

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

On motion of Supervisor Jacob, seconded by Supervisor Roberts, 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 interests of the public rather than in his or her personal interest; and

WHEREAS, Article 4.7 (commencing with Section 1125), Chapter 1, Division 4 of the Government Code prohibits County officers and employees from engaging in any outside employment or activity which is incompatible with the duties of his or her County office and authorizes this Board of Supervisors to adopt rules and regulations governing the application of this law; and

WHEREAS, on February 29, 1972, the Board of Supervisors by resolution enacted rules governing the application of incompatible activities law; and

WHEREAS, on November 17, 1981, and November 11, 1998, the rules were amended; and

WHEREAS, the Board of Supervisors again desires to amend the rules set forth in the resolution of November 11, 1998, to: (1) require that, prior to appointment by the Board of Supervisors to a board, commission or other group whose duties are not purely advisory, candidates shall be evaluated as to whether any of their outside employment or activities engaged in for compensation would be incompatible with the duties of the proposed appointment; (2) require persons appointed by the Board of Supervisors to boards, commissions or other groups to annually disclose in writing their outside employment or activities engaged in for compensation; and (3) clarify the appeal rights of such appointees to boards, commissions and other groups; NOW THEREFORE

IT IS RESOLVED AND ORDERED by the San Diego County Board of Supervisors that the Rules Governing Application of Incompatible Activities Law be and hereby are amended to read 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 or her county time, facilities, equipment or supplies; or the badge, uniform, prestige or influence of his/or her 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 or her County employment or as a part of his or her duties as a County officer or employee, or
- (c) it involves the performance of an act in other than his or her 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 or her County duties.

Service on an appointed or elected government board, commission, committee, or other body by an attorney employed by the County in a nonelective position shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of the attorney as an officer or employee of the County.

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 on 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 Labor Relations Ordinance. For purposes of such provisions, "appropriate levels of County management" as specified in the Ordinance shall include Agency Heads, where the appointing authority is within a department identified as being within an Agency.

3. REVIEW 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 Human Resources and County Counsel, or their designees. The Clerk of the Board shall serve as Clerk to the committee and shall maintain the Committee's documents and copies of adopted rules in the County's official records. 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 determination 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 of his or her jurisdiction with a copy of the rules for his or her 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 or her 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 Civil Service Rules. 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 or her appointing authority that he or she has engaged in a prohibited activity, request a hearing before his or her 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 may be cause for discipline or removal.

6. PERSONS APPOINTED BY THE BOARD OF SUPERVISORS TO BOARDS, COMMISSIONS, OR OTHER GROUPS.

(a) Prior to a candidate's appointment by the Board of Supervisors to a board, commission or other group whose duties are not purely advisory, the candidate shall complete and file an incompatible activities disclosure form with the Clerk of the Board of Supervisors. Where the process for appointment requires that the candidate be nominated for the appointment, the candidate shall file the form prior to such nomination. The candidate shall complete the form by identifying all of his or her outside employment or activities engaged in for compensation. The Clerk shall transmit the form to the County Counsel, who shall make a preliminary determination whether the identified employment or activities may be incompatible with the duties of the proposed appointment. The factors described in subparagraphs (a) through (d) of paragraph 1 above shall be utilized in making this determination. If the County Counsel determines that the identified outside employment or activities are not incompatible with the proposed appointment, that determination shall be entered on the form, and the form shall be filed with the Clerk. If the County Counsel determines that the identified outside employment or activities may be incompatible with the proposed appointment, the County Counsel shall inform the Clerk of the Board, and the Clerk shall call a meeting of the Incompatible Activities Committee to consider the matter. The Committee may decide to invite the candidate to meet with the Committee to provide information concerning the candidate's outside paid activity. The Committee shall determine whether the identified outside employment or activity is incompatible with the proposed appointment. If the Committee's determination is that the outside employment or activity is incompatible, the candidate shall be deemed not qualified for the appointment. The Committee shall advise the

candidate, the Board of Supervisors and the Clerk of its determination of whether the candidate's outside paid activity is incompatible with the duties of his/her duties on the County board, commission or other group.

(b) Those persons appointed by the Board of Supervisors to County office, or to boards, commissions, and other groups whose duties are not purely advisory shall annually disclose to the Clerk of the Board of Supervisors in writing any outside employment or activity engaged in for compensation. Pursuant to paragraph 6.a. of this Resolution, the County Counsel and, if necessary, the Committee on Incompatible Activities, shall review the submitted activities and approve or disapprove the outside employment or activity. An appointee of the Board of Supervisors whose outside activities are disapproved by the Committee may appeal to the Board of Supervisors a determination of incompatibility, for a hearing pursuant to paragraph 5.

7. ADVISORY BOARDS. The foregoing provision shall not be applicable to boards and commissions and other groups whose duties are purely advisory.

APPROVED AS TO FORM AND LEGALITY  
COUNTY COUNSEL

BY W. Taylor 7/18/01  
SENIOR DEPUTY

ON MOTION of Supervisor Jacob, seconded by Supervisor Roberts, the foregoing Resolution was passed and adopted by the Board of Supervisors, County of San Diego, State of California, on this 31<sup>st</sup> day of July 2001, by the following vote:

AYES: Cox, Jacob, Slater, Roberts, Horn

- - -

STATE OF CALIFORNIA)  
County of San Diego)<sup>SS</sup>

I hereby certify that the foregoing is a full, true and correct copy of the Original Resolution entered in the Minutes of the Board of Supervisors.

THOMAS J. PASTUSZKA  
Clerk of the Board of Supervisors

By: *Rosie Pecina*  
Rosie Pecina, Deputy



Resolution No. 01-207  
07/31/01 (10)

**COUNTY OF SAN DIEGO  
BOARD OF SUPERVISORS  
TUESDAY, JULY 31, 2001**

**MINUTE ORDER NO. 10**

**SUBJECT: AMENDMENT TO RESOLUTION OF THE BOARD OF SUPERVISORS ENACTING AMENDED RULES GOVERNING APPLICATION OF INCOMPATIBLE ACTIVITIES LAW (DISTRICTS: ALL)**

**OVERVIEW:**

The County of San Diego's commitment to the highest standards of ethical and legal conduct is in recognition of its mission to serve the residents of the County of San Diego. Our employees are dedicated to creating a government that earns the support and respect of the public by being responsive and responsible. The citizens of the County are our customers who deserve to be treated fairly and honestly in their dealings with the County.

The proposed "Rules Governing Application of Incompatible Activities Law" establishes prohibitions for County officers and employees, and for persons appointed by the Board of Supervisors to County boards and commissions, from engaging in outside employment or activities for compensation which are incompatible with their County duties.

This report recommends that the Incompatible Activities Rules be revised in two aspects: The first amendment would require the appointees to boards and commissions to file disclosure forms annually, and would clarify the appeal rights of the appointees. The second amendment would require candidates for appointment by the Board of Supervisors to certain boards and commissions to be evaluated as to possible incompatible activities prior to being appointed.

**FISCAL IMPACT:**

N/A

**RECOMMENDATION:**

**CHIEF ADMINISTRATIVE OFFICER:**

Adopt the resolution enacting amended rules governing the application of incompatible activities.

**ACTION:**

ON MOTION of Supervisor Jacob, seconded by Supervisor Roberts, the Board of Supervisors took action as recommended, on Consent, adopting Resolution No. 01-207, entitled: RESOLUTION OF THE BOARD OF SUPERVISORS ENACTING AMENDED RULES GOVERNING APPLICATION OF INCOMPATIBLE ACTIVITIES LAW.

AYES: Cox, Jacob, Slater, Roberts, Horn

State of California)  
County of San Diego)<sup>SS</sup>

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

THOMAS J. PASTUSZKA  
Clerk of the Board of Supervisors



*Denise McClendon*

By \_\_\_\_\_  
Denise McClendon, Deputy