

June 30, 1976

76-282

Reed Hundt  
Latham & Watkins  
555 South Flower St.  
Los Angeles, California 90071

Dear Mr. Hundt:

This letter responds to your questions concerning the reportability of certain costs involved in preparing, printing and distributing a brochure about highways. As I understand the facts, your client has employed a person to speak with labor unions in support of highways. In the course of those activities, the employee prepared a brochure reflecting the client's views on highways. The client would like to send copies of the brochure to legislators. On the basis of these facts, you inquired whether the employee who prepared the brochure may become a "lobbyist" and whether your client will incur any reporting obligations under the Political Reform Act. In such circumstances, it is unlikely that the employee will become a lobbyist because he does not spend sufficient time in "direct communication" with elective state officials and legislative officials to meet the time tests established in 2 Cal. Adm. Code Section 18239(e). Time spent researching and writing the brochure are not includable for purposes of meeting the time tests. 2 Cal. Adm. Code Section 18239(e)(4). If the employee writes individual letters to legislators to accompany the brochure, hours spent writing those letters are "hours of direct communication" and should be included to determine whether the employee has met any of the time tests set forth in Section 18239. See 2 Cal. Adm. Code Section 18239(b).

Notwithstanding the above discussion, your client may incur reporting obligations under Government Code Section 86108(b) if the client makes payments of \$250 or more in any one month to influence legislative or administrative action. Salary paid to the employee for the time spent preparing the brochure is not a reportable payment, because the employee did not prepare the brochure for the purpose of influencing legislative action. 2 Cal. Adm. Code Section 18621(a)(3).

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However, the costs of printing and sending copies to legislators are payments in connection with direct communication with elected state officers and should be included as payments to influence legislative action. Government Code Section 82045.(c) In addition, if distribution of the pamphlet requires any employee to spend 10% or more of his time in any one month writing letters to legislators or otherwise communicating with legislators, the portion of the employee's salary attributable to such activities is a payment to influence legislative action. If such payments plus other payments reportable pursuant to 2 Cal. Adm. Code Section 18621 aggregate \$250 or more in any one month, your client must report the payments on Form 650.

I hope this information will be of assistance.

Sincerely,

Natalie E. West  
Staff Counsel

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