



# 2008 New Law Workbook

A SUMMARY OF LEGISLATION  
AFFECTING COUNTY CLERKS

Presented by:  
California Association of Clerks and Election Officials  
County Clerk Legislative Committee



## Special Thanks to Bill Siverling and Clancy Leland

Our very best wishes go out to our legislative analysts Clancy Leland and Bill Siverling in their retirement.

Our organization has been extremely well served these past few years by the knowledge, experience and professional support provided by Bill and Clancy. As a committee we always knew what was happening, who to talk to and what course of action was appropriate. They were consistently professional and approachable. We appreciated their responsive and courteous treatment of our committee and their active participation in our meetings. Bill and Clancy always answered our questions and never made us feel “dumb” for asking, the mark of true professionals! If we needed one of them to go to the capitol with us, they were there, whatever it was they gave us 100%. It was clear they knew their way around and had respect.

Both men are great examples for Matt Siverling, who is taking over the “family business” and with whom we will continue to work. Matt is very much at ease in the capitol atmosphere, and we’re pretty sure that he has a direct line to Bill (his dad) and Clancy, if the need arises.

Good luck to you both. We have learned from you and wish you both the very best. Thanks again for everything.

With warm regards,

Vicki Petersen  
Kathie Moran  
County Clerk Legislative  
Committee Co-Chairs  
2008

# Table of Contents

## New Laws

AB 102	Marriage: license, name (Name Equality Act of 2007).....	1
	◆ PowerPoint slides	
	◆ Sample Marriage License Application - English	
	◆ Sample Marriage License Application - Spanish	
	◆ Sample Completed Marriage License (New names)	
	◆ Sample Completed Marriage License (No new names)	
	◆ Sample Completed Marriage License (1 new name, 1 same name)	
	◆ Sample Completed Marriage License (1 same name, 1 new name)	
	◆ Sample Completed Marriage License (new middle, new derived last)	
	◆ Sample Information to post on website	
AB 1684	Local government records; recordings.....	3
AB 2801	Conflict of interest; settlements.....	4
SB 1124	Local Government Omnibus Act of 2008.....	5
SB 1279	Insurance; electronic records.....	6
	◆ Searching the CA Department of Insurance website	
	◆ Sample Certificate of Authority pursuant to CCP 995.640(a)	
	◆ Sample Certificate of No Record, etc. pursuant to CCP 995.650(a)	
SB 1498	Maintenance of the codes.....	7
SB 1696	CA Public Records Act; disclosure.....	8
SB 1732	Local agencies.....	9
CEQA (Fish & Game) Filing Fee Increases.....		10
	◆ Notice re: Increase in Fish & Game CEQA Filing Fees	
Title 2, Cal. Code Reg. Section 18944.2 Gifts to an Agency (Form 801 Filings).		12
	◆ Form 801	
	◆ CA Code of Regulations 18944.2	
	◆ Gifts to an Agency Q & A's	

## 2008 Chaptered Bill Analysis

<b>Bill Number:</b>	<b>AB 102</b>
<b>Chapter Number:</b>	567
<b>Author:</b>	Assembly Member Ma (co-authors: Assembly Members Beall and Feuer, Senator Romero)
<b>Topic:</b>	Marriage: domestic partnerships: name
<b>Impact:</b>	<b>Major</b>
<b>Summary:</b>	<p>Known as the Name Equality Act of 2007. Parties to a marriage shall not be required to have the same name. Neither party shall be required to change his or her name. A person's name shall not change upon marriage unless that person <b><i>elects to change the middle or last name</i></b> by which the party wishes to be known after marriage by <b><i>entering the new name in the space provided on the marriage license application</i></b> without intent to defraud.</p>

A person may adopt any of the following ***middle or last names***:

- The current last name of the other spouse
- The last name of either spouse given at birth
- A name combining into a single last name ***all or a segment*** of the current last name or the last name of either spouse given at birth
- A hyphenated combination of last names.

An election by a person to change his or her name this way, serves as a record of the name change and a certified copy of a marriage certificate containing the new name, or retention of the former name is lawful.

The adoption of a new name, or the choice not to adopt a new name by means of a marriage license application which lists the new name in the spaces provided on the marriage license application, shall only be made at the time the marriage license is ***issued***. Information contained on the marriage license in boxes 29A thru 32C, as applicable, ***cannot be amended. Changes to this information will require a court order.***

Nothing in this section shall be construed to abrogate the common law right of any person to change his or her name, or the right of any person to petition the Superior Court for a change of name.

## 2008 Chaptered Bill Analysis

**Effect:** Amends Code of Civil Procedure Section 1279.6; Family Code Sections 298, 298.5, 355 and 358; Health & Safety Code Section 103180

Adds Family Code Sections 298.6 and 306.5

**Actions Required:** The Office of Vital Records has updated the marriage license forms to include fields on the marriage license for both parties to indicate their new name (if applicable). It is suggested that you include the new name fields on your marriage license application as well.

**Presenters:** Vicki Petersen, Sonoma County; Karen Roth, Office of Vital Records

**Notes:** This bill as it relates to marriage licenses becomes operative on 01/01/09. This bill also pertains to Domestic Partnership registrations filed with the Secretary of State. Changes related to Domestic Partnership registrations were effective 01/01/08.

The State Department of Public Health shall include information concerning options for changing a name upon solemnization of marriage pursuant to FC 306.5, or upon registration of a domestic partnership pursuant to FC 298.6 in the "Your Future Together" pamphlet. The information shall include a notice that the recording of a change in name or the absence of a change in name on a marriage license application and certificate **may not be amended once the marriage license is issued**, but that options to adopt a change in name in the future through usage, common law, or petitioning the Superior Court are preserved, as set forth in FC 306.5

The following pages include:

- PowerPoint slides
- Sample Marriage License Application
- Completed Marriage License (New names)
- Completed Marriage License (No new names)
- Completed Marriage License (1 new name, 1 same name)
- Sample Information to post on website

## 2008 Chaptered Bill Analysis

<b>Bill Number:</b>	<b>AB 1684</b>
<b>Chapter Number:</b>	433
<b>Author:</b>	Assembly Member Emmerson
<b>Topic:</b>	Vital records
<b>Impact:</b>	<b>Informational</b>
<b>Summary:</b>	Deletes the requirements that would have went into effect January 1, 2009, mandating the “Informational, Not a Valid Document to Establish Identity” statement be <b>perforated</b> into the security paper when issuing informational certified copies of birth and death certificates. <b>NOTE:</b> This only removes the requirement that the statement be perforated. Agencies issuing the informational certified copies will continue to add the statement using their existing practices (i.e., overlay, stamp, etc).
<b>Effect:</b>	Amends Health and Safety Code 103526.5
<b>Actions Required:</b>	None
<b>Presenter:</b>	David Valenzuela, Ventura County

## 2008 Chaptered Bill Analysis

<b>Bill Number:</b>	<b>AB 2801</b>
<b>Chapter Number:</b>	163
<b>Author:</b>	Assembly Member Carter
<b>Topic:</b>	Conflict of Interest; Settlements
<b>Impact:</b>	<b>Informational</b>
<b>Summary:</b>	<p>Key issue: Previous law provided that Members of the Legislature and state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.</p> <p>AB 2801 provides that this prohibition does not apply to any agreement entered into as part of the settlement of litigation in which the state or a local entity has been represented by the Attorney General or by county counsel and the settlement is approved by a court of competent jurisdiction.</p>
<b>Effect:</b>	Amends GC 1091
<b>Actions Required:</b>	None
<b>Presenter:</b>	Victoria Rodriguez, Riverside County

## 2008 Chaptered Bill Analysis

<b>Bill Number:</b>	<b>SB 1124</b>
<b>Chapter Number:</b>	709
<b>Author:</b>	Committee on Local Government; various authors
<b>Topic:</b>	Local Government Omnibus Act of 2008
<b>Impact:</b>	<b>Informational</b>
<b>Summary:</b>	<p>This Omnibus bill includes several sections of the law. This summary only references the section specific to County Clerk.</p> <p>Existing law authorizes the Board of Supervisors, in specified counties, to appoint a Registrar of Voters in the same manner as other county officers are appointed. In those counties, the County Clerk is not the ex-officio ROV. Napa County is added to the list of specified counties.</p>
<b>Effect:</b>	Amends various sections of the Government Code – GC 26802
<b>Actions Required:</b>	None
<b>Presenter:</b>	David Valenzuela, Ventura County



## 2008 Chaptered Bill Analysis

<b>Bill Number:</b>	<b>SB 1279</b>
<b>Chapter Number:</b>	351
<b>Author:</b>	Senator Maldonado
<b>Topic:</b>	Insurance; electronic records
<b>Impact:</b>	<b>Major</b>
<b>Summary:</b>	<p>Repeals the requirement that Department of Insurance send to the County Clerk for filing the following documents:</p> <ul style="list-style-type: none"><li>➤ Annual surety update lists</li><li>➤ Certificates of authority issued to surety companies</li><li>➤ Changes regarding certificate of authority issued to surety company</li><li>➤ Bail agent appointments / cancellation / revocations</li><li>➤ Bail agent update lists</li></ul> <p>Instead requires the information be posted on the Department of Insurance website. The County Clerk shall rely on the information contained on the website when issuing Certificates of Authority.</p>
<b>Effect:</b>	Amends Sections 995.640 and 995.650 of the Code of Civil Procedures, Section 1815, 1270, 1272 and 1291 of the Insurance Code, repeals Sections 900.7, 12071 and 12073 of the Insurance Code.
<b>Actions Required:</b>	Prior to issuing a certificate of authority pursuant to CCP 995.640, the County Clerk must search the Department of Insurance website at: <a href="http://www.insurance.ca.gov/">http://www.insurance.ca.gov/</a> in order to verify the Surety Company is authorized to do business in California, and their certificate has not been surrendered, revoked, canceled, annulled, or suspended.
<b>Presenter:</b>	Vicki Petersen, Sonoma County
<b>Notes:</b>	<p>The following pages include:</p> <ul style="list-style-type: none"><li>➤ Searching the CA Dept. of Insurance website</li><li>➤ Sample Certificate of Authority</li></ul>

## 2008 Chaptered Bill Analysis

<b>Bill Number:</b>	<b>SB 1498</b>
<b>Chapter Number:</b>	179
<b>Author:</b>	Commission on Judiciary
<b>Topic:</b>	Maintenance of the codes
<b>Impact:</b>	<b>Informational</b>
<b>Summary:</b>	<p>Technical non-substantive changes in GC 27293 related to Translation Certificates: Removes word "Government Code"; and changes language from "a web site" to "an Internet Web site"; in section 27293(a)(2)(A); adds a comma after "and" in section 27293(2)(C); changes "in any" to read "in a" in section 27293(b).</p> <p>Technical non-substantive changes in B&amp;P 17915 and 17929 related to Fictitious Business Name Statements: Changes "The" to "A", changes "Nothing in this chapter shall preclude" to "This chapter does not preclude", changes "subdivision" to "section" in section 17915. Adds "the cost of" in sections 17919(a) &amp; 17919(c) pertaining to furnishing of a certified copy and filing the affidavit of publication.</p>
<b>Effect:</b>	<p>Amends several sections of the law. This summary only pertains to those sections which affect County Clerk.</p> <p>Amends GC 27293 related to Translation Certificates, and B&amp;P 17915 and 17929 related to Fictitious Business Name Statements</p>
<b>Actions Required:</b>	None
<b>Presenter:</b>	Vicki Petersen, Sonoma County
<b>Notes:</b>	<p>This bill also makes changes to Insurance Code Section 15031 pertaining to licenses for insurance adjusters issued by the Insurance Commissioner. One of the provisions prohibits a licensee from conducting a business under a fictitious or other business name unless and until they have obtained the written authorization of the commissioner to do so. It also prescribes the fee a licensee is required to pay to the Insurance Commissioner for the authorization to use the fictitious business name. <b>It does not have an impact on the Fictitious Business Name Statements filed in the County Clerk's Office.</b></p>

## 2008 Chaptered Bill Analysis

<b>Bill Number:</b>	<b>SB 1696</b>
<b>Chapter Number:</b>	62
<b>Author:</b>	Senator Yee
<b>Topic:</b>	California Public Records Act; disclosure
<b>Impact:</b>	<b>Informational</b>
<b>Summary:</b>	A state or local agency may not allow another party to control the disclosure of information that is otherwise subject to disclosure under the act. It also provides that any contract entered into by a state or local agency subject to the act, that requires a private entity to review, audit, or report on any aspect of that agency shall be public and to the extent the contract is subject to the act, shall be disclosed pursuant to its provisions, notwithstanding any contrary term in the contract.
<b>Effect:</b>	Add Section 6253.3 and 6253.31 to the Government Code
<b>Actions Required:</b>	None
<b>Presenter:</b>	Marlene Smith, Los Angeles County

## 2008 Chaptered Bill Analysis

**Bill Number:** SB 1732

**Chapter Number:** 63

**Author:** Senator Romero

**Topic:** Local Agencies

**Impact:** Informational

**Summary:** A majority of the members of a legislative body of a local agency shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.

**Effect:** Amend Section 54952.2 and add Section 6252.7 to, the Government Code, relating to local agencies

**Actions Required:** None

**Presenter:** Marlene Smith, Los Angeles County

## 2008 Chaptered Bill Analysis

**Topic:** CEQA Document Filing Fees (Fish and Game)

**Impact:** Major

**Summary:** Pursuant to Fish and Game Code Section 711.4, the Department shall impose and collect a filing fee to defray the costs of managing and protecting California's vast fish and wildlife resources, including, but not limited to, consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, and developing monitoring programs.

On September 29, 2006 Senate Bill 1535 was passed increasing the amounts of filing fees collected by the Department, and requires the Department to adjust the fees annually pursuant to Fish and Game Code Section 713. The annual fee adjustments are based on changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the U.S. Department of Commerce.

**Effect:** The table below contains the CEQA filing fees for 2008, and the adjusted fees that will become effective on January 1, 2009.

### The filing fees for CEQA documents are as follows:

CEQA Document	2008 Filing Fee	Filing Fee Effective January 1, 2009
Negative Declaration (ND)	\$1,876.75	\$1,993.00
Mitigated Negative Declaration (MND)	\$1,876.75	\$1,993.00
Environmental Impact Report (EIR)	\$2,606.75	\$2,768.25
Environmental Document pursuant to a Certified Regulatory Program (CRP)	\$886.25	\$941.25
County Clerk Processing Fee	\$50.00	\$50.00

**Actions Required:** County Clerk's will need to make sure they collect the appropriate fees for all documents received on or after 01/01/09.

**Presenters:** Kenton Owyang & Karen Hong-Yee, San Francisco County

## 2008 Chaptered Bill Analysis

### Notes:

#### No Effect Determinations:

The CEQA filing fee will be waived if a project will have no effect on fish and wildlife (Fish and Game Code section 711.4(c)(2)(A)). Projects that are statutorily or categorically exempt from CEQA are also not subject to the filing fee, and do not require a no effect determination (sections 15260 through 15333, Title 14, CCR, Fish and Game Code Section 711.4(d)(1)). Regional Department environmental review and permitting staff are responsible for determining whether a project within their region will qualify for a no effect determination and if the CEQA filing fee will be waived.

If a lead agency or applicant anticipates their project will have no effect on fish and wildlife, the appropriate Department Regional Office should be contacted. The corresponding CEQA document may need to be provided to the appropriate Department regional office along with a written request. The request should be submitted when the CEQA document is released for public review, or as early as possible in the public comment period. No effect determination requests submitted to the Department should include sufficient documentation to support a no effect determination. Documentation should include a site description, project description, description of the project location, aerial and/or topographic map of the project site, State Clearinghouse number or county filing number, and applicant contact information. Documents submitted in digital format are preferred (e.g. compact disk). If insufficient documentation is submitted to the Department for the proposed project, a no effect determination will not be issued.

Additional information is available at the Department of Fish & Game website:

[http://www.dfg.ca.gov/habcon/ceqa/ceqa\\_changes.html](http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html)

The following page includes:

- Notice re: Increase in Fish & Game CEQA Filing Fees

## 2008 Chaptered Bill Analysis

**Topic:** Gifts to an Agency (Form 801 Filings)

**Impact:** Informational

**Summary:** Sets forth circumstances under which a payment made to a state or local government agency, that is controlled by the agency and used for official agency business, is **not** considered a reportable or limited gift to **an individual public official**, although the official receives a personal benefit from the payment.

Requires the agency report the gift within 30 days after use of the payment on a form prescribed by the Fair Political Practices Commission (Form 801).

The completed form must be filed with the **filing officer** who receives the agency employees' statement of economic interests (form 700) filings. The filing officer **shall post a copy of the form** or the information in the form on its website, or if it does not maintain a website, shall provide a copy of the form to the FPPC which shall post the information on its website.

The individual in the agency who has official custody of these forms is the **filing officer** for the forms, keeps a log of the forms under both the name of the agency and official receiving the payment, and maintains the forms for a period of not less than four years.

The agency head or his or her designee must sign the form.

Gifts to agencies must meet the following requirements:

- The agency head or designee must determine and control the agency's use of the payment
- The payment must be used for official agency business
- The donor may identify a purpose for the gift but may not designate by name, title, class or otherwise, an official who may use the payment
- The agency official who determines who will use the payment may not select himself or herself

Travel payments must also meet these requirements:

- A payment for travel may not be used by a state or local elected officer or by the state, county, and city officials who hold positions listed in Government Code Section 87200.
- The agency head or designee must pre-approve travel paid for by a third party before travel commences.
- Travel payments made by a federal government agency in connection with education, training, or other inter-agency programs **are not** reportable.

## 2008 Chaptered Bill Analysis

- Effect:** Adds Title 2 Cal. Code Regulations Section 18944.2
- Actions Required:** County Clerks who maintain the agency's statements of economic interests (Form 700) should confirm these forms are being filed.
- Presenter:** Kathie Moran, Colusa County
- Notes:** Regulations, forms, questions/answers and additional information is available on the Fair Political Practices Commission Website at:  
<http://www.fppc.ca.gov/index.html?id=512>
- The following pages include:
- Form 801
  - CA Code of Regulations 18944.2
  - Gifts to an Agency Q & A's



# **HAND-OUTS**

## **AB 102 Name Equality Act of 2007**

- ◆ **PowerPoint slides**
  - **The Name Equality Act**
- ◆ **PowerPoint slides**
  - **Issuing and Registering Marriage Licenses**
- ◆ **Sample Marriage License Application – English**
- ◆ **Sample Marriage License Application – Spanish**
- ◆ **Sample Completed Marriage License**
  - **(New names)**
- ◆ **Sample Completed Marriage License**
  - **(No new names)**
- ◆ **Sample Completed Marriage License**
  - **(1 new name, 1 same name)**
- ◆ **Sample Completed Marriage License**
  - **(1 same name, 1 new name)**
- ◆ **Sample Completed Marriage License**
  - **(new middle, new derived last)**
- ◆ **Sample Information to post on website**

# **HAND-OUTS**

## **SB 1279**

### **Department of Insurance; Electronic Records**

- ◆ **Searching the CA Department of Insurance website**
- ◆ **Sample Certificate of Authority**
  - Pursuant to CCP 995.640(a)
- ◆ **Sample Certificate of No Record, etc.**
  - Pursuant to CCP 995.650(a)

**Certificate pursuant to 995.640(a) Code of Civil Procedure**

I, \_\_\_\_\_, County Clerk of the County of \_\_\_\_\_, State of California, in and for said County DO HEREBY CERTIFY THAT

\_\_\_\_\_ has a certificate of authority as an admitted surety issued by the California Insurance Commissioner authorizing the insurer to transact surety insurance in the State of California, and that based on the records shown in the Department of Insurance website, that authority has not been surrendered, revoked, canceled, annulled, or suspended.

*In Testimony Whereof*, I have hereunto set my hand and affixed the seal of said County on \_\_\_\_\_

\_\_\_\_\_ COUNTY CLERK

BY: \_\_\_\_\_ Deputy County Clerk

**Certificate pursuant to 995.650(a) Code of Civil Procedure  
NO RECORD – OR, CERTIFICATE THAT AUTHORITY HAS BEEN  
SURRENDERED, REVOKED, CANCELED, ANNULLED, OR  
SUSPENDED**

I, \_\_\_\_\_, County Clerk of the County of \_\_\_\_\_, State of California, in and for said County DO HEREBY CERTIFY THAT

\_\_\_\_\_ has **NOT** been issued a certificate of authority as an admitted surety by the California Insurance Commissioner authorizing the insurer to transact surety insurance in the State of California, **OR** that based on the records shown in the Department of Insurance website, the **authority HAS BEEN SURRENDERED, REVOKED, CANCELED, ANNULLED, OR SUSPENDED (CIRCLE ONE)**

*In Testimony Whereof*, I have hereunto set my hand and affixed the seal of said County on \_\_\_\_\_

\_\_\_\_\_ COUNTY CLERK

BY: \_\_\_\_\_ Deputy County Clerk

# **HAND-OUTS**

## **CEQA Fish and Game Filing Fees**

- ◆ **Notice re: Increase in Fish & Game CEQA Filing Fees**

# - NOTICE -

## CHANGE IN FISH & GAME FILING FEES EFFECTIVE 01/01/09

<b>CEQA Document</b>	<b>2008 Filing Fee</b>	<b>Filing Fee Effective January 1, 2009</b>
Negative Declaration (ND)	<b>\$1,876.75</b>	<b>\$1,993.00</b>
Mitigated Negative Declaration (MND)	<b>\$1,876.75</b>	<b>\$1,993.00</b>
Environmental Impact Report (EIR)	<b>\$2,606.75</b>	<b>\$2,768.25</b>
Environmental Document pursuant to a Certified Regulatory Program (CRP)	<b>\$886.25</b>	<b>\$941.25</b>
County Clerk Processing Fee	<b>\$50.00</b>	<b>\$50.00</b>

Documents received for processing in the County Clerk's Office ***on or after 01/01/09, must include the new filing fee.***

Additional information is available on the Department of Fish & Game website at: [http://www.dfg.ca.gov/habcon/ceqa/ceqa\\_changes.html](http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html)

# **HAND-OUTS**

## **Gifts to an Agency Form 801**

- ◆ **Form 801**
- ◆ **CA Code of Regulations 18944.2**
- ◆ **Gifts to an Agency Q & A's**

**Gift to Agency Report**

**A Public Document**

GIFT TO AGENCY REPORT

**1. Agency Name**

Division, Department, or Region (if applicable)

Street Address

Area Code/Phone Number

E-mail

Agency Contact (name and title)

Date Stamp

**California Form 801**  
For Official Use Only

Amendment (explain in comment section)

Date of Original Filing: \_\_\_\_\_  
(month, day, year)

**2. Donor Name and Address**

Individual \_\_\_\_\_ Last Name First Name  Other \_\_\_\_\_ Name

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

If "Other" is marked, describe the entity's business activity (if business) or its nature and interests.

If applicable, identify the name of each source and the amount(s) solicited or received by the donor for this gift:

\_\_\_\_\_ \$ \_\_\_\_\_ Name \_\_\_\_\_ \$ \_\_\_\_\_ Amount

**3. Payment Information**

Date and Amount of Payment (other than travel) \_\_\_\_\_ \$ \_\_\_\_\_  
(month, day, year) (Round to whole dollars)

Travel Payment Information (Round to whole dollars) Location of Travel \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
Date(s) of Travel Transportation Expenses Lodging Expenses Meal Expenses Other Expenses Total Expenses

**Provide a specific description of the nature and use of the payment for official agency business:**

**Identify the officials for whom the payment was used:**

\_\_\_\_\_ Last Name First Name Title Department/Division

\_\_\_\_\_ Last Name First Name Title Department/Division

**4. Verification**

I have determined that it is in the interests of the agency to accept this gift and use it for the official agency business described above.

\_\_\_\_\_ Signature of Agency Head or Designee \_\_\_\_\_ Print Name \_\_\_\_\_ Title \_\_\_\_\_ (month, day, year)

Comment: (Use this space or an attachment for any additional information.)

# Gift to Agency Report Instructions

A Public Document

California  
Form **801**

This form is for use by all state and local government agencies to disclose payments made to the agency when the payments provide a personal benefit to an official of the agency. Examples may include travel, meals or other benefits. Under certain circumstances, these payments will not result in a gift to the official, but will be considered a gift to the agency. The payments must be used for official agency business and must meet other requirements that are set out in FPPC Regulation 18944.2, which is available on the FPPC website [www.fppc.ca.gov](http://www.fppc.ca.gov).

## When to File

This form must be filed within 30 days of the use of the payment. Reports may be faxed, mailed, personally delivered or e-mailed.

## Where to File

**State Agencies:** File this form with the Fair Political Practices Commission ("FPPC"), 428 J Street, Suite 620, Sacramento, CA 95814. Fax: 916-322-0886  
E-mail: [Form801@fppc.ca.gov](mailto:Form801@fppc.ca.gov)

**Local Agencies:** File this form with the official that maintains the agency's statements of economic interests (Form 700).

**Website Posting:** Each agency that maintains a website must also post the form or the information contained on the form on its website within 30 days of the use of the payment. Local agencies that do not maintain a website must forward the form to the FPPC for posting on its website.

## Part 1. Agency Identification

List the agency's name and address and the name of an agency contact. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

## Part 2. Donor Information

Disclose the name and address of the donor. If the donor is not an individual, identify the business activity or nature and interests of the entity.

If the donor received payments from other sources that were used in connection with the activity, disclose the name and payment information for each source.

## Part 3. Payment Information

Report the date and amount of each payment. For travel payments, also disclose the location(s), and a breakdown of the expenses. Provide a specific description of the use of the payment and the intended purpose. List each agency official for whom the payment was used.

Example: A business entity paid for an agency employee to travel to attend an informational seminar on solar energy projects in Washington D.C. The description should read: "Travel to attend an EPA co-sponsored solar energy seminar held in Washington, D.C."

## Part 4. Verification

The agency head or his or her designee must sign the form.

## General Information

Gifts to agencies must meet the following requirements:

- The agency head or designee must determine and control the agency's use of the payment.
- The payment must be used for official agency business.
- The donor may identify a purpose for the gift but may not designate by name, title, class or otherwise, an official who may use the payment.
- The agency official who determines who will use the payment may not select himself or herself.

Travel payments must also meet these requirements:

- A payment for travel may not be used by a state or local elected officer or by the state, county, and city officials who hold positions listed in Government Code Section 87200.
- A payment for travel may not exceed the agency's own reimbursement rates for travel, or the State per diem or IRS reimbursement rates if the agency has no policy.
- The agency head or designee must preapprove travel paid for by a third party before travel commences.

Travel payments made by a federal government agency in connection with education, training, or other inter-agency programs are not reportable.

For further information on filing this report or for general information, contact the FPPC.



1 Adopt 2 Cal. Code Reg. Section 18944.2 to read:

2 **§ 18944.2. Gifts to an Agency.**

3 (a) Applicability. This regulation sets forth circumstances under which a  
4 payment made to a state or local government agency, that is controlled by the agency and  
5 used for official agency business, is not considered a reportable or limited gift to an  
6 individual public official, although the official receives a personal benefit from the  
7 payment.

8 (b) Definitions.

9 (1) "Payment" means a payment as defined in Section 82044 and includes a  
10 monetary payment to an agency, a loan, gift, or other transfer, and the payment for, or  
11 provision of, goods or services to an agency.

12 (2) "Agency head" means an individual in whom the ultimate legal authority of  
13 an agency is vested, or who has been delegated authority to make determinations by the  
14 agency for purposes of this regulation.

15 (c) Gift to an Agency. A payment, that is otherwise a gift to a public official, as  
16 defined in Section 82028, shall be considered a gift to the public official's agency and not  
17 a gift to the public official if all of the following requirements are met:

18 (1) Agency Controls Use of Payment. The agency head, or his or her designee,  
19 determines and controls the agency's use of the payment. The donor may identify a  
20 purpose for the payment, but the donor may not designate by name, title, class, or  
21 otherwise, an official who may use the payment. If the payment will provide a personal  
22 benefit to an official, the agency head, or his or her designee, shall select the individual

1 who will use it. The agency official who determines and controls the agency's use of the  
2 payment may not select himself or herself as the individual who will use the payment.

3 (2) Official Agency Business. The payment must be used for official agency  
4 business.

5 (3) Agency Reports the Gift. Within 30 days after use of the payment, the  
6 agency reports the payment on a form prescribed by the Commission that includes the  
7 following information:

8 (A) A description of the payment, the date received, the intended purpose, and  
9 the amount of the payment (or the actual or estimated value of the goods or services  
10 provided).

11 (B) The name and address of the donor. If the donor is not an individual, the  
12 report shall also describe the business activity, or the nature and interests of the entity. If  
13 the donor has raised funds from other persons for the specific purpose of making the  
14 payment to the agency, the report shall contain the names of and amounts given by these  
15 persons.

16 (C) The agency's use of the payment, and the name, title, and department of the  
17 agency official for whom the payment was used. The report shall include the date(s) and  
18 place(s) of travel, and a breakdown of the total expenses for transportation, lodging,  
19 meals and other related expenses.

20 (D) The form is signed by the agency head, or his or her designee, and  
21 maintained by the agency as a public record subject to inspection and copying under  
22 Section 81008(a).

1           (E) A state agency shall provide the completed form to the Commission (or in the  
2 case of the Commission to the office of the Attorney General), within 30 days after use of  
3 the payment, by mail, personal delivery, electronic mail or facsimile. If the state agency  
4 maintains a website, the state agency shall also post a copy of the form or the information  
5 in the form on its website in a prominent fashion within 30 days after use of the payment.  
6 If the state agency does not maintain a website, the Commission shall post a copy of the  
7 form or the information in the form on its website.

8           (F) A local agency shall provide the completed form to the filing officer who  
9 receives the agency employees' statements of economic interests, within 30 days after  
10 use of the payment, by mail, personal delivery, electronic mail or facsimile. The filing  
11 officer shall post a copy of the form or the information in the form on its website, or if it  
12 does not maintain a website, shall provide a copy of the form to the Commission which  
13 shall post the information on its website.

14           (G) The individual in the agency who has official custody of these forms is the  
15 filing officer for the forms, keeps a log of the forms under both the name of the agency  
16 and official receiving the payment, and maintains the forms for a period of not less than  
17 four years.

18           (d) Limitations on Application of this Regulation. The exception provided in  
19 subdivision (c) does not apply to the following payments:

20           (1) A payment for travel, including transportation, lodging, and meals, for a state  
21 or local elected officer, as defined in Section 82020, or an official specified in Section  
22 87200.

1           (2) A payment for travel to the extent that it exceeds the agency’s reimbursement  
2 rates for travel, meals, and lodging, and other actual and necessary expenses, or if the  
3 agency has no standard policy or practice concerning reimbursement rates, the State per  
4 diem rates as set forth in applicable sections of the State Administrative Manual and  
5 Department of Personnel Administration regulations, or the Internal Revenue Service  
6 rates for reimbursement of these expenses as set forth in the U.S. General Service  
7 Administration’s website under “Per Diem Rates” and Internal Revenue Service  
8 Publications 463 and 1542, or their successors.

9           (3) A payment for travel that the agency head, or his or her designee, has not  
10 preapproved in writing in advance of the date of the trip.

11           (4) Passes or tickets, as described in Regulation 18944.1, which shall be  
12 governed by that regulation.

13           (e) Public Colleges and University Research Projects. Notwithstanding this  
14 regulation, a donation to a California public college or university for a specific research  
15 project that is received consistent with the requirements of Regulation 18702.4(c) or a  
16 meal received in the course of the college’s or university’s official fundraising activity,  
17 which qualifies under federal and state law for a deduction as a charitable contribution for  
18 educational purposes, will be deemed a gift to the college or university.

19           (f) Payments from the Federal Government. Notwithstanding this regulation, a  
20 grant, reimbursement, funding, or other payment received by a state or local government  
21 agency from a federal government agency for education, training, or other inter-agency  
22 programs, will not be considered a gift to the public official who receives a personal

1 benefit from the payment.

2 Comments:

3 1. Acceptance of a pass or discount from a transportation company by a public  
4 officer, other than a Public Utilities Commissioner, may result in forfeiture of the  
5 official's office pursuant to Article XII, Section 7 of the California Constitution.

6 NOTE: Authority cited: Section 83112, Government Code.

7 Reference: Sections 82028, 82030, 82044, 87100, 87103, 87207, 87302 and 89501  
8 through 89506, Government Code.

**GIFTS TO AN AGENCY  
FPPC FORM 801—REGULATION 18944.2  
QUESTIONS AND ANSWERS**

The Fair Political Practices Commission has substantially revised Regulation 18944.2, which establishes the criteria under which a payment that would otherwise be considered a gift to a public official may be considered a gift to the official's agency instead. A copy of the regulation is available on the FPPC website ([www.fppc.ca.gov](http://www.fppc.ca.gov)). The regulation also requires agencies to report these gifts on FPPC Form 801. The following questions and answers may assist you in complying with the regulation:

1. The mayor has been invited to visit the city's sister city in Mexico. Travel and accommodations would be provided by the sister city. May the mayor's city accept the invitation as a gift to the city?

A. No. Agencies may not accept gifts of travel for elected officials and those state and local officials serving in a position listed in Gov. Code Section 87200.<sup>1</sup> The mayor's city may pay for the trip, or the mayor may accept the travel payments from the sister city and disclose them on his or her Statement of Economic Interests (Form 700) as gifts. Gov. Code Section 89506 describes various travel payments from government, educational, or nonprofit groups that are not subject to limits (although in most circumstances they must be reported as gifts).

2. A state employee has been designated by her agency to attend a conference paid by a third party. The cost of the lodging will exceed the standard state reimbursement rate. Will the employee receive a gift if she uses the accommodations?

A. If the agency follows established procedures allowing a higher rate for lodging (as if the agency were paying for the lodging), no gift to the official will result. If the procedures are not followed, the employee will receive a reportable gift in the amount that exceeds the standard state reimbursement rate. For example, if the state rate for lodging is \$84 and the actual value received is \$158, the employee will receive a gift of \$74, which may be reportable on the employee's Form 700 and subject to limits.

3. Is there a required form for ensuring that pre-approval was obtained in advance of a trip?

A. No. The agency may use its existing forms and documentation. Agencies may contact the FPPC for guidance.

4. Is there a regulation or statute that defines "official agency business"?

A. No. The requirement that a gift to an agency be used for "official agency business" is fairly self explanatory. The payment must be used for a legitimate governmental purpose

---

<sup>1</sup> Officials listed in Gov. Code Section 87200 include elected state officers, judges and commissioners of courts, Public Utilities Commission members, Energy Commission members, Fair Political Practices Commission members, Coastal Commission members, planning commissioners, members of boards of supervisors, district attorneys, county counsels, county treasurers, chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers of cities, members of city councils, and other public officials who manage public investments.

and must assist the agency in carrying out its mission, programs or goals. The payment may not be for an activity unrelated to the official responsibilities of the agency.

5. May a donor who wishes to make a gift to an agency stipulate that the gift is to be used by a particular official?

A. No. The donor may identify a purpose for the payment, but may not designate by name, title, class, or otherwise, an official who may use the payment.

6. If the donor of an agency gift makes payments directly to the vendors instead of to the agency (e.g., the donor reserves a hotel room or air fare on its own credit card), must the agency obtain the specific amounts paid for lodging, transportation, and meals?

A. Yes. The agency must provide a breakdown of the expenses for transportation, lodging, meals and other related expenses on the Form 801.

7. At a meeting between several agency officials and business leaders, coffee and pastries are provided by one of the business representatives. Must the agency complete the Form 801?

A. No. Generally, the receipt of food and beverages is considered a gift to the official who consumes them. If the value of the food and beverages is \$50 or more, the official may be required to report the gift on his or her Form 700. If an agency believes the provision of food or beverages should be considered a gift to the agency and not to an official (for example food provided at a public event sponsored by the agency), the agency should contact the FPPC for advice.

8. A local government agency allows various elected officials from other government agencies to park at its airport for free. May this benefit be donated as a gift to the elected official's agency and must the agency disclose the payments on Form 801?

A. Airport parking is considered a travel payment, which cannot be provided as an agency gift if used by elected officials or those covered under Gov. Code Section 87200. Under Gov. Code Section 89506, however, an official may accept free parking from another government agency while on official business. The value of the parking privileges is reportable on the official's Form 700, though not subject to limit if the requirements of Section 89506 are met. The value of parking privileges used for personal purposes may not exceed \$390 in a calendar year. If the parking privileges are provided as an agency gift for use by public officials who are not elected or covered under Section 87200, the agency receiving the gift must disclose the payments on Form 801.

9. If a local agency does not have a website, when must it send the completed Form 801 to the FPPC?

A. Within 30 days of the use of the payment.

**GIFTS TO AN AGENCY—PART 2  
FPPC FORM 801—REGULATION 18944.2  
QUESTIONS AND ANSWERS**

Since posting the June 2008 Questions and Answers sheet about Regulation 18944.2 and the requirement for state and local agencies to disclose gifts on Form 801, the FPPC has received many additional questions, which are discussed below.

**But first, some tips:**

Many callers have asked about payments that are not covered by Regulation 18944.2. Before attempting to determine whether a particular third party payment or donated item can be accepted as a gift to the agency and whether it must be reported on Form 801, it is important to note the following two key elements:

- 1) The payment (or item) must provide a **personal benefit** to a public official that would otherwise result in a gift to the official; and
- 2) In order for an agency to convert the payment into an agency gift rather than a gift to the official, the payment may only be used for **official agency business**. (There are additional requirements that must be met, as specified in the regulation.)

It may be helpful to review the following questions when analyzing a particular third party payment:

- Will the payment be used for “official agency business”? If the purpose of the payment is solely personal in nature, the agency cannot accept the gift. The official who receives the benefit of the gift may have to report it on a statement of economic interests (Form 700) and it may be subject to the gift limit.<sup>1</sup> Carefully review Regulation 18944.2 to be certain that all of its requirements can be met.
- Is the payment a gift at all? If a third party payment is strictly intended to benefit the agency and will result in no personal benefit to a public official, Regulation 18944.2 does not apply and Form 801 is not required. In addition, even if an official will benefit from a payment, another exception may apply. Review the FPPC’s regulations related to gifts, particularly the exceptions to the definition of “gift”. (See FPPC Regulations 18940 – 18946.) For example, there are exceptions for certain types of informational materials provided to public officials as well as for in-state travel in connection with making a speech. Gifts can be returned, unused, or reimbursed within 30 days. If a third party payment would not be considered a gift to a public official because it meets an exception to the definition of “gift” in the Political Reform Act or FPPC regulations, it also is not required to be disclosed as an agency gift on Form 801.
- Is the payment covered by a different statute or regulation? There are separate rules for the receipt by an agency of tickets and passes. (Regulation 18944.1.) In addition, Gov. Code Section 89506 allows public officials to receive certain payments for travel that are not subject to the gift limit, although they are reportable on the Form 700. Elected officials who solicit payments from outside sources for legislative, governmental, or charitable purposes may have to disclose them as “behested (or cosponsored) payments” under Gov. Code Section 82015(b)(2)(B)(iii).

---

<sup>1</sup> Gifts totaling \$50 or more received during a calendar year from a single source are reportable on Form 700. Gifts received from a single reportable source are limited to \$390 in a calendar year through the end of 2008. The gift limit for 2009-2010 will be \$420. Officials specified in Gov. Code Section 87200 must disclose gifts from all sources unless an exception applies. For employees designated in an agency’s conflict-of-interest code, disclosure and application of the gift limit are determined by the employee’s disclosure category.



## Questions and Answers

1. *Vendors in our jurisdiction donate items to the agency (e.g., food, gift baskets, gift cards, vacations) specifically for the personal benefit of the agency's employees in connection with holiday or employee recognition events. How are these items reported?*

A. These payments are solely personal in nature and cannot be converted to agency gifts because they cannot be used for "official agency business." If an official receives such a gift with a value of \$50 or more as an award or as part of an employee raffle, the gift may be reportable on the official's Form 700 and subject to the gift limit. The vendor would be considered the source of the gift and the agency is acting as an intermediary for the gift.

2. *A government agency has a policy that requires each employee who receives a gift from a vendor or other entity in connection with work activities to turn the gift over to the agency's finance department. Employees may later win the gifts in an agency-sponsored raffle, or receive them as part of an employee recognition or holiday event. Are these gifts reported on Form 801?*

A. No. Again, the gifts are personal in nature and cannot be used for "official agency business." If an employee receives a gift from a third party and turns it over to the agency within 30 days, the employee is no longer the recipient of a gift. However, when the agency distributes the items as part of an employee raffle or an award, the employees who receive them may have received gifts from the agency and may be required to disclose the gifts on their Form 700. Consult with the FPPC to determine what rules apply in making this determination.

3. *Businesses in our city often donate goods and services for city-sponsored community events, such as our Fourth of July parade, and during emergencies. Is the city required to report these payments on Form 801?*

A. No. Because public officials are not receiving a personal benefit from these payments, they are not considered gifts that would trigger the Form 801. If elected officials solicit payments for the events, they may be required to disclose them as "behested (or cosponsored) payments."

4. *What if city employees who attend the parade or are required to work during an emergency consume the donated food or beverages?*

A. Generally, these would not be considered gifts to the officials and would not require reporting on a Form 801 or Form 700. However, the answer to questions of this nature will depend on the facts surrounding the event, so requesting advice from the FPPC is recommended.

5. *If an agency accepts a gift and discloses it on Form 801, is the official who benefits from the gift required to disclose it on his or her Form 700?*

A. No. If all of the requirements of Regulation 18944.2 are met and the agency accepts the gift, the agency will complete Form 801 and the official is not required to disclose the payment. If the requirements of Regulation 18944.2 are not met and the official receives a gift, the agency is not required to complete Form 801. The official may be required to disclose the gift on his or her Form 700.

6. *A local government agency arranges tours of its facilities for officials of other government agencies. The tours usually involve travel, lodging, and meals. May an agency accept these payments as an agency gift and disclose them on Form 801?*

A. There are several factors to consider. First, agencies may not accept travel payments for elected officials and officials specified in Gov. Code Section 87200 as an agency gift under Regulation 18944.2. In addition, the donor agency may not designate specific officials who will attend

the tours. However, Gov. Code Section 89506 allows public officials to accept travel payments from other government agencies and certain educational and nonprofit organizations if the travel is related to an issue of public policy. A public official who receives or benefits from these payments may be required to report them on Form 700, but they are not subject to the gift limit. For non-elected and officials not covered under Section 87200, if the requirements of Regulation 18944.2 are met, the agency can accept the travel and lodging and disclose the payments on Form 801. The meals are gifts to the officials who consume them and may not be accepted as an agency gift.

7. *If the requirements of Regulation 18944.2 are met but the official who benefits from the gift is not designated in the agency's conflict-of-interest code to file Form 700, must the agency report the gift on Form 801?*

A. Yes.

8. *If the requirements of Regulation 18944.2 are not met and the agency cannot accept a gift, are officials also prohibited from receiving the gift?*

A. No, but the official who receives the gift may be required to disclose it on his or her Form 700 and it may be subject to the gift limit.

9. *If the official who benefits from an agency gift holds positions with more than one government agency, which agency should complete and post the Form 801.*

A. Form 801 is an **agency** report. The agency that received the gift must complete and post the Form 801. It does not matter where the official works.

10. *The regulation requires that the Form 801 be retained for four years. How long must the agency maintain the Form 801 on its website?*

A. Four years.

### **Recent Advice Letters**

The Commission has also issued the following advice letters since Regulation 18944.2 was amended. Copies of advice letters are available through Westlaw and Lexis-Nexis, or you can request copies from the Commission.

Gault, No. A-08-127  
Tanner, No. I-08-130  
Smith, No. I-08-132  
Hentschke, No. I-08-166

**2008 CACEO New Law Workshop  
County Clerk Session  
December 11, 2008**

**Presented by:**

<b>2008 County Clerk Legislative Committee Members</b>	<b>Legislative Advocates</b>
<p><b>Kathie Moran</b>, Co-Chair  <b>Vicki Petersen</b>, Co-Chair  <b>Terri Lipscomb</b>  <b>Rosemary Dixon</b>  <b>Barbara Chambers</b>  <b>Marlene Smith</b>  <b>Lisa Renteria</b>  <b>Cyndi Viall</b>  <b>Victoria Rodriguez</b>  <b>Frederick Garcia</b>  <b>Donna Allred</b>  <b>De Ana Thompson</b>  <b>Karen Hong-Yee</b>  <b>Kenton Owyang</b>  <b>Gina Alcomendras</b>  <b>Wardell House</b>  <b>Gail Pellerin</b>  <b>David Valenzuela</b>  <b>Sheila Harmon</b></p>	<p><b>Colusa County</b>  <b>Sonoma County</b>  <b>Alameda County</b>  <b>Butte County</b>  <b>Contra Costa County</b>  <b>Los Angeles County</b>  <b>Madera County</b>  <b>Orange County</b>  <b>Riverside County</b>  <b>Sacramento County</b>  <b>Sacramento County</b>  <b>San Bernardino County</b>  <b>San Francisco County</b>  <b>San Francisco County</b>  <b>Santa Clara County</b>  <b>Santa Clara County</b>  <b>Santa Cruz County</b>  <b>Ventura County</b>  <b>Ventura County</b></p> <p><b>Bill Siverling</b>  <b>Clancy Leland</b>  <b>Matt Siverling</b></p>