



## FAIR POLITICAL PRACTICES COMMISSION

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December 3, 2002

Vernon M. Billy  
1107-9<sup>th</sup> Street, Suite 850  
Sacramento, CA 95814

**Re: Your Request for Informal Assistance  
Our File No. I-02-204**

Dear Mr. Billy:

This letter is in response to your request for advice regarding the lobbyist provisions of the Political Reform Act (the "Act").<sup>1</sup> Because your question is general in nature, we are providing you with informal assistance.<sup>2</sup> We encourage you to consider whether other laws, such as Government Code 1090 or the school district's statement of incompatible activities, may also be implicated by your situation. The Commission is charged with interpreting and enforcing the provisions of the Act, and may provide advice only with respect to those provisions. (Section 83114.)

### QUESTION

1. Does the PRA contain any prohibitions against contract lobbying through the creation of your own lobbying firm?
2. If not, then how should you report your salary/wages received from your primary employer, the school district? Also, do you have to disclose only your share of wages that are attributable to your lobbying activities as defined by statute?

### CONCLUSION

1. The Act does not prohibit you from creating a contract-lobbying firm.

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<sup>1</sup> Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, 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. (Section 83114; regulation 18329(c)(3), copy enclosed.)

2. The lobbying firm must report your salary/wages from the school district and the any fees from the clients that retain the lobbying firm.

### FACTS

You are employed as an in-house lobbyist for a school district for less than full-time employment and wish to secure additional clients through the establishment of a contract-lobbying firm. According to your lobbyist registration information on the Secretary of State's official website, your employer is the San Francisco Unified School District, a kindergarten through high school district.

During a phone call on August 28, 2002, you confirmed that you are a registered lobbyist, writing for information regarding your own situation. Also, you have other functions with the school district besides your lobbying activities.<sup>3</sup>

### ANALYSIS

#### I. Status as a Lobbyist

The Act contains certain disclosure requirements and prohibitions for those persons who are "lobbyists," "lobbying firms" and "lobbyist employers" as those terms are defined by the Act. You have asked us to determine the your status so that you may meet all requirements of the Act.<sup>4</sup> The best place to begin the analysis of your question is with the statutory definition of a lobbying firm. Under section 82038.5 a business entity may become a lobbying firm in two distinct ways:

"(1) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a lobbyist.

"(2) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing legislative or administrative action."

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<sup>3</sup> Since you did not obtain authorization to ask for advice on behalf of the school district, we have not responded to questions concerning the school district's duties.

<sup>4</sup> You have asked for information to comply with all the requirements of the Act, as a result we are including our informational pamphlet, "Can I Vote? Conflicts of Interest Overview" to provide you with a basic outline of the conflict-of-interest provisions of the Act in addition to the lobbyist disclosure analysis.

Under the first test of section 82038.5, a business entity will be a lobbying firm if any of its partners, owners, officers or employees is a lobbyist and the business entity receives compensation for the lobbying services it provides on behalf of others. You have stated that you are a registered lobbyist. You will no longer qualify as an in-house lobbyist, but will be considered an individual contract lobbyist for both the firm and the school district.

## II. Reporting Requirements

Under the Act, a lobbying firm has specified accounting and reporting obligations. (Section 86114; regulations 18613 and 18614.) Payments to lobbyists are required to be reported. (Regulations 18613 and 18614.) A lobbyist firm is permitted to apportion the payments based on the percentage of the lobbyist's compensated time which is spent influencing or attempting to influence legislative or administrative action. (Regulation 18613.) In a situation very similar to your facts at hand, we have previously advised that an individual contract lobbying firm may file reports only as a lobbying firm even though the lobbyist may also work as an in-house lobbyist. (*Rea* Advice Letter, No. I-93-195, copy enclosed.)

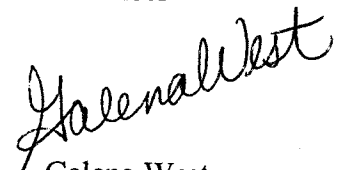
For more detailed information on lobbyist disclosure, please refer to the enclosed Lobbyist Fact Sheet and Lobbyist Disclosure Information Manual or contact the Technical Assistance Division at (866) ASK-FPPC.

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

Sincerely,

Luisa Menchaca  
General Counsel

By:

  
Galena West  
Counsel, Legal Division

Enclosures

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