

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT



STAFF REPORT

MEETING DATE: 6/28/2023

Staff Report No. 23-251

TO: AC Transit Board of Directors
FROM: Linda A. Nemeroff, Board Administrative Officer/District Secretary
SUBJECT: Board Policy 703 - Assessing and Waiving Fines for Late Filing of a Statement of Economic Interest

ACTION ITEM

AGENDA PLANNING REQUEST:

RECOMMENDED ACTION(S):

Consider adoption of Board Policy 703 - Assessing and Waiving Fines for the Late Filing of a Statement of Economic Interest (Form 700).

Staff Contact:
Linda A. Nemeroff, Board Administrative Officer/District Secretary

STRATEGIC IMPORTANCE:

There is no strategic importance associated with this report.

BUDGETARY/FISCAL IMPACT:

There is no budgetary or fiscal impact associated with this report. However, staff believes the proposed policy may have a positive impact in reducing the number of late filings, however few, which will ultimately reduce the amount of staff time and resources required to chase late filings.

BACKGROUND/RATIONALE:

The California Fair Political Practices Commission (FPPC) is responsible for regulating the impartial and effective administration of the Political Reform Act, which requires state and local government agencies to adopt and promulgate Conflict-of-Interest (COI) Codes. Pursuant to the District's COI Code, Board members, Board Officers, District employees, and Advisory Committee members who hold positions designated in the code, as well as any designated consultants, are required to report their economic interests when assuming or leaving office and on an annual basis. The District Secretary serves as the filing officer for the District's COI Program and determines the course of action to be taken on late and non-filing issues.

To encourage timely filings, Government Code Section 91013 imposes a \$10 per day fine up to the maximum of \$100 for the late filing of a Statement of Economic Interest. To ensure that fines are assessed/waived on an impartial basis, the FPPC recommends the adoption of written guidelines. Board Policy 703 is being introduced to formalize these guidelines for AC Transit's filers. The attached policy is similar to those adopted by other agencies and cities and aligns with the California Secretary of State guidelines. The attached policy

provides for the following:

- A waiver of the fine for first-time late filers when a statement is filed within five days after the deadline;
- Defines what is considered “Good Cause” for a full or partial waiver of a fine (incapacitation for medical reasons, hospitalization, accident involvement, loss or unavailability of records, failure to provide adequate notice of the filing requirement);
- Reasons not considered “Good Cause”; and
- The circumstances under which a fine will be imposed:
 - Designated filers who do not qualify for a “Good Cause” waiver and who fail to file a statement within 30 days after receiving adequate notice that their Statement is due, notwithstanding a waiver for a first-time late filing.
 - Designated filers who fail to file a statement within 30 days after specific written notice of late filing is sent.
 - Designated filers who fail to respond within 30 days after receiving a notice requesting justification for the late filing (Request for Waiver).
 - Designated filers who do not qualify for a full/partial “Good Cause” waiver.

The creation of Board Policy 703 will add a necessary element to increase the effectiveness of the District’s COI Program. Staff requests adoption of Board Policy 703.

ADVANTAGES/DISADVANTAGES:

Board Policy 703 will ensure that fines for the late filing of a Form 700 Statement of Economic Interest are assessed/waived on an impartial basis and, in doing so, may help resolve late filings quicker with fewer referrals to the FPPC for enforcement.

ALTERNATIVES ANALYSIS:

The FPPC recommends that agencies have clear guidelines with respect to the assessment and waiver of fines; therefore, no other alternatives were considered.

PRIOR RELEVANT BOARD ACTION/POLICIES:

Board Policy 701 - Conflict of Interest Code for the Alameda-Contra Costa Transit District

ATTACHMENTS:

1. Board Policy 703 - Assessing and Waiving Fines for Late Filing of Fair Political Practices Commission (FPPC) Related Documents
2. GC Section 91013

Prepared by:

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Approved/Reviewed by:

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