

# State of California



# Fair Political Practices Commission

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

August 16, 1978

Anthony S. Alperin  
Deputy City Attorney  
City of Los Angeles  
City Hall  
Los Angeles, CA 90012

A 78-301

Re: Opinion Request  
No. 78-010

Dear Mr. Alperin:

Thank you for your letter of July 18, 1978, requesting an opinion regarding the conflict of interest provisions of the Political Reform Act. Because your question does not raise a substantial issue of interpretation under the Political Reform Act, the Commission has denied your request for a formal opinion. I hope the following informal advice is helpful.

In your letter you have asked whether the South Coast Air Quality Management District (South Coast) is considered a state agency for the purposes of the Political Reform Act, and whether lobbyist activity with regard to the District need be reported. We have provided advice on several previous occasions that South Coast is not a state agency. Government Code Section 82049 defines state agency to include:

... every state office, department, division, bureau, board and commission, and the Legislature, but does not include the courts or any agency in the judicial branch of government.

The Commission has provided by regulation that:

An agency is a state agency within the provisions of Government Code Section 82049 only if all the following criteria are met:

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- (a) The agency is authorized by statute, executive order or the California constitution.
- (b) At least one voting member is an elected state officer or is appointed by an elected state officer or an agency official or a state agency.
- (c) The agency is financed in part by any state funds or is subject to appropriation in the state budget.
- (d) An area larger than one county is included in its jurisdiction.

2 Cal. Adm. Code Section 18249

Although South Coast satisfies the criteria set forth in 2 Cal. Adm. Code Section 18249, there are certain overriding factors which lead to the conclusion that South Coast is local in nature and not a state agency. First, most air quality or air pollution districts are limited in their jurisdiction to one county. Second, over 90% of the finances for such districts comes from local funds. Third, the California Air Resources Board (CARB) is the true state agency in the air pollution area. The CARB adopts regulations which supersede all local regulations and bind all local districts including South Coast. Moreover, all variances and permits granted by a local district must be approved by the CARB.

It is our conclusion that South Coast is not a state agency. Therefore, attempts to influence rule-making decisions of the District need not be reported pursuant to Chapter 6 of the Act.

I hope this information has been helpful. If you have any questions regarding this matter, please contact me or Dwight Dickerson, an attorney in our Conflicts of Interest Division. If you wish to appeal the denial of your request for a formal opinion, you may do so pursuant to 2 Cal. Adm. Code Section 18321.

Sincerely,

Michael Bennett  
Executive Director

78301

Request No. 78 010

Date Received 7-21-78

Response Due 8-4-78

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OFFICE OF  
**CITY ATTORNEY**  
CITY HALL  
LOS ANGELES, CALIFORNIA 90012

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BURT PINES  
CITY ATTORNEY

July 18, 1978

The Honorable Fair Political  
Practices Commission  
1100 "K" Street Building  
Sacramento, California 95814


Honorable Members:

From time to time, attorneys of this office and members of the staffs of departments and offices of the City of Los Angeles, including Deputy City Attorney Gregory O'Brien, attempt to influence rule-making decisions of the South Coast Air Quality Management District. If the District is a "state agency" within the meaning of the Political Reform Act, then the City is required to report the above activities on its monthly statements filed pursuant to Chapter 6 of the Act, and persons, including Mr. O'Brien, may qualify as lobbyists in the future.

Although the District appears to meet the test for a "state agency" set forth at 2 Cal. Admin. Code Section 18249, your staff has orally advised us that the District should not be treated as such.

The formal opinion of the Commission is requested concerning whether the District is a "state agency" and concerning the consequent duties of the City and its employees who attempt to influence actions of the District. In the event that the Commission does not issue an opinion, written advice on the subject is requested, pursuant to Government Code Section 83114(b).

Very truly yours,  
BURT PINES, City Attorney

By   
ANTHONY SAUL ALPERIN  
Deputy City Attorney

ASA:gjh  
485-5418  
cc: Gregory O'Brien, Esq.