

## **CONFLICT OF INTEREST CODE FOR THE HUMBOLDT BAY MUNICIPAL WATER DISTRICT**

### Section 1. Introduction.

(A) Incorporation of California Fair Political Practices Regulation 18730. This Conflict of Interest Code incorporates by reference those portions of California Fair Political Practices Commission regulation No. 18730 that apply to local entities, officials and employees and any future amendments to those regulations. To the extent that other provisions of this Conflict of Interest Code are inconsistent with CA FPPC Regulation 18730, the provisions of the State regulation will control.

(B) In compliance with the Political Reform Act of 1974, California Government Code Section 81000, et seq., and specifically with Section 87300 et seq., the Humboldt Bay Municipal Water District hereby adopts this Conflict of Interest Code which shall be applicable to all designated employees of the agency. The requirements of this Code are in addition to other requirements of the Act such as the general prohibition against conflicts of interest contained in Government Code Section 87100, and to any other state or local laws pertaining to conflicts of interest.

### Section 2. Definition of Terms.

The definitions contained in the Political Reform Act of 1974, the regulations of the Fair Political Practices Commission (Regulations 18110 et seq.), and any amendments to the Act or regulations, are incorporated by reference into this Conflict of Interest Code.

### Section 3. Designated Employees.

The persons holding positions listed in Section 12 are designated employees. It has been determined that these officers and employees make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

### Section 4. Disclosure Statements.

A designated employee shall report interests in the disclosure categories set forth in Section 13. It has been determined that the financial interests set forth in a designated employee's disclosure category are the types of financial interests which he or she foreseeably can affect materially through the conduct of his or her office. Each designated employee shall file statements of economic interests disclosing his or her financial interests as required by the applicable disclosure category.

### Section 5. Place of Filing.

All designated employees required to submit a statement of economic interests shall file the original with the general manager who shall be the filing officer for all designated employees

other than the members of the Board of Directors. Upon receipt of the statement of economic interests of the members of the Board of Directors, the agency shall make and retain a copy and forward the originals of these statements to the Humboldt County Board of Supervisors, through the County Elections Office, who shall be the filing officer, within five days after the filing deadline, or five days after receipt in the case of statements filed late.

#### Section 6. Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this Code shall file initial statements within thirty days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. Effective in 1981, all designated employees shall file annual statements no later than April 1 of each year.

(D) Leaving Office Statements. All persons who leave designated positions shall file leaving office statements within 30 days after leaving office.

#### Section 7. Contents of Statements.

(A) Contents of Initial Statements. Initial statements shall disclose any reportable investments, interests in real property, and business positions held on the effective date of the Code.

(B) Assuming Office Statements. Assuming office statements shall disclose any reportable investments, interests in real property, and business positions held on the date of assuming office, or on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided; however, that the period covered by an employee's first annual statement shall begin on the effective date of the Code or the date of assuming office whichever is later, or for a board or commission member subject to Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 18754.

(D) Contents of Leaving Office Statements. Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

## Section 8. Manner of Reporting.

Disclosure statements shall be made on forms supplied by the Humboldt Bay Municipal Water District, and shall contain the following information:

(A) Contents of Investment and Real Property Reports. When an investment or interest in real property is required to be reported, the statement shall contain the following: (Note: For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.):

- (1) A statement of the nature of the investment or interest;
- (2) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
- (3) The address or other precise location of the real property;
- (4) A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

(B) Contents of Personal Income Reports. When personal income is required to be reported, the statement shall contain:

- (1) The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.
- (2) A statement whether the aggregate value of income from each source or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);
- (3) A description of the consideration, if any, for which the income was received;
- (4) In the case of a gift, the name and address of the donor and any intermediary through which the gift was made, a description of the gift, the amount or value of the gift, and the date on which the gift was received.
- (5) In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Contents of Business Entity Income Reports. When income of a business entity, including income of a sole proprietorship, is required to be reported, the statement shall contain:

(1) The name, address, and a general description of the business activity of the business entity;

(2) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

#### Section 9. Prohibition on Receipt of Honoraria.

No designated employee shall accept any honorarium from any source, if the employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. Subdivisions (a), (b) and (c) of Government Code Section 89501 shall apply to the prohibitions in this section. This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

#### Section 9.1. Prohibition on Receipt of Gifts.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$520 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on the member's or employee's statement of economic interests.

(B) Subdivisions (e), (f) and (g) of Government Code section 89503 shall apply to the prohibitions in this section.

#### Section 9.2. Loans to Public Officials.

(A) No elected officer of the District shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the District.

(B) No non-elected designated employee shall, while he or she is employed, receive a personal loan from any officer, employee, member, or consultant of the District.

(C) No elected officer of the District shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the District.

(D) No non-elected designated employee shall, while he or she is employed, receive a personal loan from any person who has a contract with the District.

(E) This Section shall not apply to the following:

(1) Loans made to the campaign committee of an elected officer or candidate for elective office.

(2) Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

(3) Loans from a person which, in the aggregate, do not exceed five-hundred dollars (\$500) at any given time.

(4) Loans made, or offered in writing, before January 1, 1998.

### Section 9.3. Loan Terms.

(A) Except as set forth in subdivision (b), no elected officer of the District shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This Section shall not apply to the following types of loans:

(1) Loans made to the campaign committee of the elected officer.

(2) Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

(3) Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

#### Section 9.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

(1) If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

(2) If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

(a) The date the loan was made.

(b) The date the last payment of one hundred dollars (\$100) or more was made on the loan.

(c) The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

(B) This Section shall not apply to the following types of loans:

(1) A loan made to the campaign committee of an elected officer or a candidate for elective office.

(2) A loan that would otherwise not be a gift as defined in this title.

(3) A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.

(4) A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection was based on reasonable business considerations. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

#### Section 10. Disqualification.

Designated employees must disqualify themselves from making, participating in the making or using their official positions to influence the making of any governmental decision

which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth more than two thousand dollars (\$2,000);

(B) Any real property in which the designated employee has a direct or indirect interest worth more than two thousand dollars (\$2,000);

(C) Any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating five hundred dollars (\$500) or more in value received by or promised to the designated employee within twelve months prior to the time when the decision is made; or

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$500 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision was made.

(F) No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that a director's vote is needed to break a tie does not make his or her participation legally required for purposes of this section.

#### Section 11. Manner of Disqualification.

A designated employee, other than a member of the Board of Directors, required to disqualify himself or herself shall notify the general manager, in writing, who shall record the employee's disqualification. Upon receipt of such statement, the general manager or the board shall reassign the matter to another employee.

In the case of a designated employee who is a member of the Board of Directors, notice of disqualification shall be given at the meeting during which consideration of the decision takes place and shall be made part of the official record of the board or commission.

#### Section 12. Who Must File.

Those persons required to file the statements under this Code are members of the Board of Directors, the general manager, superintendent, and the business manager for the district, the district's legal consultant, and the district's consulting engineer.

#### Section 13. Business Interests.

In addition to the requirements set forth herein, those persons listed in Section 12 must disclose the following information:

- (1) Reportable business entity income.
- (2) Reportable business positions.
- (3) Interests in real property.
- (4) Reportable personal income.

#### Section 14. Filing Suit.

No person shall commence any suit challenging the sufficiency of any designated employee's disclosure statement without first furnishing the district and the employee whose statement is challenged a written notice stating as follows:

(A) The specific item or items alleged to be insufficiently described in the employee's disclosure statement on file;

(B) That unless the statement on file is amended so as to provide the information requested in subparagraph (A) hereof within the time limit specified herein, suit will be commenced to compel compliance with the disclosure law.

The designated employee whose disclosure statement is questioned as described herein shall have twenty days from the date notice is furnished as set forth above to amend the disclosure statement so as to comply with the requirements of this code. No action shall be commenced until the expiration of said twenty-day period.

All notices, including the notice to the designated employee, shall be delivered or mailed to the district office in Eureka, California.

#### Section 15. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code section 83114 and 2 Cal. Code Regs. Sections 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

#### Section 16. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code section 91003.