



California Fair Political Practices Commission

March 11, 1986

Richard W. Fairhurst
Central Water District
400 Cox Road
P.O. Box 1869
Aptos, CA 95001-1869

Re: Your Request for Assistance
Our File No. I-86-079

Dear Mr. Fairhurst:

Thank you for your letter requesting assistance regarding the conflict of interest provisions of the Political Reform Act. (the "Act").^{1/} In your letter, you did not provide the name of the board member whose duties under the Act are in question, nor did you state whether that board member had authorized you to request formal written advice on his behalf. Therefore, we consider your letter to be a request for informal assistance pursuant to Commission regulation 2 Cal. Adm. Code Section 18329(c) (copy enclosed).

QUESTION

You have asked whether a member of the Board of Directors of the Central Water District,^{2/} who is also a member of the Santa Cruz County Local Agency Formation Commission (LAFCO),^{3/} may participate in decisions or discussions of the Central Water District on a subject to be later brought before the LAFCO for consideration.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

^{2/} You have informed us that the Central Water District is a public agency formed pursuant to Water Code Section 30000, et seq.

^{3/} The Santa Cruz County Local Agency Formation Commission is a public agency formed pursuant to Section 56300, et seq.

CONCLUSION

The Act does not prohibit a member of the Board of Directors of the Central Water District, who is also a member of the Santa Cruz County LAFCO, from participating in decisions or discussions of the Central Water District on a subject to be later brought before the LAFCO for consideration.

ANALYSIS

Section 87100 prohibits a public official from making, participating, or using his official position to influence any governmental decision in which he knows or has reason to know he has a financial interest. A public official has a financial interest in a decision if the decision would have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on any of the following interests:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103(a)-(e).

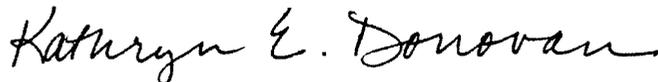
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Membership on the board of a public agency is not a financial interest for purposes of Sections 87100 and 87103. The Act defines "income" to exclude salary and reimbursement for expenses or per diem received from a state, local, or federal government agency. Section 82030(b)(2). Similarly, an officer or employee of a government agency is not considered an officer or employee of a "business entity" for purposes of the Act. Section 82005. Therefore, under the Act, it is not a conflict of interest for a member of the Board of Directors of the Central Water District, who is also a member of the Santa Cruz County LAFCO, to participate in decisions or discussions of the Central Water District on a subject later to be brought before the LAFCO for consideration.

This advice is limited to the interpretation of the Political Reform Act. You may wish to contact the legal counsel for your agency or the Attorney General's Office regarding whether the common law doctrine of incompatible offices prevents a person from simultaneously serving as a Director of the Central Water District and a member of the Santa Cruz County LAFCO. (See the attached list of Attorney General's Opinions on this subject.)

If you have any questions regarding this letter, please contact me at (916) 322-5901.

Very truly yours,



Kathryn E. Donovan
Counsel
Legal Division

KED:plh
Enclosure

CENTRAL WATER DISTRICT

400 Cox Road
P.O. Box 1869
Aptos, California 95001-1869
(408) 688-2767

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February 26, 1986

Ms. Barbara Milman
Legal Division Chief
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804

Dear Ms. Milman:

One member of the Board of Directors of the Central Water District, a district formed pursuant to the State Water Code, Division 12, Section 30,000 et seq. as an autonomous State agency, is also an alternate member (representing the public) of the Santa Cruz County Local Agency Formation Commission (LAFCO).

At a recent District Board meeting serious objections were voiced by other Directors over the propriety of the LAFCO/District Board member's participation in discussions on a subject later to be brought before the LAFCO Board for consideration.

The LAFCO/District Board member contends that when the matter is before LAFCO he will disqualify himself from that discussion, but he should not be excluded from the Water District discussion on the matter.

We would appreciate an opinion on this question at your earliest convenience.

If the issue needs further clarification, please call me at (408) 688-2767.

Very truly yours,



Richard W. Fairhurst
District Manager

RWF:es



California Fair Political Practices Commission

March 4, 1986

Richard W. Fairhurst
District Manager
Central Water District
P.O. Box 1869
Aptos, CA 95001-1869

Re: I-86-079

Dear Mr. Fairhurst:

Your letter requesting advice under the Political Reform Act has been received by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,


Kathryn E. Donovan
Counsel
Legal Division

KED:plh