



California Fair Political Practices Commission

February 24, 1993

Honorable William Craven
Member, California State Senate
State Capitol, Room 3070
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-93-057

Dear Senator Craven:

This is in response to your letter requesting advice pursuant to the "revolving door" provisions of the Political Reform Act (the "Act")¹ on behalf of former State Senator Barry Keene. During my telephone conversation with your staff of February 10, 1993, I was informed that you have been authorized to ask for advice on behalf of the former State Senator.

QUESTION

Is a recently retired California State Senator prohibited by the "revolving door" provisions from speaking at a public forum regarding the reform of the California State Legislature where two current members of the California Legislature will also speak and respond to the opinions and suggestions of the retired Senator?

CONCLUSION

Pursuant to the "revolving door" provisions of Section 87406, a general public discussion does not constitute influencing legislative action. However, further discussion of legislation may be attempting to influence legislative action.

¹ 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.

FACTS

Senator Barry Keene is a former State Senator and has been retired for less than one year. He has been asked by Dr. Louis Rea, Director of the School of Public Administration and Urban Studies at San Diego State University, to speak at a free public forum sponsored by the university. The forum is regarding the California State Legislature and two other current members of the California State Senate would also speak at the forum and respond to the remarks of the former State Senator. He would not advocate or oppose any specific piece of legislation but would present his general opinions and suggestions regarding the reform of the California Legislature. The former Senator would be compensated by the university in an amount of \$500 to \$1,000.

ANALYSIS

Effective January 1, 1991, the Legislature enacted a series of statutes intended to establish new ethical guidelines for public officials. The Act now provides that legislators, state officeholders and designated employees of administrative agencies are subject to restrictions on their post-government employment activity.

Section 87406(b) provides:

(b) No Member of the Legislature, for a period of one year after leaving office, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

Senator Barry Keene is formerly a member of the California State Senate. Pursuant to Section 87406(b)², he is prohibited from lobbying, for a period of one year after leaving office, the following: (1) the Legislature; (2) any committee or subcommittee of the Legislature; (3) any present Member of the Legislature; or (4) any officer or employee of the Legislature.

In our telephone conversation of February 10, 1993, your staff also stated that former Senator Keene is being offered

² Other "revolving door" restrictions of the Act applicable to public officials are included in Sections 87400 - 87405. Section 87400(a) specifically excludes the Legislature from the definition of "state administrative agency." Thus, those provisions are not applicable to your request for advice.

compensation in the amount of \$500 to \$1,000 to serve as a speaker at a public forum. The appearance or communication must be for the purpose of "influencing legislative action." This term is defined in Section 82032 and includes promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including but not limited to the provision or use of information, statistics, studies or analyses.

Furthermore, the term "legislative action" is defined as the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a member or employee of the Legislature acting in his official capacity. (Section 82037.) Thus, under the Act, "legislative action" generally pertains to bills and other matters before the State Legislature. (Bagatelos Advice Letter, No. I-91-202.)

Based on the above, it would appear that speaking at a public forum to generally discuss the reform of the California State Legislature would not be for the purpose of influencing legislative action. However, please note that the Act's definitions of the terms "legislative action" and "influencing legislative action" are very broad. Further discussion with a legislator on the matter, even though legislation is not introduced, may be considered for the purpose of "influencing legislative action."

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.³

Sincerely,

Jeff Marschner
General Counsel



By: Luisa Menchaca
Counsel, Legal Division

³ Copies of Commission regulations and Opinions are available in many law libraries or may be obtained from the Commission at a cost of 10¢ per page.