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MEMORANDUM

TO: All Interested Persons

FROM: Virindia Doss, Executive Director *WD*

SUBJECT: Proposed Legislation for 2019

DATE: November 21, 2018

For 2019, the Commission on Ethics makes the following recommendations regarding legislative changes to the Code of Ethics:

1. Conflicts of Interest

The law prohibits an official from having a contractual relationship with a company doing business with his or her own agency. So City Councilman A could not contract with Business B, if that company is doing business with his City. But if Councilman A creates "A, Inc.," that *corporation* can do business with Business B without violating the law, even if "A, Inc.," is solely owned by Councilman A. The Commission sees this as thwarting the underlying goal of the law, which is to prevent officials from having relationships with companies doing business with their agencies.

2. Attorney Fees

Persons against whom complaints have been filed can seek to recover costs and attorney fees from their accuser, in what can be expensive and protracted litigation. But if the complainant successfully defends against a fees petition, current law does not allow the recovery of his or her *own* costs and fees. The Commission proposes addressing this imbalance by allowing the prevailing party in a fees petition—whether it be the respondent or the complainant—to recover costs and fees incurred both in the fees petition and the underlying complaint proceeding.

3. Enhanced Financial Disclosure for Local Elected Officials

All elected Constitutional officers must file Form 6—Full and Public Disclosure of Financial Interests, while municipal governing board members are only required to file the less-informative Form 1—Statement of Financial Interests. The Commission believes anyone asking for the citizens' votes should be willing to make full disclosure, and should be required to file the Form 6, and that this standard should apply uniformly to all municipalities, whether they be large or small.

4. Voting Conflicts Law

Under current law, local *elected* officials can participate in the discussion of a measure in which they have a conflict, without revealing the existence of that conflict until the vote is actually taken. This means the official can make every effort to persuade his or her colleagues without telling them (and the public) about the conflict. Appointed officials, in contrast, must declare their conflict before *participating* in the discussion of the measure. The Commission believes this restriction should apply equally to elected officers.

The Commission also believes the voting conflict standard for state officials should mirror the standard for local officials. This would mean state officials would be required to abstain from voting not only on those matters which would inure to *their own* special gain or loss, but also on matters which would inure to the special private gain or loss of a relative, principal, or business associate.

5. Representing Clients Before One's Own Board

The Commission has consistently advised in its opinions that a conflict would be created were a member of a collegial body, or his professional firm partners or associates, to represent clients before that board. The Commission views this as an important public protection, and opposes any relaxation of this standard.