

- **Board of Directors**
Legal, Claims and Personnel Committee

December 14, 2004 Board Meeting

8-4

Subject

Amend Section 7304 of the Metropolitan Water District Administrative Code regarding Conflicts of Interest

Description

In 2003 an amendment to the California Political Reform Act went into effect that modified the procedure by which a public official is required to follow when a decision concerns a matter in which the official has an actual or potential conflict of interest. The amendment to Government Code Section 87105 prohibits public officials from voting on the matter or from discussing the matter except during the time that the general public speaks on the issue. It also requires the director with a conflict to leave the room during the discussion and final vote unless the matter is on the consent calendar. Metropolitan's current Ethics Policy also prohibits directors from voting on an item involving a conflict of interest, but does permit a board member to participate in the discussion of the matter if that board member first discloses the full nature of his or her conflict of interest on the record to the Board.

The proposed amendment to Section 7304 of Metropolitan's Administrative Code, set forth in [Attachment 1](#), with strikeovers reflecting deletions and underlining reflecting additions, incorporates all of the requirements of Government Code Section 87105 of the PRA.

Policy

Metropolitan Water District Administrative Code Section 2417: Duties and Functions (of Executive Committee)
Metropolitan Water District Administrative Code Section 2419: Ethics Subcommittee

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and approve the amendment to Administrative Code Section 7304 set forth in [Attachment 1](#).

Fiscal Impact: None

Option #2

Do not amend Administrative Code Section 7304.

Fiscal Impact: None

Staff Recommendation

Option #1



Deni Elliott
Ethics Officer

11/19/2004

Date



Jeffrey Kightlinger
General Counsel

11/19/2004

Date

Attachment 1 – The Administrative Code of The Metropolitan Water District of Southern California (showing additions and deletions)

BLA #3294

**THE ADMINISTRATIVE CODE OF
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
(showing additions and deletions)**

§ 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.~~

Any Board member who 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 on a matter before the Board of Directors must 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 the Political Reform Act, except that a director may speak on the issue during the time that the general public speaks on the issue.

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 consent calendar.

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 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.