

Fair Political Practices Commission

Memorandum

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

From: Zackery P. Morazzini, General Counsel
William J. Lenkeit, Senior Commission Counsel

Subject: Adoption of Proposed Amendments to the Conflict of Interest Regulations
Step 6 of the Conflict of Interest Analysis: Reasonably Foreseeable

Date: August 31, 2012

Proposed Commission Action and Staff Recommendation.

Approve for adoption the amendment of Regulation 18706 of the Political Reform Act's (the "Act") conflict of interest regulations, as set forth in the attached proposed amendment.

Proposed Amendments to Regulation.

At the August Commission meeting, Staff presented proposed amendments to the Act's conflict of interest regulations defining "reasonably foreseeable" and discussed the reasons for the proposed changes. (See Staff Memorandum, dated August 6, 2012.) As a result of the discussion held during the meeting, staff has incorporated minor changes suggested by the Commission as follows:

(1) A comma was added to line 10 after the word "subject of" at the suggestion of Commissioner Rotunda (Page 1; line 10.);

(2) Subdivisions (a) and (b) have changed the reference from "directly involved" and "indirectly involved" to "explicitly involved" and "not explicitly involved" respectively at the suggestion of Commissioner Garrett;

(3) Subdivision (c) in the August proposed amendments has been moved to the first sentence of subdivision (b) and the words "can be recognized as a realistically possible result" have been changed to "can be recognized as a realistic possibility and more than hypothetical or theoretical." (Page 1; lines 16-17.) The words "on the other hand" have been eliminated from the next sentence. (Page 1; line 18.);

(4) Paragraph (5) in subdivision (b) of the existing regulation has been added back in as paragraph (1) under the proposed subdivision (b) at the request of Commissioner Montgomery;

(5) Paragraph (1) of subdivision (b) in the August draft is now paragraph (2) of subdivision (b), the option has been eliminated, and the word "appropriate" has been added at the suggestion of Commissioner Garrett. (Page 2; line 16.):

(6) Paragraphs (2) and (3) of subdivision (b) in the August draft have been merged and are now paragraph (3) of subdivision (b) in the current draft. (Page 2; lines 17-21.)

For the reasons discussed at the August meeting, Staff requests that the Commission adopt the proposed amendments to Regulation 18706 but delay the effective date that the regulation is to be implemented until it can be incorporated with the remaining proposed amendments as part of the overall package updating the Act's conflict of interest provisions.