

Fair Political Practices Commission

Memorandum

To: Chair Ravel and Commissioners Eskovitz, Garrett, Montgomery, & Rotunda.

From: Zackery P. Morazzini, General Counsel
Sukhi Brar, Commission Counsel

Subject: **Cost of Living Adjustment to Contribution Limits, Voluntary Expenditure Ceilings and Gift Limit:**
Adoption of Amendments to Regulations 18545 - Campaign and Voluntary Expenditure Ceiling Amounts; 18703.4 – Economic Interests Defined: Source of Gifts; 18730 – Provisions of Conflict of Interest Codes; and 18940.2 – Gift Limit Amount.

Date: December 3, 2012

Proposed Commission Action and Staff Recommendation: Adopt the proposed amendments to Regulations 18545, 18703.4, 18730, and 18940.2.

I. Contribution Limits and Voluntary Expenditure Ceiling Adjustments

A. Background. Proposition 34 amended the Political Reform Act¹ (the “Act”) to create contribution limits and voluntary expenditure ceilings for state candidates (Sections 85301, 85302, 85303, and 85400). Section 83124, added by Proposition 34, requires the Commission to adjust the contribution limits and voluntary expenditure ceilings biennially to reflect changes in the Consumer Price Index (“CPI”). In August 2002, the Commission adopted Regulation 18544, which created the following formula for the cost of living adjustment of the contribution limits and voluntary expenditure ceilings.

Applicable Limit 2001	\times	$\frac{237.9 \text{ (Sept. 2012 CPI)}}{174.8 \text{ (CPI from 2000)}}$	$=$	2013 limit**
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**Rounded to nearest \$100 for contributions limits; to nearest \$1,000 for expenditure ceilings.

In 2006 Senate Bill (“SB”) 145 took effect as urgency legislation. SB 145 (Stats. 2006, Ch. 624, urgency) amended the “net debt” provision (Section 85316) of the Act. The net debt provision prohibits post-election fundraising for any purpose other than to pay net debt. SB 145 added Section 85316(b), allowing the establishment of a separate officeholder account for officeholder expenses. Additionally, Section 85316(b) requires that:

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 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.

- Contributors and elected state officers are subject to calendar year contribution limits for officeholder accounts.
- Elected state officers are subject to aggregate contribution limits to officeholder accounts on a calendar year basis.
- The contribution limitations will be adjusted in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index (rounded to the nearest \$100).

In 2006, the Commission amended Regulation 18544 to create the following formula for the cost of living adjustment of the contribution limits and aggregate limits applicable to officeholder accounts.

Applicable Limit 2007	\times	$\frac{237.9 \text{ (Sept. 2012 CPI)}}{210.5 \text{ (CPI from 2006)}}$	=	2013 limit**
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**Rounded to nearest \$100.

Regulation 18545 actually provides the current year limits and is being amended with the approval of this item. Using this formula, the new limits to be inserted into Regulation 18545 are:

Campaign Contribution Limits	2001 Amount	Existing Amount	Adjusted Amount
Assembly, Senate, CalPERS/CALSTRS	\$3,000	\$3,900	<i>\$4,100</i>
Statewide, other than Governor	\$5,000	\$6,500	<i>\$6,800</i>
Governor	\$20,000	\$26,000	<i>\$27,200</i>

Small Contributor Limits	2001 Amount	Existing Amount	Adjusted Amount
Assembly, Senate, CalPERS/CALSTRS	\$6,000	\$7,800	<i>\$8,200</i>
Statewide, other than Governor	\$10,000	\$13,000	<i>\$13,600</i>
Governor	\$20,000	\$26,000	<i>\$27,200</i>
Section 85303(a)	\$5,000	\$6,500	<i>\$6,800</i>
Section 85303(b)	\$25,000	\$32,500	<i>\$34,000</i>

Cost of Living Adjustment to Contribution Limits, Voluntary
Expenditure Ceilings and Gift Limit

Voluntary Expenditure Ceilings	2001 Amount	Existing Amount	Adjusted Amount
Assembly, Primary	\$400,000	\$520,000	<i>\$544,000</i>
Assembly, General	\$700,000	\$909,000	<i>\$953,000</i>
Senate, Primary	\$600,000	\$780,000	<i>\$817,000</i>
Senate, General	\$900,000	\$1,169,000	<i>\$1,225,000</i>
Board of Equalization, Primary	\$1,000,000	\$1,299,000	<i>\$1,361,000</i>
Board of Equalization, General	\$1,500,000	\$1,949,000	<i>\$2,041,000</i>
Other Statewide, Primary	\$4,000,000	\$5,179,000	<i>\$5,444,000</i>
Other Statewide, General	\$6,000,000	\$7,795,000	<i>\$8,166,000</i>
Governor, Primary	\$6,000,000	\$7,795,000	<i>\$8,166,000</i>
Governor, General	\$10,000,000	\$12,992,000	<i>\$13,610,000</i>

Officeholder Contribution Limits	2007 Amount	Existing Amount	Adjusted Amount
Assembly, Senate	\$3,000	\$3,200	<i>\$3,400</i>
Statewide, other than Governor	\$5,000	\$5,400	<i>\$5,700</i>
Governor	\$20,000	\$21,600	<i>\$22,600</i>

Aggregate Officeholder Contribution Limits	2007 Amount	Existing Amount	Adjusted Amount
Assembly, Senate	\$50,000	\$53,900	<i>\$56,500</i>
Statewide, other than Governor	\$100,000	\$107,900	<i>\$113,000</i>
Governor	\$200,000	\$215,800	<i>\$226,000</i>

B. Effective Dates of Adjusted Contribution Limits and Voluntary Expenditure Ceilings. Pursuant to language in subdivisions (a)(1) and (a)(2) of Regulation 18545, the adjusted contribution limit amounts and adjusted voluntary expenditure ceilings will apply to all state elections taking place during the two-year period from January 1, 2013, to December 31, 2014. For example, the newly adjusted contribution limit would apply to a special Assembly election occurring in February of 2013, even if the fundraising started during the last months of 2012. Similarly, the current limit will apply for Assembly

candidates who raise funds after January 1, 2013, to pay down debts from the 2012 election. This method of calculation was approved by the Commission at the August 9, 2002, Commission meeting and as discussed in the memorandum, *Proposition 34 Regulations: Adoption of Proposed Regulation 18544, Formula for Campaign Contributions and Voluntary Expenditure Limits COLA* (July 29, 2002).

Subdivision (d) of Regulation 18545 requires that the adjusted contribution limit amounts and the adjusted voluntary expenditure ceilings continue to be applied to all state elections held after December 31, 2012, until those limits are adjusted by the Commission to reflect changes in the Consumer Price Index. For elections held after December 31, 2012, if the campaign/expenditure amounts are adjusted upward, then the state candidate would be permitted to raise additional funds in the amount of the difference between the lower initial amount allowed and the new higher amount allowed. If the amounts are adjusted downward, then the state candidate would not be in violation of the new lower limits or need to return excess contributions received prior to the effective date of the newly adjusted lower limits and ceilings.

II. Gift Limit Adjustment

B. Gift Limit Calculation: The formula used to calculate the adjusted gift limit is as follows:

$\begin{array}{l} \$250 \text{ (Limit in} \\ \text{1990)} \end{array} \times \frac{237.9 \text{ (Sept. 2012 CPI)*}}{135 \text{ (CPI from 1990)}} = 2013 \text{ limit**}$
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**Rounded to nearest \$10.

Under the above formula, the gift limitation amount for January 1, 2013, through December 31, 2014 will be \$440. Proposed amendments to incorporate this change include amendments to Regulations 18703.4, 18730, and 18940.2.

Attachments:

- Proposed Regulation 18545
- Proposed Regulation 18703.4
- Proposed Regulation 18730
- Proposed Regulation 18940.2.

1 Amend 2 Cal. Code Regs. Section 18545 to read:

2 **§ 18545. Contribution Limit and Voluntary Expenditure Ceiling Amounts.**

3 (a) Campaign Contribution Limits

4 (1) For purposes of Section 85301(a), the adjusted contribution limit in effect for
5 candidates for the Senate or Assembly and candidates for elected seats to the Board of
6 Administration of the Public Employees Retirement System or the Teachers' Retirement Board,
7 for an election occurring during the period January 1, ~~2011~~ 2013 through December 31, ~~2012~~
8 2014 is ~~\$3,900~~ \$4,100 per person.

9 (2) For purposes of Section 85301(b), the adjusted contribution limit in effect for
10 candidates for Lieutenant Governor, Secretary of State, Attorney General, Treasurer, Controller,
11 Superintendent of Public Instruction, Insurance Commissioner and Board of Equalization
12 members for an election occurring during the period January 1, ~~2011~~ 2013 through December 31,
13 ~~2012~~ 2014 is ~~\$6,500~~ \$6,800 per person.

14 (3) For purposes of Section 85301(c), the adjusted contribution limit in effect for
15 candidates for Governor for an election occurring during the period January 1, ~~2011~~ 2013
16 through December 31, ~~2012~~ 2014 is ~~\$26,000~~ \$27,200 per person.

17 (4) For purposes of Section 85302(a), the adjusted contribution limit in effect for
18 candidates for Senate or Assembly and candidates for elected seats to the Board of
19 Administration of the Public Employees Retirement System or the Teachers' Retirement Board,
20 for an election occurring during the period January 1, ~~2011~~ 2013 through December 31, ~~2012~~
21 2014 is ~~\$7,800~~ \$8,200 per small contributor committee.

22 (5) For purposes of Section 85302(b), the adjusted contribution limit in effect for
23 candidates for Lieutenant Governor, Secretary of State, Attorney General, Treasurer, Controller,

1 Superintendent of Public Instruction, Insurance Commissioner and Board of Equalization
2 members for an election occurring during the period January 1, ~~2011~~ 2013 through December 31,
3 ~~2012~~ 2014 is ~~\$13,000~~ \$13,600 per small contributor committee.

4 (6) For purposes of Section 85302(c), the adjusted contribution limit in effect for
5 candidates for Governor for an election occurring during the period January 1, ~~2011~~ 2013
6 through December 31, ~~2012~~ 2014 is ~~\$26,000~~ \$27,200 per small contributor committee.

7 (7) For purposes of Section 85303(a), the adjusted annual contribution limit to any
8 committee, other than a political party committee, in effect for an election occurring during the
9 period January 1, ~~2011~~ 2013 through December 31, ~~2012~~ 2014 is ~~\$6,500~~ \$6,800 per person.

10 (8) For purposes of Section 85303(b), the adjusted annual contribution limit to any
11 political party committee in effect for an election occurring during the period January 1, ~~2011~~
12 2013 through December 31, ~~2012~~ 2014 is ~~\$32,500~~ ~~\$34,400~~ \$34,000 per person.

13 (b) Voluntary Expenditure Ceilings

14 (1) For purposes of Section 85400(a)(1), the adjusted voluntary expenditure ceiling in
15 effect for Assembly candidates for an election occurring during the period January 1, ~~2011~~ 2013
16 through December 31, ~~2012~~ 2014 is ~~\$520,000~~ \$544,000 in the primary or special primary
17 election and ~~\$909,000~~ ~~\$940,000~~ \$953,000 in the general or special general election.

18 (2) For purposes of Section 85400(a)(2), the adjusted voluntary expenditure ceiling in
19 effect for Senate candidates for an election occurring during the period January 1, ~~2011~~ 2013
20 through December 31, ~~2012~~ 2014 is ~~\$780,000~~ ~~\$816,000~~ \$817,000 in the primary or special
21 primary election and ~~\$1,169,000~~ \$1,225,000 in the general or special general election.

22 (3) For purposes of Section 85400(a)(3), the adjusted voluntary expenditure ceiling in
23 effect for State Board of Equalization candidates for an election occurring during the period

1 January 1, ~~2011~~ 2013 through December 31, ~~2012~~ 2014 is ~~\$1,299,000~~ ~~\$1,360,000~~ \$1,361,000 in
2 the primary election and ~~\$1,949,000~~ \$2,041,000 in the general election.

3 (4) For purposes of Section 85400(a)(4), the adjusted voluntary expenditure ceiling in
4 effect for a candidate for Lieutenant Governor, Secretary of State, Attorney General, Treasurer,
5 Controller, Superintendent of Public Instruction, and Insurance Commissioner for an election
6 occurring during the period January 1, ~~2011~~ 2013 through December 31, ~~2012~~ 2014 is
7 ~~\$5,179,000~~ ~~\$5,442,000~~ \$5,444,000 in the primary election and ~~\$7,795,000~~ ~~\$8,162,000~~
8 \$8,166,000 in the general election.

9 (5) For purposes of Section 85400(a)(5), the adjusted voluntary expenditure ceiling in
10 effect for a candidate for Governor for an election occurring during the period January 1, ~~2011~~
11 2013 through December 31, ~~2012~~ 2014 is ~~\$7,795,000~~ ~~\$8,162,000~~ \$8,166,000 in the primary
12 election and ~~\$12,992,000~~ ~~\$13,604,000~~ \$13,610,000 in the general election.

13 (c) Officeholder Contribution Limits (per contributor per calendar year)

14 (1) For purposes of Section 85316, the adjusted contribution limit in effect for
15 officeholders in the Senate or Assembly for calendar year ~~2011~~ 2013 and ~~2012~~ 2014 is ~~\$3,200~~
16 \$3,400 per person per calendar year.

17 (2) For purposes of Section 85316, the adjusted contribution limit in effect for
18 officeholders in statewide elected state offices (other than Governor) for calendar year ~~2011~~
19 2013 and ~~2012~~ 2014 is ~~\$5,400~~ ~~\$5,600~~ \$5,700 per person per calendar year.

20 (3) For purposes of Section 85316, the adjusted contribution limit in effect for the
21 officeholder in the Governor's office for calendar year ~~2011~~ 2013 and ~~2012~~ 2014 is ~~\$21,600~~
22 \$22,600 per person per calendar year.

23 (d) Officeholder Contribution Limits (aggregate)

1 (1) For purposes of Section 85316, the adjusted aggregate officeholder contribution limit
2 in effect for officeholders in the Senate or Assembly for calendar years ~~2011~~ 2013 and ~~2012~~
3 2014 is ~~\$53,900~~ \$56,500 per calendar year.

4 (2) For purposes of Section 85316, the adjusted aggregate officeholder contribution limit
5 in effect for officeholders in statewide elected state offices (other than Governor) for calendar
6 years ~~2011~~ 2013 and ~~2012~~ 2014 is ~~\$107,900~~ \$113,000 per calendar year.

7 (3) For purposes of Section 85316, the adjusted aggregate officeholder contribution limit
8 in effect for the officeholder in the Governor's office for calendar years ~~2011~~ 2013 and ~~2012~~
9 2014 is ~~\$215,800~~ \$226,000 per calendar year.

10 (e) The contribution limit and the voluntary expenditure ceiling adjustments shall be
11 made pursuant to Regulation 18544.

12 (f) As of January 1, 2007, the contribution limit and voluntary expenditure ceiling
13 adjustments of this regulation also will apply to elections held after December 31, 2012, until
14 these limits are adjusted by the Commission for the next biennial period.

15 Note: Authority cited: Section 83112, Government Code. Reference: Sections 83124, 85301,
16 85302, 85303, 85316 and 85400, Government Code.

1 Amend 2 Cal. Code Regs. Section 18703.4 to read:

2 **§ 18703.4. Economic Interest, Defined: Source of Gifts.**

3 For purposes of disqualification under Sections 87100 and 87103, a public official has an
4 economic interest in any donor of, or any intermediary or agent for a donor of, a gift or gifts
5 aggregating ~~\$420~~ \$440 or more in value provided to, received by, or promised to the public
6 official within 12 months prior to the time when the decision is made.

7 Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5,
8 87102.6, 87102.8, 87103 and 89503, Government Code.

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1 Amend 2 Cal. Code Regs. Section 18730 to read:

2 **§ 18730. Provisions of ~~Conflict of Interest~~ Conflict of Interest Codes.**

3 (a) Incorporation by reference of the terms of this regulation along with the designation
4 of employees and the formulation of disclosure categories in the Appendix referred to below
5 constitute the adoption and promulgation of a ~~conflict of interest~~ conflict of interest code within
6 the meaning of Section 87300 or the amendment of a ~~conflict of interest~~ conflict of interest code
7 within the meaning of Section 87306 if the terms of this regulation are substituted for terms of a
8 ~~conflict of interest~~ conflict of interest code already in effect. A code so amended or adopted and
9 promulgated requires the reporting of reportable items in a manner substantially equivalent to the
10 requirements of article 2 of chapter 7 of the Political Reform Act, Sections 81000, et seq. The
11 requirements of a ~~conflict of interest~~ conflict of interest code are in addition to other
12 requirements of the Political Reform Act, such as the general prohibition against conflicts of
13 interest contained in Section 87100, and to other state or local laws pertaining to conflicts of
14 interest.

15 (b) The terms of a ~~conflict of interest~~ conflict of interest code amended or adopted and
16 promulgated pursuant to this regulation are as follows:

17 (1) Section 1. Definitions.

18 The definitions contained in the Political Reform Act of 1974, regulations of the Fair
19 Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or
20 regulations, are incorporated by reference into this ~~conflict of interest~~ conflict of interest code.

21 (2) Section 2. Designated Employees.

1 The persons holding positions listed in the Appendix are designated employees. It has
2 been determined that these persons make or participate in the making of decisions which may
3 foreseeably have a material effect on economic interests.

4 (3) Section 3. Disclosure Categories.

5 This code does not establish any disclosure obligation for those designated employees
6 who are also specified in Section 87200 if they are designated in this code in that same capacity
7 or if the geographical jurisdiction of this agency is the same as or is wholly included within the
8 jurisdiction in which those persons must report their economic interests pursuant to article 2 of
9 chapter 7 of the Political Reform Act, Sections 87200, et seq.

10 In addition, this code does not establish any disclosure obligation for any designated
11 employees who are designated in a ~~conflict of interest~~ conflict of interest code for another
12 agency, if all of the following apply:

13 (A) The geographical jurisdiction of this agency is the same as or is wholly included
14 within the jurisdiction of the other agency;

15 (B) The disclosure assigned in the code of the other agency is the same as that required
16 under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

17 (C) The filing officer is the same for both agencies.¹

18 Such persons are covered by this code for disqualification purposes only. With respect to
19 all other designated employees, the disclosure categories set forth in the Appendix specify which
20 kinds of economic interests are reportable. Such a designated employee shall disclose in his or
21 her statement of economic interests those economic interests he or she has which are of the kind

1 described in the disclosure categories to which he or she is assigned in the Appendix. It has been
2 determined that the economic interests set forth in a designated employee's disclosure categories
3 are the kinds of economic interests which he or she foreseeably can affect materially through the
4 conduct of his or her office.

5 (4) Section 4. Statements of Economic Interests: Place of Filing.

6 The code reviewing body shall instruct all designated employees within its code to file
7 statements of economic interests with the agency or with the code reviewing body, as provided
8 by the code reviewing body in the agency's ~~conflict-of-interest~~ conflict of interest code.²

9 (5) Section 5. Statements of Economic Interests: Time of Filing.

10 (A) Initial Statements. All designated employees employed by the agency on the effective
11 date of this code, as originally adopted, promulgated and approved by the code reviewing body,
12 shall file statements within 30 days after the effective date of this code. Thereafter, each person
13 already in a position when it is designated by an amendment to this code shall file an initial
14 statement within 30 days after the effective date of the amendment.

15 (B) Assuming Office Statements. All persons assuming designated positions after the
16 effective date of this code shall file statements within 30 days after assuming the designated
17 positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

18 (C) Annual Statements. All designated employees shall file statements no later than April
19 1.

20 (D) Leaving Office Statements. All persons who leave designated positions shall file
21 statements within 30 days after leaving office.

22 (5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

1 Any person who resigns within 12 months of initial appointment, or within 30 days of the
2 date of notice provided by the filing officer to file an assuming office statement, is not deemed to
3 have assumed office or left office, provided he or she did not make or participate in the making
4 of, or use his or her position to influence any decision and did not receive or become entitled to
5 receive any form of payment as a result of his or her appointment. Such persons shall not file
6 either an assuming or leaving office statement.

7 (A) Any person who resigns a position within 30 days of the date of a notice from the
8 filing officer shall do both of the following:

9 (1) File a written resignation with the appointing power; and

10 (2) File a written statement with the filing officer declaring under penalty of perjury that
11 during the period between appointment and resignation he or she did not make, participate in the
12 making, or use the position to influence any decision of the agency or receive, or become entitled
13 to receive, any form of payment by virtue of being appointed to the position.

14 (6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

15 (A) Contents of Initial Statements.

16 Initial statements shall disclose any reportable investments, interests in real property and
17 business positions held on the effective date of the code and income received during the 12
18 months prior to the effective date of the code.

19 (B) Contents of Assuming Office Statements.

20 Assuming office statements shall disclose any reportable investments, interests in real
21 property and business positions held on the date of assuming office or, if subject to State Senate
22 confirmation or appointment, on the date of nomination, and income received during the 12

1 months prior to the date of assuming office or the date of being appointed or nominated,
2 respectively.

3 (C) Contents of Annual Statements. Annual statements shall disclose any reportable
4 investments, interests in real property, income and business positions held or received during the
5 previous calendar year provided, however, that the period covered by an employee's first annual
6 statement shall begin on the effective date of the code or the date of assuming office whichever
7 is later, or for a board or commission member subject to Section 87302.6, the day after the
8 closing date of the most recent statement filed by the member pursuant to Regulation 18754.

9 (D) Contents of Leaving Office Statements.

10 Leaving office statements shall disclose reportable investments, interests in real property,
11 income and business positions held or received during the period between the closing date of the
12 last statement filed and the date of leaving office.

13 (7) Section 7. Manner of Reporting.

14 Statements of economic interests shall be made on forms prescribed by the Fair Political
15 Practices Commission and supplied by the agency, and shall contain the following information:

16 (A) Investment and Real Property Disclosure.

17 When an investment or an interest in real property³ is required to be reported,⁴ the
18 statement shall contain the following:

- 19 1. A statement of the nature of the investment or interest;
- 20 2. The name of the business entity in which each investment is held, and a general
21 description of the business activity in which the business entity is engaged;
- 22 3. The address or other precise location of the real property;

1 4. A statement whether the fair market value of the investment or interest in real property
2 equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

3 (B) Personal Income Disclosure. When personal income is required to be reported,⁵ the
4 statement shall contain:

5 1. The name and address of each source of income aggregating \$500 or more in value, or
6 \$50 or more in value if the income was a gift, and a general description of the business activity,
7 if any, of each source;

8 2. A statement whether the aggregate value of income from each source, or in the case of
9 a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater
10 than \$10,000, or greater than \$100,000;

11 3. A description of the consideration, if any, for which the income was received;

12 4. In the case of a gift, the name, address and business activity of the donor and any
13 intermediary through which the gift was made; a description of the gift; the amount or value of
14 the gift; and the date on which the gift was received;

15 5. In the case of a loan, the annual interest rate and the security, if any, given for the loan
16 and the term of the loan.

17 (C) Business Entity Income Disclosure. When income of a business entity, including
18 income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

19 1. The name, address, and a general description of the business activity of the business
20 entity;

21 2. The name of every person from whom the business entity received payments if the
22 filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

1 (D) Business Position Disclosure. When business positions are required to be reported, a
2 designated employee shall list the name and address of each business entity in which he or she is
3 a director, officer, partner, trustee, employee, or in which he or she holds any position of
4 management, a description of the business activity in which the business entity is engaged, and
5 the designated employee's position with the business entity.

6 (E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving
7 office statement, if an investment or an interest in real property was partially or wholly acquired
8 or disposed of during the period covered by the statement, the statement shall contain the date of
9 acquisition or disposal.

10 (8) Section 8. Prohibition on Receipt of Honoraria.

11 (A) No member of a state board or commission, and no designated employee of a state or
12 local government agency, shall accept any honorarium from any source, if the member or
13 employee would be required to report the receipt of income or gifts from that source on his or her
14 statement of economic interests. This section shall not apply to any part-time member of the
15 governing board of any public institution of higher education, unless the member is also an
16 elected official.

17 Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this
18 section.

19 This section shall not limit or prohibit payments, advances, or reimbursements for travel
20 and related lodging and subsistence authorized by Section 89506.

21 (8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of ~~\$420~~ \$440.

1 (A) No member of a state board or commission, and no designated employee of a state or
2 local government agency, shall accept gifts with a total value of more than ~~\$420~~ \$440 in a
3 calendar year from any single source, if the member or employee would be required to report the
4 receipt of income or gifts from that source on his or her statement of economic interests. This
5 section shall not apply to any part-time member of the governing board of any public institution
6 of higher education, unless the member is also an elected official.

7 Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this
8 section.

9 (8.2) Section 8.2. Loans to Public Officials.

10 (A) No elected officer of a state or local government agency shall, from the date of his or
11 her election to office through the date that he or she vacates office, receive a personal loan from
12 any officer, employee, member, or consultant of the state or local government agency in which
13 the elected officer holds office or over which the elected officer's agency has direction and
14 control.

15 (B) No public official who is exempt from the state civil service system pursuant to
16 subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while
17 he or she holds office, receive a personal loan from any officer, employee, member, or consultant
18 of the state or local government agency in which the public official holds office or over which
19 the public official's agency has direction and control. This subdivision shall not apply to loans
20 made to a public official whose duties are solely secretarial, clerical, or manual.

21 (C) No elected officer of a state or local government agency shall, from the date of his or
22 her election to office through the date that he or she vacates office, receive a personal loan from

1 any person who has a contract with the state or local government agency to which that elected
2 officer has been elected or over which that elected officer's agency has direction and control.
3 This subdivision shall not apply to loans made by banks or other financial institutions or to any
4 indebtedness created as part of a retail installment or credit card transaction, if the loan is made
5 or the indebtedness created in the lender's regular course of business on terms available to
6 members of the public without regard to the elected officer's official status.

7 (D) No public official who is exempt from the state civil service system pursuant to
8 subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while
9 he or she holds office, receive a personal loan from any person who has a contract with the state
10 or local government agency to which that elected officer has been elected or over which that
11 elected officer's agency has direction and control. This subdivision shall not apply to loans made
12 by banks or other financial institutions or to any indebtedness created as part of a retail
13 installment or credit card transaction, if the loan is made or the indebtedness created in the
14 lender's regular course of business on terms available to members of the public without regard to
15 the elected officer's official status. This subdivision shall not apply to loans made to a public
16 official whose duties are solely secretarial, clerical, or manual.

17 (E) This section shall not apply to the following:

18 1. Loans made to the campaign committee of an elected officer or candidate for elective
19 office.

20 2. Loans made by a public official's spouse, child, parent, grandparent, grandchild,
21 brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first

1 cousin, or the spouse of any such persons, provided that the person making the loan is not acting
2 as an agent or intermediary for any person not otherwise exempted under this section.

3 3. Loans from a person which, in the aggregate, do not exceed five hundred dollars
4 (\$500) at any given time.

5 4. Loans made, or offered in writing, before January 1, 1998.

6 (8.3) Section 8.3. Loan Terms.

7 (A) Except as set forth in subdivision (B), no elected officer of a state or local
8 government agency shall, from the date of his or her election to office through the date he or she
9 vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and
10 clearly states the terms of the loan, including the parties to the loan agreement, date of the loan,
11 amount of the loan, term of the loan, date or dates when payments shall be due on the loan and
12 the amount of the payments, and the rate of interest paid on the loan.

13 (B) This section shall not apply to the following types of loans:

14 1. Loans made to the campaign committee of the elected officer.

15 2. Loans made to the elected officer by his or her spouse, child, parent, grandparent,
16 grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt,
17 uncle, or first cousin, or the spouse of any such person, provided that the person making the loan
18 is not acting as an agent or intermediary for any person not otherwise exempted under this
19 section.

20 3. Loans made, or offered in writing, before January 1, 1998.

21 (C) Nothing in this section shall exempt any person from any other provision of Title 9 of
22 the Government Code.

1 (8.4) Section 8.4. Personal Loans.

2 (A) Except as set forth in subdivision (B), a personal loan received by any designated
3 employee shall become a gift to the designated employee for the purposes of this section in the
4 following circumstances:

5 1. If the loan has a defined date or dates for repayment, when the statute of limitations for
6 filing an action for default has expired.

7 2. If the loan has no defined date or dates for repayment, when one year has elapsed from
8 the later of the following:

9 a. The date the loan was made.

10 b. The date the last payment of \$100 or more was made on the loan.

11 c. The date upon which the debtor has made payments on the loan aggregating to less
12 than \$250 during the previous 12 months.

13 (B) This section shall not apply to the following types of loans:

14 1. A loan made to the campaign committee of an elected officer or a candidate for
15 elective office.

16 2. A loan that would otherwise not be a gift as defined in this title.

17 3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which
18 the creditor has taken reasonable action to collect the balance due.

19 4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which
20 the creditor, based on reasonable business considerations, has not undertaken collection action.

21 Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this

1 paragraph has the burden of proving that the decision for not taking collection action was based
2 on reasonable business considerations.

3 5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately
4 discharged in bankruptcy.

5 (C) Nothing in this section shall exempt any person from any other provisions of Title 9
6 of the Government Code.

7 (9) Section 9. Disqualification.

8 No designated employee shall make, participate in making, or in any way attempt to use
9 his or her official position to influence the making of any governmental decision which he or she
10 knows or has reason to know will have a reasonably foreseeable material financial effect,
11 distinguishable from its effect on the public generally, on the official or a member of his or her
12 immediate family or on:

13 (A) Any business entity in which the designated employee has a direct or indirect
14 investment worth \$2,000 or more;

15 (B) Any real property in which the designated employee has a direct or indirect interest
16 worth \$2,000 or more;

17 (C) Any source of income, other than gifts and other than loans by a commercial lending
18 institution in the regular course of business on terms available to the public without regard to
19 official status, aggregating \$500 or more in value provided to, received by or promised to the
20 designated employee within 12 months prior to the time when the decision is made;

21 (D) Any business entity in which the designated employee is a director, officer, partner,
22 trustee, employee, or holds any position of management; or

1 (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating
2 ~~\$420~~ \$440 or more provided to, received by, or promised to the designated employee within 12
3 months prior to the time when the decision is made.

4 (9.3) Section 9.3. Legally Required Participation.

5 No designated employee shall be prevented from making or participating in the making
6 of any decision to the extent his or her participation is legally required for the decision to be
7 made. The fact that the vote of a designated employee who is on a voting body is needed to break
8 a tie does not make his or her participation legally required for purposes of this section.

9 (9.5) Section 9.5. Disqualification of State Officers and Employees.

10 In addition to the general disqualification provisions of section 9, no state administrative
11 official shall make, participate in making, or use his or her official position to influence any
12 governmental decision directly relating to any contract where the state administrative official
13 knows or has reason to know that any party to the contract is a person with whom the state
14 administrative official, or any member of his or her immediate family has, within 12 months
15 prior to the time when the official action is to be taken:

16 (A) Engaged in a business transaction or transactions on terms not available to members
17 of the public, regarding any investment or interest in real property; or

18 (B) Engaged in a business transaction or transactions on terms not available to members
19 of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

20 (10) Section 10. Disclosure of Disqualifying Interest.

1 When a designated employee determines that he or she should not make a governmental
2 decision because he or she has a disqualifying interest in it, the determination not to act may be
3 accompanied by disclosure of the disqualifying interest.

4 (11) Section 11. Assistance of the Commission and Counsel.

5 Any designated employee who is unsure of his or her duties under this code may request
6 assistance from the Fair Political Practices Commission pursuant to Section 83114 and
7 Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing
8 in this section requires the attorney for the agency to issue any formal or informal opinion.

9 (12) Section 12. Violations.

10 This code has the force and effect of law. Designated employees violating any provision
11 of this code are subject to the administrative, criminal and civil sanctions provided in the
12 Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a
13 violation of the disqualification provisions of this code or of Section 87100 or 87450 has
14 occurred may be set aside as void pursuant to Section 91003.

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16 ¹Designated employees who are required to file statements of economic interests under any other
17 agency's ~~conflict of interest~~ conflict of interest code, or under article 2 for a different
18 jurisdiction, may expand their statement of economic interests to cover reportable interests in
19 both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing
20 separate and distinct statements, provided that each copy of such expanded statement filed in
21 place of an original is signed and verified by the designated employee as if it were an original.
22 See Section 81004.

1 ²See Section 81010 and Regulation 18115 for the duties of filing officers and persons in agencies
2 who make and retain copies of statements and forward the originals to the filing officer.

3 ³For the purpose of disclosure only (not disqualification), an interest in real property does not
4 include the principal residence of the filer.

5 ⁴Investments and interests in real property which have a fair market value of less than \$2,000 are
6 not investments and interests in real property within the meaning of the Political Reform Act.
7 However, investments or interests in real property of an individual include those held by the
8 individual's spouse and dependent children as well as a pro rata share of any investment or
9 interest in real property of any business entity or trust in which the individual, spouse and
10 dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or
11 greater.

12 ⁵A designated employee's income includes his or her community property interest in the income
13 of his or her spouse but does not include salary or reimbursement for expenses received from a
14 state, local or federal government agency.

15 ⁶Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer
16 and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In
17 addition, the disclosure of persons who are clients or customers of a business entity is required
18 only if the clients or customers are within one of the disclosure categories of the filer.

19 Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300-
20 87302, 89501, 89502 and 89503, Government Code.

1 Amend 2 Cal. Code Regs. Section 18940.2 to read:

2 **§ 18940.2. Gift Limit Amount.**

3 (a) For purposes of Section 89503, the adjusted annual gift limit amount in effect for the
4 period January 1, ~~2011~~ 2013, to December 31, ~~2012~~ 2014, is ~~\$420~~ \$440.

5 Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 89503
6 and 89506, Government Code.

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