

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:)	
)	
Opinion requested by:)	No. 75-190
Senator John A. Nejedly)	April 8, 1976
State of California)	
)	

BY THE COMMISSION: We have been asked the following question by State Senator John A. Nejedly:

Senator Nejedly is president of the Contra Costa Youth Association, a non-profit organization. The Association receives donations in food, camping equipment and other essentials from a variety of sources. All donations are tax deductible. As president of the Association, Senator Nejedly solicits donations of food and other necessities from members of the general public. In addition, he has, on occasion, assisted other groups including the John Muir Hospital, Southside Center, Social Advocates for Youth and Boy Scouts by requesting donations of money, food or whatever is needed. Because of these activities, Senator Nejedly has asked:

Does a member of the Legislature who solicits contributions for a non-profit organization violate any provision of the Political Reform Act or incur any reporting obligations under the Act?

CONCLUSION

Soliciting contributions for the Contra Costa Youth Association or other non-profit organizations is not prohibited by the Political Reform Act. Moreover, a member of the Legislature does not incur any reporting obligations by virtue of such activities.

ANALYSIS

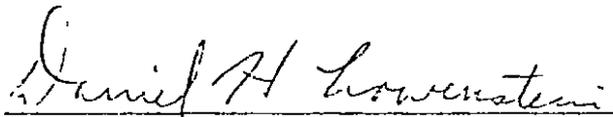
The Political Reform Act, Government Code Sections 81000, et seq.,^{1/} (hereinafter referred to as the "Act"),

^{1/} All statutory references are to the Government Code unless otherwise noted.

requires legislators to disclose certain information concerning their income, including the value and source of any gift worth \$25.00 or more. Section 87207(a)(1). In addition, legislators are prohibited from knowingly receiving a gift or gifts from a lobbyist if the total value of the gift or gifts is more than \$10.00 in any one calendar month. Section 86204. The reporting requirement and prohibition, however, apply only to gifts that are made to the legislator and clearly are not applicable to the instant situation.

As president of the Contra Costa Youth Association, Senator Nejedly makes appeals for money, goods and services to be utilized by the Association. These necessities are given to the Association, not to Senator Nejedly. Accordingly, the donations generated by the Senator's solicitations are gifts to the Association, not to the Senator.^{2/} These donations, therefore, are not reportable by the Senator nor are they prohibited if the donor is a lobbyist or if a lobbyist acts as an agent or intermediary or arranges for the making of a donation.^{3/}

Approved by the Commission on April 8, 1976. Concurring: Carpenter, Lapan, Quinn and Lowenstein. Commissioner Brosnahan was absent.


Daniel H. Lowenstein
Chairman

^{2/} Previously, we have considered the elements essential to a gift of personal property: (1) donor's intent; (2) delivery; and (3) donee's acceptance. See opinion requested by Senator Newton R. Russell, 1 FPFC Opinions 135 (No. 75-085, Oct. 1, 1975). Although these requisite elements could be present if an organization acted as an agent of the Senator, they are not present based on the facts provided in this case.

^{3/} Although a lobbyist may make gifts to the Association, a lobbyist is prohibited from doing "anything with the purpose of placing any elected state officer ... under personal obligation to him or to his employer." Section 86205(a). Consequently, a lobbyist is prohibited from making a gift to the Association in order to obtain influence with Senator Nejedly.