City of Long Beach
Working Together to Serve

Office of the City Attorney

Memorandum

DATE: March 19, 2026

TO: Honorable Mayor and Members of the City Council

Planning Commission (*c/o Alison Spindler-Ruiz*, Staff Liaison and Planning Bureau Manager)

Board of Harbor Commissioners (*c/o Shana Espinoza,* Executive Officer to the Board of Harbor Commissioners)

Board of Utilities Commissioners (*c/o Dynna Long*, Executive Assistant to the Board and General Manager)

FROM: Dawn A. McIntosh, City Attorney

SUBJECT: "Legally Required Participation" under the Levine Act

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The California Political Reform Act of 1974 ("Political Reform Act"), known as the Levine Act, requires local elected and appointed officers to recuse themselves from certain proceedings involving persons/entities that made contributions exceeding $500 to their political campaigns or officeholder accounts over the 12 months prior to the decision. The Levine Act governs proceedings involving issuance of a license, permit or other entitlement for use. Our office has previously provided detailed guidance regarding Levine Act requirements which will not be repeated in this memo, as this memo is limited to the issue of "legally required participation" under the Levine Act. If you would like to review our prior memos on the Levine Act, feel free to reach out and request copies.

"Legally required participation" occurs when a quorum of Councilmembers[1] is not available to handle an item before them because too many Councilmembers are required to disqualify themselves from a decision due to a Levine Act conflict of interest. Participation is "legally required" because a decision cannot be made without a quorum of the Council and there is no other way for a decision to be made about a matter.

Quorum is defined as the minimum number of officials needed for the decision. For example, if a simple majority is needed and you have nine Councilmembers, quorum is

[1] When the term "Councilmember" is used in this memo, it also applies to the member of any commission or board that is subject to the Levine Act. Similarly, when the term "City Council" is used, it applies to the commission or board of the associated member who has the potential conflict under the Levine Act.

five Councilmembers. If a 2/3 vote is needed out of nine, you need six Councilmembers for a quorum. If a 4/5 vote is needed out of nine, then 8 members are needed for quorum.

If the City Council does not have a quorum on an item on the Council agenda due to the number of Councilmembers disqualified under the Levine Act, then the Council must use a "random means of selection" to select which of the disqualified Councilmember(s) will need to participate in the item to get to a quorum of the body (e.g., use the City Attorney's random drawing card system[2]). (*See* California Code of Regulations [C.C.R.] 18705(c)(3).)

Once a Councilmember is randomly selected to vote on a matter for which they would otherwise have been disqualified under the Levine Act, they are designated as the Councilmember legally required to participate in the specific matter for the duration of the proceedings relating to that matter until their participation is no longer legally required, or the need for invoking the "legally required participation" procedures no longer exists.

If a Councilmember is taking part of a decision due to their participation being legally required, they must provide the following disclosures on the record when the item is introduced:

The Councilmember must disclose the existence of the conflict of interest and describe with particularity the nature of the Councilmember's disqualifying financial interest or interests. This requirement is satisfied if the official discloses:

- The type of financial interest or interests involved in the decision, and;
- Other specified information identifying the interest depending on the type of interest at issue.

Example: "I received financial contributions totaling $___ over the last 12 months from ____, the [person, entity, paid board member of the entity, etc.] seeking the contract at issue in agenda item ___. Since this amount exceeds $500, I am required to disclose this conflict and would normally be required to recuse myself from participating in this item under the Levine Act".

Once the Councilmember makes the required disclosures, the City Attorney must disclose the legal basis for the determination that there is no alternative for the item/matter to be

[2] The City Attorney's random drawing card system will be used to select the Councilmember(s) who will be legally required to participate in the item/matter. The City Attorney will decide how many of the disqualified Councilmember are needed to make a quorum, using the minimum required number for the particular matter. For example, if a simple majority of the Council is required to hear an item and four Councilmembers are able to participate and five are disqualified under the Levine Act, the five disqualified Councilmembers will draw a card from the bag. One Councilmember will draw a card that says "YES" while the other four will draw cards that say "NO" because only one of them is needed to reach a quorum of five Councilmembers.

addressed due to the lack of quorum and explain that the Councilmember was randomly selected to participate in this item [or in all proceedings relating to this matter (if more than one item or vote is needed)] from the group of Councilmembers that were disqualified under the Levine Act. (See C.C.R. 18705(b).)

This process also applies to closed session discussions where the Levine Act is implicated. When there is "legally required participation" for a closed session agenda item, these disclosures must be made before the body adjourns to closed session or immediately upon its return to open session.

If you have any questions regarding this process for “legally required participation” under the Levine Act, please feel free to contact me.

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