

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 4-5, 2019

From: SUSAN BRANSEN, Executive Director

Reference Number: 4.19, Action

Prepared By: Douglas Remedios  
Associate Governmental Program Analyst

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Subject: **Adoption of the Commission Operating Procedures**

**Issue:**

Should the California Transportation Commission (Commission) adopt updated operating procedures as reflected in the attached 2019 Commission Operating Procedures?

**Recommendation:**

Commission staff recommends that the Commission adopt updated Commission Operating Procedures.

**Background:**

In May 2011 the Commission adopted operating procedures to identify standard policies and procedures and to provide guidance to ensure consistency and efficiency in the completion of essential functions of the Commission.

Attachment A: 2019 Commission Operating Procedures



# California Transportation Commission

## Operating Procedures

To be ADOPTED BY THE COMMISSION  
December 2019



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# California Transportation Commission Operating Procedures

## 1. Name

### 1.1 Name

The name shall be the California Transportation Commission (Commission).

*Reference: Government Code §14500*

## 2. Mission Statement

### 2.1 Mission Statement

The California Transportation Commission is an independent public agency dedicated to ensuring a safe, financially sustainable, world-class multimodal transportation system that reduces congestion, improves the environment, and facilitates economic development through the efficient movement of people and goods.

*Reference: Adopted by the Commission on May 19, 2010 (Meeting Agenda Item 8)*

## 3. Seal

### 3.1 Design

The seal of Commission shall be of the following form and design:



*Primary*



*Secondary*

### 3.2 Use

- The seal or logo shall be used only in connection with the transaction of business of the Commission.
- The seal or logo may be affixed on any document signed on behalf of the Commission.
- Permission may be granted by the Executive Director for the use of the seal or logo in special circumstances.

## 4. Composition and Powers of the Commission

### 4.1 Composition and Terms of Appointment

The Commission consists of eleven voting members and two non-voting ex-officio members. Of the eleven voting members, nine are appointed by the Governor, one is appointed by the Senate Rules Committee, and one is appointed by the Speaker of the Assembly. One of the two ex-officio members is appointed by the Senate Rules Committee, and the other by the Speaker of the Assembly.

The law directs the Governor to make every effort to ensure that there is a geographic balance of representation on the Commission as a whole, with members from the northern and southern areas and from the urban and rural areas of the state and that the Commission has a diverse membership with expertise in transportation issues, taking into consideration factors including, but not limited to, socioeconomic background and professional experience, which may include experience working in, or representing, disadvantaged communities.

Notwithstanding the enumeration of these various factors, Commissioners do not represent “constituencies.” Instead, the law provides that “each member of the Commission shall represent the state at large.”

*Reference: Government Code §14504*

### ***Gubernatorial Appointments – Voting Members***

- Nine voting members are appointed by the Governor to staggered four-year terms.
- Gubernatorial appointments are subject to confirmation by the Senate, and must be confirmed within one year of the appointment.
- Until Senate confirmation of the member appointed or reappointed to the Commission, that member serves at the pleasure of the Governor.
- A member appointed by the Governor shall not simultaneously hold an elected public office or serve on any local or regional public board or commission with business before the Commission.
- A voting member of the Commission may serve on the High-Speed Rail Authority.
- When an appointment by the Governor either becomes vacant or the term of the incumbent expires, the Governor may appoint a person to the Commission or reappoint the incumbent.
- If the term of an incumbent expires, the Governor has 60 days after the expiration date to reappoint the incumbent.
  - If the incumbent is not reappointed within the 60-day period, on the 61<sup>st</sup> day their seat on the Commission is deemed to be vacant.
  - The Governor shall not reappoint the person to the same office for a period of 365 days after the time the office has been deemed to be vacant.
- Vacancies shall be filled by the Governor for the unexpired portion of the terms in which they occur.
- The last full day of a term of a Commissioner appointed by the Governor is January 31. In the case of a reappointment, the first day of the 60-day period discussed above is February 1.

### ***Legislative Appointments – Voting members***

- Two voting members are appointed by the Legislature:
  - One member appointed by the Senate Rules Committee, and
  - One member appointed by the Speaker of the Assembly.
- Legislative appointees are not subject to Senate confirmation.
- Legislative appointees hold office for terms of four years, and until their successors are appointed, whichever occurs later.
- Vacancies shall be filled by the appointing power for the unexpired portion of the terms in which they occur. The four-year term begins the date when the appointment is made.

### ***Non-voting Ex-Officio Members***

Two non-voting members appointed, one from each of the State Senate and Assembly, shall participate in the activities of the Commission to the extent that such participation is not

incompatible with their positions as Members of the Legislature. These two non-voting members are not subjected to confirmation by the Senate nor to the four-year term.

*Reference: Government Code §1774 and §14502 - §14504*

#### **4.2 Powers of the Commission**

- Elect one of its members as a chair and another as vice chair for terms of one year, not to exceed two successive terms.

*Reference: Government Code §14505; Title 21, California Code of Regulations §8007- §8008*

- Appoint an Executive Director who shall serve at the pleasure of the Commission.

*Reference: Government Code §14510*

- The Commission may employ its own legal staff or contract with other state agencies for legal services, or both.

*Reference: Government Code §14513*

- Request the Department of Transportation (Caltrans) as well as other agencies, public or private, to perform such work as the Commission deems necessary in carrying out its duties and responsibilities, including the review of transportation issues and concerns that the Commission determines need special study.

*Reference: Government Code §14512*

- May sue or be sued.

*Reference: Government Code §14514*

- Delegate functions such as listening to argument, taking of evidence, and finding of facts to committees or staff members of the Commission, except where a statute expressly provides that the Commission itself shall hold a public hearing. The committee or staff shall have the authority to recommend a decision to the Commission. The Commission may delegate the performance of ministerial tasks. However, in general, the Commission cannot delegate statutory authority in the absence of statutory authorization to do so. For example, the Commission cannot delegate the allocation of funds function to the Executive Director.

*Reference: Government Code §14515*

Further provisions relative to Officers of the Commission are set forth under Section 10 of these operating procedures.

#### **4.3 Conflicts of Interest**

Members and specified staff of the Commission shall comply with the Political Reform Act, with the regulations of the Fair Political Practices Commission, and all other provisions concerning ethics, conflicts of interest, and incompatible activities.

- Under the Political Reform Act, public officials may not take part in a governmental decision in which they have a disqualifying conflict of interest.
  - Such a conflict exists if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's economic interests.

The Political Reform Act limits the receipt by public officials of specified gifts and honoraria.

- The Act does not prevent officials from owning or acquiring financial interests which conflict with their official duties nor does the mere possession of such interests require officials to resign from office.
  - When a decision will have a beneficial effect on an official's financial interests, the official is disqualified from making, participating in, or influencing the making of that decision at any level of the decision-making process.

Further provisions relative to recusal are set forth under Section 5.3 of these operating procedures.

*Reference: Government Code Sections 81000, et seq.*

In order to disclose economic interests that hold potentials for such conflicts, as well as any gifts or honoraria received, members and specified staff of the Commission must annually file Statements of Economic Interests (Form 700). See appendixes for the Commission's Conflict of Interest Code, the Director's Policy on Conflict of Interest and the Statement of Incompatible Activities approved by the Department of Human Resources.

*Reference: California Code of Regulations §8010; Government Code Sections 81000, et seq.*

#### **4.4 Incompatible Activities**

Commission members and employees of the Commission shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to their public duties, functions, or responsibilities. Commission members shall comply with the Incompatible Activities Statement issued by the Governor. Members of the Commission's staff shall certify and comply with the Statement of Incompatible Activities approved by the California Department of Human Resources.

Commission members and members of the Commission staff should refrain from serving on boards or commissions, including advisory bodies, of agencies that do business with the Commission.

Prohibited activities include but are not limited to:

- The use of state time, facilities, equipment and supplies, badge, uniform, prestige or influence of one's state office or employment, for private gain or advantage.
- Receipt or acceptance of money or other consideration from someone other than the state for performance of an act which would be required as part their public employment and duties.
- Performance of an act which may later be subject to control, inspection, review, audit or enforcement of their public agency.
- Expenditure of time and effort that render the performance of their public duties less efficient.



- No Commissioner, State officer, or employee, shall accept any gift, loan of money or equipment, meal, lodging, transportation, entertainment, service or any other favor of value from any person, who is likely to benefit by some action of this Commission, provided, however, that this prohibition does not apply to reimbursement for actual expenses incurred, but not to exceed such limitations and maximums established by the Board of Control, for participation in activities (i.e., conferences, seminars, etc.,) consistent with Commissioners, State officers, or employee's official functions.
- Such favors are to be courteously refused. All gifts received are to be returned unless they are items of no real value which are mass distributed by firms. Their return can be at the expense of the Commission including insurance. Perishables of value should be given to local charity, with the person who sent the gift so informed.
- Occasionally, circumstances occur in which payment by others for a meal, lodging, transportation, or entertainment cannot be avoided without excessive rudeness. Under such circumstances, there would be no violation of this policy so long as the value involved is modest, the situation occurs infrequently, and disclosures are made if required.

*Reference: Government Code §19990*

## 5. Exercise of Powers

### 5.1 Quorum

The Commission may meet only upon establishment of a quorum, defined herein as a majority of the number of voting membership of the Commission without regard to vacancies; thus, a quorum of the Commission shall be at least six voting members. In other words, a quorum is present when six, seven, eight, nine, ten or eleven voting members are present.

*Reference: Title 21, California Code of Regulations §8004*

### 5.2 Determinative Vote

Except as otherwise provided below, all matters coming before the Commission for vote shall be determined by a majority of the voting Commissioners present.

Members Present	Quorum Present (Yes or No)	Majority of a Quorum
11	Yes	6
10	Yes	6
9	Yes	5
8	Yes	5
7	Yes	4
6	Yes	4
5 or fewer	No	No quorum

- Resolutions of Necessity must be approved by two-thirds of the voting membership of the Commission (eight affirmative votes) without regard to vacancies, and because all those voting must do so based upon full consideration of the record relative to that matter, a hearing relative to a Resolution of Necessity has an effective quorum requirement of eight voting members.

Members Present	Two-Thirds of <i>All the Member</i>
11	8
10	8
9	8
8	8
7 or fewer	Insufficient Number of Members Present

*Reference: Code of Civil Procedure Section §1245.240*

- For leases with private entities where the Commission finds that competitive bidding is not in the best interests of the state, a unanimous vote of the quorum is needed to approve the lease that is not the result of competitive bidding.

*Reference: Streets and Highways Code Section 104.12*

- Adding items to the agenda of a Regular Meeting due to a need for immediate action that came to the attention of the Commission after the release of that agenda, requires a two-thirds vote of the members or a unanimous vote of the members present if two-thirds of the members are not present at the meeting.

*Reference: Government Code §11125.3*

- The Commission may conduct a Special Meeting only if it finds that a substantial hardship on the Commission or a threat to the public interest would result from waiting at least 10 days for the Regular Meeting notice requirement. Such a finding must be approved with a two-thirds vote of the members or with a unanimous vote of the members present if two-thirds of the members are not present at the meeting.

*Reference: Government Code §11125.4*

### **5.3 Recusal from Vote**

A Commission member who is disqualified in a matter because of financial contributions, financial interest or another conflict of interest is not entitled to vote.

- The member is required to announce at the meeting that he or she “will not participate” and disclose, for the record, the reason(s) for the disqualification. This information shall be noted in the meeting minutes.

A Commission member may “abstain” from voting, if he or she is entitled to participate but chooses not to participate. The reason for not participating need not be disclosed on the record.

*Reference: California Code of Regulations §18702.5; Government Code §87100, §87105 and §87200*

### **5.4 Roll Call Vote**

Upon the demand of any member, a vote of the Commission shall be by a call of the roll.

### **5.5 Use of Consent Calendar**

The Consent Calendar is used to act upon ministerial matters, discretionary matters deemed by the Executive Director to be of little or no controversy, or matters that have been fully aired before a committee of the Commission with a unanimous recommendation of that committee.

- Individual matters may be added to the Consent Calendar at the suggestion of one or more Commissioners. Individual matters may be removed from a proposed Consent Calendar at the request of one or more Commissioners.
- Matters requiring a specific extraordinary majority for approval may be acted upon by way of a Consent Calendar only when the record of action on that Consent Calendar clearly reflects the requisite extraordinary vote for such matters.

### ***5.6 Use of Information Calendar***

The Information Calendar is used to present agenda matters that are informational (i.e., do not require action by the Commission), that are routine in nature, and that do not engender questions or discussion. A proposed Information Calendar shall be prepared and submitted by the Executive Director.

- Individual matters may be added to the Information Calendar at the suggestion of one or more Commissioners, based upon the determination of the Chair. Individual matters may be removed from a proposed Information Calendar at the request of one or more Commissioners, based upon the determination of the Chair.

## **6. Special Provisions Relating to the Commission**

### ***6.1 Compensation of Commissioners***

Each Commission member shall receive a compensation of one hundred dollars (\$100) per day, but not to exceed eight hundred dollars (\$800), for any Commission business authorized by the Commission during any month, when a majority of the Commission approves the compensation by a recorded vote.

- The need for up to eight days per diem per month is unique to the Commission in that its Commissioners must evaluate projects and issues throughout the state in order to prioritize projects for the state transportation improvement program. These responsibilities require greater time, attention, and travel than local or regional transportation entities that have responsibility only for individual portions of the program.

Following approval by the Commission of meetings for compensation, Commission staff will forward the appropriate documentation to the Commission's contracted accounting services agency for payment by the State Controller's Office.

Commission members shall also receive reimbursement for the necessary expenses incurred by the Commissioner in the performance of the Commissioner's duties. Following receipt of the appropriate documentation, Commission staff will forward the reimbursement request to the Commission's accounting services agency for payment by the State Controller's Office. For purposes of reimbursement, travel and per diem expenses shall be reimbursed in accordance with Department of Personnel Administration (DPA) Rule 599.619.

*Reference: Government Code §14509*

## **6.2 Contracting and Other Commitments**

No Commissioner shall make or enter into any contract, commitment, or other undertaking on behalf of the Commission; accept or agree to undertake the administration of any gift or grant offered to the Commission; or undertake or agree to undertake the management, disposition, or expenditure of any fund provided to be used for the benefit of the Commission.

## **7. Committees, Task Forces and Liaisons of the Commission**

Authority to act on all matters is reserved to the Commission, and the duty of the Committee, special committee or task force shall be only to consider and to make recommendations to the Commission upon matters referred to it.

The Chair, after consulting with other members of the Commission, shall appoint members to Standing Committees and Special Committees, and Liaisons to various Task Forces. The Chair shall not serve on any of the Commission's Committees except in an ex officio capacity.

The Bagley Keene Open Meeting Act (Open Meeting Act) defines "state body" to include committees of any state body.

Commission staff will provide support as needed to each committee, special committee or task force.

The Commission shall not form a Committee for the purpose of considering budgetary and related fiscal matters.

*Reference: Government Code §11121 and §14507, 14508*

### **7.1 Standing Committees**

By statute, the Commission shall establish, at a minimum, four Standing Committees.

- *Committee on Aeronautics*, which shall consider issues related to aeronautics.
- *Committee on Streets and Highways*, which shall consider issues related to streets and highways.
- *Committee on Mass Transportation*, which shall consider issues related to the movement of groups of people, within urban areas, and between rural communities and between cities.
- *Committee on Planning*, which shall be responsible for transportation planning related issues, including, but not limited to, monitoring the transportation planning and programming process, and recommending to the Commission the allocation of federal and state funds available for planning and research.

Further provisions relative to meetings of the standing committees are set forth under Section 8.6 of these operating procedures.

*Reference: Government Code §11121, §14506, §14507, §14508; and Government Code §65030 and §65080 related to the Planning Committee; California Code of Regulations §8001.5*

## **7.2 Function of Standing Committees**

Any matters appropriate for consideration by a Standing Committee first may be referred to the Standing Committee. Any matter referred to and considered by a Standing Committee, but upon which the Standing Committee makes no recommendation or report to the Commission, may be brought before the Commission for consideration at the request of any Commissioner.

Matters determined by the Chair of the Commission to be appropriate for consideration by more than one Standing Committee, shall be referred only to that Committee of primary jurisdiction, as determined by the Chair. Commissioners of any other Standing Committee, before which it would be appropriate to consider such matters, shall be invited to attend the meeting of the Standing Committee of primary jurisdiction at which such matters are to be considered, so long as a quorum of the entire Commission will not be present.

All Commissioners are permitted to attend any meeting of any Standing Committee, so long as a quorum of the entire Commission will not be present.

## **7.3 Standing Committee Membership and Chairmanship**

After consulting with members of the Commission, the Chair shall appoint the members of all Standing Committees.

- Each Standing Committee shall include no more than four members.
- Each Standing Committee shall elect one of its members, other than the Chair of the Commission, as the Committee Chair, who shall preside at all Committee meetings.
- Members of the Standing Committees shall hold office until the appointment of their successors, and shall cease being a Committee member upon the cessation of their membership on the Commission.

*Reference: Government Code §14505.5*

## **7.4 Special Committees**

Special Committees of the Commission may be established by the Chair, after consulting with members of the Commission.

- Special Committees shall have such powers and duties as determined by the Chair of the Commission.
- Membership of Special Committees shall be limited to members of the Commission and limited to no more than four members.
- No Special Committee shall be created to act upon any matter appropriate to be acted upon by a Standing Committee.

## 7.5 Task Forces

The Chair, after consulting with members of the Commission, may establish task forces with specified purposes for specified time periods. A task force may be composed of individuals other than or in addition to members of the Commission and Commission staff. A member of the Commission shall be designated by the Commission Chair to serve as liaison to each task force.

- **Road Usage Charge Technical Advisory Committee**  
By statute, the Commission Chair, in consultation with the Secretary of the Transportation Agency, shall establish a Technical Advisory Committee (TAC) on Road Charge, which informs the California State Transportation Agency, the Commission and the Legislature. Senate Bill 1328 (Beall, 2018) extended the TAC through January 1, 2023, and directed it to continue to assess the potential for alternative funding mechanisms, including, but not limited to a mileage-based revenue collection system.
- **Technical Advisory Committee on Aeronautics**  
Pursuant to statute, the Chair of the Commission is to appoint a Technical Advisory Committee on Aeronautics, after consultation with members of the aviation industry, airport operators, pilots, and other aviation interest groups, and experts, as appropriate. Its purpose is to give technical advice to the Commission's Committee on Aeronautics on the full range of aviation issues to be considered by the Commission.

*Reference: Government Code §14506 to 14506.5; Vehicle Code § 3090*

## 7.6 Quorum of Committees

A Standing or Special Committee of the Commission may meet only upon establishment of a quorum, defined herein as at least two members of a three-member or a four-member Committee. In the event of absences, the Chair of the Commission may make temporary appointments to a Committee from among the membership of the full Commission to facilitate the ability of the Committee to conduct a scheduled meeting.

Number of Members	Number Present	Vote Required for Action
4	4	3
4	3	2
4	2	2
3	3	2
3	2	2
2	2	2

*Reference: California Code of Regulations §8001.5*

## 8. Meetings of the Commission

### 8.1 Open Meetings

The Commission will conduct itself in full compliance with the Open Meeting Act as most recently amended by legislative action and as interpreted by the California Attorney General's Office.

- A meeting of the Commission occurs when a quorum convenes, either serially or all together, in one place to address issues under the body's jurisdiction, either for purposes of deliberating issues or merely to receive information.
- The Open Meeting Act requires that the public be afforded an opportunity to monitor the information provided and be allowed to either agree with or challenge that information.

*Reference: Government Code §11120 - §11132; California Code of Regulations §8002.5*

## **8.2 Special Meetings of the Commission**

At least ten days in advance of regular meetings, the Executive Director shall give notice of such meetings, including specification of an agenda for such meetings that sufficiently describes the items of business to be transacted or discussed, to any person who has requested such notice in writing. The notice and agenda shall also be posted on the Internet. Such notice must include the time and place of the meeting and the name, phone number and address of a contact person who can answer questions about the meeting and agenda.

In two special situations, items may be added to the agenda no later than 48 hours prior to the meeting:

- The first such situation is where the Commission concludes, by majority vote, that the added topic would qualify for an emergency meeting due to a disruption or threatened disruption of public facilities as caused by a work stoppage or other activity that severely impairs public health or safety, or a crippling disaster that severely impacts public health or safety.
- The second situation is where the Commission concludes, by a two-thirds vote or a unanimous vote of the members present if two-thirds of the members are not present, there is a need for immediate action and the need for action came to the attention of the Commission after the agenda was mailed in accordance with the 10-day notice requirement.

Notice of such proposed additions to the agenda must be provided to each member of the Commission, to all parties requesting notice of regular meetings, and to newspapers of general circulation and radio or television stations, as well as posted on the Internet.

*Reference: Government Code §11120 - §11132 and §14911; California Code of Regulations §8001*

Special Meetings of the Commission may be called at any time by the Chair of the Commission, by the Vice Chair in the absence of the Chair, or by a majority of Commission members, for the following purposes when compliance with the 10-day notice provisions of Government Code section 11125 would impose a substantial hardship on the state body or when immediate action is required to protect the public interest:

- to consider pending litigation
- to consider proposed legislation
- to consider issuance of a legal opinion
- to consider disciplinary action involving a state officer or employee
- to consider the purchase, sale, exchange, or lease of real property

- to consider its response to a confidential final draft audit report as permitted by Government Code Section 11126.2.
- to provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

Such meetings may be called at any time, and notice of the time, place and agenda thereof shall be given to each member of the Commission and to all parties requesting notice of Commission meetings as soon as is practicable after the decision to call a special meeting has been made, but in a manner that permits receipt by members and by print and electronic media at least 48 hours before the time of the special meeting.

At the commencement of a Special Meeting, the Commission must make a finding in Open Session that a delay necessitated by providing notice 10 days prior to a meeting would cause substantial hardship on the Commission or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the Commission, or by unanimous vote if less than two-thirds of the members are present. The finding shall be posted on the Internet and failure to adopt the finding terminates the meeting.

No business other than that included in the agenda shall be considered at such a Special Meeting.

*Reference: California Code of Regulations §8002; Government Code §11120-§11132 and §11125.4*

### **8.3 Emergency Meetings of the Commission**

Emergency meetings of the Commission may be called by the Executive Director at the direction of the Commission Chair, or the Vice Chair in the absence of the Chair, in response to an emergency situation that necessitates prompt action due to work stoppage, crippling disaster or other activity that severely impairs public health or safety, or both.

- Emergency Meetings may be called without complying with the 10-day notice requirement of Regular Meetings or the 48-hour notice requirement of Special Meetings. However, notice to print and electronic media shall be given by telephone one hour prior to the meeting, unless telephone service is not functioning, in which case media notice must be given as soon after the meeting as possible.

Prior to or at the beginning of the Emergency Meeting, a majority of Commission members must determine the existence of an “emergency situation”, as defined by either a work stoppage or other activity or by a crippling disaster, either of which severely impairs public health or safety.

Minutes of the Emergency Meeting, a list of persons notified or attempted to be notified, a copy of roll call votes, and any action taken, shall be posted for at least ten days in a public place, including the Internet, as soon after the meeting as possible.

*Reference: California Code of Regulations §8002 and §8003; Government Code §11120 - §11132 and §11125.5*

### **8.4 Meetings of Committees**

Meetings of Committees of the Commission are subject to the Open Meeting Act and shall operate under the same procedures as a regular meeting.



Meetings of Committees of the Commission shall be called by the Executive Director at the direction of the Commission Chair, or the Vice Chair operating in the absence of the Chair, or the Chair of the Committee of which a meeting is to be called.

Meetings of Committees held in conjunction with regular meetings of the Commission shall be regarded as regular meetings unless specifically called as special or emergency meetings.

### **8.5 Closed Sessions**

The Commission and any of its committees may, from time to time, meet in closed session, as long as there is compliance with all procedural and substantive requirements of the Open Meeting Act, Government Code sections 11120 et seq.

Topics authorized by the Open Meeting Act for Closed Sessions include:

- Personnel matters including appointments, employment, evaluation of performance, discipline, dismissal, and hearing of charges or complaints about an employee's actions
- Pending litigation based upon instances of attorney-client privilege
- Deliberations under the Administrative Procedures Act
- Real estate transactions and negotiations regarding price and terms, when cited in public session the parcel and related party

The Commission shall list the Closed Session on the meeting agenda, citing the statutory authority or provision of the Open Meeting Act which authorizes the particular Closed Session. Prior to convening into Closed Session, the Commission shall publicly announce those issues that will be considered in Closed Session.

After the Closed Session has been completed, the Commission shall reconvene in public, but need only make a public report when it has made a decision to hire or fire an individual. Release of other actions may be withheld or delayed if disclosure would constitute an invasion of privacy of individuals or adversely affect the interests of the Commission. Such release of actions as well as information relating to the Closed Session shall be authorized by the Commission as a whole or delegated by the Commission to the Commission Chair.

The Commission shall designate a clerk, officer, or employee to attend Closed Sessions to keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book is not a public record subject to inspection and shall be kept confidential. The Commission, its members and employees, shall maintain the confidentiality of Closed Sessions.

*Reference: Government Code Sec. 11126 et seq.*

### **8.6 Absence of Commissioners**

The voting members of the Commission must notify the Executive Director or Commission Chair when they will be prevented from attending a duly noticed Commission meeting or Committees of which they are a member and the reasons thereof.

- Should Commissioners absent themselves from all regularly noticed meetings of the full Commission or Committee meetings for 90 days consecutively from the last attended

meeting, without prior notification of a justifiable reason or without permission of the Chair, the Commission shall describe the facts and circumstances in its minutes or by special resolution and forward the minutes or special resolution to the Office of the Governor for appropriate action.

*Reference: Government Code §8009.5*

## **9. Commission and Committee Procedures**

### ***9.1 Order of Business of the Commission***

The following shall be the order of business at each Regular Meeting of the Commission:

- Roll Call
- Approval of minutes of last meeting
- Report of the Executive Director
- Report of Commissioners

At Special Meetings, the order of business shall be:

- Roll Call
- Read notice and statement of service thereof

Adopt finding that delay resulting from 10-day notice would cause substantial hardship to Commission or that immediate action is required to protect public interest (including specific facts). (Finding must be adopted by two-thirds vote of Commission or unanimous vote if less than two-thirds of members are present. Failure to adopt finding terminates meeting.)

Special business for which meeting was called and finding was made.

The regular order of business may be suspended at any meeting by a vote of a majority of the Commissioners present.

### ***9.2 Attendance of Department of Transportation and Transportation Agency Representatives***

The Commission may invite the Secretary of the Transportation Agency and the Director of Caltrans, or their direct representative, to attend meetings of the Commission.

The Secretary and Director may be seated at the dais as a courtesy if space allows.

### ***9.3 Representation of Regional Agencies***

In keeping with the Commission's view that a close working relationship must be fostered and maintained among the state's regional transportation agencies, Caltrans, and the Commission, the Commission may include on the agenda for the regularly scheduled Commission meetings a report by the Chairs of the Regional Transportation Planning Agencies, the Rural Counties Task Force, and the Self-Help Counties Coalition. Nothing in this regard is intended to curtail the participation and expression of individual regional agencies and county commissions apart from the designated representative.

### **9.6 Adjournment When No Quorum**

Any meeting may be adjourned and its business continued on an appointed day by the vote of a majority of the Commissioners present even though the Commissioners present are less than a quorum.

### **9.7 Presiding at Committee Meeting**

In the absence of the Chair of a Standing or Special Committee, the Vice Chair of the Committee shall preside, if a Vice Chair has been previously designated. Alternatively, Committee members may designate a temporary Chair from among its membership to preside at that particular meeting.

*Reference: California Code of Regulations §8001.5, 8008*

### **9.8 Rules of Procedures**

The rules contained in Robert's Rules of Order Newly Revised shall govern the proceedings at and the conduct of the meetings of the Commission and its Committees, in all cases to which they are applicable and not covered in or by these operating procedures.

*Reference: California Code of Regulations §8006.5 and §8013*

### **9.9 Procedures for Reports**

Reports shall be submitted to the Commission or its Committees in accordance with a schedule of reports adopted by the Commission.

Requests for other reports to be prepared for submission to the Commission or its Committees shall be voted by the Commission or the appropriate Committee, or by direction of the Chair of the Commission or appropriate Committee.

### **9.10 Communications**

Communications for presentation to the Commission or a Committee may be in writing and be presented by the Executive Director at the next regular meeting following their receipt by the Executive Director.

### **9.11 Appearances Before the Commission and Committees**

Individuals or organizations shall have an opportunity to address the Commission or a Committee directly on each Open Session agenda item after discussion or consideration of the item.

- The Chair of the Commission or the Chair of the Committee, as appropriate, may reasonably limit the total amount of time allocated for public testimony on particular issues and for each speaker and may limit testimony either to assure that it is germane to the item or if it does not involve a specific matter which has been delegated to an officer and which is more appropriately raised with that officer.
- Commission staff shall make available and individuals wishing to address the Commission shall utilize a speaker's card, specifying: the name of that individual; the organization that individual may represent, if any; the agenda item which the individual wishes to address; the position of that individual relative to the agenda item; whether the individual has

written material for distribution; and any other information as may assist the Chair of the Commission and the Executive Director in the orderly conduct of the Commission meeting.

- The Executive Director shall invite to attend and appear before meetings of the Commission and of Committees such individuals as may be needed in the best interest of the Commission.
- Persons attending the meeting who wish to address the Commission on a subject to be considered at a meeting are asked to complete a Speaker Request Card and provide it to the Commission Clerk prior to the discussion of the item. A person wishing to present written materials, including handouts, photos, and maps to the Commission at the meeting, must provide a minimum of 25 copies labeled with the agenda item number no later than 30 minutes prior to the start of the meeting. Video clips and other electronic media cannot be accommodated. Speakers cannot use their own computer or projection equipment for displaying presentation material.

*Reference: Government Code §11125.7*

### **9.12 Reconsideration, Repeal, or Rescission**

No motion for repeal or rescission of any action taken by the Commission shall be voted upon unless notice of intention to make such motion has been given at the previous meeting or by mail by the Executive Director to each member of the Commission, and the subject matter of the motion has been placed on the agenda.

Any member may move for the reconsideration of an action taken by the Commission. Such motion must be made and voted upon at the same meeting at which said action is taken.

### **9.13 Minutes and Recording of Commission and Committee Proceedings**

The Commission shall keep accurate minutes of all meetings and shall make minutes available to the public. The original copy of the minutes is that signed by the Executive Director and is the evidence of taking any action at a meeting. All resolutions adopted at a meeting shall be entered in the text of the minutes by reference.

Commission meetings, when possible, will be webcast. Webcasts of past meetings can be found on the Commission's website.

Minutes of the proceedings of a Standing or Special Committee of the Commission shall also be kept and, as soon as practical after a meeting, a copy of the draft minutes shall be mailed to each member of the Committee.

For purposes of creating and maintaining a record of the proceedings of Closed Sessions, the Commission shall designate a clerk, officer, or employee to attend Closed Sessions to keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book is not a public record subject to inspection and shall be kept confidential.

*Reference: California Code of Regulations §8011 - §8012; Government Code §11125.5 and §11126.1*

## **10. Officers of the Commission**

### **10.1 Designation**

The Officers of the Commission shall be the Chair and Vice Chair.

### **10.2 Election and Removal of Officers**

The Commission shall elect all Officers.

- The Chair and Vice Chair shall be elected no later than the February meeting of the Commission and will assume office on March 1.
- The Chair shall not be elected for more than two consecutive years.
- The election and removal of all Officers of the Commission shall be by the affirmative vote of a majority of the members of the Commission, regardless of vacancies (minimum six Commissioners).

*Reference: California Code of Regulations §8007 - §8008, Government Code §14505*

### **10.3 Absence of Chair and Vice Chair**

In the event of the absence of both the Chair and the Vice Chair from any meeting, the members of the Commission present shall elect a Chair from their number to preside at that meeting.

*Reference: California Code of Regulations §8009*

### **10.4 Chair and Vice Chair Vacancy**

When a vacancy occurs unexpectedly in the office of Chair or Vice Chair, and prior to the expiration of the incumbent's term, the position of Chair or Vice Chair must be filled by the Commission.

- The election to fill a vacancy in the position of Chair or Vice Chair that occurs before the expiration of the term of office must be placed on the agenda for the next Commission meeting following the occurrence of the vacancy.
- Putting the matter on the meeting agenda does not compel the Commission to conduct an election at that meeting. There may be circumstances when the public interest is better served by postponing an election. If the Commission deems it in the public interest to postpone the election, it may. Only the Commission acting at a meeting can decide whether to postpone the election.

*Reference: Government Code §1774 and §14503*

### **10.5 Executive Director as Staff Officer**

The Commission shall appoint an Executive Director who shall serve at the pleasure of the Commission and who shall administer the affairs of the Commission, as directed by the Commission, and who shall appoint, with the approval of the Commission, and direct such staff as necessary to carry out the duties and responsibilities of the Commission. The Executive Director

shall receive a salary within the range established by the Director of Finance for exempt officials. Salaries above this range are subject to approval by the Governor's Office.

*Reference: Government Code §14510*

## **11. Duties and Responsibilities of Officers of the Commission**

### **11.1 Chair**

- The Chair of the Commission shall preside at meetings of the Commission.
  - Opens the meeting and calls the members to order
  - Announces agenda items before the Commission and calls the presenter(s) to come forward
  - Opens agenda item for questions/discussion by Commission members and calls on each Commission member wishing to speak on the agenda item
  - Calls forward individuals who completed a speaker's card for the agenda item
  - Asks for a motion by the Commission members
  - Asks for second by the Commission members
  - States the motion that was made and identify the Commission member who made the motion, identify the Commission member who seconded the motion
  - Calls for the vote
  - Announces the result of the vote
- The Chair, after consulting with other members of the Commission, shall appoint members to Standing Committees and Special Committees, and Liaisons to various Task Forces.

*Reference: Government Code §14505 and §14506.5*

### **11.2 Vice Chair**

In case of the absence of the Chair from any meeting of the Commission or in case of the inability of the Chair to act, the Vice Chair shall perform the duties and acts authorized or required by said Chair to be performed, as long as the inability of the Chair to act may continue.

### **11.3 Chair Pro Tempore**

Occasionally, neither the Chair nor Vice Chair is available to run all or part of a meeting, e.g., both officers may be absent, need to leave the room, or are disqualified from discussion and action on an item due to a conflict of interest. When such an event occurs, the Commission shall elect for that meeting a Chair Pro Tempore and may authorize such Chair Pro Tempore to perform the duties and acts authorized or required by the Chair and Vice Chair to be performed.

### **11.4 Executive Director and Staffing**

- The Executive Director of the Commission shall administer the affairs of the Commission as directed by the Commission and shall direct the staff of the Commission.
- The Executive Director shall be the lead representative of the Commission in meetings with representatives of the Legislature and the Administration.

- The Executive Director may appoint staff.
- The Executive Director may request Caltrans to perform such work on behalf of the Commission as deemed necessary to carry out its duties and responsibilities. The Executive Director shall consider the expertise and resources available in Caltrans for the purpose of carrying out its duties and responsibilities. This does not preclude the Commission from utilizing the services of other agencies, public or private.
- The Executive Director shall give notice of all meetings of the Commission and of all meetings of Committees; shall record and keep the minutes of the proceedings of the Commission and of the proceedings of all Committees; and shall assist the Chair and Vice Chair of the Commission in providing administrative support to the Commission and its Committees.
- The Executive Director shall be the custodian of all official records of the Commission, including the minutes of all meetings and papers of the Commission.
- The Executive Director may certify to any action of the Commission or its Committees, to the identity, appointment, and authority of Officers of the Commission, and to the provisions of the Commission's operating procedures.
- The Executive Director shall execute or attest to all documents that have been executed by the Chair, the Vice Chair, or staff of the Commission.
- The Executive Director shall be custodian of the seal of the Commission and shall affix it to documents executed on behalf of the Commission and to certifications as required.
- The Executive Director may designate other employees of the Commission to function as custodian or to execute or attest to all such documents in those instances when the Executive Director is unavailable and would pose a significant hardship.
- The Executive Director may consult with the Chair and the Vice Chair, when warranted and when a meeting of the full Commission is not practical, to address matters related to the Commission office, the Commission's operating budget and Commission support, as well as other matters as appropriate.
- The Executive Director acts as liaison between the Commission and the Legislature and its staff, interpreting actions taken by the Commission and reporting to the Commission on areas of concern to the Legislature.
- The Executive Director serves as a member of the Toll Bridge Program Oversight Committee.
- The Executive Director serves as a member of the California Transportation Financing Authority.

*Reference: Government Code §14511, §14512 and §64100; Streets & Highways §30952.1*

### **11.5 Special Authority of Officers**

The Officers of the Commission shall have such powers and shall perform such duties in addition to those in these operating procedures set forth as may be delegated to them by the Commission.

## 12. Miscellaneous Provisions

### 12.1 General Counsel

The Commission may employ its own legal staff or contract with other state agencies for legal services, or both.

The Commission currently employs an in-house General Counsel who is generally in charge of responding to and advising on all legal matters pertaining to the Commission. The General Counsel is responsible for, among other things, advising Commissioners and staff regarding all relevant legal matters and supporting the legal inquiries and meeting activities of the Commission. The Commission may also seek assistance from the Deputy Attorney General from the California Department of Justice, Office of the Attorney General. In some instances, the in-house General Counsel will serve as the conduit between the Commission and the Attorney General. In situations where, legal counsel would have a conflict of interest, or where legal expertise outside the practice experience of the legal counsel is imperative, the Commission may contract with outside legal counsel.

- Informal Opinions – The Commission or Executive Director may ask legal counsel to provide an opinion regarding a Commission matter. The legal counsel may provide informal opinions verbally or in writing.
- Formal Opinions – Formal opinions are initiated by a written request from the Executive Director on behalf of the Commission. Legal counsel generally writes formal opinions for the Commission at the Commission’s direction when an issue involves the following:
  - Interpretation of a new or existing law.
  - Apply an existing rule to a set of facts significantly different from those found in previously published formal opinions.
  - Modification of an existing interpretation.
  - Resolve or reconcile an area of confusion or apparent conflict.
- Litigation – The Commission’s legal counsel represents the Commission in all legal actions brought against the Commission, unless there is a conflict of interest, or potential conflict of interest, in which case the Commission may contract with outside legal counsel. The Commission’s legal counsel may also represent the Commission in legal actions the Commission files in the performance of its official duties.

*Reference: Government Code §14513*

## 13. Amendments

### 13.1 Procedure

These operating procedures may be amended at any regular meeting of the Commission by the affirmative vote of not less than a majority of the membership of the Commission, without regard to vacancies, provided that notice of any proposed amendment, including a draft, shall have been given at the regular meeting of the Commission.





## OFFICE OF THE GOVERNOR

### **Incompatible Activities Statement**

California Government Code section 19990 prohibits state officers and employees from engaging in certain activities that are determined by their appointing power to be inconsistent, incompatible, in conflict with or inimical to their duties as state officers or employees. No employment, activity, or enterprise shall be engaged in by any gubernatorial appointee that might result in, or create the appearance of resulting in, any of the following:

1. Using the prestige or influence of a State office for the appointee's private gain or advantage, or the private gain or advantage of another.
2. Using state time, facilities, equipment, or supplies for the appointee's private gain or advantage, or the private gain or advantage of another.
3. Using confidential information acquired by virtue of State involvement for the appointee's private gain or advantage, or the private gain or advantage of another.
4. Receiving or accepting money or any other consideration from anyone other than the State for the performance of an act which the appointee would be required or expected to render in the regular course of his or her duties.
5. Performance of an act in other than his or her capacity as an appointee and officer of the State knowing that such an act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by such appointee. This prohibition does not prohibit an "industry" member of a board or commission, (e.g. a barber who is a member of the state Board of Barber Examiners) from performing the normal functions of his or her occupation.
6. Receiving or accepting, directly or indirectly, any gifts, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value, from anyone who is doing or is seeking to do business of any kind with the State or whose activities are regulated or controlled in any way by the State, under circumstances from which it reasonably could be inferred that the gift was intended to influence the appointee in his or her official duties or was intended as a reward for any official action on his or her part.
7. Not devoting his or her full time, attention, and efforts to his or her State office or employment during his or her required or regular hours of duty as a State officer or employee.



Appointees of the governor who are full time employees of the State of California shall not serve on a local appointed or elected governmental board, commission, committee, or other body or as a local elected official, accept or enter upon any outside employment, or undertake any volunteer activity without first receiving permission from their immediate superior or supervisor.

I have read and understand this Incompatible Activities Statement, and have received a copy. I agree to abide by the responsibilities and requirements of the Incompatible Activities Statement, and I understand that failure to comply with these requirements and responsibilities may result in disciplinary action up to and including dismissal, and/or civil or criminal prosecution in accordance with applicable laws.

\_\_\_\_\_

Employee Name

\_\_\_\_\_

Employee Signature

Date: \_\_\_\_\_

\*Filing Instructions

Each appointee must file this Incompatible Activities Statement with the (Board/Commission/Agency etc.) to which he or she is appointed. Thank you.

## CALIFORNIA TRANSPORTATION COMMISSION

### Incompatible Activities Guidelines

#### I. PURPOSE

To provide all employees and appointed Commissioners and officers of the California Transportation Commission (Commission) with a statement of those activities which are determined to be incompatible with their duties; and to maintain the outstanding record of personal integrity the employees have established in carrying out the Commission's responsibilities to the public.

#### II. POLICY OF THE STATE OF CALIFORNIA (Government Code Section 19990)

*"A state officer or employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his duties as a state officer or employee or with the duties, functions or responsibilities of his appointing power or the agency by which he is employed.*

*"Each appointing power shall determine, subject to approval of the board, those activities which, for employees under his jurisdiction, are inconsistent, incompatible or in conflict with their duties as state officers or employees. Consideration shall be given to employment, activity or enterprise which: (a) involves the use for private gain or advantage of state time, facilities, equipment and supplies: or the badge, uniform, prestige or influence of one's state office or employment or, (b) involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the State for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course of hours of his state employment or as a part of his duties as a state officer or employee or, (c) involves the performance of an act in other than his capacity as a state officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement by such officer or employee or the agency by which he is employed, or (d) involves such time demands as would render performance of his duties as a state officer or employee less efficient.*

*"Each state officer and employee shall during his hours of duty as a state officer or employee and subject to such other laws, rules or regulations as pertain thereto, devote his full time, attention and efforts to his state office or employment."*

### **III. POLICIES OF THE CALIFORNIA TRANSPORTATION COMMISSION**

#### **A. GIFTS, LOANS MEALS, LODGING, TRANSPORTATION, ENTERTAINMENT, SERVICES AND OTHER FAVORS:**

1. No Commissioner, State officer, or employee\* shall accept any gift, loan of money or equipment, meal, lodging, transportation, entertainment, service or any other favor of value from any person\*\* who is likely to benefit by some action of this Commission, provided, however, that this prohibition does not apply to reimbursement by such persons to Commissioners, State officers, or employees for actual expenses incurred, but not to exceed such limitations and maximums as may be established by the Board of Control, for participation in activities, i.e., conferences, seminars, etc., consistent with the Commissioners, State officers, or employee's official functions.
2. These favors are to be courteously refused. All gifts received are to be returned unless they are items of no real value which are mass distributed by firms. The return of these gifts can be at the expense of this Commission, and can include any insurance needed. Perishables of value should be given to a local charity and the person who sent the gift informed of the action.
3. Occasionally circumstances occur in which payment by others for a meal, lodging, transportation, or entertainment cannot be avoided without excessive rudeness. Under such circumstances, there would be no violation of this policy so long as the value involved is modest and the situation occurs infrequently.

*\*\*Commissioners” include all non ex-officio members of the Commission appointed by the Governor.*

*“State officer” includes non-civil service employees appointed by the Commission.*

*The above terms also include any attempt by an employee to circumvent any of the following policies by the use of a friend, relative, dependent, outside employment or any other alter ego in order to accomplish indirectly what the following policies prohibit. The definitions of “Commissioner”, “State officer”, and “Employee” apply throughout these Incompatible Activities Guidelines.*

*\*\* “Person” includes individuals, firms, corporations, partnerships, associations, other governmental bodies, or agents and representatives to these persons. This definition of “person” applies throughout these Incompatible Activities Guidelines.*

4. Employees are to advise their supervisors immediately of any offer of favors, through which the person offering the favor has implied an intent to influence a favorable action by the State regardless of the fact that these favors have been refused.

#### **IV. OUTSIDE EMPLOYMENT**

1. State officers and employees\*\* shall not engage in any outside employment which is clearly inconsistent, incompatible, or in conflict with their duties as State employees or to the duties, functions, or responsibilities of this Commission.

The following, while not all inclusive, have been determined as outside employment which is inconsistent, incompatible, or in conflict with an employee's duties and responsibilities in this Commission.

- (a) Engaging in outside employment which interferes with the employee's job efficiency (including, where appropriate, his ability to respond to an emergency).
- (b) Engaging in outside employment which involves any use of this Commission's time, its facilities, training materials, vehicles, equipment, supplies, telephones, addresses, records, confidential information, or travel expense.
- (c) Engaging in outside employment with a person who is doing business with this Commission or attempts to do business with this Commission or any unit or other entity of this Commission.
- (d) Engaging in outside employment involving projects which are subject to review and approval by this Commission or any unit or other entity of this Commission.

*\*\*"Outside employment" includes any form of business arrangements whereby a State officer or an employee of this Commission receives any form of compensation for services performed. This definition applies throughout these Incompatible Activities Guidelines.*

*\*\*Outside employment of Commissioners is governed by Government Code Sections 8920 and 8921.*

#### **V. POLITICAL ACTIVITIES**

##### **1. Non-partisan**

- (a) Definition: In California, a non-partisan political office would be a local government office, all levels of the judiciary, and the State Superintendent of Public Instruction.
- (b) Permitted Activities: A State officer or employee, in his capacity as a private citizen, may actively campaign in behalf of proposed legislation, initiative and referendum propositions and any other non-partisan political issue as long as such management or campaign does not interfere with his work as a State officer or employee and is not done during working hours, is not done in the Commission buildings and does not involve the Commission's equipment and supplies.

- (c) Election of Officer: A State officer or an employee may serve as an election officer or worker for the County Clerk or City Clerk's Office on their precinct boards on Election Day when this does not require time-off from the State officer or employee's normal duties. This is considered to be a non-partisan political activity.
- (d) Non-partisan Candidates: A State officer or an employee who wishes to stand for election or re-election to a non-partisan government office (e.g., city council, county board of supervisors, school boards and special districts) or who wishes to accept appointment or re-appointment to a non-partisan government office (e.g., city planning commission, county civil service commission) may do so providing that he, if an employee, has notified in advance, in writing, the Executive Director.

The State officer or employee must certify to the following in writing:

- That the non-partisan office will not be full-time and will not interfere with the State officer or employee's normal working hours.
- That the State officer or employee will not debate, vote on, or attempt to influence any matter directly involving the Commission and its programs brought before the office to which he is appointed or elected. (State officers or employees are not to use these offices as a means to influence or obtain actions favoring the Commission.)
- That the State officer or employee will not take part in forming Commission recommendations or decisions on matters which are also of direct concern to the non-partisan office he holds or for which he is standing for election. If this occurs, the State officer or employee will remove himself temporarily from the process of forming Commission recommendations or making decisions on these matters.

## 2. **Partisan (Federal Hatch Act)**

- (a) Recent Amendments: The Federal Hatch Act has recently been amended to permit federally funded State officers and employees to take an active part in partisan political management and campaigns. A State officer or employee may (1) express his or her opinions on political subjects and candidates and (2) take an active part in political management and political campaigns.
- (b) Expressing Partisan Political Views: State officers or employees subject to the Act may, as in the past, express their individual opinions on partisan political subjects and candidates. This is frequently done by these individuals wearing badges and buttons, or displaying stickers or posters on their cars or houses. (However, as a policy of this Commission, State officers or employees cannot place partisan or non-partisan election campaign material on State vehicles, offices, furniture, equipment, lands or buildings.)

- (c) Partisan Political Management: Restrictions on partisan political management were repealed by the recent Hatch Act amendment. Membership and office-holding in a political party, organization, or club is permitted. Affected State officers or employees may attend meetings, vote on candidates and issues, , and take a part in the management of the club, organization, or party. However, they may not run as candidates for any political party office in any public partisan office (e.g., county central committee, State Legislature, U. S. Congress).

Attendance at a partisan political convention and participation in the deliberations or proceedings of the convention or any of its committees are permitted activities. State officers or employees may be candidates for, or serve as delegates, alternates, or proxies at such a convention, so long as such candidacy is not sought through a public partisan election (such as a primary election). Volunteer work for a partisan candidate, campaign committee, political party, or nominating convention of a political party is permitted.

- (d) Partisan Political Campaigns: Under the amended law, a State officer or an employee in his capacity as a private citizen may:

- Campaign for a candidate in a partisan election by making speeches, writing on behalf of the candidate or soliciting voters to support or oppose a candidate;
- May attend a partisan political meeting or rally including committee meetings of partisan political organizations, and may serve on a committee that organizes or directs activities at a partisan campaign meeting or rally;
- May sign nominating petitions for candidates in a partisan election for public office, and may originate or circulate such petitions. A State officer or an employee may drive voters to the polls as a convenience to them. Previous restrictions against transporting voters to the polls as part of the effort of a candidate of a political party to win a partisan election are no longer applicable to State and local employees. (The above may not be done during working hours, may not be done in the Commission's building and may not involve the Commission's equipment and supplies.)

- (e) Contributions: State officers and employees may make a financial contribution to a political party or organization.

1. Under Federal regulations, (Title 5 CFR 151.121 a, b) a State or local officer or employee may not use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office; or directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a political party, committee, organization, agency, or person for a political purpose.
2. Under California law; Chapter 915 Political Activities of Public Employees:

3202 (b)

This chapter applies to all officers and employees of the State or local agency.

“State agency” means every State office, department, division, bureau, board, commission, superior court, court of appeal, the Supreme Court, the California State University and Colleges, the University of California, and the Legislature.

3203

Except as otherwise provided in this chapter or as necessary to meet requirements of Federal law as it pertains to a particular employee or employees, no restriction shall be placed on the political activities of any officer or employee of the State or local agency. (Ref. Sec. D2 b, c, d, e)

3204

No one who holds, or who is seeking election or appointment to, any office or employment in a State or local agency shall, directly or indirectly use, promise, threaten or attempt to use, any office, authority, or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person from securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position, within the State or local agency, upon consideration or condition that the vote or political influence or action of such person or another shall be given or used in behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration. This prohibition shall apply to urging or discouraging the individual employee’s action.

3209

Nothing in this chapter prevents an officer or employee of a State or local agency from soliciting or receiving political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of officers or employees of such State or local agency except that a State or local agency may prohibit such activities by its employees during their working hours and may prohibit or limit entry into governmental offices for such purposes during work hours. (Ref. Sec. D1 b)

**VI. ACTION REQUIRED**

Copies of these Incompatible Activities Guidelines shall be given to Commissioners, State officers and to all persons being offered employment with the Commission and made part of the initial orientation of all new employees. A copy shall be given to all current State officers and employees of the California Transportation Commission.



**VII. RESPONSIBILITY**

All supervisors shall ensure that their employees are aware of the policies in these Incompatible Activities Guidelines and shall take prompt corrective action on infractions.

**VIII. DISCIPLINARY ACTIONS**

Employees are subject to disciplinary action for violation of any of the policies contained in these Incompatible Activities Guidelines. (Refer to Sections 19570-19588 of the Government Code.)

**IX. APPEAL**

Employees have the right to file a grievance in accordance with established policy and procedure for filing grievances regarding the policies contained in these Incompatible Activities Guidelines. (Refer to State Personnel Board rule 546.1 pursuant to Government Code Section 18714.)

**X. EMPLOYEES WORKING FOR OTHERS**

Employees under the supervision/direction of another Federal, State, or local agency are subject to and shall abide by that department or agency's statement governing incompatible activities during the term of the contract or employment period. Prior to returning to the Commission, the employee will be responsible for terminating any personal business transactions that are incompatible under the regulations established by this policy.

**ADOPTED April 1981**

**INCOMPATIBLE ACTIVITIES GUIDELINES  
CERTIFICATION**

I have received and read a copy of the California Transportation Commission Incompatible Activities Guidelines.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Typed or Printed Name \_\_\_\_\_

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# Director's Policy

*Number:* DP-ETH-14-01  
*Effective Date:* March 2017  
*Supersedes:* Memorandum dated  
April 2016

**TITLE** Ethics

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## ***POLICY***

The California Transportation Commission (Commission) employees demonstrate the highest standards of personal integrity, truthfulness, and honesty; inspire public confidence and trust in State government; and recognize that personal gains from public service are limited to respect, recognition, salary, and normal employee benefits.

Ethical conduct is an organizational, as well as an individual, responsibility. Decisions are made in the best interest of the organization with the overall public interest in mind. Special care is taken to establish and maintain professional relationships with fellow employees, consultants, contractors, lobbyists, elected officials, and other internal and external partners.

## ***INTENDED RESULTS***

The intent of this policy is to ensure that sound ethical practices and policies are followed in the organization and that the organizational climate promotes ethical conduct and inhibits the opportunity for unethical conduct.

## ***RESPONSIBILITIES***

### Managers and Supervisors:

- Exemplify ethical standards in the workplace.
- Ensure that their subordinates are informed of and comply with Commission policies regarding ethical conduct.
- Establish an ethical climate in their work unit including controls and procedures that eliminate or reduce the opportunity for unethical conduct.
- Take prompt corrective and/or disciplinary action as the situation warrants including informal reprimand, removal from office, or termination of employment.

### All Employees:

- Perform their duties and responsibilities with honesty, objectivity and integrity.
- Treat their jobs as a public trust. The authority, resources, and the decisions made are in the public's interest. Actions are not taken for personal benefit or interest.
- Make independent, objective decisions based on merit and avoid actual, potential and apparent conflicts of interest and improper influences.

- Ensure that the public has an opportunity to openly participate in important decisions and receives appropriate feedback regarding the Commission's policies, programs, and activities.
- Set a positive example of public service and good citizenship by following both the letter and the spirit of all laws, rules, and policies applicable to State government.

***APPLICABILITY***

This policy applies to all who work for the Commission in any capacity.

Susan Bransen  
SUSAN BRANSEN  
Executive Director

3/9/17  
Date Signed

**Acknowledgement**

I have read and fully understand the Commission's Ethics Policy.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date Signed

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## **Director's Policy**

*Number:* DP-CI-19-02  
*Effective Date:* July 2018  
*Supersedes:* Memorandum Dated  
March 2017

**TITLE** Conflict of Interest

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### ***POLICY***

#### **Purpose:**

The purpose of the California Transportation Commission's (Commission's) Conflict of Interest Policy is to ensure that the Commission employees comply with all applicable conflict of interest codes applicable to government employees. This policy is intended to ensure that sound ethical practices and policies are followed and that the climate of the Commission promotes ethical conduct and inhibits the opportunity for unethical conduct.\*

\*Note: This policy is intended to provide a general conflict of interest policy for all Commission employees in addition to the requirements of the Political Reform Act. The Commission's compliance with the Political Reform Act set forth in Government Code Sections 81000 et seq. as administered by the Fair Political Practices Commission is documented in CTC Resolution #G-91-3.

#### **General Policy:**

It is the policy of the Commission that Commission employees do not willfully engage in any employment or activities that are illegal, that are or give the appearance of being incompatible or in conflict with their duties as State employees, that discredit their profession, the Commission or the State, or that have an adverse effect on the confidence of the public in the integrity of government. Violation of this policy may subject an employee to disciplinary action up to and including dismissal.

All Commission employees are to demonstrate the highest standards of personal integrity, truthfulness, and honesty; inspire public confidence and trust in State government; and recognize that personal gains from public service are limited to respect, recognition, salary, and normal employee benefits.

Ethical conduct is an organizational, as well as an individual, responsibility. Decisions are to be made in the best interest of the organization with the overall public interest in mind. Special care is to be taken to establish and maintain professional relationships with fellow employees, consultants, contractors, lobbyists, elected officials, and other internal and external partners.

### ***CONFLICT OF INTEREST LAWS & REGULATIONS***

- Government Code Section 1090, et seq.
- Government Code Section 87100, et seq.
- Government Code Section 81000, et seq.

- Government Code Section 19990, et seq., covered under the separate "Statement of Incompatible Activities."

### ***DEFINITION/BACKGROUND***

Conflict of Interest is a situation in which any official action taken by an employee is, may be, or appears to be influenced by considerations of personal financial gain rather than the general public good. (Reference: Political Reform Act of 1974, as amended)

Employees are all persons who work for the Commission including: civil service, temporary, emergency, limited-term, seasonal, exempt, retired annuitant, special employment, and personal services contract employees.

### ***RESPONSIBILITIES***

#### Executive Director:

- Ensures that employees are informed of this policy and apply in daily activities the Federal and State laws, regulations, and policies regarding conflict of interest and incompatible activities.
- Ensures that those conditions or barriers, which may create conflict of interest or result in incompatible activities, are eliminated or mitigated.
- Ensures compliance or that appropriate disciplinary actions are taken.

#### Administrative Officer:

- Ensures that the Conflict of Interest Policy is updated based on new legislation.

#### Employees:

- Perform their duties and responsibilities honestly, objectively, and free of conflicting activities.
- Use State resources, information, and their position only for the work of the Commission and not for private gain or use for self or others.
- Comply truthfully and knowledgeably with Commission policy and Federal and State laws and regulations when making decisions and arrangements and completing documents regarding:
  - Gifts, meals, lodging, entertainment, and services
  - Release of information
  - Real estate activities, loans, financial interest, and investments
  - Personal, political, and business associations
  - Relationships, involvement, and interests
  - Purchases of materials and services
  - Outside employment
- Immediately inform the Executive Director of any offer(s) of gift(s), of favor or compensation through which the person offering the gift(s), favor or compensation has

expressed or implied intent to influence a favorable action by the State, regardless of the fact that the gift(s), favor or compensation has been refused.

- Perform their duties and responsibilities with honesty, objectivity and integrity.
- Treat their jobs as a public trust.
- Ensure that the authority, resources, and decisions made are in the public's interest and that actions are not taken for personal benefit or interest.
- Make independent, objective decisions based on merit and avoid actual, potential and apparent conflicts of interest and improper influences.
- Ensure that the public has an opportunity to openly participate in important decisions and receives appropriate feedback regarding the Commission's policies, programs, and activities.
- Set a positive example of public service and good citizenship by following both the letter and the spirit of all laws, rules, and policies applicable to State government.

**APPLICABILITY**

This Policy applies to all who work for the Commission in any capacity. Where employees are unsure if a conflict may exist, employees should seek a determination from the Executive Director.



SUSAN BRANSEN  
Executive Director



Date Signed

**Acknowledgement**

I have read and fully understand the Commission's Conflicts of Interest Policy.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date Signed

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# ***Statement of Incompatible Activities***

*Number:* DP-IA-19-01

*Effective Date:* May 21, 2018

*Supersedes:*

Incompatible Activities Guidelines  
adopted April 1981

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APPROVED BY THE DEPARTMENT OF HUMAN RESOURCES ON MAY 21, 2018

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## **1. Definitions.**

For purposes of this Statement of Incompatible Activities, the following definitions apply:

(a) "Commission" means the California Transportation Commission.

(b) "Employee" means any person employed by the California Transportation Commission as a member of the Commission's staff, including those members of the staff who are deemed to be "state officers," and shall also include other state employees assigned to assist the Commission within the meaning of Government Code section 14512.

(c) "Appointing power" or "appointing authority" means, in the case of the Executive Director, the Commission, and in the case of all other members of the Commission's staff, the Executive Director.

## **2. Enumeration of Incompatible, inconsistent, conflicting, and inimical activities.**

An employee of the Commission shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as an employee of the Commission. Activities and enterprises deemed to fall in these categories include, but are not limited to, all of the following:

(a) Using the prestige or influence of the state or the Commission for the employee's private gain or advantage or the private gain of another.

(b) Using state time, facilities, equipment, or supplies for private gain or advantage.

(c) Using, or having access to, confidential information available by virtue of state employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized.

(d) Receiving or accepting money or any other consideration from anyone other than the state for the performance of his or her duties as a state officer or employee.

(e) Performance of an act in other than his or her capacity as an employee knowing that the act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by the employee.

(f) Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the Commission or whose activities are regulated or

controlled by the Commission under circumstances from which it reasonably could be substantiated that the gift was intended to influence the employee in his or her official duties or was intended as a reward for any official actions performed by the employee.

(g) Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her hours of duty as an employee.

(h) Knowingly altering, falsifying, or omitting significant portions of information, records, measurements or calculations.

(i) Engaging in outside employment or activities involving projects or decisions which at any time are subject to review, control, input, influence, audit, or approval by the individual employee.

(j) Soliciting, accepting, receiving, or passing on any consideration from anyone who is doing or seeking to do business of any kind with the Commission in which acceptance may result in or give the appearance of:

- Compensation for duties performed as a State employee.
- Giving preferential treatment to any person or entity.
- Loss of independence, impartiality, objectivity, or professional judgment.
- Making a governmental decision outside of official channels.

(k) Having a financial interest in any contract made by them in their official capacity, or by the Commission. Employees shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity.

(l) Making or participating in the making or in any way attempting to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest.

(m) Participating as a member of or advisor to an entity that seeks or obtains funding from the Commission, outside of the scope of his or her employment with the Commission.

(n) Attempting to circumvent this policy by using a friend, relative, dependent, outside employment, or any other alter ego in order to accomplish, indirectly, that which this policy prohibits.

### **3. Activities Deemed by Statute Not To Be Incompatible.**

Activities deemed not to be incompatible pursuant to Government Code sections 19990.5 and 19990.6 are not prohibited by this statement.

### **4. Other Provisions of Law and Regulation Are Not Affected by This Statement.**

This Statement of Incompatible Activities does not supersede or replace other applicable provisions of law or regulation, including, for example, California Public Contract Code, sections 10410 et seq., the



Political Reform Act (Government Code sections 81000 et seq.), or the regulations of the Fair Political Practices Commission (2 CCR 18109-18997). See “Director’s Policy on ‘Conflict of Interest’.”

**5. Appeals and Requests for Determination.**

(a) If the appointing power determines that an activity in which an employee is engaged falls within any of the provisions of paragraph 2, above, the appointing power shall give written notice of that determination to the employee. The determination shall identify the activity and the provisions of this statement which apply to that activity.

(b) The employee may appeal the determination. The appeal, which shall be in writing, shall be submitted to the appointing power within 5 working days of delivery of the notice of the determination to the employee. The appointing power shall decide the appeal within a reasonable period of time but in any event within 30 days of the submission of the appeal.

(c) In addition, any employee may initiate a request for a determination of the application of this statement of incompatible activities to him or to her, or to any activity in which he or she seeks to engage or is engaging. The request, which shall be in writing, shall (a) describe the activity, (b) identify the provision of this statement which affects or may affect that activity, and (c) explain why the provision should not or does not apply to the activity. The request shall be submitted to the appointing power. The request should be made as soon as it appears there may be an issue as to the activity or proposed activity. The appointing power shall respond to the request within a reasonable period of time but in any event within 30 days of the submission of the appeal. The response shall be in writing. In the event the appointing power determines that the activity or proposed activity violates or would violate the provisions of this statement, the response shall be deemed to be a notice of determination within the meaning of subparagraph (a), above, and the employee may appeal the determination following the procedure set forth in subparagraphs (a) and (b), above.

(d) In the case of an appeal by an employee whose appointing power is the Executive Director, the Executive Director may designate another member of the Commission’s staff to make the final review and determination of any appeal brought pursuant to subparagraphs (a) and (b), above, or to make a response to a request for determination as provided in subparagraph (c), above, or may designate another member of the Commission’s staff to undertake a review and analysis of the appeal or request and submit to the Executive Director a recommendation as to the appropriate determination of the appeal or response to the request.

**Acknowledgement**

I have read and fully understand the Commission’s Statement of Incompatible Activities.

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Employee Signature

Date Signed

**CALIFORNIA TRANSPORTATION COMMISSION  
CONFLICT OF INTEREST CODE**

The Political Reform Act, (Government Code Sections 81000, et seq.), requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730), which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices designating positions and establishing disclosure categories shall constitute the conflict of interest code of the **California Transportation Commission (Commission)**.

Individuals holding designated positions shall file their statements of economic interests with the **Commission**, which will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) Upon receipt of the statements of the Commissioners and the Executive Director, the **Commission** shall make and retain copies and forward the original statements to the **Fair Political Practices Commission**. All other statements will be retained by the **Commission**.

NOTE: Authority cited: Sections 81008, 87300, 87306, Government Code. Reference: Section 87302, Government Code.

**APPENDIX A**  
**DESIGNATED POSITIONS**

<b>Designated Positions</b>	<b>Assigned Disclosure Categories</b>
Commissioners	1
Executive Director	1
Legal Counsel	1
Chief Deputy Director	1
Assistant Executive Director	1
Principal Transportation Engineer	1
Member, Technical Advisory Committee on Aeronautics	4
Staff Services Manager (Administrative Officer)	2, 3
Supervising Transportation Planner	2, 3
Supervising Transportation Engineer	2, 3
Consultants/New Positions	*

\* Consultants and new positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code (i.e., Category 1), subject to the following limitation:

The Executive Director may determine in writing that a particular consultant or new position, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's or new position's duties and, based on that description, a statement of the extent of the disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code. (Gov. Code Sec. 81008.)

**APPENDIX B**  
**DISCLOSURE CATEGORIES**

**Category 1**

Designated positions assigned to this category must report:

All sources of income, including receipt of gifts, loans, and travel payments, interests in real property, and investments and business positions in business entities.

**Category 2**

Designated positions assigned to this category must report:

Business positions, investments in business entities, or income, including receipt of gifts, loans, and travel payments, from sources which manufacture or sell supplies, machinery, equipment, or services of the type utilized by the Commission.

**Category 3**

Designated positions assigned to this category must report:

Business positions, investments in business entities, or income, including receipt of gifts, loans, and travel payments, from sources that are contractors engaged in the performance of work or services of the type funded by the Commission.

**Category 4**

Designated positions assigned to this category must report:

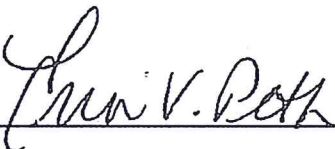
1. Business positions, investments in business entities, or income, including receipt of gifts, loans, and travel payments, from sources that are engaged in the performance of work or services involving aviation, package delivery, aviation fuel, aviation maintenance or repair, pilot training, sales and purchases of aircraft, and ground transportation to and from airports, and from sources that own interests in real property located within airports, and from sources conducting business within airports,
2. Interests in real property located within an airport or within one and one half miles of the boundary of an airport,
3. Income, including rental income, from sources renting an interest in real property located within an airport or within one and one half miles of the boundary of an airport.

This is the last page of the conflict-of-interest code for the **California Transportation Commission**.



**CERTIFICATION OF FPPC APPROVAL**

Pursuant to Government Code Section 87303, the conflict-of-interest code for the **California Transportation Commission** was approved on April 24, 2015.

  
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Erin V. Peth

Executive Director

Fair Political Practices Commission

Pursuant to Government Code Section 11346.2:

Secretary of State Filing Date:

Effective:



## Government Code Sections 8920-8921 (Ethics)

### **8920.**

(a) A Member of the Legislature, state elective or appointive officer, or judge or justice shall not, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his responsibilities as prescribed in the laws of this state.

(b) A Member of the Legislature shall not do any of the following:

(1) Accept other employment that he or she has reason to believe will either impair his or her independence of judgment as to his or her official duties or require him or her, or induce him or her, to disclose confidential information acquired by him or her in the course of and by reason of his or her official duties.

(2) Willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him or her in the course of and by reason of his or her official duties or use any such information for the purpose of pecuniary gain.

(3) Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of monetary value, or portion thereof, in consideration of his or her appearing, agreeing to appear, or taking any other action on behalf of another person before any state board or agency.

This subdivision shall not be construed to prohibit a member who is an attorney at law from practicing in that capacity before any court or before the Workers' Compensation Appeals Board and receiving compensation therefor. This subdivision does not prohibit a member from acting as an advocate without compensation or making inquiry for information on behalf of a constituent before a state board or agency, or from engaging in activities on behalf of another which require purely ministerial acts by the board or agency and which in no way require the board or agency to exercise any discretion, or from engaging in activities involving a board or agency which are strictly on his or her own behalf. The prohibition contained in this subdivision does not apply to a partnership or firm of which the Member of the Legislature is a member if the Member of the Legislature does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from the transaction. The prohibition contained in this subdivision as it read immediately prior to January 1, 1983, does not apply in connection with any matter pending before any state board or agency on or before January 2, 1967, if the affected Member of the Legislature was an attorney of record or representative in the matter prior to January 2, 1967. The prohibition contained in this subdivision, as amended and operative on January 1, 1983, does not apply to any activity of any Member in connection with a matter pending before any state board or agency on January 1, 1983, which was not prohibited by this section prior to that date, if the affected Member of the Legislature was an attorney of record or representative in the matter prior to January 1, 1983.

(4) Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance or other matter related to the legislative process, except fees for speeches or published works on legislative subjects and except, in connection therewith, reimbursement of expenses for actual expenditures for travel and reasonable subsistence for which payment or reimbursement is not made by the State of California.

(5) Participate, by voting or any other action, on the floor of either house, in committee, or elsewhere, in the passage or defeat of legislation in which he or she has a personal interest, except as follows:

(A) If, on the vote for final passage by the house of which he or she is a member, of the legislation in which he or she has a personal interest, he or she first files a statement, which shall be entered verbatim on the journal, stating in substance that he or she has a personal interest in the legislation to be voted on and, notwithstanding that interest, he or she is able to cast a fair and objective vote on that legislation, he or she may cast his or her vote without violating any provision of this article.

(B) If the member believes that, because of his or her personal interest, he or she should abstain from participating in the vote on the legislation, he or she shall so advise the presiding officer before the commencement of the vote and shall be excused from voting on the legislation without any entry on the journal of the fact of his or her personal interest. If a rule of the house requiring that each member who is present vote aye or nay is invoked, the presiding officer shall order the member excused from compliance and shall order entered on the journal a simple statement that the member was excused from voting on the legislation pursuant to law.

(C) This section does not apply to persons who are members of the state civil service as described in Article VII of the California Constitution.

*(Amended by Stats. 2017, Ch. 561, Sec. 73. (AB 1516) Effective January 1, 2018.)*

## **8921.**

A person subject to this article has an interest that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this article, if he or she has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity. He or she does not have an interest that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this article, if any benefit or detriment accrues to him or her as a member of a business, profession, occupation, or group to no greater extent than any other member of that business, profession, occupation, or group.

*(Amended by Stats. 2017, Ch. 561, Sec. 74. (AB 1516) Effective January 1, 2018.)*