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September 16, 2020

Richard C. Mladich, Chair  
Fair Political Practices Commission  
1102 Q Street, Suite 300  
Sacramento, CA 95811

Dear Chair Mladich:

**SUGGESTED CHANGES TO PROPOSED REGULATIONS 18115, 18115.2, AND 18754**

Our office is the filing officer for Statements of Economic Interests filed by Los Angeles County officials and by officials of several hundred local public agencies in the county. We appreciate this opportunity to suggest changes to the above-named proposed regulations that your Commission will consider on September 17, 2020.

Our suggested changes are as follows and are attached for your review:

**Reg. 18115. Duties of Filing Officers and Filing Officials – Statements of Economic Interests**

- With regard to the duties of the filing official in (b)(3), we strongly suggest that the following language be inserted in the appropriate place in order to ensure that filing officials utilize a filing officer's electronic system of maintaining the roster of filers where such systems exist. This will make the process work more smoothly, efficiently, and cost-effectively, particularly in these times of severe cutbacks in local agency budgets.

A filing official shall utilize an electronic process made available by the filing officer for updating the filing officer's roster of filers.

- We suggest making the following additional changes to (b)(3) in order to make clear that assuming office statements are required whether the incoming filer is an elected or appointed official, to clarify that a change in officials will require

both a leaving office statement from an outgoing filer and an assuming office statement from an incoming filer, and to echo language used in the Form 700 instructions on page 4 of the form:

After line 4 on page 3, add a new subparagraph (B) to read:

(B) A new appointment to a new office or designated position with corresponding assuming office date.

Change existing (B) to (C) to read:

(C) A vacancy in an office or designated position with corresponding leaving office date.

Re-designate subparagraph (C) as new (D).

- As a county with an electronic Form 700 filing system, we question the need for twice-yearly updates of the roster of filers. Filing officials should notify the filing officer when an assuming or leaving office statement is needed. However, we recognize that sometimes this does not happen, and a general roster update is useful, but we believe that an annual roster update would be sufficient. We believe that twice-yearly roster updates will serve no useful purpose for filing officers with electronic systems. Therefore, we suggest the following changes to paragraph (5):

(5) ~~Biannually~~ Annually notify the filing officer of the names and positions of every person whose statements are required to be forwarded to the filing officer ~~with the first notice due no later than by June 1 and the second notice due by December 1~~ no later than January 15.

**Reg. 18115.2. Duties of Filing Officers – Electronically Filed Statements of Economic Interests.**

- We recommend adding the words “or designated position” to paragraph (1) on line 6 after the word “title”. This would be consistent with one of our proposed changes to Reg. 18115 and language in the Form 700 instructions.

**Reg. 18754. Statements of Economic Interests (Members of Newly Created Boards or Commissions); Where and When to File.**

- On page 2, line 18, delete “pursuant to Section 87202 and Section 87302.6”, thus ending the sentence with “within 30 days of assuming office.”

- On page 2, line 19, we propose adding a second sentence, to read:

If the filing officer determines that the assuming office statement was not filed within 30 days, the filing officer shall ensure that the filer discloses all reportable economic interests as of the date of assuming office, not as of the date of filing of the assuming office statement.

Our aim here is to ensure that the filer understands that their assuming office statement and subsequent annual statement must cover the filer's entire tenure back to the date the filer assumed office. Sometimes this involves filing a corrected assuming office statement and sometimes the missing information is reported on a subsequent annual statement. The point, of course, is to make sure that the period covered by the disclosure is complete. We recognize that this provision may need further refinement after discussion between and among FPPC staff and staff and managers in our office.

We plan to have someone from our office participate in your Commission's meeting on September 17th. It may be either myself or Don Garcia, Chief of Conflict of Interest/Lobbyist Division (213-974-1578), or both of us. We would be happy to answer any questions you might have about our proposals.

In the meantime, please call me at (213) 200-9610 or email me at [jmckibben@bos.lacounty.gov](mailto:jmckibben@bos.lacounty.gov).

Sincerely,



John McKibben  
Deputy Executive Officer

JM:sg

Attachments

c: Celia Zavala, Executive Officer  
Jeremy Gray, Chief Deputy Executive Officer  
Kathy Markarian, Deputy Executive Officer  
Don Garcia, Chief, Conflict of Interest/Lobbyist Division

1 Adopt 2 Cal. Code Regs. Section 18115 to read:

2 **§ 18115. Duties of Filing Officers and Filing Officials—Statements of Economic Interests.**

3 (a) A filing officer is the person or agency which receives and retains original statements  
4 of economic interest. A filing officer’s duties with respect to a statement submitted in paper  
5 format are set forth in Regulation 18115.1, and a filing officer’s duties with respect to a  
6 statement submitted electronically through an electronic filing system approved by the  
7 Commission are set forth in Regulation 18115.2. In addition, a filing officer shall:

8 (1) Supply the necessary forms and manuals prescribed by the Commission.

9 (2) Determine whether the proper statements have been filed and whether they conform  
10 on their face with the Act’s requirements. In determining if statements conform on their ~~fact~~ *face*  
11 to

12 the Act’s requirements, the filing officer must review the information contained in at least 20  
13 percent of the statements which are filed on time, at least half of which must be selected on a  
14 random basis, and the information contained in all statements which are filed late, to determine  
15 whether:

16 (A) The summary page is completed correctly, and all schedules applicable to the filer are  
17 either attached or checked “no reportable interests.”

18 (B) The attached schedules include all required descriptive information for each financial  
19 interest.

20 (C) Information on one schedule suggests that required information is omitted on either  
21 that schedule or another schedule.

22 (3) Promptly notify the filer if a required statement has not been filed or if the review of

1 the schedules in subdivision (a)(2) indicates that the statement is incomplete or incorrect in any  
2 material respect.

3 (4) Report any apparent violation of the Act to the appropriate agencies. An apparent  
4 violation exists when:

5 (A) The filing officer knows or has reason to know that the statement contains material  
6 inaccuracies or omissions.

7 (B) A filer fails or refuses to file all or a part of a statement required by the Act or  
8 Commission Regulations adopted pursuant to the Act after the filing officer has provided  
9 reasonable notice of the filer's failure to file a complete statement.

10 (5) Compile and maintain a current list of all statements filed with the agency.

11 (b) A filing official is the person or agency who receives statements of economic interests  
12 and forwards those statements to the filing officer pursuant to Section 87500. A filing official's  
13 duties with respect to a statement submitted in paper format are set forth in Regulation 18115.1,  
14 and a filing official's duties with respect to a statement submitted electronically through an  
15 approved electronic filing system are set forth in Regulation 18115.2. In addition, the filing  
16 official shall:

17 (1) Ensure filers have access to the necessary forms and manuals prescribed by the  
18 Commission.

19 (2) Forward a statement to the filing officer, no later than five days after the filing  
20 deadline or five days after receipt in the case of a late-filed statement.

21 (3) Notify the filing officer of any of the following events within 10 days of the event's

1 occurrence: [Insert at the appropriate place in this paragraph: **A filing official shall utilize an electronic process made available by the filing officer for updating the filing officer's roster of filers.**]

2 (A) An election held in the jurisdiction. If such an election is held, the official subject to  
3 this subdivision shall provide the filing officer the names of the candidates, the persons elected,  
4 and the office to which each person was elected.

(B) **A new appointment to a new office or designated position with corresponding assuming office date.**

5 ~~(B)~~ (C) A vacancy in an office **or designated position with corresponding leaving office date.**

6 ~~(C)~~ (D) Any other event affecting statement of economic interest filing obligations.

7 (4) Compile and maintain a current list of all statements forwarded to the filing officer.

8 (5) **Biannually Annually** notify the filing officer of the names and positions of every person whose

9 statements are required to be forwarded to the filing officer, **with the first notice due no later than**

10 **by June 1 and the second notice due by December 1 no later than January 15.**

11 (c) An official who is both a filing officer under subdivision (a) and a filing official under  
12 subdivision (b) must fulfill the duties of both subdivisions.

13 (d) A filing officer who is a city clerk or county clerk shall comply with the posting and  
14 notification requirements of Section 87505.

15 Note: Authority cited: Section 83112, Government Code. Reference: Sections 81010, 81010.5,  
16 87500, and 87500.2, Government Code.

1 Adopt 2 Cal. Code Regs. Section 18115.2 to read:

2 **§ 18115.2 Duties of Filing Officers-Electronically Filed Statements of Economic Interests.**

3 (a) Pursuant to Section 81010(b), a filing officer shall review a statement of economic  
4 interests submitted through an electronic filing system approved by the Commission pursuant to  
5 Section 87500.2(c)(3), to ensure the statement:

6 (1) Contains the filer’s full name, formal official title **or designated position**, an email  
address, and the  
7 residential or business street address of the filer. The filing officer shall ensure that the filer’s full  
8 name and the formal position title are complete and accurate in order to promote the accuracy  
9 and consistency of electronic filing system databases.

10 (2) Has been digitally signed and dated by the filer.

11 (3) Sets forth the SAN Number assigned by the Commission to the approved electronic  
12 system verifying the Commission’s certification of the system under Regulation 18756.

13 (b) The filing officer shall promptly notify the filer if the review of an electronically filed  
14 statement of economic interests required by subdivision (a) indicates that the statement is  
15 incomplete or incorrect in any material respect.

16 (c) An electronically filed statement of economic interests filed through an approved  
17 electronic filing system which displays the SAN number of the approved filing system is an  
18 original statement for purposes of the Act. A digital signature on a statement filed through such a  
19 system fulfills the requirement of Section 81004 that the statement be signed under the penalty of  
20 perjury.

21 (d) With respect to an electronically filed statement of economic interests filed through an

1 approved filing system, which is an original statement under subdivision (c), a filing official, the  
2 agency official who receives statements and forwards those statements under Section 87500,

3 shall:

4 (1) Forward the original statement to the filing officer in digital format and make and  
5 retain a digital copy of the statement.

6 (2) Not forward the statement in paper format to the filing officer.

7 (e) If the Commission assumes filing officer duties for an agency under Section  
8 87500.4(b)(1), the filing officer whose duties are assumed shall provide the Commission with the  
9 name and contact information for each filer in the filing officer's jurisdiction as required by  
10 Section 87500.4(b)(2).

11 Note: Authority cited: Section 83112, Government Code. Reference: Sections 81010, 87500,  
87500.4, and 87505, Government Code.



1 Amend 2 Cal. Code Regs. Section 18754 to read:

2 **§ 18754. Statements of Economic Interests (Members of Newly Created Boards or**  
3 **~~Commissions of Newly Created Agencies~~); When and Where to File.**

4 (a) ~~Applicability~~ Board or Commission of Newly Created Agency:

5 (1) Pursuant to ~~Government Code section~~ Section 87302.6, an individual who is a  
6 member of a governing board or commission of a newly created agency shall disclose ~~his or her~~  
7 economic interests pursuant to ~~Government Code sections~~ Sections 87202 through 87210. This  
8 requirement applies until such time as the member's position is included in an approved conflict  
9 of interest code in effect for the governing board or commission ~~of which he or she is a member~~.

10 (2) A member of a governing board or commission of a newly created agency; is not  
11 subject to this regulation if ~~subsection (A), (B), (C) or (D) of subdivision (a)(3) of this regulation~~  
12 any of the following applies:

13 (A) The member also holds a position specified in ~~Government Code section~~ Section  
14 87200 and the geographical jurisdiction of the newly created agency is the same as or is wholly  
15 included within the jurisdiction in which the member must report ~~his or her~~ economic interests  
16 pursuant to ~~article 2 of chapter 7 of this title, Government Code sections~~ Sections 87200 et seq.

17 (B) The member is also designated in a conflict of interest code for another agency and all  
18 of the following apply:

19 (i) The geographical jurisdiction of the newly created agency is the same as or is wholly  
20 included within the jurisdiction of the other agency;

21 (ii) The disclosure assigned to the member in the code of the other agency is the same as  
22 that required under ~~article 2 of chapter 7 of this title, Government Code sections~~ Sections 87200

1 et seq.; ~~and~~

2 (iii) The filing officer is the same for both agencies.

3 (C) The newly created agency was formed as a result of the merger of two or more  
4 agencies and all of the following apply:

5 (i) The member served on the governing board or commission of an agency abolished in  
6 the merger in substantially the same capacity as the member will serve on the governing board or  
7 commission of the newly created agency;

8 (ii) The geographical jurisdiction of the newly created agency is the same as the  
9 jurisdiction of the abolished agency; ~~and~~.

10 (iii) The member was previously subject to the same disclosure as required for persons  
11 listed in ~~Government Code section~~ Section 87200.

12 (D) The board or commission does not “possess decisionmaking authority” as defined in  
13 ~~2-Cal. Code Regs. section 18701(a)(1)~~ Regulation 18700(c)(2)(A).

14 ~~(b)~~ (3) When to file:

15 ~~(4)~~ (A) Assuming Office ~~Statements~~ Statement of Economic Interests:

16 ~~(A)~~ (i) Every member of a governing board or commission of a newly created agency ~~that~~  
17 ~~has come into existence on or after January 1, 2003, but prior to the effective date of this~~  
18 ~~regulation,~~ shall file an assuming office statement within 30 days of assuming office ~~from the~~  
19 ~~effective date of this regulation~~ **pursuant to Section 87202 as required by Section 87302.6. If**  
**the filing officer determines that the assuming office statement was not filed within 30 days,**  
**the filing officer shall ensure that the filer discloses all reportable economic interests as of**  
**the date of assuming office, not as of the date of filing of the assuming office statement.**

20 ~~(B)~~ (ii) ~~Except as provided in~~ Notwithstanding subdivision (a)(3)(A)(i), subdivision

21 ~~(b)(1)(A) above, every~~ a member of a governing board or commission of a newly created agency  
22 shall file an assuming office statement not more than ~~30~~ 10 days ~~after assuming office or, after~~  
1 being nominated or appointed to that board or commission as required by Section 87202(a) if his  
2 ~~or her~~ the member's nomination or appointment is subject to ~~State Senate~~ confirmation by the  
3 Commission on Judicial Appointments or the State Senate, not more than 10 days after being  
4 nominated or appointed to office.

5 ~~(2)~~ (B) Annual Statements Statement of Economic Interests:

6 ~~(A)~~ (i) Every member of a governing board or commission of a newly created agency  
7 shall, no later than April 1 of each year, file an annual statement.

8 ~~(B)~~ (ii) Every person who assumes office as a member of a governing board or  
9 commission of a newly created agency between October 1 and December 31 and files an  
10 assuming office statement pursuant to this ~~section~~ regulation need not file ~~his or her first an~~  
11 annual statement until one year later than the date applicable under ~~subsection~~ subdivision  
12 (a)(3)(B)(i) ~~(b)(2)(A), above.~~

13 (C) Leaving Office Statement of Economic Interests:

14 ~~(A)~~ Every person who ~~leaves his or her position as~~ ceases to be a member of a governing  
15 board or commission of a newly created agency shall, ~~within 30 days after leaving office,~~ file a  
16 leaving office statement within 30 days after leaving office pursuant to Section 87204 or Section  
17 87302, as applicable.

18 ~~(B)~~ If a person leaves his or her position as a member of a governing board or  
19 commission of a newly created agency between January 1 and the filing deadline for his or her  
20 annual statement of economic interests, the person's leaving office statement may serve as his or

21 her annual statement if, prior to the filing deadline for the annual statement, the person notifies  
22 the filing officer in writing that he or she intends to follow this procedure.

1 ~~(4) Members Beginning and Completing a Term of Office: A member of a governing~~  
2 ~~board or commission of a newly created agency who completes a term of office under this~~  
3 ~~regulation and, within 30 days thereafter, begins a term of the same office or another such office~~  
4 ~~of the same jurisdiction, is not deemed to assume office or leave office for purposes of filing~~  
5 ~~statements under this regulation.~~

6 ~~(e) (4) Where to file: Pursuant to subdivision (o) of Government Code section 87500~~  
7 ~~Section 87500(o) and 2-Cal. Code Regs. section 18730, subdivision Regulation 18730(b)(4),~~  
8 members of governing boards or commissions of newly created agencies shall file the statements  
9 required under this regulation with their newly created agency or with the agency's code  
10 reviewing body, as provided by that code reviewing body.

11 ~~(d) (5) Effect Upon Initial Statement Required Under Government Code section Section~~  
12 ~~87302(b): An assuming office statement or annual statement filed under this section by a member~~  
13 ~~of a governing board or commission of a newly created agency is deemed to satisfy the~~  
14 ~~requirement at Government Code section of Section 87302(b) that an initial statement be filed by~~  
15 ~~that member within 30 days after the effective date of the new conflict of interest code applicable~~  
16 ~~to that member.~~

17 (b) Newly Created Board or Commission of Existing Agency. An individual who is a  
18 member of a newly created governing board or commission of an existing agency shall file  
19 statements of economic interests as specified under subdivision (a), as though the individual is a

20 member of a governing board or commission of a newly created agency, except that the  
21 individual's assuming office statement shall be filed pursuant to Section 87302(b).

22 Note: Authority cited: Section 83112, Government Code. Reference: Sections 82003, 82041,

1 82049, 87202-87210, 87300-87302.6, and 87500, Government Code.