

New Political Reform Act Requirement – “Leave the Room If You Have A Conflict”

By Jesse F. Lodomirak and Ray E. McDevitt

The Political Reform Act of 1974 prohibits public officials from making, participating in making, or attempting to use their official position to influence a governmental decision in which they have reason to know they have a “financial interest.”

The legislature recently added a new section to the Political Reform Act. This new section, now 87105 of the Government Code, requires a public official who has a financial interest in a decision to 1) publicly identify the financial interest giving rise to the conflict; 2) recuse himself or herself from discussing and voting on the matter; and 3) leave the room until after the discussion, vote, and other disposition of the matter is concluded, unless the item is on the consent calendar.

The full text of the new Government Code section is as follows:

“(a) A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of inter-

est and immediately prior to the consideration of the matter, do all of the following:

- (1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.
- (2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of 87100.
- (3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.”

The new law does provide one exception to requirement (3), above – a public official is allowed to speak on the issue during the time that the general public speaks on the issue.

This new law becomes effective January 1st, 2003. Violation of section 87105, like violations of other sections of the Political Reform Act, is punishable by civil and/or criminal penalties. Please do not hesitate to contact one of us if you have any questions.

If you have any questions about the subject of this newsletter or other public agency matters please contact Ray McDevitt (415-995-5010), Jesse Lodomirak (415-995-5089), or any of the other lawyers in Hanson Bridgett’s Public Agency Section.



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