

Memorandum

To : Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, First District
Honorable George Runner, Second District
Honorable John Chiang, State Controller

Date: September 9, 2011

From : Deborah M. Cooke
Tax Counsel IV



Subject : **Board Meeting: September 20-21, 2011, Item M2**
Statements of Economic Interests (FPPC Form 700s) and Travel Claim Schedules

In light of the Board's discussion at the July 2011 Board meeting regarding the suggestion to post executive staff's Form 700s and Travel and Expense Claim forms, we provide the following summary of the law regarding the disclosure of these forms, and recommendations for providing greater and easier access to this information, taking into consideration the security concerns expressed during the Board meeting.

Pursuant to the Public Records Act at Government Code sections 6252(e) and 6253(a) and (c), Form 700s and Travel and Expense Claim forms are public records open to inspection and reproduction at all times during the Board's office hours. However, the law currently does not require a Constitutional Officer or a state agency or department to publicly post Form 700s or Travel and Expense Claim forms on their website. Therefore, the Board would not appear to have sufficient authority to mandate that Members or staff post their Form 700s or Travel and Expense Claim forms to the agency's website without first either adopting a regulation, or seeking adoption of a specific statute by the Legislature.

The solutions suggested below attempt to balance the benefit of increasing the ease of access to these public forms versus safeguarding the Members/staff from security risks. To achieve this balance, ease of access is improved, and at the same time, the Disclosure Office and Human Resources Division are able to review and respond to incoming requests in a manner that ensures that security risks are observed.

Staff Recommendations

To become more transparent and to more expeditiously provide the public easier access to Board Members' and staff's Form 700s and Travel & Expense Claim forms, we recommend implementation of the following options:

1. **Link to FPPC Website:** The Board may include a link on the Board's website to the FPPC's website where a member of the public may view the Form 700 (with the mailing address, phone number, email and signature redacted) of each Board Member. This allows the public immediate access to a Board Member's Form 700.
2. **Post Two Separate Email Links on Board Website:** The BOE may include:
 - (a) one link on its website allowing a requestor to send an email directly to the Human Resources Division that currently provides copies of all Form 700s, and
 - (b) another link allowing a requestor to send an email directly to the Disclosure Office, which currently coordinates responses to requests for travel and expense claims.
 - **Response Time for Requests for Form 700s** – The Political Reform Act (Gov. Code Sections 81000-91014) requires that Form 700s be made available as soon as possible during the agency's regular business hours. It is the Board's policy to provide the Form 700 on the same business day that the request is made.
 - **Response Time for Requests for Travel & Expense Claims** – The Public Records Act (Government Code section 6253(b)) requires that we make travel and expense claims "promptly available" to a requestor. Within 10 days from receipt of the request, the agency will either provide the requestor with the requested records, or notify the person of the estimated date and time when the records will be made available. (Gov. Code, § 6253(c).)
 - None of these suggestions will preclude a member of the public from maintaining their anonymity and making a request for records verbally via telephone or in-person at a BOE office, or in writing via facsimile or letter.
 - Nothing in staff's recommendation precludes any Board Member from publicly posting their Form 700 or travel & expense claim forms. Staff is available to assist Members in doing so.

Form 700 – Statement of Economic Interest

Form 700 Reporting Requirements

The Political Reform Act ("the Act") does, however, require Board of Equalization (Board or BOE) Members to fully disclose their personal assets and income described in Form 700, Statement of Economic Interests. The Act further requires every state and local government agency to adopt a unique conflict-of-interest code. The BOE's code lists each position within the agency filled by individuals who make or participate in making governmental decisions that could affect their

personal economic interests. The code requires individuals holding those positions to periodically file Form 700 disclosing certain personal economic interests as determined by the code's "disclosure categories." These individuals are called "designated employees" or "code filers."

Form 700 Filing Requirements

BOE Members must file their respective Form 700s with the agency's filing official, who retains a copy of their statements and forwards the originals to the Fair Political Practices Commission (FPPC). Code Filers file their Form 700s with the Agency's filing coordinator, who maintains these records in BOE's Human Resources Division.

Information included on Form 700

The Form 700 contains information that may be construed as indirectly creating a security concern for Members or staff. The form contains, among other things (and as applicable to each individual Member/staff): real property investment addresses; the names of tenants paying Members/staff \$10,000 a year or more in rents; Member/staff job titles by business entity; and addresses of real property for which the Members have a non-commercial lender. The Form 700 does not contain the Members'/staff's personal addresses (unless they wish to use personal addresses instead of their work addresses on the face of the form).

Current Access to Form 700s

The Form 700s of all elected officials are available for public view at the FPPC website. Form 700s of both the BOE Members and the agency's code filers may also be obtained upon request to the BOE pursuant to the Public Records Act.

Travel and Expense Claim Forms

Information included on Travel Claims

The travel claim is comprised of a "Transmittal Sheet," a "Travel & Expense Account Summary," and "Travel & Expense Account Summary and Detail".

The Transmittal Sheet contains the employee (Member) name, the expense dates, the total expense amount, the amount due the employee (Member), the type of receipt and amount of expense attached to the transmittal sheet, and a chart indicating which type of receipts are required for the specific expenses claimed in the travel claim.

The Travel & Expense Account Summary contains the employee (Member) name, expense dates, report name (generally including the month/year of the trip, and the destination), the request total, the direct charge total, any travel advance amount, and the net due the employee (Member). The Summary also contains a chart of the Trip Totals for each trip claimed in the Travel Claim (identified generally by date and location), and totals for each individual trip. The Summary further contains charts for each individual trip identifying amounts claimed for breakfast, commercial air fare, dinner, gasoline, personal mileage, and parking.

The "Travel & Expense Account Summary and Detail" provides the trip/expense category (for example "Regular Travel"), the trip name (generally including the trip date and location), the expense item (from bridge tolls to breakfast to personal mileage, among other things), the amount for each claimed expense, and the payment type (whether direct charge or cash).

This information can provide substantial data with respect to an employee's or Member's routine travel arrangements to and from certain airports and the routine dates of travel prior to and after Board meetings. To balance the ease of access to this public information versus safeguarding Members and staff, we recommend the solutions noted above under "Staff Recommendations."

Current Access to Travel & Expense Claim Forms

Travel and Expense Claim forms are available to the public upon request pursuant to the Public Records Act. (Gov. Code, § 6253(a) & (b).) Personal information from the Travel and Expense Claim forms may be redacted by BOE staff before production in order to avoid an unwarranted invasion of security or privacy pursuant to exemptions enumerated in Government Code Section 6254.

The Disclosure Office is currently responsible for coordinating requests for Travel and Expense Claim forms made under the Public Records Act. Upon receiving the request, and absent extenuating circumstances requiring additional processing time, the agency can expedite compiling, reviewing and redacting the requested information and forward it to the requestor within ten (10) business days.

Should you have any additional questions or concerns regarding this matter, please feel free to contact me at (916) 324-2603.

Approved:



Kristine Cazadd, Interim Executive Director