



# California Fair Political Practices Commission

August 28, 1992

Michael Morrison  
4848 Okmulgee  
Olivehurst, CA 95961

Re: Your Request for Advice  
Our File No. I-92-399

Dear Mr. Morrison:

This is in response to your request for advice under the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1/</sup> Since you are seeking general assistance and not inquiring about a specific decision before you, your letter is considered a request for informal assistance.<sup>2/</sup>

## QUESTION

Will your part-time position with the Olivehurst Fire Department create a conflict of interest if you are elected to the Olivehurst Public Utility District Board of Directors?

## CONCLUSION

Your income from the Olivehurst Fire Department is not a source of income under the Political Reform Act. Your part-time position with the fire department does not create a conflict of interest. This advice is limited to the provisions of the Political Reform Act.

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

<sup>2/</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

FACTS

You are considering running for the Olivehurst Public Utility District Board of Directors. You are presently an employee with the District functioning as a part-time fire captain with the Olivehurst Fire Department. You are asking if there will be a conflict of interest if you are elected to the District Board of Directors.

ANALYSIS

Section 87100 prohibits public officials from making, participating in, or using their official position to influence a governmental decision in which they know or have reason to know they have a financial interest.

An official has a financial interest in a governmental decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, or on a member of the official's immediate family, or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

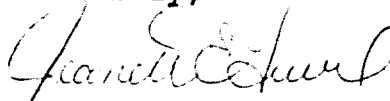
Salary from a state, local or federal government agency is expressly exempted from the definition of "income" for purposes of the Act. (Section 82030(b)(2).) Thus, your salary from the District does not create a conflict of interest. In addition, because a local government agency is not an organization or enterprise operated for profit, it is not a business entity as defined by the Act.

If you were elected to the public utility district, the Act would not prevent you from participating in governmental decisions by the district solely because of your employment with the district.

This advice is limited to the provisions of the Act. Other legal provisions, such as Government Code Section 1090 or the general doctrine of incompatible offices, may have some bearing on this situation. It is suggested that you contact the city attorney and county counsel for advice as to these matters.

I trust this letter has provided you with the guidance you requested. If you have further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,



Jeanette E. Turvill  
Political Reform Consultant  
Legal Division

JET/jt