



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Remke, Commissioners Audero, Cardenas, Hatch, and Hayward

From: Jack C. Woodside, General Counsel
Matthew F. Christy, Commission Counsel

Subject: Proposed Amendments of:
Regulation 18746.1 – Revolving Door; State One-Year Ban.
Regulation 18746.4 – Revolving Door; Permanently Left and Leave of Absence

Date: February 5, 2018

Requested Action

Staff respectfully requests that the Commission adopt proposed amendments of Regulations 18746.1 and 18746.4, relating to the state one-year ban as it applies to members of the Legislature, to bring those regulations into conformity with Government Code section 87406¹ as amended by the chaptering of AB 1620.

Background

The Act imposes two restrictions on the post-governmental activity of officials who have left state service, the “one-year ban” and the “permanent ban.” For one year after leaving state service, an official subject to the one-year ban is prohibited from representing any other person for compensation by appearing before or communicating with the official’s former agency in an attempt to influence agency decisions that involve the making of general rules (such as legislation or regulations), or to influence certain proceedings involving a permit, license, contract, or transaction involving the sale or purchase of property or goods. (Section 87406; Regulations 18746.1 and 18746.2.)

Prior to the enactment of AB 1620, the state one-year ban, set forth in Section 87406, prohibited a member of the Legislature, for a period of one year after leaving office, from acting as a compensated agent or attorney for, or otherwise representing, any other person by making appearances before or communications with the Legislature or its committees, present members, or officers or employees, if the appearance or communication was made for the purpose of influencing legislative action.

AB 1620 amended Section 87406, extending the time period of the one-year ban with respect to a member of the Legislature who resigns from office. Section 87406(b), as amended, now provides that, for a member of the Legislature who resigns from office, the period of the ban

¹ The regulations of the FPPC are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to this source. The Political Reform Act (Act) is contained in Government Code sections 81000 through 91014. All statutory references are to this source.

commences with the effective date of the resignation and concludes one year after the adjournment sine die of the session in which the resignation occurred.

Discussion and Summary of Proposed Actions

1. Regulation 18746.1

Existing Regulation 18746.1(b)(2) prohibits a public official subject to the prohibitions of Section 87406 from making any appearance or communication if certain factors are applicable, including if “[t]he appearance or communication is made within 12 months after leaving that office or employment.”

The proposed amendments to Regulation 18746.1(b) extend the one-year ban for members of the Legislature who resign, thereby bringing the regulation into conformity with Section 87406 as amended by AB 1620. The amendments: (1) specify that the ban commences upon the effective date of the legislator’s resignation and concludes one year after the adjournment sine die of the session in which the resignation occurred; (2) clarifies that “adjournment sine die” means the final termination of the legislative session; and (3) replaces “12 months” with “one year” to conform with the statutory language.

2. Regulation 18746.4

Existing Regulation 18746.4(b) defines “the date on which an official permanently leaves office or employment” for purposes of Regulations 18746.1 and 18746.3 as the date on which the official is no longer authorized to perform the duties of the office or employment and stops performing those duties.

The proposed amendment of Regulation 18746.4 would amend subdivision (b) of that regulation so that the effective date of a member of the Legislature’s resignation from office is the date that that member permanently leaves office, thereby bringing the regulation into conformity with Section 87406 as amended by AB 1620.

Attachments:

- 1 – Proposed Amendment of Regulation 18746.1**
- 2 – Proposed Amendment of Regulation 18746.4**