

Background

Under the Political Reform Act, each California state agency is required to adopt a Conflict of Interest Code, which consists of the regulations that delineate the required disclosure of financial interests for each designated officer or employee of the agency. (See Government Code section 87302.) In 2006 the Board adopted the conflict of interest code for the Sierra Nevada Conservancy (Conservancy), and it became effective after approval by the Fair Political Practices Commission (FPPC) and the Office of Administrative Law (OAL), and submission to the Secretary of State. The Conservancy has grown since the initial code was adopted, and staff is proposing amendments to the Conservancy's conflict of interest code (1) to be consistent with changes in staffing and reflect titles used for staff positions, so that the code will be more understandable for the public; and (2) to reflect the Conservancy's grant issuing functions in disclosure categories.

Current Status

Staff has prepared proposed amendments to the conflict of interest code, a notice of the proposed rulemaking action, and an initial statement of reasons for the proposed amendments to the conflict of interest code of the Conservancy, and has initiated the rulemaking process with the FPPC and the OAL. See attached documents. This Board meeting provides an opportunity for public comment on the proposed amendments, and the public comment period will run until January 12, 2009.

Next Steps

After the close of the comment period, the proposed regulation language will be ready for approval by the Conservancy, followed by submission to the FPPC and the OAL. If no or few comments are received, only minor amendments may be needed, if any. In that case, if authority were delegated to the Executive Officer to make minor changes and to complete the process, then the code amendments could be completed before the next cycle for filing statements of economic disclosure (form 700).

Recommendation

Staff recommends that the Conservancy adopt the following resolution pursuant to Public Resources Code section 33300 et seq., including section 33325:
“The Sierra Nevada Conservancy has reviewed and considered the proposed amendments to its conflict of interest code, and hereby delegates authority to the Executive Officer and authorizes the Executive Officer to approve and adopt amendments to the conflict of interest code for the Sierra Nevada Conservancy in substantially the form proposed, including any necessary minor technical changes, and directs the Executive Officer to take the necessary actions to

complete the rulemaking process, including filing documents as necessary with the Fair Political Practices Commission and the Office of Administrative Law. Should substantive changes to the proposed amendments be recommended, the Executive Officer shall present the revised package to the Board for approval.”

INITIAL STATEMENT OF REASONS FOR THE PROPOSED AMENDMENTS TO THE CONFLICT OF INTEREST CODE FOR THE SIERRA NEVADA CONSERVANCY

The Sierra Nevada Conservancy Act (Public Resources Code, section 33300 et seq.) provides for the creation of the Sierra Nevada Conservancy (“Conservancy”). The Conservancy is charged to carry out projects and activities, including awarding grants to public agencies and nonprofit organizations, in the Sierra Nevada Region to further the purposes enumerated in the Sierra Nevada Conservancy Act, including the following: to protect, conserve and restore the Region’s physical, cultural, archaeological, historical, and living resources; to provide increased opportunities for tourism and recreation; to aid in the preservation of working landscapes, to reduce the risk of natural disasters, such as wildfires; and to protect and improve water and air quality.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE PROPOSED REGULATION IS INTENDED TO ADDRESS

The regulatory changes proposed by the Conservancy would amend the Conservancy’s conflict of interest code which provides for disclosure of economic interests by Conservancy board members and staff and consultants in order to comply with the requirement of the Political Reform Act. (Govt. Code, section 81000 et seq., in particular section 87300.) The amendments would update the designated employees to conform to the current titles and positions used by the Conservancy and would include disclosures of income from, or investments and business positions with non-profit entities of the type to receive grants from the Conservancy.

SPECIFIC PURPOSE AND NECESSITY OF THE PROPOSED REGULATION

For board members and staff of the Conservancy, the conflict of interest regulations make specific the disclosure requirements to be met in filing statements of economic interests, and the requirements for disqualification from making or participating in Conservancy decisions. Government Code section 87302(a) requires each agency’s Conflict of Interest Code to contain a specific enumeration of the positions within the agency which involve the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, and for each such enumerated position, the specific types of investments, business positions, interests in real property and sources of income which are reportable.

The Conservancy’s staff has grown and changed since the initial adoption of the conflict of interest code. The proposed amendments to the Conflict of Interest Code revise the titles listed for staff positions required to file statements of economic interest to reflect the actual titles and positions at the Conservancy that participate in decision-making so as to be subject to economic interest disclosure requirements. The amendments would also change the interests to be disclosed listed in Category A of the conflict of interest code to reflect needed disclosures related to the Conservancy’s grant program, which has commenced operation since the initial adoption of the Conservancy’s conflict of interest code.

Government Code section 87302 sets forth the required provisions of a Conflict of Interest Code. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs., sections 18730) which contains the terms of a standard conflict of interest code, and which can be incorporated by reference in an agency's code. The Conservancy's code incorporates by reference the terms of 2 California Code of Regulations Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission. This portion of the code would not be changed.

The Conservancy's conflict of interest code designates the positions listed below because they involve the making or participation in the making of decisions which may foreseeably have a material effect on a financial interest, and the proposed amendments bringing the staff designations up to date are listed below in underlined format, with the current language shown in strike-out format. Following each position is the disclosure category which reflects the types of financial interests that are reportable because they could foreseeably be materially affected by a decision that the employee in that designated position may make or may participate in making. Category A reflects in underlined text the new language that would be added by these amendments regarding non-profit entities of the type that may receive grants from the Conservancy.

Appendix

Designated Employees	Disclosure Categories
Board Members and Alternates	A, B
Executive Officer	A, B
Assistant Executive Officer (CEA)	A, B
Staff Counsel	A, B
Staff Services Manager II	A, B
Tahoe Conservancy Program Manager and Conservancy Project Development Manager	A, B
Tahoe Conservancy Program Analyst II, Conservancy Project Development Analyst II, Conservancy Project Development Specialist	A, B
Associate Governmental Program Analyst (Procurement)	A, B

Associate Governmental Program Analysis (Contracting)	A, B
Consultants and Contractors paid by the Conservancy	C

Disclosure Categories

Category A

Persons in this category must report all investments, interests in real property, income (including gifts, loans and travel payments other than travel reimbursements paid by the Conservancy), and any business position with any business entity in which the person is a director, officer, partner, trustee, employee, or holds any position of management, subject to the following limitations:

- (a) Income is reportable only if it is received from a source within the region or, if that source is doing business within the Region, planning to do business within the Region, or has done business within the region during the two-year period prior to the time any statement is required under this code.
- (b) An interest in real property is reportable only if the property, or any part of it, is located within or not more than two miles outside the boundaries of the Region.
- (c) Investments are reportable only if the business entity has an interest in real property in the region, or does business, or plans to do business, in the Region, or has done business within the Region at any time during the two-year period prior to the time any statement is required under this code.
- (d) Business entities are reportable for purposes of business position disclosure only if the business entity is doing business, or plans to do business, within the Region or has done business within the Region at any time during the two years prior to the time any statement is required under these regulations.
- (e) For purposes of the above limitations the term "Region" means the Sierra Nevada Region as described by Public Resources Code section 33302(f).

Persons in this category must also report all investments, business positions and income, including gifts, loans and travel payments, or income from a non-profit organization, if the source is in the Region, as defined in subdivision (e) above, and of the type to receive grants or other monies from or through the Conservancy.

No changes are proposed to Disclosure Categories B and C. The Conflict of Interest Code also specifies procedures for the filing and handling of the statements of economic interest, and these would not be changed by the amendments. Designated employees file their statements with the Conservancy. Original statements for the Conservancy Boardmembers and their Alternates, and for the Executive Officer, are forwarded to the Fair Political Practices Commission, while the Conservancy makes and retains a copy of each of these statements in its files.

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR SIMILAR DOCUMENTS

The Conservancy did not rely on technical, theoretical, or empirical studies, reports, or similar documents in proposing this regulation.

The proposed regulation does not mandate the use of specific technologies or equipment.

ALTERNATIVES TO THE REGULATION/SMALL BUSINESS IMPACT

The Conservancy did not identify any alternatives that would lessen any adverse impact on small business. The Conservancy has determined that the proposed amendments will not have a significant adverse economic impact on business.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

The proposed regulation does not unnecessarily duplicate or conflict with federal regulations.

NOTE:	Authority cited:	Sections 33300 and 33325(b), Public Resources Code;
		Sections 87300 and 87304 Government Code
	Reference:	Section 87300 et seq., Government Code

PROPOSED AMENDMENTS TO CONFLICT OF INTEREST CODE FOR THE
SIERRA NEVADA CONSERVANCY

Title 14 California Code of Regulations

Section 25231. Conflict of Interest Code of the Sierra Nevada Conservancy

(a) The terms of Title 2, California Administrative Code, Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby adopted and incorporated by this reference, and together with the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Sierra Nevada Conservancy.

(b) Designated employees shall file their statements with the Sierra Nevada Conservancy which will make the statements available for public inspection and reproduction. Upon receipt of the statements for Board Members, Alternates and the Executive Officer, the agency shall make and retain a copy and forward the original to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the agency.

Appendix

<i>Designated Employees</i>	<i>Disclosure Categories</i>
Board Members and Alternates	A, B
Executive Officer	A, B
Assistant Executive Officer (CEA)	A, B
Staff Counsel	A, B
Staff Services Manager II	A, B

Tahoe Conservancy Program Manager and Conservancy Project Development Manager A, B Tahoe Conservancy Program Analyst II, Conservancy Project Development Analyst II, and Conservancy Project Development Specialist	A, B
Associate Governmental Program Analyst (Procurement)	A, B
Associate Governmental Program Analysis (Contracting)	A, B
Consultants and Contractors paid by the Conservancy	C

Disclosure Categories

Category A

Persons in this category must report all investments, interests in real property, income (including gifts, loans and travel payments other than travel reimbursements paid by the Conservancy), and any business position with any business entity in which the person is a director, officer, partner, trustee, employee, or holds any position of management, subject to the following limitations:

- (a) Income is reportable only if it is received from a source within the region or, if that source is doing business within the region, planning to do business within the region, or has done business within the region during the two-year period prior to the time any statement is required under this code.
- (b) An interest in real property is reportable only if the property, or any part of it, is located within or not more than two miles outside the boundaries of the region.
- (c) Investments are reportable only if the business entity has an interest in real property in the region, or does business, or plans to do business, in the region, or has done business within the region at any time during the two-year period prior to the time any statement is required under this code.
- (d) Business entities are reportable for purposes of business position disclosure only if the business entity is doing business, or plans to do business, within the region or has done business within the region at any time during the two years prior to the time any statement is required under these regulations.
- (e) For purposes of the above limitations the term “region” means the Sierra Nevada Region as described by Public Resources Code section 33302(f).

Persons in this category must also report all investments, business positions and income, including gifts, loans and travel payments, or income from a nonprofit organization, if the source is in the region, as defined in subdivision (e) above, and of the type to receive grants or other monies from or through the Conservancy.

NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE
OF THE SIERRA NEVADA CONSERVANCY

NOTICE IS HEREBY GIVEN that the Sierra Nevada Conservancy, pursuant to the authority vested in it by section 87306 of the Government Code proposes amendments to its Conflict of Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The Sierra Nevada Conservancy proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

The amendments change the designation of employees to list current position titles for staff required to file statements of economic interest, consistent with the Conservancy's current organizational structure, revises disclosure Category A to reflect the Conservancy's grant activities, and makes other technical changes to refine disclosure requirements for consultants to the conservancy. Copies of the proposed amendments to the code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than January 12, 2009, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

The proposed amendments will be considered at a public meeting of the Sierra Nevada Conservancy on December 4, 2009. Details concerning this meeting are available on the Conservancy's Web site [www.sierranevada.ca.gov]. No further public hearing has been scheduled at this time concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than December 29, 2008, by contacting the Contact Person set forth below.

The Sierra Nevada Conservancy has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The Sierra Nevada Conservancy has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

In making these proposed amendments, the Sierra Nevada Conservancy must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

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or

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