



# California Fair Political Practices Commission

October 24, 1986

Mr. Frederick K. Lowell  
Pillsbury, Madison & Sutro  
P.O. Box 7880  
San Francisco, CA 94120

Re: Your Request for Advice  
Our File No. A-86-283

Dear Mr. Lowell

In your letter dated September 22, 1986, you requested that we confirm advice previously given concerning the campaign disclosure provisions of the Political Reform Act.<sup>1/</sup> This letter is to confirm the advice I provided to you during our meeting on September 2, 1986.

## QUESTION

When reporting employee compensation as a contribution or expenditure, must the employer include payroll taxes or routine fringe benefits, such as the employer's contribution to health plans, retirement plans, etc., which are made on behalf of all employees?

## ANSWER

These payments are not required to be included in the amount of the employer's contribution.

## ANALYSIS

Government Code Section 82015 defines the term "contribution" to include:

... the payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

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<sup>1/</sup>Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted.

In Regulation 18423 (copy enclosed),<sup>2/</sup> the Commission clarified Section 82015 as follows:

(a) The payment of salary, reimbursement for personal expenses, or other compensation by an employer to an employee who spends more than 10% of his compensated time in any one month rendering services for political purposes is a contribution, as defined in Government Code Section 82015 and 2 Cal. Adm. Code Section 18215, or an expenditure, as defined in Government Code Section 82025 and 2 Cal. Adm. Code Section 18225, by the employer if:

(1) The employee renders services at the request or direction of the employer; or

(2) The employee, with consent of the employer, is relieved of any normal working responsibilities related to his employment in order to render the personal services, unless the employee engages in political activity on bona fide, although compensable, vacation time or pursuant to a uniform policy allowing employees to engage in political activity....

As pointed out in your letter, similar provisions governing employee time are contained in the lobbying disclosure provisions of the Act, except that when a lobbyist employer is required to report compensation to employees who engage in lobbying activities, Commission regulations specifically exclude routine fringe benefits and payroll taxes from the definition of "compensation." (Regulations 18615, 18616.) The reasons for excluding routine fringe benefits and payroll taxes from reports filed by lobbyist employers are outlined in Barbara Milman's letter to you dated October 11, 1984 (Advice Letter No. A-84-240, copy enclosed), which states:

...We have determined that the additional benefit which the public would receive from reporting these routine fringe benefits under Section 18620(d)(2) is minimal, and that requiring the information poses a significant burden on lobbyist-employers....

The same reasoning would appear to be true with regard to reporting compensation paid to employees who engage in campaign activities. Therefore, we have concluded that employer's payroll taxes and routine fringe benefits, such as an employer's

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<sup>2/</sup> Commission regulations appear at 2 California Administrative Code Section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Administrative Code.

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contribution to health plans, retirement plans, etc., which are made on behalf of all employees, are not required to be calculated in the amount of compensation reported as contributions or expenditures.

Please feel free to call me if you have any questions concerning the advice in this letter.

Sincerely,

Diane M. Griffiths  
General Counsel

*Carla Wardlow*

By Carla Wardlow  
Political Reform Consultant

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September 22, 1986

Campaign Disclosure Provisions  
of the Political Reform Act of  
1974

Ms. Carla Wardlow  
Political Consultant  
Fair Political Practices Commission  
P.O. Box 807  
Sacramento, CA 95804

Dear Carla:

Pursuant to our recent conversation in Sacramento, this letter constitutes a request for written advice under Government Code section 83114(b).

Under regulations promulgated pursuant to the lobbying disclosure provisions of the Act, "routine fringe benefits, such as the employer's contribution to health plans, retirement plans, etc. which are made on behalf of all employees" and "the payment of the employer's payroll taxes" are not included as reportable payments to a lobbyist or as reportable compensation to nonlobbyist employees (2 Cal.Admin.Code, § 18620; 2 Cal.Admin.Code, § 18615 (proposed)). No such exception is found in the regulations promulgated pursuant to the campaign disclosure provisions of the Act governing employee participation in political campaigns. The appropriate regulation (2 Cal.Admin.Code, § 18423) simply refers to the reportability of "salary, reimbursement for personal expenses, or other compensation by an employer to an employee" when the employee exceeds the ten percent threshold.

Notwithstanding the foregoing, it has been your

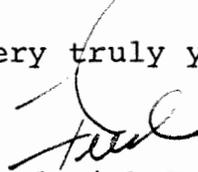
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office's informal position over the years that "salary burden" payments of the type described in section 18620 are not reportable political contributions or expenditures with respect to employees who exceed the ten percent threshold in section 18423; in other words, "other compensation" does not include the payment of routine, fringe benefits which are paid on behalf of all employees and payroll taxes.

Because of the confusion and questions which are generated on this subject during each election cycle, we would appreciate it if you would confirm the Commission's position on this question in written form.

Thank you for your attention on this matter.

Very truly yours,



Frederick K. Lowell

cc: Cathy Donovan, Esq.