[ms-0398.003.012.013]

No. 41

RESOLUTION OF THE BOARD OF SUPERVISORS ENACTING RULES GOVERNING APPLICATION OF INCOMPATIBLE ACTIVITIES LAW

On motion of Supervisor Craven, seconded by Supervisor Walsh, the following resolution is adopted:

WHEREAS, every officer and employee of the County of San Diego occupies a position of public trust and owes at all times a duty to act in the best interest of the public rather than his personal interest; and

WHEREAS, Government Code Section 1090 prohibits County officers and employees from being financially interested in any contract made by them in their official capacity or by any body or board of which they are members; and

WHEREAS, Government Code Section 1120 requires members of county boards and commissions to disclose any direct financial interest in any noncontractual matter coming before such board or commission; and

WHEREAS, the Legislature at its 1971 regular session has enacted Government Code Sections 1125-1127 prohibiting County officers and employees from engaging in any outside employment or activity which is incompatible with the duties of his county office; and

WHEREAS, this Board of Supervisors, pursuant to Government Code Sections 1125-1127, is authorized to adopt rules and regulations governing the application of state law concerning incompatible activities of county officers and employees; NOW THEREFORE

IT IS RESOLVED AND ORDERED as follows:

1. APPOINTING AUTHORITIES TO ADOPT RULES. Each appointing authority of the County of San Diego, other than the Board of Supervisors, shall formulate rules specifying those activities for compensation outside of the normal duties of officers and employees under its jurisdiction which are inconsistent with, incompatible to, or in conflict with their duties as county officers or employees. Such rules may prohibit an officer or employee's outside activity or employment if:

(a) it involves the use for private gain or advantage of his county time, facilities, equipment or supplies; or the badge, uniform, prestige or influence of his county office or employment, or

(b) it involves the receipt by the officer or employee of any money or other consideration from anyone other than the County for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his county employment or as a part of his duties as a county officer or employee, or

(c) it involves the performance of an act in other than his capacity as a county officer or employee which act may later be subject directly or indirectly to control, inspection, review, audit, or enforcement of any other officer or employee of the County, or

(d) it involves such time demands as would interfere with the efficient performance of his county duties.

Such rules shall provide for disclosure by officers and employees of their outside activities for compensation which relate to their county duties or which may be subject to review by any other officer, employee, board or commission of the County. Approval of such outside activities shall be based upon a determination by the appointing authority that the activity in question is not in conflict with the officer's or employee's county responsibilities. Such rules shall state that disciplinary action may be taken against any employee engaging in a prohibited outside activity.

2. RULES SUBJECT TO MEET AND CONFER PROVISIONS. The development of the rules of each appointing authority regarding prohibited outside activities shall be subject to the meet and confer provisions of the San Diego County Employee Relations Policy. For purposes of such provisions, "appropriate levels of County management" as specified in the San Diego County Employee Relations Policy shall include Agency Heads, where the appointing authority is within a department identified as being within an agency.

3. REVIEW OF DEPARTMENTAL RULES. The rules formulated by each appointing authority shall be submitted to the appropriate Agency Head, who shall review said rules and forward them, together with comments and recommendations, to a Committee on Incompatible Activities composed of the Chief Administrative Officer, Auditor and Controller, Director of Civil Service and Personnel, and County Counsel, or their designees. Where the department is not identified as within an agency, the proposed rules shall be submitted by the appointing authority directly to the Committee on Incompatible Activities. Said Committee shall review the proposed rules of each appointing authority and submit the rules, together with their recommendations thereon, to the Board of Supervisors for consideration and action. Officers and employees shall be given prior notification of the review and such review shall constitute their right of appeal from the determiniation of prohibited activities.

4. NOTICE TO OFFICERS AND EMPLOYEES. After approval of the rules of an appointing authority by the Board of Supervisors, the appointing authority shall provide each officer and employee under his jurisdiction with a copy of the rules for his department. New officers and employees appointed after the original distribution of the rules shall be provided with a copy of the same immediately upon entry into that department. Each officer and employee shall be notified by his appointing authority of any additions to, or changes in, the list of specifically prohibited activities.

5. VIOLATION GROUNDS FOR DISCIPLINE. Participation in any prohibited activity by any classified officer or employee, after proper notification of such prohibition pursuant to these rules, may be cause for suspension, demotion, reprimand, transfer, or

removal within the provisions of the Charter of the County of San Diego, and the Rules and Regulations of the Civil Service Commission. The provisions of Civil Service Rule VII as to notice and hearing shall be applicable to any determination that a classified officer or employee has engaged in any prohibited outside activity. Any unclassified officer or employee may, upon determination by his appointing authority that he has engaged in a prohibited activity, request a hearing before his appointing authority, and such hearing shall be given to the employee within a reasonable time. Participation in any prohibited activity by any unclassified officer or employee or member of the Executive Service may be cause for discipline or removal.

6. OFFICERS AND EMPLOYEES APPOINTED BY THE BOARD OF SUPERVISORS. Those unclassified officers and employees and members of boards and commissions appointed by the Board of Supervisors shall disclose to the Committee on Incompatible Activities in writing any outside employment or activity engaged in for compensation which relates to their county duties or to the functions and responsibilities of the department which they serve or which may be subject to approval by another county officer or employee. The Committee shall review the submitted activities and submit them to the Board of Supervisors for approval or disapproval.

7. ADVISORY BOARDS. The foregoing provisions shall not be applicable to the following boards and commissions whose duties are purely advisory:

Animals for Medical Research Advisory Committee
County Rabies Control Council
Crippled Children's Services Advisory Committee
Drug Advisory Committee
Fire Protection Study Committee
Grazing Advisory Board
Mental Retardation Area Board
Thoroughfare Advisory Committee
Traffic Advisory Committee
Underground Utilities Advisory Committee
War Against Litter Committee
Watershed Resources Advisory Commission

PASSED AND ADOPTED by the Board of Supervisors of the County of San Diego, State of California, this 29th day of February, 1972, by the following vote:

AYES: Supervisors Walsh, Boney, Scheidle, Bear, and Craven
NOES: Supervisors None
ABSENT: Supervisors None

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No. 42

There is presented to the Board a letter from the Ad Hoc Committee on Boards, Commissions and Committees transmitting its 1971 Annual Report providing a review of the purpose, functions and activities of said Committee; and recommending that said Report be accepted and that the Board approve in principle the recommendations for future Committee actions as