

82011

# State of California



## Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

December 20, 1976

Mr. Crane Kitchel  
Acting County Counsel  
1507 West Fifth Street  
San Bernardino, California 92415

76-248

Dear Mr. Kitchel:

Thank you for your letter of November 9, 1976, in which you inquire whether a joint powers agency is required to develop a Conflict of Interest Code pursuant to §87300 of the Government Code.

It is our view that joint powers agencies formed pursuant to Government Code §6500 et seq. are "public agencies" by virtue of their makeup, which generally consists of a number of local agencies joined for the purpose of carrying out mutual governmental functions.

Government Code §87300 provides in pertinent part that "Every agency shall adopt and promulgate a Conflict of Interest Code...". (Emphasis added.) Therefore, joint powers agencies, as combinations of local agencies, should be required to develop a Conflict of Interest Code. Further, local public officials who sit on these joint powers agencies may have different disclosure requirements under a joint powers Code than as members of City Councils. This is because the official's reporting requirements under a Conflict of Interest Code and Government Code §87200 are tied to the official's jurisdiction, which generally will not be the same in both instances.

To date the Commission has not yet established deadline dates for joint powers agencies for which the Commission will be the code reviewing body. If and when the Commission and appropriate code reviewing bodies do establish deadline dates, the agencies affected will no doubt receive sufficient notice.

Government Code §82011 will determine the appropriate code reviewing body for all agencies as follows:

"Code reviewing body" means:

- (a) The Commission, with respect to the Conflict of Interest Code of ... any local government agency with jurisdiction in more than one county;

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(b) The Board of Supervisors, with respect to the Conflict of Interest Code of any county agency other than the Board of Supervisors, and of any local government agency, other than a city agency, with jurisdiction wholly within the county;

(c) The city council, with respect to the Conflict of Interest Code of any city agency other than the city council; ....

If you have any further questions, please call me at 916/322-6441.

Sincerely,



Alfredo Flores  
Research Specialist  
Conflicts of Interest  
Division

AF:gb

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COUNTY OF  
SAN BERNARDINO

SAN BERNARDINO, CALIFORNIA

November 9, 1976

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Fair Political Practices Commission  
1100 K Street  
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RE: OPINION REQUEST

Gentlemen:

We request your opinion on the following question:

Is a joint powers entity, which is created by an agreement pursuant to the provisions of Article I, Chapter 5, Division 7, Title 1 of the Government Code (§6500 et seq.), an agency required to adopt a conflict of interest code pursuant to provisions of the Political Reform Act?

In this connection, we note that Government Code Section 87300 provides in its pertinent part that "Every agency shall adopt and promulgate a Conflict of Interest Code. . ." (emphasis added), and that Government Code Section 82041 provides as follows:

"Local government agency" means a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of these, but does not include any court or any agency in the judicial branch of government. (emphasis added)

The definition of entity found in Section 6542 of the Government Code provides that:

"Entity" as used in this article means any agency, board or commission provided for by a joint powers agreement pursuant to Article 1 of this chapter. Such agency, board or commission is an entity separate from the public agencies which are parties to such agreement.

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In light of the definition of entity, it would appear that a joint powers entity may not be an agency required to adopt a code pursuant to Government Code Section 87300.

Respectfully submitted,



M. CRANE KITCHEL  
Acting County Counsel

MCK:DS:kgh