



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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May 12, 2015

Tod Hickman
P O Box 238
Bangor, CA 95914

Re: Your Request for Advice
Our File No. A-15-086

Dear Mr. Hickman:

This letter responds to your request for advice regarding the conflict of interest provisions of the Political Reform Act (the "Act").¹

Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090, nor the Brown Act.

QUESTION

Does the Act prohibit you from participating in decisions to approve the minutes of prior board meetings?

CONCLUSION

No. Approving the minutes is not a "decision" under the Act and does not therefore give rise to a conflict of interests.

FACTS

You are one of five elected Directors for South Feather Water and Power, a small water and power Agency in Northern California. We have previously advised that you have a conflict of interest in decisions relating to a project in your neighborhood. (See *Hickman* Advice Letter No. A-15-061). At each meeting, the board members vote regarding whether to approve the minutes from the last meeting. You occasionally have questions or corrections regarding the minutes that you pose prior to the vote. The corrections could pertain to the subject in which you have a conflict.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

ANALYSIS

Section 87100 prohibits any public official from making, participating in making, or using his or her position to influence a governmental decision in which the official has a financial interest. A public official has a “financial interest” in a decision within the meaning of the Act if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the public official’s interests. (Section 87103.)

The Act’s conflict of interest provisions apply only when a public official “make[s], participate[s] in making, or in any way attempts to use his [or her] official position to influence a governmental decision in which he [or she] knows or has reason to know he [or she] has a financial interest.” (Section 87100.) An official is not making or participating in making a government decision if the official’s actions are solely ministerial, secretarial, manual, or clerical. (Regulation 18704(d)(1).) Voting to approve the minutes from the prior meeting, even if when you have comments regarding the substantive nature of the previous meeting, is ministerial and clerical in nature. Additionally, when you limit your comments to the accuracy of the minutes, you are participating in a ministerial act. Accordingly, you are not “making a governmental decision” under the Act when you comment on and vote regarding the Board’s minutes.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Hyla P. Wagner
General Counsel

/s/

By: Heather M. Rowan
Senior Counsel, Legal Division

HMR:jgl