

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

October 22, 1996

Pablo Wong
Deputy Director
Governor's Office of Community Relations
555 California Street, Suite 2929
San Francisco, CA 94104

Re: Your Request for Advice
Our File No. A-96-297

Dear Mr. Wong:

You have requested written advice concerning the gift and honoraria limits of the Political Reform Act (the "Act").¹

QUESTION

Is your acceptance of travel and accommodations by a foreign government prohibited by the Act?

CONCLUSION

No. The gift of travel and accommodations is reportable by you, but is not prohibited nor subject to the gift limits under the Act.

FACTS

The California Legislature passed Senate Concurrent Resolution No. 54 (Senator Marks) filed on July 5, 1996, which invites the Province of Chung Chong Nam Do, Republic of Korea, to join the State of California as a sister state to promote mutual trade and commerce. The Korean Province of Chung Chong Nam Do (the "CCND") is analogous to a state in the United States. The CCND has passed a similar resolution and it will be signed by their Governor during a ceremony in the second week of November. The CCND has invited the Governor of the State of California and two members of his staff, at the Korean government's expense, to attend the signing ceremony. The CCND will pay for air

¹ Gov. Code Sections 81000-91015. Commission regulations appear at Title 2, Sections 18000-18995 of the California Code of Regs.

transportation and lodging in Korea for about five days and for some of the meals.

ANALYSIS

Section 89503(c) of the Act provides that no member of a state board or commission or designated employee of a state or local government agency shall accept gifts from any single source in any calendar year with a total value of more \$250² if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. However, payments, advances, or reimbursements for travel and related lodging and subsistence permitted by Section 89506 are not prohibited or limited. (Section 89503(e).)

Section 89506, in pertinent part, provides:

(a) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence which is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited or limited by this chapter if either of the following apply:

* * * *

(2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, a nonprofit charitable or religious organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States which substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(b) Gifts of travel not described in subdivision (a) are subject to the limits in Section 89503.

(c) Subdivision (a) applies only to travel which is reported on the recipient's statement of economic interests.

(Emphasis added.)

² The gift limit for 1996 is \$280. (Section 89503(f).)

You ask whether a payment for travel and accommodations paid by the CCND may be accepted by you in excess of the gift limits.

As a designated employee of the Governor's office, you are subject to the Act's gift limits. (Section 82019.) Therefore, certain gifts of travel to you are governed by Section 89506. (Also see Regulation 18950.1.)

The travel and accommodations in question are being paid for by a foreign government, a Korean province. The payment is being made so that the Governor's office of the State of California may be represented at a signing ceremony of its sister state, the CCND, in connection with mutual efforts by the two governments to promote trade and commerce. Therefore, the trip is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy. Consequently, the payments for travel and accommodations are not subject to the gift limits of the Act.

However, absent an express exception to the definition of "gift" in Section 82028, the receipt of a gift of free travel and accommodations will be disclosable on your annual statement of economic interests.³ (Section 82028(b)(1).)

Also, please be aware that Section 87100 et seq., of the Act requires that public officials who have received gifts of \$280 or more from a single source must disqualify themselves from all governmental decisions that will foreseeably and materially affect the donor. If a decision should come before you in the future concerning the CCND, you should contact us for advice about potential disqualification.

Should you have any further questions regarding this matter please feel free to contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel

Luisa Menchaca
By: Luisa Menchaca
Senior Commission Counsel

³ An advance or reimbursement for travel required to be reported as described above may be reported on the separate travel schedule of the statement of economic interests.