be submitted right to the legislature or the legislative analyst or the Department of Finance if that is the case I then think that we should also have that approved by the committee before it is submitted so I guess the question the question before I propose an amendment on this

Commissioner Hatch: okay I have a couple of

Commissioner Hayward: Commissioner Hatch

Commissioner Hatch: thank you I have a couple of under subdivision D 18308.1 that joins with that that requires the committee to review and recommend to the full Commission the those budget related issues that you spoke to I don't see any harm in what you're proposing because in fact is what we intend in terms of how it would interplay as to the second proposal the current written policy has been around since 2001 those duties are empowered of the Executive Director to do her own and I invite Erin to speak on that if correct me if I'm wrong under the current governance principles policy

Ms. Peth: right I believe that's accurate

Commissioner Hatch: yeah so what we did here was insert the committee and then also in a separate in a separate part of this regulation a duty of the of that community to report it out to the full Commission for their approval this I don't think that your proposals do any violence to either those because they're you know in the same it's in the spirit of what we were trying to accomplish

Commissioner Hayward: Commissioner Audero does that answer your question

Commissioner Audero: so if I I have no interest in making these regulations any longer than they need to be so if you can point me to where it already exists I'm happy to withdraw my proposed amendment

Commissioner Hatch: okay if you give me a moment or two see I think it's on page 7 woops my thing scrolled inadvertently

Commissioner Hayward: that's why some of us use paper

Commissioner Hatch: yeah point taken on page you should start with page excuse me on page 7 line 10 it says that the budget personnel committees responsibilities include but are not limited to and then the first one on the list is reviewing and recommending the annual FPPC budget to the Commission and also then after recommending criteria for the Executive Director to follow in that process it also goes on to the on line 15 recommends criteria for adoption by the Commission of the government governing the preparation and submittals by the Executive Director of recommendations to the Commission at each stage of the budgetary process so it's at the beginning and then all through that process every major step as to the second issue for the gonna find that you see that does it have I don't seem to see that the one that mates to the second issue that you raised Commissioner Audero

10:00

Commissioner Audero: Okay

Commissioner Hatch: it may be there I'm not finding it

Commissioner Audero: yeah I just my concern is that these reports before they go out from the Commission to the public the legislature anybody should be something that we approve

Commissioner Hayward: I think it's I will take take the mic now listen it's for me that was always my understanding of how it worked and I don't have a problem with language that clarifies that yeah

Commissioner Hatch: I don't either

Commissioner Hayward: okay

Ms. Peth: could I make one comment on timing is you

Commissioner Hayward: absolutely

Ms. Peth: I think just Commissioner Audero this is Erin sorry what happens just practically I think that paragraphs referring to is the legislature will ask us for fiscal estimates on legislation that's moving through the process sometimes they will literally give us two days or something to get back to them on what we think the fiscal estimate would be that estimate obviously is done in good faith but it's not necessarily binding as to what we would then ultimately ask for in the budget the following year so while I don't have that problem obviously letting the Commission know what fiscal estimates are on bills which is also included in Phillips legislative report every month I think it might be more practical if it's a reporting out thing than it is a seeking approval in advance just because I don't know that that's practical given the time frames that are imposed upon us from the capital

Commissioner Audero: So that does pose a problem it would still be in consultation but my concern becomes that you know the big issue here has been let's make sure that these committees don't become policy makers and I fully agree with that in our and the way that this has been written as I understand it has been that these Commission's make recommendations to the to the Commission so if we now just have the Executive Director working with the committee I be concerned that it would be misperceived as creating policy

Commissioner Hatch: I see

Commissioner Audero: so I think we need to talk about how to deal with that situation unless nobody else has that concern

Commissioner Hatch: to let you inside my head that's a little scary in there but when I was writing that provision I considered the committee to be the watchdog so if the Executive Director says we have to rush this thing out and I look at it if I'm the committee chair and I have concerns that this is something that really should be passed by the Commission I can then insist that we hold a conference call or send out a consent for the Commissioners to review it and email back their consents but it was my intent to do as you suggested might be possibly construed and that's that we would just simply act in a number of places here we say we did these committees function is to make recommendations the Commission not to establish policy so I'm it would be difficult for me to come to the conclusion if I were trying to play lawyer and construe this I don't think I could come to a result that it was okay for us to act with in any form that it's not a recommendation to the full Commission

15:00

Commissioner Audero: okay so that's helpful although then you said something that now raises another concern for me that we should just kind of discuss which is I just I don't think that we can send out a an email for some kind of a vote by the Commissioners without calling a public meeting

Commissioner Hayward: You're right about that

Commissioner Audero: right so I think that leaves us with the problem that Ms. Peth has raised which is how do we address the situation where the legislature or the legislative analyst or the Department of Finance give us a two day turnaround and I guess a question for you Ms. Peth that kind of a follow-up question is is it just not possible to ask for additional time given how we are structured

Commissioner Hayward: Ms. Peth

Ms. Peth: I think we could ask for additional time I don't think that it's that feasible giving different certain periods of the legislative process things relatively quickly and those obviously could get amended or I'm gonna changed out with some speed and so you know they're just they have their timeline that they work under and I think you know we could we could wait but we might sort of either irritate people and/or not have a fiscal position on the bill at that point which might heavily impact the Commission and possibly hurt us at the next year when we try to ask for money in the budget so again we could try to you know we could do our best as staff to get some more time but I'm not sure that we could get it you know maybe up to three weeks or something if a Commission meeting is not happening you know for several weeks so unfortunately I think that's just some of the time frames that are in existence

Commissioner Hatch: yeah I would also add that though I may not be allowed to do a consent certainly the Executive Director could send out to all Commissioners a copy of that for their review and then if any comparable of the Commission feels it's important enough to have a vote on we could we could notice an emergency hearing by phone by teleconference which means you have to somebody here I know but but that is correct me if I'm wrong Mr. General Counsel

Mr. Lau: I mean I'd have to look into I doubt this would be the qualifications for the extreme emergency there's two levels of emergencies under Bagley Keene my suspicion is it would meet the second level which allows for another shortened period but I doubt it would allow -

Commissioner Hatch: That's five days

Mr. Lau: yeah it's a five days for the middle

Commissioner Hayward: I don't think it would qualify for the war, flood, act of god exception

Mr. Lau: correct

Commissioner Hayward: The disaster exception

Mr. Lau: It would still be

Commissioner Hatch: We could (inaudible) write it up I guess

Mr. Lau: so my suspicion would be that it would fall in the second level of bagley keene

Commissioner Hatch: if people don't get their welfare checks because we're holding up the budget that might be considered enough of an emergency

Commissioner Audero: I think it also has to we also need to look at rift but we also need to look at what's the likelihood of the rift how often does this happen that there isn't sufficient time for the Executive Director to put this on the next agenda

Commissioner Hayward: Erin do you wanna speak to that Ms. Peth do you want to speak to that

Ms. Peth: I mean I think it would almost be off the top of my head 100% of the time unless there happens to be a Commission meeting already rescheduled like let's say we get asked on well, its hard with all the notice requirements because even if we got us in the interim between when the ten-day notice went out and when a Commission meeting was coming because I was about to say in my example if we got asked on a Monday and the Commission meetings already set for Thursday but it would not have been agendized so yeah I think to answer your question it's it's just gonna depend on the timing of things I mean we only I don't I would have to ask Phil on how many bills we have right now but you know we're not talking about hundreds of bills that were putting fiscal analysis on and it is really only kind of during a certain season of a legislative cycle that this issue comes up

Commissioner Hatch: like my consult language was one that would allow the committee to sort of screen it to decide whether it's something that should rise to the level that we would want to have a special meeting over whether or not to allow that to go out

20:00

Ms. Peth: well I just thought of one other solution a solution that might help everyone here you know at a certain time there's the bill introduction deadlines that comes in and maybe at that point we could just agendize all the pending bills that would affect the Act and just get sort of tentative approval from the Commission as written at that point what we what we think the fiscal should be and just have them in our pocket so that when we're asked for them and if they move through the process we can put that fiscal on

Commissioner Hayward: and that sounds like something

Commissioner Audero: I think that makes perfect sense

Commissioner Hayward: yeah and that sounds like a reasonable

Ms. Peth: and if it gets obviously amended you know heavily then we can come back to the Commission with it and get an adjustment to that estimate

Commissioner Hatch: we could cover that under the policy and procedures stuff relative to your behavior that's that's already in this draft to do that yeah

Mr. Lau: if I can correct the record the special meetings is 48 hours and legislation is specifically called for as of reason for the specialty meetings of 48 hours

Commissioner Hatch: we could do two day-

Mr. Lau: Two day notice

Commissioner Hayward: if something but okay Commissioner Audero

Commissioner Audero: okay that just changes it if we can call a 48-hour meeting I mean I can't imagine that the leg the legislature or the legislative analyst or Department of Finance wouldn't give us two days and if we can call a two-day meeting then then I think that solves the problem and we can put and if we can put in here the language that says that it's submitted subject to approval of the Commission

Commissioner Hatch: Do what If the Commission was required to be required the Executive Director I can't do this on the fly to send this out to all the Commissioners and she does this in consultation with with the committee because a lot of these you're not really gonna care when you see them and so the ones you do care about you want the opportunity to be able to call that two days meaning and have a vote so I don't want to put something that requires us on every single one of these to notice and have a special meeting to vote on something that you really don't see a need to you follow me

Commissioner Audero: I do and so I wondered what you would propose instead do we do we just leave that as an instruction rather than a regulation as we do with for example enforcement we will give them certain instructions directives our our desires and they act accordingly

Commissioner Hatch: I I think I think I think it could be done the way it is but if you feel more comfortable we could add after on line 9 after the comma proposals comma after the middle of let me call these

Commissioner Audero: Commissioner Hatch can I interrupt you for one second because I think you're on the wrong line I think that my concern with subparagraph 4 has been taken care of and by the language that you pointed me to earlier and

Commissioner Hatch: Yeah I'm sorry

Commissioner Audero: I'm sure I think we're looking at paragraph 5 –

Commissioner Hatch: sorry thank you we after the word committee at on line 11 after submitting but let's see doesn't talk about that all fiscal analysis were you were you suggesting it is fine

25:00

Commissioner Audero: what I would say is before we move to tweak this language if we feel comfortable that we can address this through a directive non-regulatory directive to the Executive Director I'm fine with leaving this as is

Commissioner Hatch: yeah well I think I actually think that the the charge of the budget committee to provide procedural was it the phrase in your criteria or its procedures and policy that's covered there

Commissioner Hayward: I'm fine with it as it reads her personally

Commissioner Hatch: I feel comfortable with it

Commissioner Hayward: but that's it thank you for bringing that up and it was good to have to talk that through a little bit because I think it does get back to a criticism that has been lodged that potentially these subcommittees or standing committees are somehow policymaking and have some authority that that they don't have so so that was good so Commissioner Audero are you are you taking care of

Commissioner Audero: As long as the Executive Director is clear on this directive then then yeah I think we don't think we need to tweak the language of this regulation but I do want to make sure that the Executive Director is clear on the directive that we should be given an opportunity to review it and that we do have the option of calling that 24 48 hour meeting it doesn't have to be called every single time just any one that we have a concern on

Commissioner Hayward: Ms. Peth

Ms. Peth: Yes, I understand

Commissioner Hayward: there was some nodding involved too

Commissioner Audero: Okay sounds good Thank you for making the record on that and I I I withdraw my proposed amendments to sub 4 and sub 5 thank you

Commissioner Hayward:all right then do any other Commissioners have amendments before we move to public comment I don't hear anybody so now I will open it to public comment

Commissioner Audero:Lot of nodding here

Commissioner Hayward:I'm sorry

Commissioner Audero:All sorts of nodding

Commissioner Hayward:You're nodding okay good nod louder

Commissioner Audero: Sorry

Commissioner Hayward: comment from the general public good morning

Mr. Heidorn: good morning Chair Hayward Commissioners Nicholas Heidorn with California common cause once a thank you for the opportunity to comment on the proposed regulations we see a lot of value to a lot of the concepts and the regulations in particular we really like the idea of a committee process we think this will give more opportunity for transparency for the public more opportunity for stakeholders to use in process more opportunity for Commission deliberation particularly is it relates to public policy and we think that has real value as we indicated our letter we do have some concerns on a number of points but I wanted to limit my testimony to just three things first much of what these regulations do is they change the structure and authority of the chair we do think since there currently isn't a chair instance this is one of the most significant changes in governance that the Commission has contemplated and probably several decades it would make sense to postpone and wait until there's a chair in place so that that institutional actor can at least weigh in on these regulations before they go into effect where we're at in terms of the budget process as well as the legislative process I think there actually is some time to wait particularly if this governor is going to be appointing someone in the event though that you do decide to go forward with regulations today I hope that there's a conscious effort to revisit the regulations when there is a new chair in place to make sure that they're working as you guys had hoped that they do two other substantive points on the proposed regulations first the regulations specified that the chair cannot appear on either of the two standing committees that you're creating the policy committee as well as the budget committee we don't see a reason for barring the chair from serving on those we don't think the chair needs to be appointed to either Commission standing committee excuse me it could be that the chair has expertise that you want them to be on those committees can be that they don't I think that's something that's best entrusted to this Commission to decide on a case-by-case basis who should be appointed of those committees and we certainly don't see a reason to exclude the chair from either standing committee the other point we wanted to make is that there's a provision saying that the standing committees will act pursuant to Bagley Keene if it's in the public interest pursuant to the Commission's direction we think that the regulation should adopt a blanket rule that the standing committees have to follow Bagley Keene this Commission obviously has very important role to play as regards transparency financial transparency campaign finance transparency so we think it's very important that this committee is standing committees be transparent and that's where we'll get a lot of the most value out of these committees is for the public being able engaged in them and seen when they're going to occur as well as see the deliberation that occurs on those standing committees so we'd strongly urge that the proposed regs be amended to specify the standing committees absent some of the exceptions already baked into Bagley Keene will comply with the provisions Bagley Keene thank you for the opportunity to comment

30:00

Commissioner Hatch: just so I can find it easier your reference to the to the chair I I could eventually find it but if you could to give me the page you know when you're talking about

Mr. Heidorn: yeah there's the provision that says the chair will nominate from the other Commissioners to appoint them and I read that to indicate that they cannot select themselves

Commissioner Hatch: I thought you were talking about the other one where it says the chair cannot be at a committee meeting

Mr. Heidorn: I didn't comment on that provisional

Commissioner Hatch: Oh you did not okay I'm sorry sorry

Mr. Heidorn: I was commenting on the composition of the standing to vote

Commissioner Hatch: yeah I get there that one I could find thank you

Mr. Lange: Good Morning Commissioners Trent Lange president of the California clean money campaign first of all I'd really like to thank the standing committee for its hard and diligent and very good work on this proposal we think it is a number of very important improvements to the process and involving the public and especially involving more of the Commissioners in the in the process which we think is really crucial I wanted to talk about a couple other things I wanted to raise on the issue of the legislative cost analysis I would say that I'd really I really appreciated the Executive Directors suggestion that early on since the bills are known that that they be agendized and have tentative cost analyses that the Commission can can look at and of course they may be subject to change if the legislation changes significantly but you can do that well in advance you can do that after the after the bill submission deadlines certainly after the policy committees the wanted to say that I think that we we would also prefer if the committee's were subject to bagley-keene I understand that there are some difficulties in that the way they'd be set up with conference calls so we definitely appreciate the addition of the call in time so the public can can listen in on on them and we'd hope that you'd continue to develop procedures for input from the public even if they're not fully bagley-keene input but at least procedures were input on those committee hearings I think that would be very useful and I'd say the other thing in line with what common cause says I think we're a little the one thing we have a little bit of concerns about with this is is the the lack of duties of the chair on in the current proposal and I understand the difficulties involved with bagley-keene and so forth we I think for the idea of allowing the chair to be appointed to one of the committees maybe not as a chair of any of the committees but as a member could serve value not requiring them but allowing them to and only one so those were those were our points there and lastly I think that the most important thing and I'd echo would common cause I think would be very useful to revisit these regulations when there is a new chair and after there's been an opportunity to to see them in practice then one of the biggest problems of the last government's principles was they took 17 years to revise that was way way way too long so so I think it could be useful to to revisit them after you've had a chance to look at them a little while and after there actually is a new chair but otherwise we very strongly appreciate your work and hope that you approve these proposals thank you

Commissioner Hayward: any more public comment from apparitions that don't have no okay now we'll turn it over to see what my fellow Commissioners have to say about the item before us which is the governance principles with the two technical amendments Commissioner Hatch would you like to go

Commissioner Hatch: oh on the technical amendments

Commissioner Hayward: we've now got the full package over for us do you want to say something

35:00

Commissioner Hatch: sure is the issue to strike the chair I would point out that in Robert's Rules of Order that we were and have been bound since the beginning of the Commission by in terms of procedure Robert's Rules of Order says that permitting the chairman of a committee or body to preside over the assembly or put questions to a vote during the presentation and consideration of the committee's report violates numerous principles of parliamentary law relating to the chairs appearance of impartiality and the inappropriateness of his entering into debate not to speak of the regular presiding officers duty to preside so I know that we kind of backed into having the chair not being members of committees because of Bagley Keene but also it's not good for a presiding officer to have an interest one way or another on measures that before the Commission for consideration if you were to take and have the chair appoint itself to various committees even if it's one then that chair cannot be objective and impartial in administering the meanings and I I really feel that if if the legislature feels strongly enough that there should be some room here they should amend the Bagley Keene act because the Bagley Keene act that ultimately drove us to take these duties away from the chair in order to make the committee structure work and you I know you weren't here at the last hearing in May we had quite a discussion about is there a possible way to do this in a possible way to do that and if you can figure anything out we certainly entertained that at a future process with our legal counsel the second as to our voluntarily making the Bagley Keene Act applicable to two member communities again I've bent over backwards trying to provide some way for the public to at least understand what the committees are doing into the operation these are by necessity going to be telephone communications between the committee members and the various staff people involved in whatever subject matter they're involved in would break this organization financially to force us to have public meetings in full compliance with Bagley Keene I mean we'd all have to fly to Sacramento stay in a hotel eat food you know on the state's purse just so we can make you feel better this measure will give you full access to hear every word spoken at a committee meeting if that doesn't turn out to be sufficient for you then terms of the legislature

Commissioner Hayward: thank you do either of the Commissioners in Los Angeles with either of you like to have the floor at this point

Commissioner Cardenas: hi Chair Hayward it's Commissioner Cardenas how are you

Commissioner Hayward: I'm awesome how are you

Commissioner Cardenas: I'm not sure I'm awesome but

Commissioner Hayward: Oh you're always awesome

40:00

Commissioner Cardenas: I'm just hearing you describe yourself as awesome that sounds good I share the concern that's that's been suggested up there about the about the chair whoever the chair happens to be if there ever be one to be excluded from the from the committee's and I've stated that concern before it seems to me it's remarkable to me that the only full-time member of the Commission would be the only member who is excluded from from any of the committee's as I've been contemplating this this this development of the the committee structure and the stripping of various powers from the the office of the chair since I arrived in January it's occurred to me that there are really two reasons to do that one is because the there's a concern about the the existing practice such that it needs to be needs to be changed or the existing practitioner and then it occurs to me that the disagreeable nature of of our departed chair had a hell of a lot to do with with perhaps the motivation and design of the changes that are there on the table today but and it's it's also evident to me that we don't know what it's like to have this committee structure and so I can't speak to the committee structure as being as being an unworthy meritless experiment and so I'm gonna vote to support this today I do think that it would be make more sense to have the chair involved in in some way on a more or less par level with the other Commissioners but we shall we shall move forward with this new structure and and I know that we're all going to do our part to make sure that that it works with respect to to Bagley Keene I understand the arguments that are made in in various regards in this connection and the only thing that in addition they don't want to say beyond what I said before about the application of Bagley Keene to this to this new structure model is to offer my my sincere appreciation to Commissioner Hatch for for the artful way that he has incorporated what I think is is a is a meaningful opportunity for the public to to monitor our our committee on goings our committee activities moving forward so Commissioner Hatch thank you very much those are my comments chair

Commissioner Hayward: Thank You Commissioner Cardenas Commissioner Audero do you want to turn it the mic

Commissioner Audero: yes thank you I just have one comment I both of the public comments requested that we make an effort to revisit the regulations after the chair has been in place I just want to point out that these are open for revisiting at any time I do recognize that you know this was a very time-consuming process which by the way was you know undertaken by two Commissioners working on behalf of the Commission so number one I want to underscore the the thank you to the two of you Commissioners Hatch and Hayward for all of the work that went into this I know that this took hours hours if not weeks if not an extended period of time so recognizing that I do I do believe that this isn't something that we should do at the drop of a hat because I do believe I just don't believe that that's a proper use of anyone's personal time as it was that said it is always open for for discussion and revisions but I do believe that we have to give it a worthwhile amount of time to play itself out and I you know I mentioned this at one of the prior meetings you know let's let's put this into place and then as problems arise we can address them but with evidence that they actually are arising rather than well maybe this could happen or maybe that could happen because the reality is that there are all sorts of circumstances that maybe could happen but we just we just don't know how those are gonna play out so you know I I would say yes this will always be revisit there will always be an opportunity to revisit this at the request of the public or for any Commissioner or the staff even what I do think that we

should be judicious as to how often these are revisited giving any changes to our existing procedures enough time to truly play themselves out thank you

Commissioner Hayward: thank you any other final words before we move to a vote okay so before us is the amendments to the regulations on governance principles 18308 to 18308.3 as amended with the amendments that we accepted earlier I'm not sure we seconded the main motion I'll move it

Commissioner Cardenas: second

Commissioner Hayward: is that a second okay great just before us properly for a vote perhaps having been moved and seconded multiple times that's okay better than the alternative Sasha can you call the roll please

Sasha: Commissioner Audero

Commissioner Audero: yes

Sasha: Commissioner Cardenas

Commissioner Cardenas: yes

Sasha: Commissioner Hatch

Commissioner Hatch: aye

Sasha: Commissioner Hayward

Commissioner Hayward: yes

Sasha: The motion passes.

Commissioner Hayward: all right then okay so the second part of agenda item number two was if the regs were adopted the Commission will also consider the nomination appointment of Commissioners to Commission subcommittees now we're gonna have to be a little flexible since the the chair who is anticipated to be making these amendments is not with us today or these appointments is not with us today I guess as acting chair I could do that without objection

Commissioner Hatch: I have no objection

Commissioner Hayward: all right now

Commissioner Audero: no objections in LA

45:00

Commissioner Hayward: no objections in LA okay wonderful so so I would like to invite Commissioners Hatch and Audero to serve on the law and legislation committee does that meet with your approval

Commissioner Hatch: certainly

Commissioner Hayward: okay Commissioner Audero

Commissioner Audero: yes thank you very much I'm honored by the nomination I will be happy to serve in whatever capacity except I know that the each committee selects its own chair and I know that that will be step number two and I want to make it very clear that I cannot I do not have the availability to sit as chair but I'm happy to serve as a rank-and-file member of the committee

Commissioner Hayward: so you're drafting Commissioner Hatch to be chair

Commissioner Audero: I absolutely am

Commissioner Hayward: well you know

Commissioner Hatch: I I accept

Commissioner Hayward: there some nodding and then for budget and personnel I nominate myself and Commissioner Cardenas Commissioner Cardenas is that okay with you

Commissioner Cardenas: Yes very much so thank you

Commissioner Hayward: alright then I'm not sure we need to vote on that do we need a vote

Commissioner Hatch: I think we moved to ratify those suggestions

Commissioner Hayward: all right motion to ratify in a

Commissioner Audero: second

Commissioner Hayward: Second okay let's call the roll

Sasha: Commissioner Audero

Commissioner Audero: yes

Sasha: Commissioner Cardenas

Commissioner Cardenas: yes

Sasha: Commissioner Hatch

Commissioner Hatch: aye

Sasha: Commissioner Hayward

Commissioner Hayward: yes

Sasha: The motion passes.

3. Proposed Future Agenda Items.

Note: The Commission may not discuss or take action on any matter raised during public comment that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code Sections 11125 & 11125.7(a).) Below is a list of items currently pending for future agendas and the Commissioners who requested them.

- (Hayward and Audero) Solicit Attorney General's opinion to clarify some of the advice provided by deputies attorney general at a presentation on the Bagley-Keene Open Meeting Act.
- (Hayward) Review the feasibility of holding a future Commission meeting in a location other than Sacramento.

Commissioner Hayward: so now we are on agenda item number three which is proposed future agenda items and I would like to turn the floor over to Ms. Peth to go over some proposed agenda items

Ms. Peth: thank you I just wanted one to go through the list at least of what we're proposing based on previous Commission direction for the June 21st Commission meeting the posting deadline for that meeting will be this upcoming Monday June 11th so this is what I have at least so far as pending for the Commission to consider the first order of business would be consideration of appointment of a vice chair to run the meeting and potentially depending on how the Commission wants to act whether that person would be appointed only for the June 21st meeting or I put it on some sort of longer-term basis

Commissioner Hayward: that would be an acting chair

Ms. Peth: correct the second item is the general consent calendar for enforcement a third item an update from the ad hoc committee on the enforcement review regarding composition of the task force a discussion about the Commission's policy on Bitcoin the Bagley Keene analysis from Mr. Feser for Commission to consider whether to send over for an attorney general's opinion a pre notice discussion on parent subsidiary regulation as requested by Commissioner hatch the policy on Commissioner compensation and potentially a vote on specific requests for compensation an update on meeting somewhere else in the state at some point this year the legislative report from Mr. Ung and then I believe each of the committee's that have just been

formed would like to submit a committee report and then we have a closed session set to discuss a confidential personnel matter and then the final item would be the executive staff reports

Commissioner Hatch: this is on your first one about the appointment according to the new language we adopted in the governance regulations is to appoint a vice chair

Commissioner Hayward: We'll need an acting chair because we don't have a chair at all and if we go in a vice chair - that would probably be a good idea

Commissioner Hatch: so you want to separates or include that in the notice

Commissioner Hayward: I think we just included it in the notice

Commissioner Hatch: yeah

Commissioner Hayward: I think having a vice chair is helpful for a lot of reasons and yeah they used to have them so yes

Commissioner Audero: This is Commissioner Audero I have a question

Commissioner Hayward: sure go ahead

Commissioner Audero: thank you thank you I just want to confirm that all of these will be subject to action we will be able to vote this is not just a place a discussion I just want to make sure that that's clear

Ms. Peth: I believe

Commissioner Audero: Maybe with exception to the notice

Ms. Peth: correct that's what I was about to say that is a I've really been set for pre-notice on that regulation on parent-subsiary

50:00 Commissioner Audero: thank you

Commissioner Hayward: any other items related to future agenda items

Commissioner Hatch: Madam Chair

Commissioner Hayward: Commissioner Hatch

Commissioner Hatch: I would like to notice committee report of the law and leg excuse me the law and policy committee relating to the legislative agenda

Commissioner Hayward: all right

Commissioner Hatch: that's for the June 12th meeting

Commissioner Hayward: 21st that's

Commissioner Hatch: June 21st

Commissioner Hayward: Excellent just for everyone's benefit I think there's a general feeling among the committee's that we will be at least initially submitting written reports regularly let's start at a high bar and if it turns out as we work through all this that that seems less necessary or unhelpful then we can do something else but so we will have agenda documents for those agenda items any further business before us today

Commissioner Hatch: what about the budget committee did you

Commissioner Hayward: Yeah

Commissioner Hatch: do you want that noticed on the 21st June

Commissioner Hayward: yeah

Commissioner Hatch: okay

Commissioner Hayward: no I think we are I think put it on that yeah any other business before us today

Commissioner Audero: Commission Chair Hayward nothing here in LA

Commissioner Hayward: Alrighty then then I'd like to I guess we vote to adjourn this little strange are you moving adjournment okay I second let's take a vote

Sasha: Commissioner Audero

Commissioner Audero: yes

Sasha: Commissioner Cardenas

Commissioner Cardenas: yes

Sasha: Commissioner Hatch

Commissioner Hatch: Aye

Sasha: Commissioner Hayward

Commissioner Hayward: Yes

Sasha: the motion passes

The meeting adjourned at 9:55 a.m.

Respectfully Submitted,
Sasha Linker
Commission Assistant
June 11, 2018