



# California Fair Political Practices Commission

February 7, 1989

Curt Hamby  
Assistant General Manager  
Association of California Water Agencies  
Joint Powers Insurance Authority  
7844 Madison Ave., Suite 167  
Fair Oaks, CA 95628

Re: Your Request for Advice  
Our File No. A-88-476

Dear Mr. Hamby:

This is in response to your letter confirming our telephone conversation regarding application of the new mass mailing provisions of the Political Reform Act (the "Act")<sup>1/</sup> to your Joint Powers Insurance Agency (JPIA) newsletter, the JPIA Review.

## QUESTIONS

1. Since the JPIA Review is sent mainly to member agencies of the JPIA, can elected officers affiliated with the agency be featured in the newsletter?
2. Do your plans for the 10th anniversary issue of the JPIA Review conform to the requirements of the Act, in light of the prohibition on featuring elected officials?
3. Do mailings to entities with which the JPIA contracts for services fall within the exception for intra-agency mailing?

## CONCLUSIONS

1. Intra-agency mailings sent in the normal course of business are exempt from the restrictions on mass mailings. Elected officials may, therefore, be featured in mailings sent within the agency in the normal course of business.

---

<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

2. So long as the 10th Anniversary issue of the Review is distributed as an intra-agency communication, the mass mailing restrictions do not apply.

3. The intra-agency exception does not apply to providers of services under contract to the agency. Thus, mailings sent to such providers are subject to the mass mailings restrictions.

#### FACTS

The Association of California Water Agencies Joint Powers Insurance Authority publishes a monthly newsletter. The newsletter, JPIA Review, is written by the association and distributed to its member public agencies to keep them informed regarding the current status of their self-insured programs, new legislation and committee, conference and convention activities.

The Review often has feature articles on one or more board, executive committee or subcommittee members, all of whom are elected officials. In the association's upcoming 10th anniversary edition of the Review, plans include a retrospective on the association, with a number of feature stories and pictures highlighting past and present members.

In addition to sending the Review to member agencies, the newsletter is sent to other individuals or agencies upon request, and sometimes to providers who contract with the association.

#### ANALYSIS

Section 89001 provides that no newsletter or other mass mailing shall be sent at public expense. "Mass mailing" is more than 200 substantially similar pieces of mail sent in a calendar month. (Section 82041.5 and Regulation 18901(d), copy enclosed.)

The Commission has adopted Regulation 18901 (copy enclosed) which permits the mailing of certain newsletters or mass mailings at public expense. It is the Commission's belief that the voters did not intend to prohibit essential governmental mailings in enacting Proposition 73, but rather to prevent elected officers from using governmental newsletters or other mass mailings to promote their own incumbency. Thus, a mass mailing sent at public expense may not benefit an incumbent officeholder by featuring the name, photograph or signature of an elected official affiliated with the agency which produces or distributes the document. (Regulation 18901(c).)

JPIA is a public agency which uses public funds for the production and distribution of its newsletter. The newsletter is sent to more than 200 agencies and individuals in a calendar month. Therefore, the association may not include in the newsletter the name, photograph or signature of an elected official affiliated with the agency unless one of the specific exceptions in Regulation 18901 applies.

### Intra-agency Communications

Regulation 18901 provides that a mass mailing is not prohibited under Section 89001 if the mailing consists of:

\* \* \*

(2) Mailings sent in the normal course of business from one governmental entity or officer to another governmental entity or officer;

(3) Intra-agency communications sent in the normal course of business to employees, officers, deputies and other staff;

\* \* \*

Regulation 18901(f)(2) and (3).

All of the members of the JPIA are governmental entities. The Review is a monthly newsletter designed to keep people abreast of issues relevant to the business of the agency. Further, since these various local governmental entities are, by virtue of their membership in the JPIA, a part of that agency, such communications to them from JPIA would be an intra-agency communication. We conclude, therefore, that distribution of the Review to the members of the JPIA does not constitute a mass mailing for purposes of the Act, and that the restrictions on featuring elected officials in the newsletter do not apply.

Application of this rule is appropriate for the 10th anniversary edition of the Review, as well. So long as the newsletter is sent in the normal course of business to other governmental entities or to intra-agency members and officials, the featuring of elected officials through feature articles, profiles or photographs is not prohibited by the Act.

### Mailings Sent to Contract Providers

As was noted above, newsletters and mass mailings sent intra-agency or to other governmental entities are exempt from the prohibition on mass mailings sent at public expense. The intra-agency exception specifies "intra-agency" to mean communications sent in the normal course of business to employees, officers, deputies and other staff.

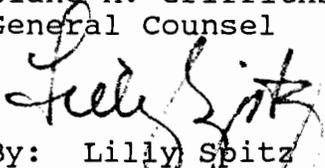
Curt Hamby  
February 7, 1989  
Page 4

Public agencies often contract with providers of goods and services. However, such providers are not considered employees, officers, deputies or staff to the agency. Their duties and responsibilities are often quite different from those of agency staff, and their status distinguishable. We conclude, therefore, that newsletters sent to providers of services to a public agency, as defined in Regulation 18700(a)(2), do not fall within the intra-agency exception of Regulation 18901. Thus, where 200 or more unsolicited newsletters are sent to contract providers or other private individuals in a calendar month, the mass mailing restrictions do apply.

I trust this analysis answers your questions regarding application of the mass mailing restrictions to your agency's newsletter. If you have further questions, or need clarification, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Lilly Spitz  
Counsel, Legal Division

DMG:LS:plh

Enclosures

ASSOCIATION OF CALIFORNIA WATER AGENCIES

JOINT POWERS INSURANCE AUTHORITY

A Public Agency

7844 Madison Avenue, Suite 167

Fair Oaks, CA 95628

(916) 965-1515

Executive Committee

H. Warren Buckner  
John E. Fisher  
Henry Garnett  
A. Spencer Lehmann  
Lyle W. Martin  
John M. Mylne III (Terry)  
Ferd A. Preuss  
Ruth Santos  
Ronald Vickery

Officers

President:  
Lyle W. Martin  
Vice President:  
H. Warren Buckner  
General Manager:  
Jerry Stockett  
Auditor/Controller:  
Sam Dunlap

December 16, 1988

Lilly Spitz  
Legal Counsel  
Fair Political Practices Commission  
428 J Street, Suite 800  
Sacramento, CA 95814

RE: Proposition 73

Dear Ms. Spitz:

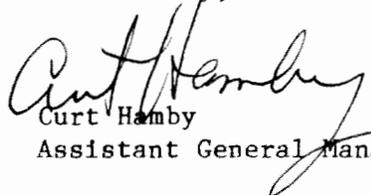
This letter will confirm our telephone conversation of December 16, 1988 concerning Proposition 73. We have reviewed the Proposition and do not feel that it applies to our "JPIA Review". I am attaching a copy of that "Review" with this letter.

This "Review" is written and distributed to our member public agencies to keep them informed as to the current status of our self-insured programs, new legislation, as well as reporting on committees, conferences and conventions. Many times the "Review" will feature articles on one or more Board, Executive Committee or Sub-Committee member. We feel that the "Review" constitutes mailings sent "in the normal course of business from one governmental entity to another governmental entity" and that articles about elected officials that constitute our Board, Executive Committee or Sub-Committees are normally distributed only to the other governmental entities for informational purposes only and not to the voting public. We do send copies to other individuals or agencies that request them.

I am also attaching a copy of our "10th Anniversary" special plans. If your opinion differs with our interpretation of Proposition 73 please advise me; otherwise we will proceed with our plans.

Thank you very much for your assistance in resolving this matter satisfactorily.

Yours truly,

  
Curt Hamby  
Assistant General Manager

Enclosures

cc: "Review" - 10th Anniversary Agenda

CH/dm

Dec 22 3 51 PM 1988  
F P P C

# ACWA/JPIA

## 10th Anniversary Plans

### 1. Special Anniversary Issue of The JPIA REVIEW

To be published by 3/22/89

Will include:

- a. History of how JPIA was formed;
- b. Original Committees and who served on them;
- c. Pictures, Pictures, Pictures -- To include all (previous & current) Executive Committee members, other committee members, staff, JPIA offices, and seminars & meetings; and
- d. Highlight of the year for each year during the past ten years.

### 2. Spring Conference (May 1989)

- a. Reception (Possibly in place of the Presidents' Reception);
- b. Pictorial Exhibit of JPIA History;
- c. Review of coverages during the past ten years; and
- d. Check with ACWA to see if the Anniversary of the JPIA can be made a sub-theme of the Conference.



# California Fair Political Practices Commission

December 23, 1988

Curt Hamby  
Assistant General Manager  
Association of Water Agencies  
Joint Powers Insurance Authority  
7844 Madison Avenue, Suite 167  
Fair Oaks, CA 95628

Re: 88-476

Dear Mr. Hamby:

Your letter requesting advice under the Political Reform Act was received on December 22, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Lilly Spitz, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

*Diane M. Griffiths*  
Diane M. Griffiths  
General Counsel (us)

DMG:plh

88-476

ASSOCIATION OF CALIFORNIA WATER AGENCIES

JOINT POWERS INSURANCE AUTHORITY

A Public Agency

7844 Madison Avenue, Suite 167

Fair Oaks, CA 95628

(916) 965-1515

Executive Committee

H. Warren Buckner  
John E. Fisher  
Henry Garnett  
A. Spencer Lehmann  
Lyle W. Martin  
John M. Mylne III (Terry)  
Ferd A. Preuss  
Ruth Santos  
Ronald Vickery

Officers

President:  
Lyle W. Martin  
Vice President:  
H. Warren Buckner  
General Manager:  
Jerry Stockett  
Auditor/Controller:  
Sam Dunlap

December 16, 1988

Lilly Spitz  
Legal Counsel  
Fair Political Practices Commission  
428 J Street, Suite 800  
Sacramento, CA 95814

RE: Proposition 73

Dear Ms. Spitz:

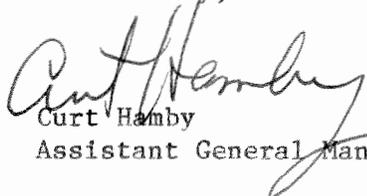
This letter will confirm our telephone conversation of December 16, 1988 concerning Proposition 73. We have reviewed the Proposition and do not feel that it applies to our "JPIA Review". I am attaching a copy of that "Review" with this letter.

This "Review" is written and distributed to our member public agencies to keep them informed as to the current status of our self-insured programs, new legislation, as well as reporting on committees, conferences and conventions. Many times the "Review" will feature articles on one or more Board, Executive Committee or Sub-Committee member. We feel that the "Review" constitutes mailings sent "in the normal course of business from one governmental entity to another governmental entity" and that articles about elected officials that constitute our Board, Executive Committee or Sub-Committees are normally distributed only to the other governmental entities for informational purposes only and not to the voting public. We do send copies to other individuals or agencies that request them.

I am also attaching a copy of our "10th Anniversary" special plans. If your opinion differs with our interpretation of Proposition 73 please advise me; otherwise we will proceed with our plans.

Thank you very much for your assistance in resolving this matter satisfactorily.

Yours truly,

  
Curt Hamby  
Assistant General Manager

Enclosures

cc: "Review" - 10th Anniversary Agenda

CH/dm

DEC 22 3 51 PM '88  
FPPC

# **ACWA/JPIA**

## **10th Anniversary Plans**

### **1. Special Anniversary Issue of The JPIA REVIEW**

To be published by 3/22/89

Will include:

- a. History of how JPIA was formed;
- b. Original Committees and who served on them;
- c. Pictures, Pictures, Pictures -- To include all (previous & current) Executive Committee members, other committee members, staff, JPIA offices, and seminars & meetings; and
- d. Highlight of the year for each year during the past ten years.

### **2. Spring Conference (May 1989)**

- a. Reception (Possibly in place of the Presidents' Reception);
- b. Pictorial Exhibit of JPIA History;
- c. Review of coverages during the past ten years; and
- d. Check with ACWA to see if the Anniversary of the JPIA can be made a sub-theme of the Conference.