

March 9, 1978

78-102

Norman Miller
Local Government Services of California
1127 11th Street, Suite 503
Sacramento, CA 95814

Dear Mr. Miller:

Thank you for your letter dated February 27, 1978 requesting advice regarding whether you should register as a lobbyist under the Political Reform Act.

Specifically, you have inquired whether the following activities are in the nature of administrative action as defined in Government Code Section 82002:

1. Advising your clients as to the availability of appropriations for reimbursement of costs associated with state mandated programs under SB 90 (Chapter 1135, Statutes of 1977);
2. preparing claims for reimbursement on behalf of your clients and submitting the claims to the State Board of Control or instructing your clients on the proper method of preparing the claims for reimbursement for unfunded mandates under SB 90;
3. appearing before the State Board of Control on behalf of your clients regarding whether or not a mandate exists and if one does exist, explaining the parameters, guidelines and costs associated with particular mandates.

Administrative action is defined in Government Code Section 82002 as: "... the preposal, drafting, development, consideration, amendment, enactment or defeat by any state agency of any rule, regulation or other action in any rate-making proceeding or any quasi-legislative proceeding..." Since the activities described are not in connection with a rate making proceeding, a determination must be made as to whether the activities before the State Board of Control are in connection with a quasi-legislative proceeding.

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As you know, the Fair Political Practices Commission has adopted an administrative regulation (2 Cal. Adm. Code Section 18202), a copy of which is enclosed, which excludes specified proceedings from the definition of quasi-legislative administrative action. Based on the description of your activities with the State Board of Control, we agree with your conclusion that the activities you will be performing are excluded from the definition of quasi-legislative administrative action under Section 18202(a)(1). That subsection specifically excludes: "A proceeding to determine the rights or duties of a person under existing laws, regulations or policies."

Therefore, since the activities outlined in your letter are not influencing administrative action, the time you devote to these activities will not have to be considered in determining if you are a lobbyist pursuant to Government Code Section 82039 and the Commission's regulation which clarifies that Section (2 Cal. Adm. Code Section 18239).

If I can be of further assistance, do not hesitate to contact me.

Sincerely,

Alan Herndon
Compliance Representative

Enclosure

AH:bw

LGSC

Local Government
Services of California

Copy to
Bertha

February 27, 1978

Mr. Allen Herndon
Fair Political Practices Commission
1100 K Street
Sacramento, California
95811

Dear Mr. Herndon:

As a follow-up to our recent telephone conversation, the following is an outline of the services which I will be providing to clients of School/Local Government Services of California as a result of SB 90 (Chapter 1135, Statutes of 1977):

1. review and advising the client as to the availability of appropriation for reimbursement of costs associated with state mandates;
2. in those cases where it is found that reimbursement is available and the client has not filed for reimbursement, either preparing the claim for reimbursement on behalf of the client or instructing the client on the proper method of preparing the claims for reimbursement;
3. either instructing on the methods or actually preparing and submitting on the client's behalf claims to the state Board of Control for unfunded mandates under SB 90.

As a follow-up to the preparation of the claims, in many cases we contemplate actually appearing before the Board of Control regarding whether or not a mandate exists and, secondly, if a mandate does exist, explaining the parameters and guidelines and the costs associated with particular mandates. We do not anticipate contact with the Legislature in a lobbying function or appearing before the Board of Control or other administrative bodies to advocate on their quasi-judicial activities of rule-making. We do intend to keep our clients informed of the various regulations adopted by the state administrative agencies, but solely for the purpose of making them aware of the mandates, not regarding the validity or appropriateness of the subject matter of the regulations proposed to be adopted by the state agency.

I would like to have your advice as to whether or not it is necessary for me to register as a lobbyist with the Fair Political Practices Commission. My belief is that, after reading the regulations of the FPFC, I do not fall into the category of influencing legislative or quasi-legislative action. Your early attention to this request would be greatly appreciated.

Sincerely,



NORMAN F. MILLER
DIRECTOR

NEM/mhs