



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

From: Dave Bainbridge, General Counsel
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Subject: Emergency Extension of Annual Statement of Economic Interest Filing Deadline

Date: March 30, 2020

Proposed Action

Proposed in response to the current COVID-19 pandemic, emergency Regulation 18720 will establish a 60-day extension for those required to file a 2019 annual Statement of Economic Interests (Form 700). This two-month extension means Form 700's that are normally due on April 1, 2020 will be accepted by the Commission as timely, if filed by June 1, 2020. The extension will apply to all officials required to file in April pursuant to Commission Regulations 18723 and 18730. Staff recommends that the Commission adopt the proposed emergency regulation with the express finding that the regulation is "necessary for the immediate preservation of the public peace, health and safety or general welfare."

Background

Section 87203 requires "every person who holds an office specified in Section 87200" to file an annual Statement of Economic Interest "each year at a time specified by Commission regulations."¹ Additionally, Sections 87300 and 87302 require every agency to adopt and promulgate a Conflict of Interest Code designating "the positions within the agency, other than those specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest." Officials designated in an agency's conflict of interest code must file an annual Statement of Economic Interest "at the time specified in the Conflict of Interest Code."

¹ Section 87200 filers include "elected state officers, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of the High-Speed Rail Authority, members of planning commissions, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and to candidates for any of these offices at any election."

For persons filing under Section 87200, known as 87200 filers, Regulation 18723 establishes the deadline for an annual Statement of Economic Interest. While the deadline differs for most State officials, the filing deadline for county or city officials, as well as officials who manage public investments is currently April 1st. (Regulation 18723(b)(3) and (3).)

As stated above, officials designated in an agency's conflict of interest code, known as designated officials, file as specified in the code. However, to facilitate the code adoption process, Regulation 18730 provides standardized rules for designated officials that agencies typically incorporate into their respective codes. Under these standardized rules, the filing deadline for an annual Statement of Economic Interest is also April 1st. (Regulation 18730(b)(5)(C).) Because most agencies elect to follow the standardized rules, most designated officials are currently required to file their annual Form 700's by April 1st.

In recognition of the unique and serious nature of the COVID-19 pandemic and its effects on the public, as well as the work and effort now demanded of public officials around the State, proposed Regulation 18720 will establish a 60-day extension for most public official required to file a 2019 annual Statement of Economic Interests on April 1, 2020. Under this two-month extension, Form 700's that are normally due on April 1, 2020, will be accepted by the Commission as timely, if filed by June 1, 2020. The extension will apply to all officials required to file in April pursuant to Commission Regulations 18723 and 18730.

Regulation 18720 is proposed as an emergency regulation. Under the 1974 Administrative Procedure Act ("APA"), which applies to the Commission regulatory matters, a state agency may adopt a regulation, without notice or public comment, as an emergency regulation if the agency finds the regulation "necessary for the immediate preservation of the public peace, health and safety or general welfare." (Former Gov. Code Section 11421(b).) An emergency regulation becomes effective immediately upon filing unless a later date is specified. (Id. Section 11422(c).) The regulation will remain in effect for 120 days, and will be automatically repealed at the end of the 120-day period unless the Commission acts to adopt the regulation within the 120-day period in compliance with the APA's notice and hearing requirements and files a certificate of compliance. (Id. Section 11422.1.) However, given the temporary nature of the emergency extension, it should be unnecessary for the Commission to take further action to permanently adopt the regulation.

In support of a finding that the emergency regulation is "necessary for the immediate preservation of the public peace, health and safety or general welfare," the COVID-19 pandemic has resulted in unprecedented attempts to slow the transmission of the virus including, but not limited to, the Governor's statewide stay-at-home order, which took effect March 20, and a nationwide effort to practice social distancing. Accordingly, emergency Regulation 18720 is necessary for the immediate preservation of public health and its general welfare in that it facilitates efforts by public officials to comply with the statewide stay-at-home order and nationwide social distancing precautions, as well as eases the burden on essential public officials, whose primary efforts are currently focused on helping California get through this pandemic.

Summary

In light of the COVID-19 pandemic, proposed emergency Regulation 18720 is “necessary for the immediate preservation of the public peace, health and safety or general welfare.” The proposed 60-day extension for the filing of Form’s is a small but important safeguard. Accordingly, staff recommends the adoption of Regulation 18720. By operation of law, the emergency regulation will be automatically repealed in 120 days unless further action is taken by the Commission.