

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
POTENTIAL CONFLICT OF INTEREST FROM
REVISIONS OF THE BUSINESS TAX CODE

The January 14, 1987 meeting of the Committee on Rules, Legislation and Intergovernmental Relations considered and forwarded to the Council proposed business tax code revisions. These revisions change the code by making changes in the tax period, time of payment, late penalties and by increasing the basic tax amount from \$25 plus \$2 per employee per year to \$30 plus \$2 per employee per year. Since several councilmembers possess business licenses, we have been asked whether participating in these changes pose a conflict of interest.

The Political Reform Act (California Government Code section 81000 et seq.) prohibits a public official from making or participating in making a governmental decision in which he or she knows or has reason to believe he or she has a financial interest. California Government Code section 87100. A person has a financial interest within the meaning of Section 87100, if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on

....

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of

business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

....

California Government Code section 87103.

While we cannot conceive of the listed regulatory changes

impacting the financial thresholds at these amounts, we need not address the impact issue since any change in the business tax sections will not affect the interests of councilmembers holding business licenses in any manner distinguishable from its effect on a significant segment of the public generally -- i.e. all members of the public who hold business licenses.

The Fair Political Practices Commission has further defined significant segment of the public to be:

18703. Effect on the Public Generally.

A material financial effect of a governmental decision on an official's interests, as described in Government Code Section 87103, is distinguishable from its effect on the public generally unless the decision will affect the official's interest in substantially the same manner as it will affect all members of the public or a significant segment of the public

2 Cal. Admin. Code 18703

With the substantial number of individuals holding business licenses (some 58,600 per the Treasurer's office) and with the amendments affecting each holder in the exact same fashion, we have no hesitancy in saying that no conflict of interest arises from and no prohibition exists in councilmembers, as business licensees, reviewing and revising business licensing provisions.

Respectfully submitted,

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