

ISSUE SPOTTER CHECKLIST

LAW

Financial Conflict of Interest
Political Reform Act
Gov. Code, § 87100 et seq.

Financial Interests in Contracts
Gov. Code, § 1090 et seq.

GUIDEPOSTS

Is a state or local official participating in a government decision?

Does the decision affect an interest in real property or an investment of \$2,000 or more held by the official? Or a source of income to the official of \$500 or more? Or gifts to the official of \$340 or more?

If so, is there a reasonable possibility that the decision will significantly affect any of the interests involved?

Are the official's interests affected differently than those of the general public or a significant segment of the public?

If the answer to these questions is yes, the official may have a conflict of interest and be required to disqualify himself or herself from all participation in that decision. (See ch. I.)

Does a member of a board have a direct or indirect financial interest in a contract being made either by the board or by any agency under the board's jurisdiction?

If so, the member may be subject to criminal sanctions and the contract may be void and any private gain, received by the official under the contract, may have to be returned.

Has any other state or local officer or employee participated in the making of a contract in which the official had a direct or indirect financial interest?

If so, the official may be subject to criminal sanctions and the contract may be void and any private gain received by the official under the contract may have to be returned. (See ch. VI.)

Limitations on State Contracts
Pub. Contract Code, § 10410

Is a state official (other than a part-time board member) involved in an activity, employment or enterprise, some portion of which is funded by a state contract?

Is a state official, while employed by the state, contracting with a state agency to provide goods or services as an independent contractor?

If the answer to any of these questions is yes, a prohibited activity may have occurred. (See ch. VI., sec. B.)

Conflict of Interest Resulting from Campaign Contributions
Gov. Code, § 84308

Is there a proceeding involving a license, permit or entitlement for use?

Is the proceeding being conducted by a board or commission?

Were the board members appointed to office?

Has any board member received contributions of more than \$250 from the applicant or any other person who would be affected by the decision:

- during the proceeding?
- within the previous 12 months prior to the proceeding?
- within 3 months following a final decision in the proceeding?

If the answer to any of these questions is yes, the board member may have to disqualify himself or herself from participating in the decision. (See ch. III.)

Appearance of Financial Conflict of Interest
Common Law

Court-made law, based on avoiding actual impropriety or the appearance of impropriety in the conduct of government affairs, may require government officials to disqualify themselves from participating in decisions in which there is an appearance of a financial conflict of interest. (See ch. XII.)

Receipt of Direct Monetary Gain or Loss
Gov. Code, § 8920

Will an officer receive a direct monetary gain or loss as a result of official action?

If an official expects to derive a direct monetary gain or suffer a direct monetary loss by reason of his or her official activity, the officer should disqualify himself or herself from the decision.

However, a conflict does not exist if an official accrues no greater benefit or detriment as a member of a business, profession, occupation or group than any other member. (See ch. XIII.)

Public Reporting of Financial Interests

Political Reform Act
Gov. Code, §§ 87200-87313

Is the official a state or local officer or employee who participates in the making of government decisions?

If so, the official may be required to file a public report disclosing investments, real property, income and gifts. (See ch. II.)

Incompatible Activities

Gov. Code, § 1125 et seq. (local officials);
Gov. Code, § 19990 (state officials)

Is an official using his or her government position or using government information or property in an improper manner?

Has the official's agency or appointing authority adopted an incompatible activities statement?

If the activity has been prohibited by an incompatible activities statement, the official can be ordered to stop the practice and may be disciplined. (See ch. IX regarding local officials, and ch. X regarding state officials.)

Incompatible Offices
Common Law

Does a single official hold two offices simultaneously? (This common law doctrine applies only to public "officers" as opposed to "employees.")

Do the offices overlap in jurisdiction, such that the official's loyalty would be divided between the two offices?

Incompatible Offices
Common Law (continued)

If the answer to each of these questions is yes, the holding of the two offices may be incompatible and the first assumed office may have been forfeited by operation of law. (See ch. XI.)

Transportation, Gifts or Discounts
Cal. Const., art. XII, § 7

Is a state or local official, other than an employee, receiving a gift or discount in the price of transportation from a transportation company? (The prohibition covers inter and intrastate transportation in connection with both government or personal business.)

If the answer to this question is yes, the officer may have forfeited his or her office. (See ch. VIII.)

Former State Officials and Their Former Agencies
Political Reform Act
Gov. Code, §§ 87400-87405

Is a former state administrative official being compensated, by other than the State of California, to appear before any court or state administrative agency, in a judicial or quasi-judicial proceeding?

If so, did the official, while in office, participate personally and substantially in the same proceeding?

If so, the official may be prohibited from appearing in the proceeding. (See ch. IV, sec. B.)

Gov. Code, § 87406

Is a former state official receiving compensation for the purpose of communicating with a state agency within a year of his or her departure from state service? (See ch. IV, sec. C.)

Former State Officials and Their Contracts
Pub. Contract Code, § 10411

Is a former state official contracting with the former agency to provide goods and services?

If the answer to this question is yes, a prohibited activity may have occurred. (See ch. VII, sec. C.)