



FAIR POLITICAL PRACTICES COMMISSION

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May 11, 2001

Denis R. Bilodeau, Director
Orange County Water District
15582 Cully Drive
Orange, CA 92865-2512

**Re: Your Request for Advice
Our File No. A-01-104**

Dear Mr. Bilodeau:

This letter is in response to your request for advice regarding the provisions of the Political Reform Act (the "Act").¹

QUESTION

Section 84308(a)(3) exempts from disclosure "local government agencies whose members are directly elected by the voters." Does this exemption apply to elected members who serve on a board that has a combination of directly elected and appointed members?

CONCLUSION

No. Pursuant to Regulation 18438.1(b), this exemption does not apply to a local government agency comprised of both elected and appointed members.

FACTS

In November 2000, you were elected to serve as the Division 2 Director of the Orange County Water District ("OCWD"). The OCWD is a special district created by the California Legislature in 1933. This district has ten divisions. The voters directly elect division directors one through seven, and the remaining three division directors are appointed by the city council of the cities they represent. Consequently, the OCWD is comprised of both directly elected members and appointed members.

¹ Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18996, of the California Code of Regulations.

ANALYSIS

Section 84308(b) provides:

“ No officer of an agency shall accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding if the officer knows or has reason to know that the participant has a financial interest...”

Section 84308(a)(3) defines “agency” as “an agency as defined in Section 82003² *except* that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers.” (Emphasis added.)

However, Regulation 18438.1(b) further provides:

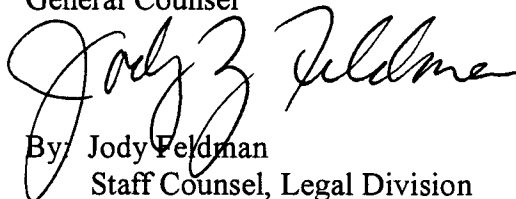
“ The exemption for the officers of local governmental agencies who are directly elected by the voters applies only to agencies whose entire membership consists of officers directly elected by the voters to serve on that agency.”

Therefore, the exemption from disclosure in Section 84308(a)(3) does not apply to members of the Orange County Water District.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca
General Counsel



By Jody Feldman
Staff Counsel, Legal Division

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² “‘Agency’ means any state agency or local government agency.” Government Code Section 82003.