

- **Board of Directors**
Executive Committee

February 8, 2000 Board Meeting

6H

Subject

Principles, rules, and process for development of Office of Ethics.

Description

On September 16, 1999, Governor Davis signed into law Senate Bill 60 (Hayden), which became effective January 1, 2000 (**Attachment 1**). SB 60 requires Metropolitan to establish an Office of Ethics and to adopt ethics and conflict-of-interest rules for application to its board members, officers, and employees. In anticipation of the passage of SB 60, the Board at its July 1999 meeting voted to establish an Office of Ethics reporting directly to the Board and directed the department heads to develop details of implementation for presentation to the Board. Progress on the development of the Office was to be monitored through the Executive Committee.

Subsequently, Chairman Pace initiated formation of the Special Committee on Ethics and appointed Director Coughran as Chair. The Special Committee has met several times to discuss and debate options for new ethics codes and the overall ethics program at Metropolitan. These discussions resulted in a set of proposed guiding principles and specific rules regarding each section of SB 60 (**Attachments 2 and 3**), with further rules and procedures to be considered at a later date. Furthermore, the Special Committee recommended issuing a Request for Proposals seeking an outside entity for a six-month engagement to begin implementing the ethics program and provide recommendations for the program's long-term development (**Attachment 4**).

Policy

Action required pursuant to Senate Bill 60 (MWD Act § 126.7).

Board Options/Fiscal Impacts

Option #1

Adopt Guiding Principles for ethics program.

Fiscal Impact: None.

Option #2

Adopt specific rules recommended by Special Committee on Ethics and approve amendments to Administrative Code (**Attachment 5**).

Fiscal Impact: None.

Option #3

Authorize issuance of Request for Proposals for ethics consultant and authorize General Manager to execute agreement up to \$100,000.

Fiscal Impact: up to \$100,000.

Staff Recommendation

The Board should debate and adopt resolutions regarding all three options.



Thom Coughran
Chairman, Special Committee on Ethics

1/28/2000
Date

- Attachment 1:** Text of SB 60
- Attachment 2:** Table re. Proposed Guiding Principles
- Attachment 3:** Rules proposed by Special Ethics Committee
- Attachment 4:** Scope or work for ethics consultant
- Attachment 5:** Amendments to Administrative Code

This Attachment 1 Contains 5 Pages.

Senate Bill No. 60

CHAPTER 415

An act to add Sections 126.5, 126.7, 130.5, and 130.7 to the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), relating to the Metropolitan Water District of Southern California.

[Approved by Governor September 16, 1999. Filed
with Secretary of State September 16, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 60, Hayden. Metropolitan Water District of Southern California.

(1) The Metropolitan Water District Act authorizes the formation of metropolitan water districts and specifies the powers and purposes of a district.

This bill would require the Metropolitan Water District of Southern California to place increased emphasis on sustainable, environmentally sound, and cost-effective water conservation, recycling, and groundwater storage and replenishment measures, as prescribed, and, commencing February 1, 2001, to prepare and submit to the Legislature a prescribed annual report relating to water conservation. The bill would make related legislative findings and declarations.

The bill would require the district, in cooperation with specified entities, to participate in considering programs of groundwater recharge and replenishment, watershed management, habitat restoration, and environmentally compatible community development utilizing the resource potential of the Los Angeles River, the San Gabriel River, or other southern California rivers, including stormwater runoff from these rivers.

The bill would prohibit the district, and its member public agencies, from expending any public money for contracting with any private entity or person to undertake research or investigations with regard to the personal backgrounds or the statements of economic interest of, or the campaign contributions made to, elected officials who vote on public policies affecting the district, or advocacy groups or interested parties who may have matters pending before the board of the district or its member public agencies.

The bill would require the district to establish and operate an Office of Ethics and to adopt rules relating to internal disclosure, lobbying, conflicts of interest, contracts, campaign contributions, and ethics for application to its board members, officers, and employees, as prescribed. The rules would be required to address certain matters

and would be required, for any association of individuals or entities that includes board members, officers, or employees of the district, or of a member public agency, which association is known by a name other than the Metropolitan Water District of Southern California or the name of a member public agency of the district, to prohibit any association structure or identification that is likely to mislead the public as to the association's true identity, its source of funding, or its purpose. The bill would require the office to adopt those rules for approval by the board of directors, to educate the board, staff, and contractors concerning those rules, and to investigate complaints concerning the violation of those rules. The bill would require the office to propose, and the board to adopt, a schedule of penalties for violations of those rules by board members, officers, staff, or contractors. The bill would prescribe related matters.

By imposing additional duties on the district, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 126.5 is added to the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), to read:

126.5. (a) The Metropolitan Water District of Southern California and its member public agencies may not expend any public money for contracting with any private entity or person to undertake research or investigations with regard to the personal backgrounds or the statements of economic interest of, or the campaign contributions made to, elected officials who vote on public policies affecting the Metropolitan Water District of Southern California, or advocacy groups or interested parties who may have matters pending before the board of the Metropolitan Water District of Southern California or its member public agencies.

(b) Nothing in this section prevents any board member, officer, or employee of the Metropolitan Water District of Southern California or of a member public agency of that district from exercising the right to obtain public records pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

SEC. 2. Section 126.7 is added to the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), to read:

126.7. (a) The Metropolitan Water District of Southern California shall establish and operate an Office of Ethics and adopt



rules relating to internal disclosure, lobbying, conflicts of interest, contracts, campaign contributions, and ethics for application to its board members, officers, and employees consistent with the intent and spirit of the laws and regulations of the Los Angeles City Ethics Commission, the Fair Political Practices Commission, and the Los Angeles County Metropolitan Transportation Authority.

(b) The rules described in subdivision (a) shall address, and seek to avoid potential ethical abuses relating to, all of the following matters:

(1) The direct and indirect business relationships between board members, contractors, and vendors, and between board members and officers or employees of member public agencies.

(2) The solicitation of campaign contributions by board members, officers, or employees and the receipt of contributions from bidders, contractors, or subcontractors.

(3) Public notice and approval procedures for contracts of fifty thousand dollars (\$50,000) or more.

(c) (1) The office shall operate as an independent entity that is not subject to political influence and shall be staffed with professional, qualified persons.

(2) The office shall adopt the rules described in subdivision (a) for approval by the board, educate the board, staff, contractors, and subcontractors concerning those rules, and shall investigate complaints concerning the violation of those rules.

(3) The office shall adopt procedures for protecting the confidentiality of sources, the job security of “whistle blowers,” and the due process rights of the accused.

(d) Subject to paragraph (3) of subdivision (c), the office shall make available to the public the results of the investigations that it undertakes.

(e) The office shall propose, and the board shall adopt, a schedule of penalties for violations of the rules described in subdivision (a) by board members, officers, staff, or contractors.

(f) For any association of individuals or entities that includes board members, officers, or employees of the Metropolitan Water District of Southern California or of a member public agency of that district that is known by a name other than the Metropolitan Water District of Southern California or the name of a member public agency of the district, the rules of ethics shall prohibit any association structure or identification that is likely to mislead the public as to the association’s true identity, its source of funding, or its purpose.

(g) Nothing in this section prohibits the Metropolitan Water District of Southern California, a member public agency of that district, or a board member, officer, or employee of the Metropolitan Water District of Southern California or of a member public agency of the district, from participating in, or providing funding in a clearly identifiable way for, an association formed for the purpose of



undertaking legitimate activities, including, but not limited to, advocating on behalf of that association before a local agency, the Legislature, or the United States Congress.

SEC. 3. Section 130.5 is added to the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), to read:

130.5. (a) The Legislature finds and declares all of the following:

(1) The Metropolitan Water District of Southern California reports that conservation provides 7 percent of its “water resource mix” for 1998, and conservation is projected to provide 13 percent of its total water resources by 2020. Conservation, water recycling, and groundwater recovery, combined, provide 12 percent of the district’s total water resources for 1998 and those water resources are projected to increase to 25 percent of the district’s total water resources by 2020.

(2) It is the intent of the Legislature that the Metropolitan Water District of Southern California expand water conservation, water recycling, and groundwater recovery efforts.

(b) The Metropolitan Water District of Southern California shall place increased emphasis on sustainable, environmentally sound, and cost-effective water conservation, recycling, and groundwater storage and replenishment measures.

(c) The Metropolitan Water District of Southern California shall hold an annual public hearing, which may be held during a regularly scheduled meeting of the Board of Directors of the Metropolitan Water District of Southern California, during which the district shall review its urban water management plan, adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code, for adequacy in achieving an increased emphasis on cost-effective conservation, recycling, and groundwater recharge in accordance with this section. The Board of Directors of the Metropolitan Water District of Southern California may modify any ongoing program as necessary to meet that requirement, consistent with the district’s urban water management plan.

(d) The district shall invite to the hearings knowledgeable persons from the fields of water conservation and sustainability, and shall consider factors of availability, water quality, regional self-sufficiency, benefits for species and environment, the totality of life-cycle costs, including avoided costs, and short- and long-term employment and economic benefits.

(e) On or before February 1, 2001, and on or before each February 1 thereafter, the Metropolitan Water District of Southern California shall prepare and submit to the Legislature a report on its progress in achieving the goals of increased emphasis on cost-effective conservation, recycling, and groundwater recharge in accordance with this section, and any recommendations for actions with regard to policy or budget matters to facilitate the achievement of those goals.



(f) Nothing in this section shall diminish the authority of the Metropolitan Water District of Southern California pursuant to Section 25 or any other provision of this act, or otherwise affect the purposes of the Metropolitan Water District of Southern California as described in existing law.

SEC. 4. Section 130.7 is added to the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), to read:

130.7. (a) The Metropolitan Water District of Southern California, in cooperation with the following entities, shall participate in considering programs of groundwater recharge and replenishment, watershed management, habitat restoration, and environmentally compatible community development utilizing the resource potential of the Los Angeles River, the San Gabriel River, or other southern California rivers, including storm water runoff from these rivers:

(1) Member public agencies whose boundaries include any part of the Los Angeles River, the San Gabriel River, or any other river in southern California.

(2) The Water Replenishment District of Southern California.

(3) Local public water purveyors and other appropriate groundwater entities.

(4) The County of Los Angeles.

(5) The United States Army Corps of Engineers.

(b) Nothing in this section affects the powers and purposes of the Water Replenishment District of Southern California or any other groundwater management entity, the County of Los Angeles, local public water purveyors, or the United States Army Corps of Engineers.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



SB 60 Requirements	Proposed Guiding Principles	Proposed Rules/Other Actions
<p>§2(a) -- Subject matter</p> <ul style="list-style-type: none"> • Establish and operate an Office of Ethics. • Adopt rules consistent with intent and spirit of MTA, LA City Ethics Comm, and FPPC. 	<ul style="list-style-type: none"> • The MWD Board shall adopt rules of ethics and codes of conduct that will engender public confidence in the District by ensuring the highest levels of ethics, good government, and business practices. • The MWD Board will establish an Office of Ethics with sufficient resources and authority to effectively implement an ethics program at MWD consistent with the intent and spirit of SB 60. 	<ul style="list-style-type: none"> • As interim measure, select consultant to (1) begin educational and advisory aspects of Office of Ethics; and (2) make recommendations regarding long-term program and resource needs.
<p>§2(b) -- Rules</p> <p>Rules shall address:</p> <ul style="list-style-type: none"> • Business relationships between board members and contractors/vendors; and between board members and member agency officials; • Solicitation of campaign contributions by MWD officials and receipt of contributions from bidders, contractors, or subcontractors; • Public notice and approval procedures for contracts over \$50,000; 	<ul style="list-style-type: none"> • MWD officials shall not use their official positions for personal financial gain. • MWD’s processes for procuring goods and services will be guided only for the best interests of MWD and shall not be influenced by personal or political considerations. • MWD officials may participate in political campaign fundraising only in their personal, non-official capacities. • MWD shall maintain clear public notice and approval procedures for all contracts. 	<ul style="list-style-type: none"> • Prohibition on contact between directors and staff on specific procurements. • Revolving door policy re. directors and senior staff. • Prohibition on soliciting campaign contributions from entities with contracts pending before MWD • Extensive public notice processes already in place.

SB 60 Requirements	Proposed Guiding Principles	Proposed Rules
<p>§2(c) -- Organization and procedure The Office of Ethics shall:</p> <ul style="list-style-type: none"> • Operate as an independent entity not subject to political influence and shall be staffed with professional, qualified persons. • Adopt rules for approval by board, educate board, staff, contractors, and subcontractors about those rules, and investigate complaints concerning violations. • Adopt procedures for protecting confidentiality of sources, job security of “whistle-blowers,” and due process rights of accused. 	<ul style="list-style-type: none"> • The head of the Office of Ethics shall be appointed by and report directly to the Board. <i>(Board has already taken this action)</i>. The Office shall be independent from the three existing Departments. • To the extent appropriate, the Office shall cooperate with the three existing departments. • The staff of the Office (whether in-house or consultant) shall be professional with demonstrated experience, qualification, and expertise in the field of ethics. • The Office shall propose rules for adoption by the Board of Directors. • The Office shall be directed to implement procedural safeguards and due process protections. 	<ul style="list-style-type: none"> • To be addressed through Request for Proposals. • Ban on reprisal against “whistle-blowers”
<p>§2(d) -- Public disclosure Office shall make results of investigation available to public to extent permissible by law.</p>	<p>The Office shall prepare and make available to the public reports regarding its activities to the extent permissible by law and in a manner that protects the privacy rights of individuals.</p>	<p>For future determination.</p>
<p>§2(e) -- Penalties Office shall propose and board shall adopt schedule of penalties for violations of rules by board members, staff, or contractors.</p>	<p>The schedule of penalties shall be fair and appropriate, and shall be consistent with MWD’s existing statutory powers.</p>	<p>For future determination.</p>

SB 60 Requirements	Proposed Guiding Principles	Proposed Rules
<p>§2(f) --Associations Ethics rules shall prohibit misleading associations involving MWD or member agencies.</p>	<p>MWD will avoid potentially misleading associations.</p>	<p>Ban on misleading associations.</p>
<p>§1 -- Investigations MWD and its member agencies may not expend public funds for contracting with any entity to undertake research or investigations re. personal backgrounds, statements of economic interest, or campaign contributions made to elected officials who vote on public policies affecting MWD or advocacy groups or interested persons with matters pending before MWD. This prohibition does not restrict MWD or its member agencies from exercising the right to obtain public records under the Public Records Act.</p>	<p>MWD shall comply with this restriction, and the Office of Ethics shall be directed to monitor compliance.</p>	<p>More specific rule unnecessary.</p>

Ethics rules proposed by Special Committee on Ethics

Communications on procurements

- a) Except for statements on the record in a scheduled public meeting, Directors shall not directly or indirectly communicate with the General Manager or staff regarding the selection of vendors, contractors, consultants, or other business entities for a specific procurement of goods or services.
- b) This policy in no way restricts open communication between Directors and the General Manager on district-wide procurement policies, procedures, or other general matters.

“Revolving door” policy

- a) For a period of one year after leaving office,
 - 1) Directors shall not represent for compensation non-governmental entities before Metropolitan with regard to any issues on which that Director voted during the three years prior to leaving office;
 - 2) Other officers of Metropolitan (as identified in Admin. Code § 6400) shall not represent for compensation non-governmental entities before Metropolitan with regard to any issues over which that officer had decision-making authority during the three years prior to leaving office.
- b) For purposes of this section, “represent” shall mean to actively support or oppose a particular decision in a proceeding by lobbying in person the officers or employees of Metropolitan, testifying in person before Metropolitan, or otherwise acting to influence the officers of Metropolitan.
- c) These restrictions shall not apply to representation of not-for-profit charitable entities before Metropolitan.
- d) These restrictions may be waived in specific cases by a two-thirds vote of the Board of Directors.

Solicitation of campaign contributions

No Director or other officer of Metropolitan shall accept, solicit, or direct a political contribution from any person or entity which has a financial interest in a contract or other matter while that contract or other matter is pending before Metropolitan and for three months after Metropolitan renders a final decision on that contract or other matter. This prohibition shall apply regardless of whether the solicitation is made for oneself or on behalf of a candidate or political committee.

Protection of “whistleblowers”

- a) No officer or employee of Metropolitan shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Office of Ethics, other appropriate agency, Metropolitan office or department any information which, if true, would constitute: a work-related violation by a Metropolitan officer or employee of any law or regulation, gross waste of agency funds, gross abuse of authority, a specified and substantial danger to public health or safety due to an act or omission of a Metropolitan official or employee, use of a Metropolitan office or position or of Metropolitan resources for personal gain, or a conflict of interest of a Metropolitan officer or employee.

- b) No officer or employee of Metropolitan shall use or threaten to use any official authority or influence to effect any action as a reprisal against a Metropolitan officer or employee who reports or otherwise brings to the attention of the Office of Ethics or other appropriate agency, Metropolitan office or department any information regarding the subjects described in Subsection a).
- c) Any person who believes that he or she has been subjected to any action prohibited by this section may file a confidential complaint with the Office of Ethics. The Office of Ethics shall thereupon investigate the complaint. Upon the conclusion of its investigation, the Office of Ethics shall take appropriate action as otherwise provided by Metropolitan's ethics rules and procedures.
- d) In the event the Office of Ethics has a conflict of interest in an investigation of a retaliation complaint, the Chief Ethics Officer shall refer the investigation of the retaliation complaint to the Equal Employment Opportunities office and the Office of the General Counsel, which shall take appropriate action as otherwise provided under Metropolitan rules and procedures and applicable law.

Limitation on Associations

Metropolitan shall not participate in any association structure or identification that is likely to mislead the public as to the association's true identity, its source of funding, or its purpose.

Scope of RFP for Ethics Program

<p>Scope of Work</p>	<ul style="list-style-type: none"> ➤ Prepare and begin implementation of educational and training programs for new Ethics Program at MWD; ➤ Recommend to the Board additions or modifications to Metropolitan’s ethics codes consistent with the requirements of SB 60; ➤ Provide advice upon request to Directors and staff on ethical questions; and ➤ Make recommendations to the Board regarding long-term resource needs for Metropolitan’s Office of Ethics. ➤ Other related work as necessary.
<p>Qualifications</p>	<ul style="list-style-type: none"> ➤ Expertise in field of ethics in government or business. ➤ Knowledge of local, state and federal laws, rules and regulations related to governmental ethics and conflicts of interest ➤ Experience establishing ethics programs at governmental or private entities. ➤ Ability to prepare and implement agency-wide educational programs.

Chapter 3

ETHICS POLICY FOR DIRECTORS, OFFICERS, AND EMPLOYEES

Sec.

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§ 7300. Purpose and Scope.

The policy of The Metropolitan Water District of Southern California is to maintain the highest standards of ethics from its Board members, officers and employees. The proper operation of Metropolitan requires decisions and policy to be made in the proper channels of governmental structure, that public office not be used for personal gain, and that all individuals associated with Metropolitan remain impartial and responsible towards the public. Accordingly, it is the policy of Metropolitan that Metropolitan Board members, officers, and employees shall maintain the highest standard of personal honesty and fairness in carrying out their duties. This policy sets forth the minimal ethical standards to be followed by the Board of Directors, officers, and employees of The Metropolitan Water District of Southern California.

§ 7301. Responsibilities of Public Office.

Board members, officers, and employees are obliged to uphold the Constitution of the United States and the Constitution of the State of California, and to carry out the laws of the nation, state and local governmental agencies. Board members, officers, and employees shall comply with applicable laws regulating ~~Board member~~their conduct, including conflict of interests and financial disclosure laws. Board members, officers, and employees should work in full cooperation with other public officials unless prohibited from so doing by law or officially recognized confidentiality of their work.

[Article XX, Section 3 of the California Constitution; California Government Code Section 1360.]

§ 7302. Fair and Equal Treatment.

No Board member, officer, or employee shall grant any special consideration, treatment, or advantage to any person or group beyond that which is available to every other person or group in the same circumstances.

[See, e.g., Age Discrimination in Employment Act of 1967; Americans with Disabilities Act of 1990; Fair Employment and Housing Act; Rehabilitation Act of 1973; Title VII of the Civil Rights Act of 1964; California Labor Code Section 1102.1.]

§ 7303. Proper Use and Safeguarding of Metropolitan Property and Resources.

Except as specifically authorized, no Board member, officer, or employee shall use or permit the use of Metropolitan-owned vehicles, equipment, telephones, materials or property for personal convenience or profit. No Board member, officer, or employee shall require a Metropolitan employee to perform services for the personal convenience or profit of a Board member, officer, or employee. Each Board member, officer, or employee must protect and properly use any Metropolitan asset within his or her control, including information recorded on paper or in electronic form. Using Metropolitan assets for personal profit is forbidden. Board members, officers, and employees shall safeguard Metropolitan property, equipment, moneys, and assets against unauthorized use or removal, as well as from loss due to criminal act or breach of trust.

Board members, officers, and employees are responsible for maintaining written records, including expense accounts, in sufficient detail to reflect accurately and completely all transactions and expenditures made on Metropolitan's behalf. Creating a document with misleading or false information is prohibited.

[Article XVI, Section 6 of the California Constitution; MWD Administrative Code Sections 6320 et seq. and 8202.]

§ 7304. Board of Directors; Conflict of Interest.

A. No Board member shall vote on a matter before the Board of Directors if he or she has any interest, financial or otherwise, direct or indirect, or any obligation of any nature which is in conflict with the proper performance of his or her duties as a Board member. No Board member shall participate in any discussion of a matter before the Board of Directors if he or she has any interest, financial or otherwise, direct or indirect, or any obligation of any nature which is in conflict with the proper performance of his or her duties as a Board member, unless he or she discloses the full nature of the conflict on the records of the Board.

B. Circumstances establishing a conflict of interest include but are not limited to situations where:

1. The Board member has a substantial financial or personal interest in the outcome of a matter before the Board, or is associated as an owner, member, partner, officer, employee, broker or stockholder in an enterprise that will be affected by the outcome of a matter before the Board;
2. The Board member has reason to believe or expect that he or she will receive, or a member of his or her immediate family will receive, a direct or indirect monetary gain or loss by reason of his or her participation in a matter before the Board;
3. The Board member, because of bias or prejudice, or because he or she has prejudged a matter, is incapable of providing fair treatment to a matter before the Board;
4. The Board member is participating in a decision affecting a person, vendor, contractor, firm, consultant or organization while seeking employment with that same person or entity; or;
5. The Board member has a prohibited interest as defined by Government Code sections 1090, et seq. and the Political Reform Act, Government Code section 81000 et seq., relating to conflicts of interest. (See, Metropolitan Water District of Southern California Administrative Code section 7100 et seq. for Metropolitan's requirements concerning the disclosure of financial interests.)

C. The Board member who has a conflict of interest and who participates in discussions with, or gives an official opinion to the Board relating to the matter upon which the Board member has a conflict, shall disclose on the records of the Board the nature and extent of the conflict of interest.

D. Board members shall refrain from voting on or otherwise influencing matters involving any person with whom the member is negotiating for, or has accepted, future employment, or with whom the member has (or is negotiating for) a direct or indirect ownership interest or business relationship. Nothing in the foregoing shall apply to the member's appointing authority or to any noncontrolling interest in a publicly held entity. Board members are prohibited from recommending the employment of a relative by Metropolitan. In addition, a Board member is prohibited from recommending the employment of a relative to any person known by the Board member to be bidding for or negotiating a contract with Metropolitan.

[California Government Code Sections 1090 et seq. and 81000 et seq.]

§ 7305. "Revolving Door" Policy.

A. For a period of one year after leaving office,

1. Directors shall not represent for compensation non-governmental entities before Metropolitan with regard to any issues on which that Director voted during the three years prior to leaving office;

2. Other officers of Metropolitan (as identified in Admin. Code § 6400) shall not represent for compensation non-governmental entities before Metropolitan with regard to any issues over which that officer had decision-making authority during the three years prior to leaving office.

B. For purposes of this section, "represent" shall mean to actively support or oppose a particular decision in a proceeding by lobbying in person the officers or employees of Metropolitan, testifying in person before Metropolitan, or otherwise acting to influence the officers of Metropolitan.

C. These restrictions shall not apply to representation of not-for-profit charitable entities before Metropolitan.

D. These restrictions may be waived in specific cases by a two-thirds vote of the Board of Directors.

§ 7306~~5~~. Gifts.

A. No Board member, officer, or employee, shall receive or agree to receive, directly or indirectly, any compensation, reward or gift from any source except from his or her appointing authority or employer, for any action related to the conduct of Metropolitan's business, except as set forth below:

1. Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a breakfast, luncheon or dinner meeting or other meeting or on an inspection tour where the arrangements are consistent with the transaction of official business.

2. Acceptance of transportation, lodging, meals or refreshment, in connection with attendance at widely attended gatherings sponsored by industrial, technical or professional organizations; or in connection with attendance at public ceremonies or similar activities financed by non-governmental sources where the Board member's, officer's, or employee's participation on behalf of Metropolitan is the result of an invitation addressed to him or her in his or her official capacity, and the transportation, lodging, meals or refreshment accepted is related to, and is in keeping with, his or her official participation.

3. Purchase of articles or admissions at advantageous rates where such rates are offered to Metropolitan personnel as a class.

4. Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, or other items of nominal value.

5. Acceptance of incidental transportation from a private organization, provided it is furnished in connection with the performance of the Board member's official duties and is of a type customarily provided by the private organization.

6. Acceptance of commendations, certificates or plaques for outstanding individual service or work on Metropolitan projects.

B. In no event shall any Board member, officer, or employee accept gifts from any single source the cumulative value of which exceeds the applicable gift limit under California law.

C. A gift or gratuity, the receipt of which is prohibited under this section, shall be returned to the donor. If return is not possible, the gift or gratuity shall be turned over to a public or charitable institution without being claimed as a charitable deduction and a report of such action, and the reasons why return was not feasible shall be made on the records of the Board or in the case of officers and employees, on the records of Metropolitan. When possible, the donor also shall be informed of this action.

[California Government Code Sections 89504, 89506; California Penal Code Section 70; Federal Hobbs Act (18 U.S.C. §1951).]

§ 7307~~6~~. Contracts with Metropolitan.

Board members, officers, and employees are prohibited from offering inducements to a potential vendor, contractor, consultant, or other party, to the exclusion of similar persons or firms, in hopes of obtaining reciprocal favors. Metropolitan policies pertaining to the procurement of goods, services, and contractors, as well as the hiring of personnel, must be followed to ensure fairness to the participants. A Board member, officer, or employee shall not exercise any decision-making power with respect to any transaction, contract or sale to which Metropolitan is a party and in which the Board member, officer, or employee has a financial or personal interest. Proposed relationships with former Board members or Metropolitan employees subject to Board approval must be evaluated carefully in advance of completing any agreement with such persons to ensure that no unfair advantage is given to them and that Metropolitan's interests are fully protected in such situations.

[California Government Code Sections 1090 et seq. and 81000 et seq.]

§ 7308. Communications on Procurements

A. Except for statements on the record in a scheduled public meeting, Directors shall not directly or indirectly communicate with the General Manager, General Counsel, or Auditor (or their staffs) regarding the selection of vendors, contractors, consultants, or other business entities for a specific procurement of goods or services.

B. This policy in no way restricts open communication between Directors and the General Manager, General Counsel, or Auditor on district-wide procurement policies, procedures, or other general matters.

§ 7309~~7~~. Use of Confidential Information.

Confidential information must not be released to unauthorized persons unless the disclosure is approved by the Board of Directors, the Chair of the Board of Directors, or the Office of the General Counsel. Board members, officers, and employees are prohibited from using any confidential information for personal advantage or profit.

[Ralph M. Brown Act (California Government Code Sections 54950 et seq.); California Government Code Section 1098; MWD Administrative Code Section 2105.]

§ 730108. Soliciting Political Contributions.

Board members, officers, and employees are prohibited from soliciting political funds or contributions at Metropolitan facilities.

No Director or other officer of Metropolitan shall accept, solicit, or direct a political contribution from any person or entity which has a financial interest in a contract or other matter while that contract or other matter is pending before Metropolitan and for three months after Metropolitan renders a final decision on that contract or other matter. This prohibition shall apply regardless of whether the solicitation is made for oneself or on behalf of a candidate or political committee.

§ 730119. Improper Activities and the Reporting of Such Activities.

Board members, officers, and employees shall not interfere with the proper performance of the official duties of others. Board members, officers, and employees are strongly encouraged to fulfill their own moral obligations to the public and Metropolitan by disclosing to the extent not expressly prohibited by law, improper activities within their knowledge. No Board member, officer, or employee shall directly or indirectly use or attempt to use the authority or influence of his or her position for the purpose of intimidating, threatening, coercing, commanding, or influencing any person with the intent of interfering with that person's duty to disclose improper activity.

§ 7312. Protection of "Whistleblowers."

A. No Board member, officer, or employee shall use or threaten to use any official authority or influence to discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the Office of Ethics, other appropriate agency, Metropolitan office or department any information which, if true, would constitute: a work-related violation by a Metropolitan Board member, officer or employee of any law or regulation, gross waste of agency funds, gross abuse of authority, a specified and substantial danger to public health or safety due to an act or omission of a Metropolitan official or employee, use of a Metropolitan office or position or of Metropolitan resources for personal gain, or a conflict of interest of a Metropolitan Board member, officer or employee.

B. No Board member, officer, or employee shall use or threaten to use any official authority or influence to effect any action as a reprisal against a Metropolitan Board member, officer or employee who reports or otherwise brings to the attention of the Office of Ethics or other appropriate agency, Metropolitan office or department any information regarding the subjects described in Subsection a).

C. Any person who believes that he or she has been subjected to any action prohibited by this section may file a confidential complaint with the Office of Ethics. The Office of Ethics shall thereupon investigate the complaint. Upon the conclusion of its investigation, the Office of Ethics shall take appropriate action as otherwise provided by Metropolitan's ethics rules and procedures.

D. In the event the Office of Ethics has a conflict of interest in an investigation of a retaliation complaint, the Chief Ethics Officer shall refer the investigation of the retaliation complaint to the Equal Employment Opportunities office and the Office of the General Counsel, which shall take appropriate action as otherwise provided under Metropolitan rules and procedures and applicable law.

§ 7313~~0~~. **Nondiscrimination and Affirmative Action.**

Board members, officers, and employees shall not, in the performance of their ~~Board~~official functions, discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex, sexual preference, medical condition, or disability and they shall cooperate in achieving the equal opportunity and affirmative action goals and objectives of Metropolitan.

[Age Discrimination in Employment Act of 1967; Americans with Disabilities Act of 1990; Fair Employment and Housing Act; Rehabilitation Act of 1973; Title VII of the Civil Rights Act of 1964; California Labor Code Section 1102.1.]

§ 7314. Limitation on Associations.

Metropolitan shall not participate in any association structure or identification that is likely to mislead the public as to the association's true identity, its source of funding, or its purpose.

§ 731~~5~~¹. **Violation of Ethics Policy.**

If a director is reported to have violated Metropolitan's ethic standards, the matter shall be referred to the Executive Committee for investigation and consideration of any appropriate action warranted. Violations of the ethics policy by officers or employees will be handled through existing disciplinary procedures.